

Planning Obligations CIL Compliance Statement

Worcestershire County Council

October 2024

Appeal Reference:

A P P / H 1 8 4 0 / W / 2 4 / 3 3 4 6 7 3 1

Land off 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.

1.0 Introduction

Community Infrastructure Levy Regulations 122 – Compliance Statement

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. 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).

2.0 Planning Obligation – Bus Service Enhancement Contribution

The nearest bus service to the development is the Keys 355 service running south of the site. Following discussions with the operator it has been agreed that contributions to route the service into the site and increase the frequency is necessary.

The operator has advised that to operate an hourly service Monday to Saturday including a peak time service to and from Worcester would cost £303 per day. The current cost

of the service is £5,450.83 per month so £65,409.96 per year. The extra services would cost an additional £2,427.17 per month so £29,126.04 per year taking the full contract cost up to £94,536 per year. Based on an initial 10 passengers per day extra, would give a cost estimate of £29,126.04 in Year 1 and £15,086.04 in Year 2, giving a total contribution sum required of £44,212.08.

On this basis, a contribution of £44,212.08 is sought towards bus service enhancements to improve the sustainability to the site.

Justification

Paragraph 114 of the NPPF states “In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location...”

The Bus Service Enhancement contribution is considered to meet the CIL Regulation 122 tests and is consistent with the published CIL Regulation 123 List, since it secures infrastructure directly related to the development and necessary to make it acceptable in planning terms.

3.0 - Planning Obligation - Community Transport

Under the 1985 Transport Act, Worcestershire County Council has a duty to consider the transport needs of elderly and disabled residents. A transport service must be provided for all elderly and disabled residents where no suitable bus service exists for those unable to access a bus due to disability. Worcestershire County Council derives forecast need for new developments using historic trip need, Department for Transport mileage rates and census data (for population per dwelling, disabled population statistics and age data) based on five years calculated cost. The service provides access to vital services, particularly acute health where it is no longer policy to offer appointments at the nearest facility to the resident’s home address.

On this basis, a contribution of £8,694.00 is sought towards community transport.

Justification

Paragraph 116 of NPPF states that new development should “address the needs of people with disabilities and reduced mobility in relation to all modes of transport...”. The developer contribution amount towards community transport is considered to meet the CIL Regulation 122 tests and is consistent with the published CIL Regulation 123 List, since it secures infrastructure directly related to the development and necessary to make it acceptable in planning terms.

4.0 - Planning Obligation – Footway Improvements

The proposals will generate additional pedestrian movements in this locality, and the inclusion of a Travel Plan providing residential welcome packs to the new residents will encourage further mode shift.

The Highway Authority is seeking contributions towards footway works to improve the pedestrian provision at a number of locations by the provision of dropped kerbs and tactile

paving. These improvements will enhance the pedestrian route/s from the site to the town centre and surrounding local amenities.

Dropped kerbs and tactile paving are requested at the following locations:-

- Firlands Close /Station Road junction
- Rosendale Close/Station Road junction
- Shrawley Close/Station Road junction
- Station Road/Droitwich Road junction

On this basis, a contribution of £12,000.00 is sought towards footway improvements.

Justification

Paragraph 116 of the NPPF states “Within this context, applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas....”

The footway Improvement contribution is considered to meet the CIL Regulation 122 tests and is consistent with the published CIL Regulation 123 List, since it secures infrastructure directly related to the development and necessary to make it acceptable in planning terms.

5.0 - Planning Obligation – Traffic Regulation Order (TRO)

As part of the development, it is proposed to amend the speed limit on Dilmore Lane to relocate the national speed limit and extend the 30mph. A fee to process a TRO application is requested in this location.

On this basis, a contribution of £4,500.00 is sought for the processing of a Traffic Regulation Order.

Justification

The Highway Authority has no objection to the proposed relocation of the 30mph speed limit and agrees such a measure is appropriate relation to a new residential development.

The TRO contribution is considered to meet the CIL Regulation 122 tests and is consistent with the published CIL Regulation 123 List, since it secures infrastructure directly related to the development and necessary to make it acceptable in planning terms.

6.0 Conclusion on S106 requirements

The above contributions and highway-related improvement 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 three tests detailed in the NPPF paragraph 57 which 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.

The contributions, as detailed above, meet the three tests set out in CIL Regulation 122.

