



thomascarroll
LEGAL INDEMNITIES

ABORTIVE PLANNING COSTS

MANAGING RISK, PROTECTING WEALTH, ENGAGING PEOPLE



A PROPERTY RISK SOLUTION

A refused planning application is a very real threat to all developers, with both funders and developers carrying the risk of the application failing due to a refused planning application.

Our Legal Indemnities team are pleased to now offer a new product designed to cover abortive planning costs in development projects. The policy would respond in the event the Insured Project is refused at appeal.

This product will allow developers and funders to **ringfence potentially significant expenditure** by transferring the financial exposure to the insurer for a known premium. With developers facing the common risk of planning refusal and the application costs associated with this being lost, the product is set to be invaluable.

PEACE OF MIND FOR YOUR PROPERTY DEVELOPMENTS

It provides an indispensable tool for managing the uncertainties involved in the planning process. Developers, funders and investors, through us, can now purchase an 'AA-' rated policy to cover the costs associated with a refused planning application. It can be combined with judicial review, legal indemnity, rights of light, and environmental products to offset the risks associated with a development.

What Costs Could Be Covered?

- Preliminary site investigations
- Planning fees
- Legal fees
- Payments for exclusive negotiating rights
- Costs associated with market research
- Project management costs associated with the proposal

This product is available to cover limits up to £1,500,000.00 and the policy would respond in the event the insured project is refused on appeal. When the insured project reaches this point, the insurers will step in and work together with the developer to either pay the associated costs with a revised planning application or pay the costs associated with the planning application to date, this will depend on which is the more commercially viable for both parties.

If a revised planning application is sought and subsequently results in the same outcome i.e. the revised project is refused again on appeal, then the policy would again react to cover the costs incurred from day 1, subject to the sum insured covered within the policy.

What Information Do We Need?

- Application property address
- Details of the proposed planning application
- A site plan
- Local Planning Authority details
- Limit of Indemnity required
- Details of any pre-application or previous planning submissions
- A planning summary from the proposers planning consultant (including estimated prospects of success)

If the enquiry can be considered further, the insurer will issue a proposal form and a full underwriting review will commence following receipt of the information requested in the proposal form.

WHAT ARE THE BENEFITS?

For Developers

- Protection against third-party abortive planning costs, safeguarding your capital.
- Enables developers to drive better deals from funding partners, offering them lower risk investment opportunities.
- Helps to increase your investors' appetite, and therefore your chance of success, as well as lower the downside risks.
- Drive creativity and site selection. Many developers choose to walk away from some sites because they present challenges at planning. The policy will enable you to proceed without any uncertainty with a peer to peer review underwriting process.

For Funders

- Funders have huge lending reserves for post-planning development finance due to lower risk of failure.
- Funders have reduced appetite for pre-planning risks due to the increased risk of planning refusal.
- Funders are always looking for a competitive edge on their rates.
- They would like to be involved at the earliest possible stage and by securing insurance for abortive planning costs, this provides them the comfort to commit at an earlier opportunity.

For Lawyers

- Refusal of a planning application is a risk to their developer clients. Protecting their investments will drive confidence, increase creativity, volumes and profits which in turn will increase the work clients send through to their lawyers.
- Clients will feel confident engaging with lawyers earlier in the property life cycle and proceed on those sites which have been on the back burner.
- Decreases time spent on completing a transaction without additional concerns or worries with planning.

For Planning Consultants

- Being able to offer clients certainty of planning is a strong tool to have. Having the ability to protect the vast sums of money spent to achieve planning will enable creativity and drive them to do more.
- Using the planning costs tool will allow planning consultants to secure cover for their fees, along with any other associated planning costs should the application be aborted, making rates more attractive for quality work.
- Many planning consultants have varied payment terms, with part payment being due at the point in which planning is granted. With this policy in place, it limits the risk of non-payment, in the unfortunate event planning is not granted.

For Land Promoters

- Being able to protect your associated planning costs against abortive planning during or prior to the planning application process means that you can go into a deal protected.
- Increase the number of sites worked on at any one time, increase investor appetite and become more competitive in the market with reduced risk.
- Risk-free business model.
- Back up those promises of planning with insurance.

Have Any Questions?

Our experienced Legal Indemnities team are on hand to offer advice on carrying out successful property transactions.

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