Town and Country Planning Act 1990

Appeal by

Obsidian Strategic Asset Management Ltd

Land at Mockbeggars Farm, London Road, Budletts Common, Uckfield, TN22 2EB

Wealden District Council Ref:	Planning Inspectorate Ref:
WD/2022/0648/MAO	APP/C1435/W/23/3330872

CIL INFRASTRUCTURE COMPLIANCE STATEMENT

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1 INTRODUCTION

1.1. The Council has received a draft legal agreement from the appellant and has provided comments on that draft. It is intended that will be signed and agreed in time for the Hearing.

1.2. This document sets out the justification for each of the infrastructure contributions which are part of the travelling draft legal agreement which are necessary to mitigate the impacts of the development.

1.3. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) provides that planning obligations may only constitute reasons for granting planning permission for development if they are; a) necessary to make the development acceptable in planning terms; b) directly related to the development; and, c) fairly and reasonably related in scale and kind to the development.

1.4 The Council has adopted CIL and the charging schedule is at CD11.10.

2 OVERARCHING POLICY SUPPORT FOR CONTRIBUTIONS/WORKS TO MITIGATE DEVELOPMENT IMPACTS

2.1. Saved' Policies CS1, LR1, LR3, LR5, TR3 and TR13 of the adopted Wealden Local Plan (WLP) 1998 and Policy WCS7 and WCS13 of the Core Strategy Local Plan (CSLP) (CD2.1 and CD2.2). Together these policies are referred to as the development plan policies and provide for contributions to be secured from development towards the costs of providing the infrastructure required to serve the additional needs it will generate.

Relevant Policies of Core Strategy 2013

- ***Policy WCS7: Effective Provision of Infrastructure*** *The release of land for development will be conditional upon there being sufficient capacity in the existing local infrastructure to meet the requirements generated by the proposed development. Where development would create the need to provide additional or improved community facilities, services and infrastructure to mitigate its impact, a programme of delivery must be agreed with the relevant infrastructure providers which will ensure that these improvements are provided at the time they are needed. These may involve coordinating contributions from the development with other investment streams. This approach will ensure that the necessary improvements can be completed in a timely manner to support growth. Arrangements for the provision or*

improvement of infrastructure to the required standard will be secured by planning agreement/ obligation, or by condition attached to the planning consent or by any other appropriate mechanism. The adequacy of infrastructure provision in Wealden will be the subject of regular review with infrastructure providers as part of the ongoing work on the Infrastructure Delivery Plan. This will include health, transport, utility services, and education providers and will be reported as part of the Local Plan monitoring arrangements in the Annual Monitoring Report.

- ***Policy WCS13: Green Infrastructure*** *"…… All new residential development will be required to contribute to the green infrastructure network and where appropriate to make provision for new or enhancement of existing open space. Where the scale of development would be too small to make on-site provision, the Council will seek developer contributions either towards the improvement of existing open spaces or towards the provision of open space elsewhere."*

Relevant Policies of Wealden Local Plan 1998

- ***Policy CS1: Provision of Capital Works and Services*** *Development will not be permitted before the Council is satisfied that the capital works directly required to service the development are provided at the time development takes place or will be provided at the appropriate time.*

- ***Policy LR1: Provision of Outdoor Playing Space*** *The Council will seek to ensure that adequate outdoor playing space is provided in towns and villages within the District in accordance with the levels recommended by the National Playing Fields Association. This will be achieved by: (1) protecting existing outdoor playing space or other open space with recreational or amenity value (Policy LR2); (2) the provision of children's play space in new residential developments of 30 or more dwellings (Policy LR3); (3) the provision of artificial turf pitches on appropriate sites.*

- ***Policy LR3: Children's Play Space in Developments of 30+ Dwellings*** *The Council will require new residential development of 30 or more dwellings to contain children's play space at a rate of 0.6 – 0.8 hectares per thousand population, including an equipped area at a rate of 0.2 – 0.3 hectares per thousand population. This space should:- (1) be located where it can be used safely, conveniently and without causing excessive noise or other disturbance to adjoining areas; (2) be properly drained, laid out, equipped and landscaped; (3) be additional to any amenity, incidental or other open space. A capital sum, or other arrangement to the satisfaction of the District Council, will be sought for future maintenance.*

Paragraph 11.22 refers to the methodology used to implement the policy which is set out in Appendix 8.

