

Planning Obligations CIL Compliance Statement

Wychavon District Council

October 2024

Appeal Reference: AAPP/H1840/W/24/3346731

Land at Dilmore Lane, Fernhill Heath

Residential development for up to 130 dwellings (Use Class C3), including vehicular access from Dilmore Lane, pedestrian and cycle links, public open space, car parking, drainage, landscaping and other associated infrastructure.

All matters reserved except for access

Introduction

Community Infrastructure Levy Regulations 2010 (as amended)

The Community Infrastructure Levy (CIL) is a charge which can be levied by local authorities on new development in their area. The levy only applies in areas where a local authority has consulted on and approved, a charging schedule which sets out its levy rates and has published the schedule on its website.

The South Worcestershire Development Plan (SWDP) is a partnership between Wychavon District Council, Malvern Hills District Council and Worcester City Council, notwithstanding this, each of the Councils are charging authorities in their own right and are required to prepare separate charging schedules for the Community Infrastructure Levy (CIL or “the Levy”). The Wychavon CIL charging schedule was adopted on 26 April 2016 and commenced on 5 June 2017 (Appendix 1). In accordance with the Council’s charging schedule only the open market dwellings would be CIL liable. The affordable housing would be exempt.

Where planning applications are capable of being charged the levy, they must comply with the tests set out in the Regulation 122 of the CIL Regulations. These tests are as follows:

- (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.

As a result of these regulations, Local Authorities and applicants need to ensure that planning obligations are genuinely 'necessary' and 'directly' related to the development'. As such, the regulations restrict Local Authorities ability to use Section 106 Agreements to fund generic infrastructure projects, unless the above tests are met. Where planning obligations do not meet the above tests, it is 'unlawful' for those obligations to be taken into account when determining an application.

Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019

Amendments to the Community Infrastructure Levy Regulations 2010 were introduced on 1 September 2019. The most noticeable change of the amendment is the ‘lifting’ of the ‘pooling restriction’ as a result of the deletion of Regulation 123. Any development granted planning permission on or after 1 September 2019 may now be subject to a section 106 agreement contributing to infrastructure that has already benefited from contributions from five or more planning obligations since 2010. However, the tests in Regulation 122 continue to apply.

The information below provides evidence to demonstrate that each obligation meets the tests in CIL Regulation 122 and the guidance in paragraph 55 and 57 of the NPPF (2023).

Separate CIL Statements are provided in respect of County Highways (Appendix 2), Education (Appendix 3) and NHS Primary Care Contributions (Appendix 4).

Planning Obligation – Affordable Housing

The NPPF (December 2023) sets out under Part 5 ‘Delivering a sufficient supply of homes’ that to support the Government’s objective of significantly boosting the supply of homes, it is important, that amongst other things the needs of groups with specific housing requirements are addressed (para.60).

SWDP Policy 15 (2016) seeks to ensure affordable housing need is met. The number, size, type, tenure and distribution of affordable dwellings to be provided will be subject to negotiation, dependent on recognised local housing need, specific site and location factors and development viability and having regard to the sliding scale approach set out below:

i. On sites of 15 or more dwellings on greenfield land, 40% of the units should be affordable and provided on site.

The Affordable Housing SPD (2016) confirms the above policy requirements and sets out further detail.

Worcester City Council, Wychavon District Council and Malvern Hills District Councils' formal position with respect to affordable housing and tariff style developer contributions following the publication of National Planning Policy Framework (2019) also confirms the above policy requirement with other detail.

First Homes Government Initiative - 25% of all affordable housing through developer contributions must be delivered as First Homes (with at least a 30% discount on open market value). Planning Practice Guidance and a Written Ministerial Statement sets out how First Homes are to be delivered. [First Homes - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/first-homes) and [Written statements - Written questions, answers and statements - UK Parliament](https://www.parliament.uk/written-questions-answers-statements/written-question/House-of-Commons/2018-03-22/11000)

Affordable Housing Provision

Forty percent (40%) of the dwellings to be constructed as part of the Development shall be Affordable Housing Units in accordance with policy. The South Worcestershire Strategic Housing Market Assessment 2021 Update recommends a tenure split of 69% Social Rented, 25% First Homes and 6% Shared Ownership. Additionally, the National Planning Policy Framework (NPPF) requires 10% of the total number of homes on major sites to be provided as affordable home ownership and these will count towards the affordable housing provision. For this application of 130 dwellings (of which 52 will be affordable), the agreed tenure split is 69% Social Rent (36 dwellings), 25% First Homes (13 dwellings) and 6% Shared Ownership (3 dwellings).

