



CIL COMPLIANCE STATEMENT (revised 28.6.21)

ON BEHALF OF THE LOCAL PLANNING AUTHORITY

APPEAL BY: DLP on behalf of Hallam Land Management

SITE AT: Land at Junction With Carr Road

Hollin Busk Lane

Sheffield

S36 1GH

APPEAL AGAINST: Sheffield City Council

LPA REFERENCE: 17/04673/OUT

PINS REFERENCE: APP/J4423/W/21/3267168

DATE: May 2021

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1.0 Policy and Legislative framework

1.1 Paragraph 56 of the National Planning Policy Framework (NPPF) and regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended by the 2011 and 2019 Regulations) state that planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:

- 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.

1.2 The following planning obligations are to be secured via a section 106 agreement. A revised draft agreement has been sent separately (by the appellants) and contains the obligations that have been agreed between the Council and the appellants.

2.0 Proposed Heads of Terms

- 1) Arrangements to ensure 10% of the Gross Internal Floor Area of the development is provided as affordable housing units and these units remain affordable in the long term.
- 2) A contribution of £27,000 towards procuring the upgrade of two bus stops in the immediate vicinity of the site.
- 3) A contribution of £17,000 towards the provision and maintenance of microprocessor optimised vehicle actuation (MOVA) sensors across Carr Road and Manchester Road.

4) The provision of a land drainage scheme to include on and off-site sustainable drainage scheme (SuDS), which includes SuDS adoption and maintenance fees.

5) A public open space scheme (including play equipment), along with mechanisms to ensure its retention, management and maintenance in perpetuity.

6) An Area of species rich grassland (not publicly accessible).

7) A contribution of £5,000 towards the monitoring of the obligations of the section 106 agreement.

8) A contribution of £10,000 towards the advertisement, drafting and legal costs associated with the making of a Traffic Regulation Order (TRO).

2.3 The following explains how each of the proposed obligations meets the 3 tests described above.

3.0 Obligation 1 - Arrangements to ensure 10% of the Gross Internal Floor Area of the development is provided as affordable housing units and these units remain affordable in the long term.

Necessary to make the Development Acceptable

3.1 Framework Paragraph 59 identified that as part of the Government's objective to significantly boost the supply of homes, it is important that the needs of groups with specific housing requirements are addressed. In relation to major housing development Framework paragraph 64 expects at least 10% of homes to be available for affordable home ownership.

- 3.2 Shared ownership and affordable rent units, which are identified in the section 106 agreement comply with the definition of affordable housing in annex 2 of the Framework.
- 3.3 Core Strategy policy CS40 “Affordable Housing” (CD3.1) requires developers of all new housing developments to contribute towards the provision of affordable housing where this is practicable and financially viable.
- 3.4 The Community Infrastructure Levy and Planning Obligations Supplementary Planning Document (CD3.8) provides further guidance on the Council’s affordable housing policy. GAH7 “Ensuring Continued Affordability” says that affordable Housing should:
- a) remain affordable in perpetuity or, if units are sold, the proceeds should be re-invested to provide alternative affordable housing in the city; and
 - b) not be subject to management or parking costs which would render the unit unaffordable.
- 3.5 Obligation 1 is necessary to ensure affordable housing is provided on site and remains affordable as required by the Framework, development plan and the Supplementary Planning Guidance quoted above.

Directly Related to the Development

- 3.6 The affordable housing is to be provided on site and therefore is clearly related to the development.

Fairly and Reasonably Related in Scale and Kind to the Development

- 3.7 The Strategic Housing Market Assessment (CD3.12) provides evidence of the need for affordable housing across the city. The city is divided in to 12

affordable housing market areas. The expected developer contribution towards affordable housing provision varies between 0% and 30%, depending on which Affordable Housing Market Area the site is in. The site lies in the Stocksbridge/Deepcar affordable Housing Market Area (CD3.8) where 10% of the GFA of major developments scheme such as this are required to be delivered as affordable housing.

3.8 The requirement to provide affordable units and to ensure they remain affordable in accordance with policy is fair and reasonable.

4.0 Obligation 2 - A contribution of £27,000 to be used for procuring the upgrade of two bus stops in the immediate vicinity of the site.

Necessary to make the Development Acceptable

4.1 Framework Paragraph 108 a) identifies that appropriate opportunities to promote sustainable transport modes should be taken up (relevant to development type and location) when considering development. First priority should be given to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – as far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use.

4.2 Core Strategy policy CS51 “Transport Priorities” (CD3.1) identifies the strategic priorities for transport include promoting choice by developing alternatives to the car.

4.3 There are several bus stops in the vicinity of the site, few of which benefit from covered waiting provision. Two replacement covered bus stops, which

offer protection from the elements, include seating and potential real time service information will provide appropriate facilities that encourage public transport use, in compliance with the highlighted local and national policy.