- ***Policy LR5: Informal Amenity Space in New Residential Developments*** *The Council will seek the provision of informal amenity space, additional to the outdoor playing space required under Policy LR3, in all large new housing developments, where appropriate, incorporating existing landscape features such as trees, hedgerows, etc.*

- ***Policy TR3: Traffic Impact of New Development*** *Planning applications for new development will be permitted where the following criteria are met:*

  (1) the proposed development does not create or perpetuate unacceptable traffic conditions;

  (2) a satisfactory means of access (vehicular, cycle and pedestrian) is provided to meet Local Planning and Highway Authority standards;

  (3) where appropriate, the provision of suitable public transport facilities

- ***Policy TR13: Footpaths and Bridleways*** *The Council will seek to secure the provision of safe and convenient pedestrian routes in new developments, which should link to the existing footpath network where appropriate.*

Relevant Policies of Affordable Housing Delivery Local Plan 2016

- ***Policy AFH1: Affordable Housing*** *New housing developments, including affordable housing, will be expected to provide for a mix of dwelling size, type and tenure that meet the identified housing needs of the local area. New housing developments must make the most effective use of the land, taking into account the character of the local area. Affordable housing is required at a level of 35% of the number of dwellings on development sites with 5 (net) dwellings or more. Where sites are allocated in a Local Plan that document may specify a different, and potentially higher, housing target having regard to the findings of the associated viability assessment and any site specific considerations. Affordable housing provision should incorporate a mix of tenures. The presumption is for development sites of 49 dwellings (net) or less that around 80% of the total number of affordable homes provided will be for social rented accommodation with the remainder being for intermediate accommodation. For development sites of 50 dwellings (net) or more around 40% of the total number of affordable homes provided will be for social rented accommodation, 40% will be affordable rent and 20% intermediate accommodation. Where it can be proven that*

affordable housing requirement cannot be achieved, due to economic viability, there will be flexibility in meeting stated targets. In such exceptional circumstances, the tenure of affordable housing should be examined prior to the proportion of affordable housing. It will be the responsibility of the applicant to demonstrate that the requirements of the policy cannot be met. The closest alternative target that can be achieved will be sought taking into account viability and need. The affordable housing will be distributed within the site to ensure it is integrated and indistinguishable within the new development and surrounds. It will also be comparable in design terms with the market housing on site. Affordable housing should be delivered on site, however in exceptional circumstances a commuted payment may be accepted in lieu of on-site provision. These circumstances may include provision where a Registered Provider finds it uneconomic or impractical to provide the units in the scale or form agreed.

Affordable Housing

2.2 Policy AFH1 of the adopted Affordable Housing Delivery Local Plan 2016 (CD2.3) sets out the requirement for housing developments to make a contribution towards the provision of affordable housing. The policy requires that 35% of new dwellings should be affordable. As that document predates the latest version of the National Planning Policy Framework (NPPF), we also look to the NPPF for definition of affordable housing.

Test 1: Necessity

2.3 The provision of affordable housing is required for compliance with Local Plan Policy AFH1. In the absence of the provision of affordable housing the development would not comply with the development plan and would fail to contribute to the affordable housing in the District and to the mix of housing which the district offers. This is necessary to meet the housing needs of the area and is a material consideration in the planning balance.

Test 2: Directly related to the development

2.4 The extent of the affordable housing is a percentage specific to the proposed development and the existing site. The obligation is therefore directly related to the development.

Test 3: Fairly and reasonably related in scale and kind to the development

2.5 The extent of the affordable housing provision is directly related in scale and kind to the development as it represents the amount specific to this development.

2.6 This obligation is necessary to comply with the development plan and it meets the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations) and in paragraph 57 of the NPPF.

Open Space and Play Facilities

2.7 Policies LR1, LR3 and LR5 of the Wealden Local Plan 1998 and Policy WCS13 of the Core Strategy set out the requirements for open space. Policies LR3 and LR5 set specific policy expectations for open space provision in new developments (CD2.1 and 2.2).