Basis of Need

The provision of affordable housing on site is directly related to the development. The basis of need for the provision of on-site affordable housing is in accordance with the following:

The Strategic Housing Market Assessment (SHMA) (2021 Update) – indicates a minimum net imbalance of 117 affordable units per year over the next 5 years.

[Malvern Hills, Worcester City and Wychavon Strategic Housing Market Assessment 2021 Update \(swdevelopmentplan.org\)](https://www.swdevelopmentplan.org/)

Housing Register (Housing for you) - [Worcester Scheme \(housingforyou.co.uk\)](https://www.housingforyou.co.uk/)

As at 24/08/2023, Housing for You data showed that there were 2,871 households registered with a banding which indicates that they have a local connection to the Wychavon District. These households have the following bedroom need:

- 1 bed – 1,528 households
- 2 bed – 805 households
- 3 bed – 417 households
- 4 bed – 111 households
- 5 bed – 9 households
- 6 bed – 1 household

As the site is in a Designated Rural Area, the council's Rural Lettings Policy would apply to ensure that people with a local connection to North Claines and the surrounding parishes are prioritised for affordable housing. There are a total of 11 households registered with an address in the parish of North Claines. These households have the following bedroom requirements:

1 bed – 2
2 bed – 5
3 bed – 4

There are a further 17 households with an address in one of the surrounding parishes (Hindlip, Martin Hussingtree, Salwarpe, Ombersley and Doverdale). These households have the following bedroom requirements:

1 bed – 7
2 bed – 6
3 bed – 4

The above may be an under representation of housing need as it is not possible from our current reporting system to establish how many households have a local connection to the parish through employment or close family links.

Parish Housing Needs Survey – A Parish Housing Needs Survey was carried out by Wychavon District Council for the parish of North Claines during October 2020. The results of the survey showed that 18 respondents indicated that they had a need for affordable housing within the next five years, as follows:

Next 12 months
9 households

1-3 years
7 households

3-5 years
2 households

Housing Officers note that at the time of publishing the survey there was a development under construction which may have addressed some of the housing need.

CIL Compliance tests

- *Necessary to make the development acceptable in planning terms*
- *Directly related to the development*
- *Fairly and reasonably related in scale and kind to the development*

The provision of affordable housing on-site is necessary to meet an identified need and is a requirement of both national and local planning policy.

The provision of affordable housing on site is directly related to the development and the provision of 40% on site is fairly and reasonably related in scale and kind to the development.

Planning Obligation - Formal Sports and Built Leisure

The South Worcestershire Development Plan (SWDP) ensures that new developments set out high quality formal and informal recreational opportunities and makes a contribution to

enhancing sporting facilities in order to encourage healthy lifestyles. Furthermore, the South Worcestershire Developer Contributions Supplementary Planning Document (July 2018) confirms the basis with which both on-site and/or off-site contributions will be sought against all developments within the district.

Strategic Evidence:

Policy SWDP39 (Provision for Green Space and Outdoor Community Uses in New Development) requires the delivery of a range of open space typologies, from qualifying residential development, to address the needs arising from the development.

The adopted policy sets a threshold of 6 dwellings, but subsequent to the re-instatement of the 2014 Ministerial Statement in non Designated Rural Areas the South Worcestershire Councils now apply a threshold of 11 dwellings. However, in the Designated Rural Areas the threshold remains at 6 dwellings. Albeit for developments of 6 to 10 inclusive, only a financial contribution (via a S106 agreement) towards off-site provision will be sought in relation to the Market dwellings.

The projected increase in Wychavon's population as a result of proposed developments has clearly identified the need for increased formal sports provision. To address this, Wychavon District Council commissioned 'KPMG' to conduct a Playing Pitches and Open Spaces Strategy for Hereford and Worcestershire to look at sports facility provision, and need, in relation to population growth (published 2021). This is supported by the Sports Facilities Framework (2021), undertaken by the same consultants in relation to the 3 South Worcestershire Authorities (Malvern Hills, Worcester City and Wychavon) and elements of the PPG 17 survey undertaken by PMP in 2006.

