

Section 106 Obligations Justification Statement:

LPA Reference: P/20/0522/FP

PINS Reference: APP/A1720/W/21/3275237

LAND EAST OF CROFTON CEMETERY, AND WEST OF PEAK LANE, STUBBINGTON

DEVELOPMENT COMPRISING 206 DWELLINGS, ACCESS ROAD FROM PEAK LANE MAINTAINING LINK TO OAKCROFT LANE, STOPPING UP OF A SECTION OF OAKCROFT LANE (FROM OLD PEAK LANE TO ACCESS ROAD), WITH CAR PARKING, LANDSCAPING, SUBSTATION, PUBLIC OPEN SPACE AND ASSOCIATED WORKS.

13 October 2021

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 57 of the National Planning Policy Framework 2021 (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 draft unilateral undertaking from the Appellant. Whilst at the time of writing this statement the LPA has not had sight of the submitted version of the unilateral undertaking, the LPA had been involved in the preparation of a bilateral agreement prior to the determination of the application, and from which the unilateral undertaking is being drafted on which comments for this statement is based.

2.0 Schedule One – Highways and Travel Plan Obligations

- 2.1 The Appellant and the highway authority, Hampshire County Council (HCC) have agreed a package of measures to be secured through the unilateral undertaking, including the provision of a Travel Plan which accord with the measures agreed during the planning application. It is agreed that in the event that the Inspector were to allow the appeal those measures set out in the draft unilateral undertaking would comply with CIL Regulation 122.

3.0 Schedule Two – Affordable Housing Financial Contribution

- 3.1 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’.

- 3.2 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’.

- 3.3 The development should provide 82.4 units as affordable dwelling. The draft unilateral undertaking secures delivery of 40% of the total number of residential units to be constructed as affordable units (82 dwellings), with an agreed financial contribution for the remaining 0.4 units. It also secures an acceptable mix of tenures and sizes of those affordable units to reflect the identified housing needs in the locality, including the provision of social rented units and the capping of affordable rents at Lower Housing Allowance Levels. These provisions have been agreed with the LPA following discussions with the authority’s Strategic Housing Officers.

- 3.4 In summary, the LPA are content that the unilateral undertaking secures a policy compliant scheme of affordable housing and that the relevant tests of CIL Regulation 122 are met.

4.0 Schedule Three – Education Obligations

- 4.1 Paragraph 95 of the NPPF 2021 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...'

- 4.2 Please see the consultation response provided to the Council by Hampshire County Council Children's Services on the need for a contribution towards education provision dated 15 September 2020 (submitted with the Appeal Questionnaire). The response sets out the impact the appeal development would have on local schools and the financial contribution required from the developer in order to mitigate this impact.
- 4.3 The obligation is considered to be directly relates 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. The relevant tests of CIL Regulation 122 are met.

5.0 Schedule Four – Environmental and Habitats Obligation

- 5.1 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'*
- 5.2 The adopted definitive strategy is the Solent Recreation Mitigation Strategy (Bird Aware Solent, December 2017) – **Core Document 7.4.**
- 5.3 In addition to this, the development proposal includes the transfer of land to the north of Oakcroft Lane, and a contribution towards its maintenance to the LPA. Consideration of this accords with the consultation responses from Hampshire County Council Ecologist consultation responses and LPA consultation responses from Open Spaces Manager (submitted with the Appeal Questionnaire) is provides necessary mitigation to address the Solent Waders and Brent Goose Strategy (2018) – **Core Document 7.15.**
- 5.4 The LPA considers these obligations to be directly related to and necessary in order to make the development acceptable in planning terms. The levels of contribution are proportionate and relative in scale and kind having regard to the schedule within the

SRMS and consultation responses from relevant Officers of HCC and the LPA. The relevant tests of CIL Regulation 122 are met.

6.0 Schedule Five – Open Space Obligation

6.1 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’.

- 6.2 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, including the provision of a Locally Equipped Area of Plan (LEAP) is required on site to make the development acceptable in planning terms.
- 6.3 The amount of open space to be provided is secured in the submitted unilateral undertaking with reference to the calculations taken from the Council’s adopted Planning Obligations Supplementary Planning Document (SPD) – **Core Document 3.3**. The open space provision around the development will remain in private ownership and form part of the management company’s responsibility following the completion of the development. The unilateral undertaking makes provision to secure the delivery of the open space, its long-term maintenance and to ensure it is acceptable to the general public. The provisions made in the undertaking are therefore considered fairly and reasonably related in scale and kind, and the relevant tests of CIL Regulations 122 are met.