2.8 In summary, these policies require:

- The seeking of adequate outdoor playing space to be provided in towns and villages in the District in line with National Playing Field Association's standards (Policy LR1).
- New residential development of 30+ homes must provide 0.6-0.8 hectares of children's play space per 1000 population (0.2-0.3 hectares should be equipped). The play space should well designed and located within the site. Contributions towards future maintenance are also required (LR3).
- All new large residential development must provide informal amenity space in addition to the required outdoor playing space required under Policy LR3. (LR5).

2.9 Policy WCS13 of the Core Strategy Local Plan requires:

- All new residential development where appropriate to make provision for new or enhancement of existing open space.

2.10 All residential development of 30 or more homes are expected in policy terms to make a contribution towards open space either on-site, off-site or through a financial contribution.

2.11 Until such time as the Council adopts new policies based on our up-to-date evidence and local standards for open space provision, the Council continue to apply the play space standards recommended by the Fields in Trust (formally National Playing Fields Association) known commonly as the 'Six Acre Standard' as referred to in the 1998 Local Plan of 2.4 hectares per 1000 occupants.

2.12 Paragraph 11.22 of the explanatory text in the Wealden Local Plan 1998 states:

"Rather than applying an average household size to calculate the population of a proposed development it is considered more appropriate to base such an assessment on the

number of people likely to occupy each dwelling. The method which will be used to implement the above policy is detailed in Appendix 8"

2.13 Appendix 8 uses occupancy rates for 1 bed, 2 bed, 3 bed, 4+ beds being 2 person, 3 persons, 4 persons, and 5 persons respectively. Appendix 8 also advises that the occupancy rates *"…have been derived following consultations with the National Playing Field Association and other local authorities and the relevant experience of outdoor playing space provision in new developments. It is considered more appropriate to base the potential occupancy of each dwelling in a given scheme on the number of bedrooms rather than on the average household size or on the number of bedrooms….."*

2.14 In February 2003, the Council published a Draft Outdoor Playing Space Supplementary Planning Guidance (SPG) document for consultation based on Policy LR2 of the Wealden Local Plan Review First Deposit Draft (January 2003) (**CD11.11**). The reference to Policy LR2 reflects the same requirements of the Save Policies LR1 and LR3 of the 1998 Local Plan at a minimum of 2.4 hectares per 1000 population. The outdoor playing space requirements are a reduction on those required by Saved Policies LR1 and LR3 as the draft SPG has assumed lower occupancy rates to Appendix 8 which underpins the LR1 and LR3 of the 1998 Local Plan **(CD2.2)**. The SPG occupancy rates for 1 bed, 2 bed, 3 bed, 4 bed and 5 bed dwellings being 1 person, 2 persons, 3 persons, 4 persons and 5 persons respectively.

2.15 It is accepted that the appeal site is too small to deliver on site youth/adult provision. However, the illustrative layout does show how 60 dwellings can be accommodated on site as well as the correct size informal and equipped open space. This SPG (**CD11.11)** provides guidance in relation to calculating commuted payments for the off-site provision of open space and the operation of the commuted payment system for on-going maintenance of on-site provision. It is noted that this document is in draft format and that it dates from a number of years ago. However, it is based upon substantial research regarding the cost of provision and maintenance and provides the only methodology for converting the standards within the WLP into live contribution figures and has been used on that basis for calculating off-site contributions and maintenance contributions where applicable for outdoor playing space (**CD11.12**). The Council had intended to update this via the development plan process in 2019, but the strategy failed at Examination. Until the emerging Local Plan is advanced there is no other local standard to measure and test this aspect of residential development schemes.

Test 1: Necessity

2.16 The provision of outdoor playing space comprising youth and adult recreation space, equipped children's play space and informal amenity areas are required under the development plan policies for all large new housing developments. Policy LR3 also requires that a capital sum or other arrangement will be sought for future maintenance. The appeal can scheme can deliver this and comply with policy. National, the NPPF is clear that decisions should provide for open space in order to provide the social, recreational and cultural facilities and services the community needs (paragraph 87).

Test 2: Directly related to the development

2.17 The provision of outdoor playing space comprising youth and adult recreation space, equipped children's play space and informal amenity areas is directly related to the 60 dwellings proposed in the appeal and linked to the house sizes.