Directly Related to the Development

- 4.4 Existing bus stops, which are in easy walking distance of the appeal site, provide the only public transport connections to the site. The closest bus stop (to the south of the site entrance) on Carr Road is used by the service operators for timing purposes only. South Yorkshire Passenger Transport (SYPTTE) have confirmed that encouraging more people to use public transport services would be best served by upgrading one inbound and one outbound stop in the immediate vicinity which best compliments anticipated service demand.

Fairly and Reasonably Related in Scale and Kind to the Development

- 4.5 The £27,000 contribution request is fairly and reasonably related in scale and kind to a development of up to 85 homes. The contribution is based on work carried out at other bus stops in the city and has been provided by the local passenger transport executive (SYPTTE) who are responsible for the provision of such infrastructure. The contribution will cover the procurement of a covered bay shelter, perch seating, lighting/electrical supply, timetable case and related construction and installation work. Civils' groundwork is excluded and will be covered in a related section 278 Highways agreement.
- 5.0 **Obligation 3 - A contribution of £17,000 towards the provision and maintenance of microprocessor optimised vehicle actuation (MOVA) sensors across Carr Road and Manchester Road.**

Necessary to make the Development Acceptable

- 5.1 Framework paragraph 108 c) identifies that significant impacts on the transport network (capacity and congestion) or on highway safety, should where cost effective be mitigated to an acceptable degree. Paragraph 109 is clear that development should only be refused where residual cumulative impacts on the road network would be severe.
- 5.2 CS51 of the Core Strategy (CD3.1) identifies six strategic transport priorities which include b) maximising accessibility c) containing congestion levels, d) improving air quality, e) improving road safety. Core Strategy Policy CS53 (CD3.1) identifies ways in which the city's demand for travel will be managed and includes making the best use of existing road capacity, mitigating negative impacts of transport, particularly congestion and vehicle emissions.
- 5.3 Journeys by car are identified in the appellants Transport Assessment (CD1.23) as the dominant mode of transport associated with the development. Most of the predicted vehicle trips (approximately 88%) are anticipated to pass through the signalised junction of Manchester Road/Vaughton Hill/Carr Road. This junction is close to capacity and development traffic will intensify its operation.

Directly Related to the Development

- 5.4 Mitigation in the form of junction improvements are required to directly address the traffic and highways related impacts of the development.

Fairly and Reasonably Related in Scale and Kind to the Development.

5.5 MOVA is a software system that uses information from sensors on each arm of a junction to calculate signal timings to manage vehicle queues and reduce congestion. It is already installed at the signalised junction of Manchester Road/Vaughton Hill/Carr Road junction. The contribution will fund additional above ground video detectors (Manchester Road at the junction of Carr Road and the second, at an appropriate distance up Carr Road), signal controllers and cover the cost of the Councils Urban Traffic Control (UTC) section to reconfigure the central system to incorporate the additional sensors and to provide bus priority requests. The costs associated with these works have been supplied by the Councils UTC and are based on previous works of a similar nature undertaken elsewhere in the city.

6.0 **Obligation 4 - The provision of a land drainage scheme to include on and off-site sustainable drainage scheme (SuDS), which includes SuDS adoption and maintenance fees.**

Necessary to make the Development Acceptable

6.1 Paragraph 148 of the National Planning Policy Framework (NPPF) says that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change.

6.2 Paragraph 165 says that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

a) take account of advice from the lead local flood authority;

b) have appropriate proposed minimum operational standards;

- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
- d) where possible, provide multifunctional benefits.
- 6.3 Core Strategy (CD3.1) policy CS63 “Responses to Climate Change” says that action to reduce the city’s impact on climate change will include adopting sustainable drainage systems. Core Strategy CS67 “Flood Risk Management” (CD3.1) states (amongst other things) that the extent and impact of flooding will be reduced by a) requiring developments to significantly limit surface water run-off; and b) requiring SuDS to sustainable drainage techniques on all sites where feasible and practicable.
- 6.4 The proposed SuDS scheme complies with the highlighted national and local policy guidance. The scheme will manage surface water run-off from the site, store it during times of significant rainfall before discharging via a restricted rate to the nearby Clough Dike watercourse.
- 6.5 The detailed design of the SuDS will be finalised at reserved matters. The scheme will however involve on site drainage basin(s), pipework and a cascade connection to Clough Dike which is on council own land outside the application site boundary.
- 6.6 The planning obligation is required to ensure the delivery of the on and off-site works, and to ensure maintenance arrangements are in place to ensure effective operation for the lifetime of the project. This accords with part c) of paragraph 165 of the Framework. Failure to ensure long term maintenance could result in in flooding and pollution of the river environment and damage to property and land.

