

CIL Compliance Statement

Proposed development on Land off Ashland Road West, Sutton in Ashfield, Nottinghamshire, NG17 2EZ

APPEAL REF: APP/W3005/W/21/3274818

Introduction

1. This CIL Compliance Statement relates to the planning appeal for Land off Ashland Road West, Sutton in Ashfield, Nottinghamshire, NG17 2EZ, Planning Inspectorate reference APP/W3005/W/21/3274818 (“the Appeal”).
2. It has been prepared in support of the Council’s initial Draft S106 dated. Its purpose is to set out the justification and compliance for each contribution within the obligations with Paragraph 57 of the National Planning Policy Framework 2021 (NPPF) and the tests set out in Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended) (“the CIL Regulations”).

Planning Obligation Tests

3. Paragraph 57 of the NPPF reflects the legal tests in setting out the tests for planning obligations as being:
 - 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.
4. The following obligations meet the requirements of these tests:

The Planning Obligations

5. In summary, the Agreement provides for the following planning obligations:
 - Healthcare - £162,562
 - Public Open Space - £600,000
 - Built Sport Facilities - £258,000
 - Bus Service Contribution - £90,000
 - Bus Service / Bus Stops - £28,000
 - Sustainable Transport - £20,000
 - Libraries - £10,571
 - Primary Education - £1,317,834
 - Biodiversity – In dispute (see below)
 - Highways – Sustainable Transport - £130,000
 - Monitoring Contribution - £2,500
 - Travel Plan
 - 10% Affordable Housing

6. Nottinghamshire County Council's (NCC) approach to planning obligations is set out in its Planning Obligations Strategy (updated January 2021)¹ ("the POS").

Healthcare

7. Current capacity at GP surgeries local to the development would not be capable of accommodating the associated increase in population, as is made clear from the letter NHS Clinical Commissioning Group (CCG).
8. The CCG provided its standard formula for the cost of extensions as identified by a quantity surveyor experienced in health care projects, which equates to a total contribution of £162,562.
9. This formula has been devised by a suitably qualified expert and is therefore fairly and reasonably related in scale and kind to the development. The proposal would generate a requirement for healthcare provision for residents and is therefore directly related and necessary to make the development acceptable.
10. This contribution satisfies the CIL tests.

Public Open Space

11. Policy HG6 of the Ashfield Local Plan sets out that residential development will only be permitted where open space is provided to meet certain requirements. This sets out that in sites of two hectares and above a minimum of 10% of the gross housing area will be provided as open space. It also states that where it is not appropriate to provide open space within a site boundary, a planning obligation will be negotiated.
12. The Council's Places and Localities Team have set out that a S106 contribution of £600K is required for one of the following:
 - Riley Recreation Ground
 - Huthwaite Welfare Park
 - Brierley Forest Park
13. This is to include maintenance payment of 2.5% of £600k = £15,000 per year, at a total £225,000 over 15 years. The contribution is sought on the basis of £2,000 per dwelling, which is the standardised approach Ashfield takes to securing contribution towards off-site open space.
14. The indicative masterplan shows little in the way usable recreation open space and therefore this development will inevitably lead to pressures on recreation grounds elsewhere in the vicinity. The contribution is therefore necessary to make the development acceptable in planning terms, directly related and reasonable in kind and scale.

¹ <https://www.nottinghamshire.gov.uk/media/2904613/nccplanningobligationsstrategy.pdf>

15. It therefore satisfies the CIL tests.

Built Sport Facilities

16. Sport England's Sports Facilities Calculator (SFC)² provides an indication of the likely demand that will be generated by a development for certain facility types. The SFC indicates that a population of around 700 new residents in this local authority area will generate a demand for, an additional 57 visits per week to sports hall and 44 visits to a swimming pool.

17. The capital cost needed to accommodate this demand would be around £258,000. Based on the SFC, the contribution is considered to be reasonable in kind and scale. The Council's Places and Localities team have advised that improvements are required toward built leisure facilities at the Lammas LC. Accordingly, the contribution is necessary and directly related.

18. It therefore satisfies the CIL tests.

Travel and Transport: £90,000 bus service, £28,000 bus stops and £20,000 for sustainable transport.

19. NCC request a planning obligation of £90,000 for bus service contribution. This would be used to provide improvements to the local bus services to serve the site.

20. Ashland Road is served by Service 417 which provides a limited hourly off-peak service operated by Nottinghamshire County Council fleet. A frequent service operates to Sutton Town Centre and Mansfield on Huthwaite Road. This service is commercially operated by Stagecoach. However, the development is situated approx. 750 metres from the nearest bus stops on this service. Therefore, modifications to the bus network to provide better access to the proposed development is required.