Test 3: Fairly and reasonably related in scale and kind to the development

2.18 The provision of outdoor playing space comprising youth and adult recreation space, equipped children's play space and informal amenity areas is directly related to the quantum of development proposed and housing sizes**.**

2.19 Open space is required by policies LR1, LR3 and LR5 of the WLP 1998 (**CD2.2**), and the amount of land would satisfy the recommendations in the Council's draft Supplementary Planning Guidance. Consequently, the relevant tests are also met in this respect.

2.20 In the event that on site open space is transferred to a management company (and not the Uckfield Town Council) the legal agreement would not expect provision for a maintenance contribution on the basis that residents would pay a service charge.

SUITABLE ALTERNATIVE NATURAL GREEN SPACE

Test 1: Necessity

2.21 The appeal site is close to the Ashdown Forest, large parts of which (3,205 hectares) are designated as a Special Protection Area (SPA). The SPA status was awarded for a number of qualifying individual species that includes the Dartford Warbler and European Nightjar that the SPA supports during their breeding season. The conservation objectives for Ashdown Forest SPA are to ensure that the integrity of the site is maintained or restored as appropriate, so that it continues to support the population and distribution of its qualifying features. The main threats to those qualifying features includes the disturbance by humans and recreational activities, development pressure and the loss of nesting/feeding habitats. The Ashdown Forest SPA is also legally protected through the

Conservation of Habitats and Species Regulations 2017 (as amended). More information is explained as WCS12 to the CSLP (2013) (**CD2.1)** but also in the Local Plan Background Paper **(CD8.8)**

2.22 Natural England's (NE) supplementary advice on conserving and restoring site features for the Ashdown Forest SPA (See Planning Practice Guide (PPG) Paragraph: 002 Reference ID: 65-002-20190722) identifies recreational disturbance as one of the principle threats to ground nesting birds. Research and assessment undertaken by the Council supports this by demonstrating that increased recreation can result in damage to the bird's habitat through trampling and erosion. Moreover, the presence of people can disturb ground nesting birds during their breeding season (Feb - Aug). Dog walking can be particularly problematic in this regard, especially if dogs are let off their lead (**CD8.15**).

2.23 The application proposal would facilitate a permanent increase in the number of people living within a short drive of the SPA. The Ashdown Forest is an attractive semi-natural area which is close to the application site. It is somewhere future residents of the home(s) proposed would likely wish to visit for recreation. Evidence in the form of visitor surveys carried out for the Council demonstrates that residents living within 7km of the Ashdown Forest are likely to visit it. This would provide a pathway of effect for recreational disturbance. (**CD8.8 and 8.9**)

2.24 The role of the SANG is to provide alternative green space to divert visitors from visiting the Ashdown Forest Special Protection Area (SPA). The SANG is intended to provide avoidance measures for the potential impact of residential development on the SPA by preventing an increase in visitor pressure on the SPA. This is set out in evidence published by the Council (see **CD8.8**)

2.25 The provision of a SANG should be secured in perpetuity, namely for the lifetime of the development. This would guarantee the retention of the mitigation measure which is specifically for the protection of the Ashdown Forest European Site for the lifetime of the development. Natural England support this approach and form of strategic mitigation.

Test 2: Directly related to the development

2.26 The agreement requires the SANG payment in line with published mitigation. This mitigation has been worked up with Natural England (see **CD8.10** and **8.11**) who have also published their own guidance on the issues at Ashdown Forest (CD8.18). Capturing a mitigation payment to avoid in combination trips to the Forest is therefore directly related to the development.

Test 3: Fairly and reasonably related in scale and kind to the development

2.27 The mitigation payment is calculated per dwelling of SAMMs contribution of £1,170 and a SANGS contribution of £5,000. The contributions would be in line with the tariffs agreed by the Council and supported by Natural England. It is directly related to the proposed number of dwellings based on an average occupancy and is therefore reasonably related in scale and kind to the development. Without this, it would not be possible to positively conclude an Appropriate Assessment.

SAMMS CONTRIBUTION

Test 1: Necessity

2.28 The appeal site will result in a net increase in residential accommodation in an area within 7km of the Ashdown Forest. Impacts to the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) may result from increased recreational disturbance (**CD8.8 and 8.9**).