Directly Related to the Development

- 6.7 The Parameter plans (CD1.4a- 1.4f) show potential locations for Sustainable Urban Drainage System (SuDS). They will be fully designed (at reserved matters stage) to cater for the demands of the development.

Fairly and Reasonably Related in Scale and Kind to the Development.

- 6.8 The long-term maintenance of the SuDS basin(s) is to be secured by an annual rent charge (this mechanism is specific to the SCC adoption) payment on each homeowner. The annual maintenance charge will be agreed between the Council and the appellant at reserved matters. This annual maintenance charge will need to cover annual operations including mowing and litter picking, as well as Intermittent operations such as de-siltation, de-vegetation, structure repair and replacement. Along with management input to all operations including inspection to ensure performance both planned and before and after rainfall events.

- 6.9 In addition to the above the following fees are required:

- a) One-off Suds adoption fee of £5000 and maintenance fee of £6000 for the on-site facilities (if maintained by the Council) to provide early years funding until the Service charge is fully operational. The above maintenance charge will also apply.
- b) Only if the on-site SuDS is to be maintained by a private management company (other than the Council) pay the Council a one-off maintenance fee of £10,000 to cover maintenance and repair of the off-site facility until the service charge is fully operational. In this circumstance the annual

maintenance charge will not apply to the maintenance of the off-site facility.

- 6.10 The one-off SuDS (on site) adoption fee of £5000 is required to cover the Lead Local Flood Authority's input to delivering the approved design, negotiating adoption arrangements, onsite construction and establishment, and transition to adopter. They are based on the scale of the scheme and previous experience of the Lead Local Flood Authority.
- 6.11 The one-off (on site) Suds maintenance contribution(s) of £6000 is required to serve the following purposes. The long-term arrangement for resourcing management is through the rental charge, as above, part of which is for repair and replacement and intermittent management activities which is retained as an accumulating fund to be utilised at predetermined timing as well as at less predicted points in time as a response to need. From previous experience some of these activities have been needed in the early years whilst SuDS schemes have bedded in and the community have begun to interact with the SuDS landscape. In these early years there will be no accumulated funds from the rental charge which could be used to address these issues. Whilst it is difficult to predict the types of investment the figures quoted provides insurance that resourcing is available to cover these needs. Needs include – repairing vandalised structures, erosion of vegetation, unforeseen impacts of water in the landscape, improving protection to inlets. There is also the potential in programming that the developer will seek to handover the SuDS prior to completion of the development so this fund provides a top up in view of not all dwellings being completed and therefore chargeable.

6.12 The one-off SuDS maintenance contribution of £10,000 to the off-site SuDS is for the lifetime management of this feature including its maintenance and repair.

7.0 Obligation 5 – A public open space scheme.

Necessary to make the Development Acceptable

7.1 Paragraph 8 of the NPPF says that sustainable development has three overarching objectives. One of these is the social objective which includes the provision of accessible open space that reflects current and future needs and support communities health, social and cultural well-being.

7.2 Paragraph 96 of the Framework says that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.

7.3 Core Strategy (CS3.1) Policy CS46 “Quantity of Open Space” says that as opportunities arise, new open space will be created:

a. where a quantitative shortage of open space per head of population is identified in the local area;

7.4 Guideline GOS1 of the Council’s Community Infrastructure Levy and Planning Obligations (2015) SPD (CD3.8) states that for residential developments over

four hectares, a relevant proportion (a minimum of 10%) of the site should be laid out as open space, except where provision of recreation space in the local area would continue to exceed the minimum guideline after the development has taken place or it would be more appropriate to provide or enhance recreation space off-site within the local area.

7.5 The commentary on the policy says that local provision is important for many people who cannot get about easily. So, quantitative shortages (defined as 4 or less hectares per 1,000 people) should be made good wherever possible. An open space assessment has been undertaken which shows that there is a shortage of formal open within the local area.

7.6 The play area is needed to serve the open space needs of the future occupiers of the site as there are no children's play facilities close to the site. These facilities will be provided as part of a larger landscaped open space.

7.7 The play facilities are necessary to meeting the open space and recreation needs of the future occupiers of the site. Failure to secure their long-term maintenance and management would potentially result in the site becoming run down with play facilities becoming unusable and dangerous. If the landscaping is not maintained, it is likely to become overgrown and create public safety problems as well as undermining the biodiversity enhancement which is to be delivered by the development.

Directly Related to the Development

7.8 The play area and associated open space are indicated on the parameter plans (CD1.4a to 1.4f) The areas of open space are contained within the

appeal site and will serve the open space needs of the occupiers of the dwellings.

