

Case Name: *Becker, R (On the Application Of) v Hertfordshire County Council* [2018] EWHC 1974 (Admin) (27 July 2018)

Full case: [Click Here](#)

Commentary: An Inspectors decision to allow an appeal under section 106A to discharge a planning obligation because it no longer served a useful purpose was quashed. The Inspector had held that the obligation was not directly related to the development. This was not the correct test. Section 106A requires that the obligation does not serve a useful purpose. The purpose does not need to be related to the development and the Judge agreed with Ousley J in *R (Renaissance Habitat Ltd) v West Berkshire District Council* [2011] EWHC 242 (Admin) that the useful purpose did not need to be a planning purpose.

In this case, the obligation was for the developer to contribute towards the cost of highway works carried out by the Council which facilitated development on his land. The obligation had been carried forward from an earlier section 106. The works had been carried out by the Council and the Inspector held that since the road had been in place for a significant number of years, a contribution to the cost would not be directly related to the development. The Judge held that the useful purpose in this case was extant because it was to recover expenses incurred which was a useful purpose because public money expended to facilitate the development should be recovered where possible.

Case summary prepared by Town Legal LLP