For Wychavon the report clearly identifies a need for a range of additional facilities requirements, including sports hall provision (equivalent to 24 badminton courts) as well as additional swimming capacity, athletics facilities, pitch provision and identifying potential enhancements to existing sporting venues to cope for the increased demand for sporting opportunities pertinent to this, and other, proposed developments.

Formal Sport Contribution

SWDP39 Table 10 sets out area standards for a range of open space typologies, although not for formal pitches. But SWDP39 C is clear in the requirement for formal pitches, with the amount/cost being looked at on a case-by-case basis using the most up-to-date available evidence. The South Worcestershire Councils consider the 2015 '6 Acre Standard' (1.2 hectares of pitch provision per 1,000 residents (423 homes) as an appropriate evidence basis for calculating the on-site provision or off-site financial contributions.

As the application site is not capable of accommodating the required amount of on-site, an off-site contribution towards formal pitches is required from this development calculated on the following basis:

Worked Example – for information only

Purchase cost (1.2 x £20,000)	£24,000
Natural Turf Pitch provision	£100,000*
Pitch Maintenance (5% of capital cost per annum, 20 years)	£100,000
Pavilion Provision (2 changing rooms)	£275,000*
Pavilion Maintenance (5% of capital cost per annum, 20 years)	£275,000

Example Total: £774,000

* Sport England Facility Costs February 2016

The contribution refers to the 72 market dwellings and is apportioned as detailed below:

Each 1 Bed Unit = **£1,546**

Each 2 Bed Unit = **£2,322**

Each 3 Bed Unit = **£3,096**

Each 4 or 4+ Bed Unit = **£3,870**

Built Sports Facilities Contribution

To calculate the Built Sports Facilities contribution, the council makes use of Sport England's Facilities calculator. This nationally recognised planning tool utilises the projected population growth from any proposed development and calculates the required contribution (assuming an occupancy rate of 2.3). In this case the Council would expect a contribution of **£756 per dwelling** to be used towards improvements to Droitwich Leisure Centre.

CIL 122 compliance

These contributions have arisen from the development management process and have been considered against Section 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and the 3 tests detailed in the NPPF are:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and,
- Fairly and reasonably related in scale and kind to the development

Necessary to make the development acceptable in planning terms

The Council has an extensive and comprehensive evidence base for both Formal Sport and Built Sports Facilities, which has been developed using external consultants applying the latest methodology. This establishes the current level of provision and identifies specific actions in relation to both the need for new facilities and the required enhancements to existing facilities to accommodate an increased population arising from housing growth.

Directly related to the development

The comprehensive evidence base looks at both individual sports and sports facilities, detailing the required enhancements or the provision of new facilities within the catchment area of the proposed development, to ensure the Sports and Leisure needs for residents are addressed.

Fairly and reasonably related in scale and kind to the development

For both the Formal Sports and Built Leisure Facilities contributions, the contribution amounts are established using an established methodology for specific needs based on the projected population growth arising from the development and are thus proportionate to the size of the proposed development in both scale and kind.

Public Open Space Areas

Obligation

The provision of on-site public open space.

Policy Context

The NPPF sets out 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.

The South Worcestershire Development Plan (SWDP) ensures that new developments set out high quality formal and informal recreational opportunities and makes a contribution to enhancing sporting facilities in order to encourage healthy lifestyles. Furthermore, the South Worcestershire Developer Contributions Supplementary Planning Document (July 2018) confirms the basis with which both on-site and/or off-site contributions will be sought against all developments within the district.

SWDP Policy 39 states that *“Development proposals exceeding 5 dwellings should make provision for Green Space and outdoor community uses as set out in Table 10, together with secure arrangements for its long-term management and on-going maintenance.”*

CIL Compliance

Necessary to make the development acceptable in planning terms

The NPPF advocates improving the conditions in which people live and take their leisure. A high-quality built environment, including the spaces within it, plays an important social role in the delivery of sustainable development. The NPPF also requires local planning authorities to plan positively for the provision of community facilities and spaces.

Directly related to the development

Where possible open space provision should be provided on site in accordance with the established requirements. Where this is not appropriate a financial contribution is sought to provide the necessary open space provision off-site.

Fairly and reasonably related in scale and kind to the development

Any contribution amounts are established using a methodology for specific needs based on the projected population growth arising from the development and are thus proportionate to the size of the proposed development in both scale and kind.