21. The vehicles operated on service 417 have 16 seats and are currently operating close to capacity. This resource would not be enough to cover the demand arising from the new development. The contribution is therefore necessary to be put towards a large vehicle on Service 417, operating across the day and possibly an enhanced Saturday Service. It is considered that both the upgrades to the crossing and the bus service contribution are required to encourage sustainable transports modes.

22. NCC has also requested a planning obligation of £28,000 for bus stop infrastructure. This would be used to provide improvements to the bus stops on Rooley Avenue (AS0111), Norwood Close (AS0110), George Street (AS0129) (AS0130) and Siddalls Drive AS0128. This will include raised boarding kerbs, real time bus stop pole & displays including associated electrical connections, or other bus infrastructure improvements.

² <https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport/sports-facility-calculator>

23. NCC also request that a Sustainable Transport contribution of £20,000 is paid to provide each household with up to a 2-month or equivalent bus pass (subject to negotiated discount) for use on the local bus network to encourage use of sustainable modes of travel, or to support other sustainable transport measures for residents of the development.
24. In accordance with the justification provided by NCC, these contributions satisfy the CIL tests.

Libraries

25. The Museums, Libraries and Archives Council (MLA) publication “Public Libraries, Archives and New Development: a standard approach” recommends a standard stock figure of 1,532 items per 1,000 population. NCC have provided evidence to show Sutton in Ashfield Library is currently below the MLA optimum stock level and so a developer contribution is sought to ensure current stock levels are not put under further pressure as a result of the new development.
26. A developer contribution is needed for the additional stock that would be required to meet the needs of the 690 population that would be occupying the new dwellings. This is costed at $690 \text{ (population)} \times 1.532 \text{ (items)} \times £10.00 \text{ (cost per item)} = £10,571.00$. The contribution is therefore reasonable in kind and scale to the development, directly related and necessary to make the development acceptable.
27. It therefore satisfies the CIL tests.

Primary Education

28. NCC have also confirmed that the development would generate an additional 63 primary aged school pupils within the Sutton Town Primary Planning Area. Based on current pupil forecasts, there is a projected surplus within the planning area. However, NCC have been consulted on a number of planning applications, which would result in a shortfall of places.
29. In order to create additional places in the Sutton Town Primary Planning Area resulting from the aggregate impact of this application and other applications, a new primary school is required. The County Council have requested a contribution based on the cost per pupil of providing a new school, which is £1,317,834 (63 places x £20,918 per place).
30. The education contributions sought are firmly policy based, supported by Government guidance and as such are justifiable. Paragraph 95 of the NPPF demonstrates the importance of education provision. The method of calculation and approach by NCC is robust and clear.
31. The primary and secondary contributions have been approached on an area wide basis, where the data shows there to be insufficient capacity, when taken with other applications. A robust approach must ensure that contributions are sought for all developments - given the likely pressures facing school place

provision in the area from the required housing growth in the district. This approach was considered to be CIL Compliant under a recent appeal decision dated 12 May 2021 Reference - APP/W3005/W/20/3252949.

32. Having due regard for the above, it is considered that the contributions satisfy the relevant CIL tests.

Biodiversity

33. The question of whether biodiversity harm can be compensated for and, if so, by what amount, is a matter of dispute between the parties. Discussions are ongoing in advance of the Inquiry.

Highways - Sustainable Transport

34. NCC has requested this contribution to go towards cycling measures to support sustainable transport and reduce the impact of motorised vehicles on the highway is required.

35. The justification for the contribution derives from detailed transport assessment work and is directly related to the development and reasonable in kind and scale.

36. It therefore satisfies the CIL tests.

Monitoring Contribution - £2,500

37. Legislation allows Councils to charge a monitoring contribution for S106. Given the complexity and size of the agreement, this amount is considered to be reasonable in kind and scale.

38. It therefore satisfies the CIL tests.

Affordable Housing – 10%

39. The NPPF paragraph 64 sets out that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership.

40. It therefore satisfies the CIL tests.

Travel Plan

41. This obligation sets out the requirements for a Residential Travel Pack for each of the dwellings and the appointment of a Travel Plan Co-ordinator to ensure the Travel Plan is followed. It will also require appropriate monitoring of the Travel Plan. This is necessary to reduce non-car travel in accordance with NPPF Part 9 'Promoting Sustainable Travel'

42. It therefore satisfies the CIL tests.

Conclusion

43. For the reasons set out above, it is the position of the Council that the proposed planning obligations are necessary to mitigate the impact of the proposed development, directly related to the proposed development and reasonably related in scale and kind to the development for the purposes of CIL Regulation 122. Additionally, the Council confirms that the obligations do not breach the pooling restriction provisions set out in CIL Regulation 123.
44. Accordingly, the obligations should be sought if the appeal is successful.
45. There are currently ongoing discussions over biodiversity contributions (whether biodiversity harm can be compensated for and, if so, by what amount).