2.29 The Council has measures in place to manage these potential impacts through the agreed Strategic Access Management and Monitoring Strategy (SAMMS) **(CD8.9)** in line with Policy WCS12 of the Wealden District Adopted Core Strategy Local Plan (2013), which Natural England finds to be ecological sound. These SAMM financial contributions need to be secured as well as the proposed SANG mitigation. It should be noted that where a CIL charge is made, the Council does not seek SANG payment. The Infrastructure Funding Statement allows for priority access to CIL receipts (where paid) for SANGs. This prevents a double payment collection, and ensures adherence Regulation 122 of the CIL Regulations 2010 (as amended) i.e. that the contribution is necessary to make the development acceptable in planning terms; is directly related to the development; and is fairly and reasonably related in scale and kind to the development. The Unilateral Undertaking as drafted avoids the scenario of securing double payments for the same infrastructure. Whereas the SANGs payment is secured in the event that no CIL is paid i.e. through qualifying CIL relief.

Test 2: Directly related to the development

2.30 The contributions towards SAMMs would be directly related to the impacts of the proposal on the SPA and necessary to make the development acceptable. Moreover, the contributions would be fairly and reasonably related in scale and kind to the development, as they follow the methodology for calculating them in the Council's strategy.

Test 3: Fairly and reasonably related in scale and kind to the development

2.31 The SAMM tariff has been established with reference to the cost of avoidance and mitigation considered necessary to address the impact from an increase in visitors to the Ashdown Forest SPA from new dwellings and the anticipated increase in residential dwellings. SAMM Strategy costs have been identified in consultation with Natural England and the Conservators of Ashdown Forest. Based on the project costs and projected housing numbers and delivery the SAMM tariff has currently been set at £1,170 per dwelling. This is set out in more detail within the Strategic Access Management and Monitoring Strategy (**CD8.9**), drawn up and adopted by the Council and its neighbouring partner authorities Lewes District Council, Mid Sussex District Council, Sevenoaks District Council, District Council of Tandridge and finally, Tunbridge Wells Borough Council. It should be noted that where a CIL charge is made, the Council does not seek SAMM payment. The Infrastructure Funding Statement allows for priority access to CIL receipts (where paid) for SAMMs. This prevents a double payment collection, and ensures adherence Regulation 122 of the CIL Regulations 2010 (as amended) i.e. that the contribution is necessary to make the development acceptable in planning terms; is directly related to the development; and is fairly and reasonably related in scale and kind to the development. The Unilateral Undertaking as drafted avoids the scenario of securing double payments for the same infrastructure. Whereas the SANGs payment is secured in the event that no CIL is paid i.e. through qualifying CIL relief.

Custom and Self Build Housing

Test 1: Necessity

2.32 The Self-build and Custom Housebuilding Act 2015 and the associated Self-build and Custom Housebuilding Regulations 2016 are significant material considerations. This legislation has been amended by s123 of the Levelling-up and Regeneration Act 2023. One change is fairly minor in relation to the definition of self-build duty removing the word 'suitable And serviced' so section 2A of the Self-build and Custom Housebuilding Act 2015 now reads:

An authority … must give development permission for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period.

The second change clarifies that any undersupply in meeting demand arising in any base period carries forward. This is significant, and LPAs cannot introduce fees or criteria or

otherwise reduce the numbers on their register to seek to decrease their demand figure. Once incurred that duty remains until appropriate numbers of permissions are granted.

2.33 Amongst other matters, the purpose of the Act is to allow individuals wishing to build their own home to register their interest in acquiring a suitable plot of land with the relevant authority. Specifically, the Act makes provision for Local Authorities to maintain a register of people who are seeking to acquire a serviced plot in their area in order that they may build houses for them to occupy as homes; and the Council is required to grant planning permission for enough serviced plots of land to meet the demand for self-build and custom housebuilding in the District which arises in each base period (this comes from Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended)).

2.34 The NPPG on Self-Build and Custom Housebuilding states that relevant authorities could include policies in their local plans for self and custom housebuilding, but this is not a requirement. It also states that relevant authorities could seek to meet demand by engaging with landowners who own sites that are suitable for housing. So whilst there is no development plan policy in play, there is a legal duty for the Council to grant planning permission for enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area.

