

Community Infrastructure Levy Regulations Compliance Statement
September 2022

LPA Ref: P/22/0165/OA

PINS Ref: APP/A1720/W/22/3299739

**PLANNING APPEAL BY MILLER HOMES LTD AND BARGATE HOMES LTD
LAND EAST OF NEWGATE LANE EAST, FAREHAM**

**1.0 Compliance with Regulation 122 of The Community Infrastructure Levy
Regulation 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 (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.

2.0 Unilateral Undertaking

**Schedule One – Highways Contribution, TRO Contribution, School
Travel Plan Contribution, Highways Works, Travel Plan and Education**

Highways:

2.1 The highway contributions set out in the respective UU is covered in the Agreed Statement on Transport Matters (ASoTM) (CDL.2), agreed between the main appeal parties. It is common ground between the parties that the contributions are required in order to make the development acceptable.

2.2 Table 1.1 of the ASoTM sets out the Transport Mitigation Package and include contributions for pedestrian crossing improvements, bus stop improvements, alterations to local roads, and a School Travel Plan.

Paragraph 1.10 (vi) confirms that *'HCC and the Appellant agree that contributions to improvements in these locations are necessary, to be secured in the S106 Obligation in line with the schedule presented at Table 1.1, which also presents the wider mitigation package for completeness'*.

- 2.3 The ASoTM sets out a significant list of highways works to provide the access into the site, and to support the wider strategic road network. These have been agreed between the parties. The ASoTM therefore confirms that the contributions and highway works 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 matters in the ASoTM and the contributions are fairly and reasonably related to the development in scale and kind.

Travel Plan

- 2.4 Paragraph 2.3.8 of the ASoTM states:

'To support the TA, a Framework Travel Plan (FTP – ITB10353-016) was also submitted as part of the application in January 2022 which commits to a package of measures to encourage sustainable modes of travel for residents and users of the proposed development. The FTP provides information on the existing accessibility of the site, travel targets, infrastructure measures, 'soft' measures, and provides a framework to monitor future travel demands'.

- 2.5 Paragraph 2.3.9 confirms that HCC agree to the FTP is acceptable and of a good standard.
- 2.6 The provision of a travel plan is necessary in order to promote sustainable modes of transport. The Framework Travel Plan already provided and secured through the UU relate directly to mitigating the impact of the appeal development. The measures and cost estimates involved have been agreed in the ASoTM.

Education:

- 2.7 The education contributions set out in Schedule One accord with the consultation response provided by HCC Children's Services in their email dated 20 April 2020, confirming a 50% reduction in relation to primary and secondary contributions from their original response dated 8 March 2020.
- 2.8 Paragraph 95 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...'

- 2.9 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 of the UU.

Schedule Two – Affordable Housing Obligations

- 2.10 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'.

- 2.11 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 populations'.

- 2.12 The UU secures 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.

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

Schedule Three – Environmental Obligations

- 2.14 The financial contribution secured towards the Solent Recreation Mitigation Strategy and the Interim New Forest Recreational Disturbance Solution comply with Policies DSP13 and DSP15 of the adopted Fareham Borough Local Plan Part 2: Development Sites and Policies. Local Plan policy DSP15 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’.

- 2.15 The adopted definitive strategy is the Solent Recreation Mitigation Strategy (Bird Aware Solent, December 2017) (CDE.10).
- 2.16 In addition, the New Forest Interim Solution (CDH.16) was agreed by the Council’s Executive Committee in December 2021 after it was identified that increased housing around the New Forest designated sites resulted in a marked increase in use of the sites and exacerbated recreational impacts. A Zone of Influence (ZOI) of 13.8km was identified for which sites within should make the appropriate contribution towards improvements to open space within Fareham Borough and a small contribution towards the New Forest National Park Authority.
- 2.17 The LPA considers these obligations 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 schedules in the SRMS and Interim Solution.

Schedule Four – Open Space Obligations

- 2.18 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’.*
- 2.19 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 and a Neighbourhood Equipped Area of Plan (NEAP) is required to make the development acceptable in planning terms.
- 2.20 In addition, a requirement for outdoor sports facilities is required to be provided as part of the development proposal. As part of a forthcoming housing allocation in the emerging Local Plan (Site HA55) (CDF.5), the LPA is looking to provide a Sports Hub of Borough Wide significance. This Sports Hub would be located within the same Ward (Stubbington) as the appeal site, and the appellant has agreed to make a suitable financial contribution towards the provision of a rugby pitch on this sport hub, together with an appropriate financial contribution towards the maintenance of the pitch.

- 2.21 The amount of open space and the provision of the NEAP is secured in the UU with reference to a minimum area to be provided in accordance with the Council's adopted Planning Obligations Supplementary Planning Document (SPD) (attached to this Statement as Appendix 1). The maintenance of the open spaces and NEAP would be retained by the Management Company on the site, and measures to secure this are set out in the UU. The provisions made in the undertaking are therefore considered to be fairly and reasonably related in scale and kind.
- 2.22 In respect of the outdoor sports provision, the Obligations SPD makes no provision for off-site outdoor sports provision. There is only a requirement for on-site, for which an area of 1.08ha should be provided. However, given the LPAs objective of achieving the Sports Hub, which carries considerable weight in the emerging Local Plan, the appellant is willing to make this contribution, together with a maintenance contribution calculated on the requirement set out in the Obligations SPD. The site of the Sports Hub on Longfield Avenue, and the contribution proposed is directly related to the development and fairly and reasonably related in scale and kind to the development.

Schedule Five – Bird Conservation Obligations

- 2.23 Policy DSP14 of the adopted Fareham Borough Local Plan Part 2: Development Sites and Policies states:

'Development on 'important' sites for Brent Geese and/or Waders...may be granted planning permission where:

- i) it can be demonstrate that there is no adverse impact on those sites; or*
- ii) appropriate avoidance and/or mitigation measures to address the identified impacts, and a programme for the implementation of these measures, can be secured'.*

- 2.24 Having regard to the Solent Waders and Brent Goose Strategy 2020, March 2021 (CDE.9), the appeal site comprises a combination of Secondary Support Area and Low Use Site as part of the wider Solent Wader and Brent Goose network of sites. The parties have prepared an Ecology Statement of Common Ground (ESoCG) to secure through the UU the on-site Winter Bird Mitigation Area at the northwest corner of the appeal site.
- 2.25 The provision of the on-site Winter Bird Mitigation Area is considered to meet the relevant tests set out in the CIL Regulations are met.

Appendices

Appendix 1: Fareham Borough Council's adopted Planning Obligations
Supplementary Planning Document (SPD)