

# **Community Infrastructure Levy Regulations Compliance Statement**

**February 2021**

**LPA REF: P/18/1118/OA & P/19/0460/OA**

**PINS REF: 3252180 & 3252185**

## **PLANNING APPEALS BY FAREHAM LAND LP & BARGATE HOMES LTD LAND AT NEWGATE LANE (NORTH) & NEWGATE LANE (SOUTH)**

### **1.0 Compliance with Regulation 122 of The Community Infrastructure Levy Regulations 2010**

- 1.1 The Community Infrastructure Levy (CIL) Regulations 2010 came into effect on the 6th April 2010. From that date, Regulation 122(2) provides that a planning obligation can only constitute a reason for granting permission if the obligation is:
  - (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 All applications (and appeals) finally determined after the 6th April 2010 must clearly demonstrate that any planning obligation that is used to justify the grant of permission must meet the three tests. The same tests are repeated in paragraph 56 of the National Planning Policy Framework (NPPF).
- 1.3 This statement sets out the Local Planning Authority's (LPA) position in respect of the application of the above 'CIL tests' to the final draft unilateral undertakings submitted by the Appellants. The following unilateral undertakings have been provided:
  - A. "Draft Appeal UU – North" (from Sustainable Land Products Limited) – also referred to as the 'main' unilateral undertaking for the north appeal site
  - B. "Draft Appeal UU – South" (from Juliet Balance Smith, Gordo Stratton Quentin Smith and Richard Brian Quentin Smith and Bargate Homes Limited) – also referred to as the 'main' unilateral undertaking for the south appeal site

## **2.0 Unilateral Undertakings A & B**

2.1 The two unilateral undertakings (UUs) A & B are substantially similar in terms of the obligations they contain.

### **Schedule One – Highways Contribution, Highway Works, Travel Plan and Education**

#### ***Highways Contribution***

2.2 The highways contributions set out in the respective UUs are covered in the agreed Transport Statement of Common Ground (TSoCG) between the main appeal parties. It is common ground between the parties that the contributions are required in order to make the development acceptable.

2.3 Paragraph 5.5(iii) of the TSoCG states that:

*“The proposed development provides support for sustainable transport options further to entering into a S106 agreement to provide the following obligations and contributions;*

#### *Northern Site:*

- A contribution of Ninety-Five Thousand Four Hundred and Ninety-Five Pounds (£95,495) to support bus services and associated infrastructure in the vicinity of the Property;*
- A contribution of Fifty-Nine Thousand Two Hundred and Eleven Pounds (£59,211) towards the installation of a Toucan crossing at Woodcote Lane and Brook Lane; and*
- A contribution of Sixty-Eight Thousand Five Hundred and Seventy-Eight Pounds (£68,578) towards improvements to school routes at Gosport Road and the junction of Bells Lane, Stubbington Lane and Eric Road*

#### *Southern Site:*

- A contribution of One Hundred and Forty-Six Thousand Four Hundred and Twenty-Five Pounds (£146,425) to support bus services and associated infrastructure in the vicinity of the Property;*
- A contribution of Ninety Thousand Seven Hundred and Eighty-Nine Pounds (£90,789) towards the installation of a Toucan crossing at Woodcote Lane and Brook Lane; and*
- A contribution of One Hundred and Five Thousand) One Hundred and FiftyThree Pounds (£105,153) towards improvements to school routes at*

*Gosport Road and the junction of Bells Lane, Stubbington Lane and Eric Road.”*

2.4 The next paragraph of the TSoCG (5.5iv) confirms it is common ground:

*“That the measures / initiatives and the cost estimates for providing these, are agreed as provided within the Travel Plans (CDA.68 and CDA.139). Details relating to the measures, initiatives and cost estimates are included at Appendix SOCGT/D for ease of reference.”*

2.5 In relation to bus services, paragraph 2.35 of the TSoCG reads:

*“It is agreed that the appeal sites will support the use of bus and rail provision via the agreed mitigation package that includes for a contribution to continue to subsidise the 21 and 21A bus services and the provision of agreed Travel Plans that include incentives and measures including the provision of sustainable travel vouchers for first occupants.”*

2.6 In relation to the need for a toucan crossing, paragraph 2.16 of the TSoCG reads:

*“It is agreed that the provision of a Toucan crossing on Newgate Lane East at the existing pedestrian crossing between Woodcote Lane and Brookers Lane is required to mitigate the increased pedestrian movements generated by the proposed appeal schemes to access amenities and facilities in Bridgemary.”*

2.7 Policy CS5 of the adopted Fareham Borough Core Strategy (Local Plan Part 1) states that:

*“...The Council will permit development which... is designed and implemented to prioritise and encourage safe and reliable journeys by walking, cycling and public transport.”*

2.8 The highways contributions secured in the UUs provide support for sustainable transport options and act to encourage journeys by walking, cycling and public transport through the improvement of bus services (the first component of the contribution), pedestrian connectivity to amenities and facilities (the second element) and walking routes to local schools (the third). The contributions towards such improvements are therefore entirely within the scope of those prioritised and encouraged by Policy CS5.