2.35 As of December 2023, there are currently 227 applicants on the Council's Self-build and Custom Housebuilding register. Of the 227 applicants, 27 applicants identified Uckfield as where they would like to build. The number of plots secured to date are 217 plots via S106 agreements across the district. To date no plots have been secured in the Uckfield via a reserved matters consent, however Land off Eastbourne Road has secured 5 plots as part of the outline planning permission WD/2020/0410/MAO) so the local need is for 22 plots. Based on the 5% provision from the appeal site, 3 plots could be delivered and if these were all taken up, they directly meet local need.

2.36 To be legally compliant, plots relied upon as custom or self-builds must be secured in a Legal Agreement. In this current case 5% of the number of dwellings secured would be 3. 3 custom or self-build plots would, in part, enable the Council to meet its statutory obligations with respect to the duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended). This is a consideration given that there is evidence of unmet need for serviced plots in the District and within the local area of the appeal site. This is promoted in Paragraph 63 of the NPPF.

Test 2: Directly related to the development

2.37 The extent of the Self Build and Custom Build Plots is a percentage specific to the proposed development and existing site. The obligation is therefore directly related to the development.

Test 3: Fairly and reasonably related in scale and kind to the development

2.38 The extent of the Self Build and Custom Build Plots is directly related in scale and kind to the development as it represents the amount specific to this development.

Bus Service Contribution

2.39 ESCC Highways have requested a Public Transport Service Contribution of £1100 per dwelling (total £66,000). This is based on the Bus Service Improvement Plan (BSIP – copy at CD 7.3). The BSIP has the following aims, which represent ESCC's statements of intent at a high level:

- Significant quality improvements in bus provision across the area of the County;
- More bus priority schemes designed to enhance reliability and reduce journey times;
- A bus network that relates to the needs of all potential users;
- Simplified fares and ticketing and reduced fares for young passengers under the age of 30;
- A step change in terms of improved services for the rural areas;
- Technical and operational innovation in bus service provision;
- Bus patronage in the County not only to recover their pre-pandemic levels, but to significantly grow in future years

Test 1: Necessity

2.43 The agreed Public Transport Service Contribution is beneficial as follows:

In terms of bus service provision, this section of London Road is served by an hourly Monday to Saturday daytime bus service (route 31), supplemented by a Monday to Friday 2 hourly bus service (route 261). In line with the Government's 'Bus Back Better' National Bus Strategy, the funding of £1,100 per dwelling (i.e. £66,000 for the proposed 60 dwellings) to secure weekday evening and Sunday bus service provision. This may be in the form of a conventional timetabled bus route, or by way of Digital Demand Responsive

Transport (DDRT) whereby service users pre-book their journey requirements by way of phone or app.

The extension and increased service provision of service 31, so that this existing service between Haywards Heath, Maresfield and Uckfield can serve this appeal development routeing along the A22 from Haywards Heath, towards Maresfield then onto Uckfield town centre. The route to Haywards Heath would follow in reverse.

Or the provision of a pre-booked demand responsive transport service during the earliest phase of the development;

In the scenario that the appeal is allowed, the public transport contribution is required to provide a basic level of service enhancement to encourage more sustainable transport choices for incoming residents before they establish more car oriented choice patterns founded on lower less attractive initial bus services. The Bus Service Contribution will be used towards increasing the frequency of bus services passing the site. ESCC as highway authority consider a reliable and regular bus service is required to support the scale of the development proposed and to minimise single occupancy vehicle use. A bus service improvement is necessary to ensure that an attractive travel plan option is available at first occupancy and to promote the Travel Plan mechanism. It is also applied consistently and fairly across this form of development as reflected in the adopted guidance

Test 2: Directly related to the development

2.44 The overall sum is based on the sum of £1,100 per dwelling and this is set out within the adopted Bus Service Improvement Plan, adopted by East Sussex County Council as Highway Authority (DC7.3). The contribution is therefore directly related to the development.

Test 3: Fairly and reasonably related in scale and kind to the development

2.45 The contribution which is based on a cost per dwelling is directly related in scale and kind to the development as it represents the amount specific to this development.

Travel Plan

2.46 Travel Plans are an essential tool for enabling development by creating sustainable transport access to, from and around the site. They are effective in managing travel demand, with the potential to contribute to significant reduction in national and local traffic. The NPPF requires in paragraph 117 that:

"All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed".