Fairly and Reasonably Related in Scale and Kind to the Development

- 7.9 There is an identified shortage of open space in the area that will be addressed by the provision of new formal and informal area of open space on site. The volume of space proposed accords with the requirements of Guideline GOS1 of the Council's Community Infrastructure Levy and Planning Obligations (2015) SPD (CD3.8).
- 7.10 The long-term maintenance of the play area/open space is to be secured by an annual rent charge payment on each house owner. The annual rent charge is to be agreed between the Council and appellant at reserved matters once the exact design of the space is known.

8.0 Obligation 6 - Provision of an area of Species Rich Grassland

Necessary to make the Development Acceptable

- 8.1 Paragraph 170 of the NPPF says that policies and decisions should contribute to and enhance the natural and local environment by minimising impacts and providing net gains for biodiversity.
- 8.2 Paragraph 175 says that when determining planning applications, local planning authorities should apply the principle that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

8.3 Obligation 6 is necessary to deliver compensation for grassland loss within the site and to provide a biodiversity net gain as required paragraphs 170 and 175 of the Framework.

8.4 The obligation also requires mechanisms to be secured that will ensure the public are excluded from the area, its maintenance and management and its retention in perpetuity. It is important that there is a plan in place for delivering the species rich grassland, monitoring and management in order to ensure the enhancements are successful.

Directly Related to the Development

8.5 Obligation 6 will deliver compensation for biodiversity and landscape harm caused by development, whilst also contributing to achieving a net biodiversity gain as required by policy.

Fairly and Reasonably Related in Scale and Kind to the Development

8.6 The land is within the appeal site and the appellant's control. The appellants appointed ecological consultants in their supporting submission (CD1.17a-1.17c) identified the areas as required to provide compensatory habitat for birds, bats, invertebrates and other flora and fauna species. The area would also help to contribute towards achieving biodiversity net gain as required by policy.

9.0 Obligation 7- A contribution of £5,000 towards the monitoring of the obligations of the section 106 agreement.

Necessary to make the Development Acceptable

- 9.1 The above highlighted obligations are necessary to make the development acceptable. The effective monitoring and enforcement of these obligations is also necessary to ensure the effects of the development are mitigated.

Monitoring Fee: means the sum of £5000 (five thousand pounds) payable for the councils administering monitoring of the obligations of the Deed, including reporting on those obligations in accordance with the Community Infrastructure Levy Regulations 2010.

- 9.2 Failure to monitor the obligations of the agreement could endanger the health and safety and amenities of future and existing residents of the area, for example the failure to provide the SuDS scheme and ensure maintenance, could lead to flooding and drainage issues.

Directly Related to the Development

- 9.3 The contribution would be used to monitoring the obligations of the section 106 specifically related to this appeal proposal.

Fairly and Reasonably Related in Scale and Kind to the Development

- 9.4 Planning Practice Guidance (Paragraph: 036 Reference ID: 23b-036-20190901) identifies that Local Authorities are entitled to charge a monitoring fee through section 106 agreements that enables them to monitor and report the obligations contained within it. The £5000 monitoring fee is based on the complexity of the agreement taking account of the Local Authorities previous experience of the monitoring of such agreements. The appellants have agreed that the fee is reasonable.

- 10. Obligation 8 – A contribution of £10,000 towards the implementation of a Traffic Regulation Order (TRO).**

Necessary to make the Development Acceptable

- 10.1 Framework paragraph 108 b) identifies that safe and suitable access to the should be achieved for all uses and 108 c) specifies that any significant impacts on the transport network (capacity and congestion) or on highway safety, should where cost effective be mitigated to an acceptable degree.
- 10.2 Improving road safety is one of six strategic transport priorities identified in CS51 of the Core Strategy (CD3.1).
- 10.3 Obligation 8 is necessary to mitigate the highways related impacts of the development and to ensure that existing road network continues to operate safely and efficiently.

Directly Related to the Development

- 10.4 The contribution would be used by the Council to cover the costs associated with advertising, drafting and legal costs specific to a traffic regulation order that is required to manage the traffic and highways related impacts of the development.
- 10.5 The site access is very close to the junction of Coultas Avenue and there are known on street parking issues (at specific times) on Carr Road associated with the nearby by school. Parking restrictions (lines, paint and signage) to prevent indiscriminate parking within the proposed junction and parts of the highway immediately surrounding the access will be necessary to ensure the road network continues to operate safely.

Fairly and Reasonably Related in Scale and Kind to the Development

10.6 The scale of the contribution is based on the Councils previous experience of the legal, drafting and advertisement costs associated with the preparation, and implementation of other traffic regulation orders elsewhere in the city. The contribution covers provision for additional rounds of public consultation should the need arise to amend the scheme. The costs associated with the TRO have been supplied by the Councils as Highway Authority and agreed as reasonable with the appellants.

11.0 Conclusion

11.1 The above statement confirms that the 8 obligations identified meet the tests in Paragraph 56 of the National Planning Policy Framework (NPPF) and regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended by the 2011 and 2019 Regulations).