2.9 The contributions are clearly necessary having regard to the first of the CIL tests and directly related to it in relation to the second test. The amount of

contribution required is an agreed matter in the TSoCG and the contributions are fairly and reasonably related to the development in scale and kind.

### **Highways Works**

- 2.10 The highway works secured relate to the site access and improvements to the junction of the development site and Newgate Lane. Such works are essential to the safe operation of the immediately adjacent highway network, directly related to the development and reasonable in all respects.

### **Travel Plan**

- 2.11 Paragraph 2.68 of the agreed TSoCG reads as follows:

*“It is agreed that the measures / initiatives and the cost estimates for providing these, are agreed within the Residential Travel Plans (CDA.68 and CDA.139). The proposed legal agreement includes the agreed Travel Plan approval fees, Travel Plan Bond, commitment to provide a Travel Plan Co-ordinator and travel plan monitoring fees for both sites. Details relating to the measures, initiatives and cost estimates are included at Appendix SOCGT/D for ease of reference.”*

- 2.12 The provision of a travel plan is necessary in order to promote sustainable modes of transport. The framework travel plans already provided and the final travel plans secured through the UUs relate directly to mitigating the impact of the appeal development. The measures and cost estimates involved have been agreed in the TSoCG.

### **Education**

- 2.13 The requirement for a financial contribution towards education provision is set out in the representation received from Hampshire County Council Children’s Services dated 9<sup>th</sup> November 2020 (**Appendix 1** to this statement). The response sets out the impact the appeal developments would have on local schools and the financial contributions required from the developer in order to mitigate this impact.

- 2.14 Paragraph 94 of the NPPF states that:

*“It is important that a sufficient choice of school places is available to meet the needs of existing and new communities... They [LPAs] should: give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications...”*

- 2.15 The obligations are considered to be directly related to and necessary in order to make the development acceptable in planning terms. The level of contribution required is relative in scale and kind as demonstrated in the

consultation response from the education authority. How the contribution will be used is clearly set out in the schedule to both UUs.

## **Schedule Two – Affordable Housing**

2.16 Core Strategy Policy CS18 states:

*“The Council will require the provision of affordable housing on all schemes that can deliver a net gain of 5 or more dwellings.... On sites that can accommodate 15 or more dwellings developers will be expected to provide 40% affordable units”.*

2.17 It continues:

*“Development proposals will be required to provide a mixture of dwelling types, sizes and tenures reflecting the identified housing needs of the local population”.*

2.18 The UUs secure delivery of 40% of the total number of residential units to be constructed as affordable units. It also secures an acceptable mix of tenures and sizes of those affordable units to reflect the identified housing needs in the locality. These provisions have been agreed with the LPA following discussions with the authority’s strategic housing Officers.

2.19 In summary, the LPA are content that the UUs secure a policy compliant scheme of affordable housing and that the relevant tests of CIL Regulation 122 are met.

## **Schedule Three – Environmental Obligations**

2.20 The financial contribution secured towards the Solent Recreation Mitigation Strategy complies with Policy DSP15 of the adopted Fareham Borough Local Plan Part 2: Development Sites and Policies. That local plan policy states that:

*“Planning permission for proposals resulting in a net increase in residential units may be permitted where ‘in combination’ effect of recreation on the Special Protection Areas are satisfactorily mitigated through the provision of a financial contribution that is consistent with the approach being taken through the Solent Recreation Mitigation Strategy.”*

2.21 The adopted definitive strategy is the Solent Recreation Mitigation Strategy (Bird Aware Solent, December 2017) - **Core Document CDE 7a.**

2.22 The LPA considers this obligation to be directly related to and necessary in order to make the development acceptable in planning terms. The level of contribution is proportionate and relative in scale and kind due to it being based on a schedule within the SRMS detailing the required sum according to the number of dwellings and bedrooms within those dwellings.

#### **Schedule Four – On-site Open Space and Managed Land**

2.23 Core Strategy Policy CS21 states:

*“Proposals for new residential development will be permitted provided that, where existing provision is insufficient to provide for the additional population, public open space is provided”.*

2.24 To ensure adequate infrastructure provision is made therefore to serve the development and not increase the burden on existing infrastructure, the provision of on-site open space with appropriate financial contributions towards the provision of play equipment and the maintenance of such is required to make the development acceptable in planning terms.

2.25 The amount of open space to be provided is secured in the UUs with reference to the calculations taken from the Council’s adopted Planning Obligations Supplementary Planning Document (SPD) (attached to this statement as **Appendix 2**). Similarly the maintenance contributions are derived from that document and based on the known costs of providing equipped play spaces and associated maintenance. The provisions made in the undertaking are therefore considered fairly and reasonably related in scale and kind.

#### **Appendices**

Appendix 1 – Representation from HCC Children’s Services 9<sup>th</sup> November 2020

Appendix 2 – Fareham Borough Council’s adopted Planning Obligations Supplementary Planning Document (SPD)