2.47 At the local level, the County Council has adopted Travel Plans guidance from February 2020 (CD7.4). This is clear that one of the aims of the County Council as the Highway Authority is to ensure that the transport impact of development is mitigated. The effective use of Travel Plans is an important and useful way to achieve such mitigation. The guidance explains how the County Council secures Travel Plans through the planning process and how they are expected to be applied once developments are in place.

Test 1: Necessity

2.48 The threshold when a Travel Plan is required for residential schemes is at 35 dwellings as set out in the adopted guidance (CD7.4). Concurrent with the obligation for a Travel Plan, the Highway Authority considers a contribution towards the ongoing cost of monitoring and supporting the Travel Plan is appropriate.

Test 2: Directly related to the development

2.49 The requirement for a Travel Plan evaluation and support contribution is included in the updated Travel Plan Guidance (CD7.4). The fees are calculated on work required to monitor and audit Travel Plans, and are up to 600 dwellings and then above 600 dwellings, with the higher fee being linked to work involved in larger scheme. The monitoring fee was introduced to enable the County Council to be proactive in ensuring that approved Travel Plans are being complied with. The cost includes assessment of the annual monitoring, annual site visits and annual monitoring meetings with the Travel Plan Coordinator. Ongoing engagement with the Travel Plan Coordinator of changes relevant to the site is also included. The Planning Practice Guidance states that authorities can charge a monitoring fee through section 106 planning obligations, to cover the cost of monitoring and reporting on delivery of that section 106 obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation (Paragraph: 036 Reference ID: 23b-036-20190901)

Test 3: Fairly and reasonably related in scale and kind to the development

2.50 The monitoring of Travel Plans is not a statutory function of the County Council. The Travel Plan contribution is not a single payment towards monitoring/administrative costs of the Travel Plan but is a cost to enable active engagement of the County Council in the Travel

Plan implementation. It enables ongoing reviews of the Travel Plan and engagement between the County Council and the Developer to take place as any travel plan will require continuing management and review. The contribution value has been calculated on such basis.

Overall s106 Monitoring etc.

2.51 The legal agreement has within it a request for monitoring and auditing fee for all other heads of terms.

2.52 Regulation 122 (2A) of the Community Infrastructure Levey (CIL) Regulations 2010 (as amended) permit local authorities to charge a fee for monitoring and reporting on planning obligations. The Regulation 122 tests do not apply in relation to a planning obligation which requires a sum to be paid to a local planning authority in respect of the cost of monitoring (including reporting) provided:

- the sum to be paid fairly and reasonably relates in scale and kind to the development, and
- the sum to be paid to the authority does not exceed the authority's estimate of its cost of monitoring the development over the lifetime of the planning obligations which relate to that development.

2.53 The Planning Practice Guidance currently states the following in relation to charging planning obligation monitoring fees:

Authorities can charge a monitoring fee through section 106 planning obligations, to cover the cost of monitoring and reporting on delivery of that section 106 obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation. Monitoring fees should not be sought retrospectively for historic agreements.

Fees could be a fixed percentage of the total value of the section 106 agreement or individual obligation; or could be a fixed monetary amount per agreement obligation (for example, for in-kind contributions). Authorities may decide to set fees using other methods. However, in all cases, monitoring fees must be proportionate and reasonable and reflect the actual cost of monitoring. Authorities could consider setting a cap to ensure that any fees are not excessive.

Consultations

2.54 The drawing up of the legal agreement – in draft at the time of drafting this statement – has taken account of responses from all consultees to the planning application, appeal and also those comments arising from the amended consultation to the 'Wheatcroft' submission (which amended the scheme and some drawings determined by the Local Planning Authority).

2.55 There are no standing arrangements for the collection of contributions by consultees in regard to emerging legal agreements. Where mitigation is required in order to enable development to proceed, the Local Planning Authority always seeks site/application specific justification and those comments are set out within relevant reports/assessment leading into recommendations.

Conclusion

2.56 The Council is satisfied that each obligation contained in the Legal Agreement would meet the tests in the CIL Regulations and the Framework, in that they are all necessary to make the development acceptable, directly related and fairly and reasonably related in kind and scale.