

CIL Compliance Statement

West Berkshire Council

Town and Country Planning Act 1990

Community Infrastructure Levy Regulations 2010

Section 78 appeal against the refusal of planning permission

Appeal: APP/W0340/W/20/3265460

Site: Sandleford Park, Newtown Road, Newbury

Proposal: Outline planning permission for up to 1,000 new homes; an 80 extra care housing units (Use Class C3) as part of the affordable housing provision; a new 2 form entry primary school (D1); expansion land for Park House Academy School; a local centre to comprise flexible commercial floorspace (A1-A5 up to 2,150 sq m, B1a up to 200 sq m) and D1 use (up to 500sq m); the formation of new means of access onto Monks Lane; new open space including the laying out of a new country park; drainage infrastructure; walking and cycling infrastructure and other associated infrastructure works. Matters to be considered: Access.

Date: 21 April 2012

Council Reference: 20/01238/OUTMAJ



West Berkshire
C O U N C I L

CIL Compliance Statement

West Berkshire Council
Development and Planning
Market Street
Newbury
Berkshire
RG14 5LD

T: 01635 519111

E: appeals@westberks.gov.uk

www.westberks.gov.uk/planning

Contents

1. INTRODUCTION	4
SCOPE OF STATEMENT	4
POLICY CONTEXT	5
PROPOSED PLANNING OBLIGATIONS	6
2. PROPOSED PLANNING OBLIGATIONS.....	7
PRIMARY EDUCATION	7
SECONDARY EDUCATION	7
COMMUNITY FACILITY	9
PUBLIC OPEN SPACE.....	9
HIGHWAYS INFRASTRUCTURE	10
SPORT FACILITIES (TRIANGLE LAND AND THE RUGBY CLUB)	12
PUBLIC TRANSPORT CONTRIBUTION	12
HEALTH CARE CONTRIBUTION.....	13
TRAVEL PLAN CONTRIBUTION	13
AFFORDABLE HOUSING.....	13
3. CONCLUSION.....	14

1. Introduction

Scope of statement

- 1.1 This statement has been prepared for **the residential-led inquiry appeal at Sandlesford Park**. This statement justifies the planning obligations sought in relation to the appeal proposal, in the context of the relevant legislation and policies.
- 1.2 Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) provide the three tests for planning obligations, which are repeated by the NPPF. It provides that a planning obligation may only constitute a reason for granting planning permission for development 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.
- 1.3 West Berkshire Council is the Local Planning Authority and the CIL Charging Authority in respect of this application. The Council's CIL was implemented on 1 April 2015. Whilst CIL replaces most of the previous system of developer contributions collected under Section 106, it will still be necessary to have S106 planning obligations under certain circumstances, for example to provide affordable housing, or provide infrastructure on site, or pay for infrastructure improvements required off site but specifically as a result of a development.
- 1.4 The Council adopted a CIL Charging Schedule on 4th March 2014, with an implementation date of 1st April 2015. Development permitted from 1 April 2015 onwards is liable to pay the Levy as set out in the CIL Charging Schedule, the developers would be eligible for a refund of any CIL payments in relation to affordable housing, provided they apply and secure it prior to commencement of any development on site.
- 1.5 This statement considers compliance **in** respect of each of the planning obligations proposed in the appellants' currently draft s106 unilateral undertaking under discussion with the Council.

Policy context

- 1.6 The statutory development plan for West Berkshire is currently made up of a number of different documents¹. The table below sets out those development plan documents that are relevant to the proposed planning obligations, together with a list of the relevant policies.

Development Plan Document
West Berkshire Core Strategy 2006-2026 (WBCS) http://info.westberks.gov.uk/corestrategy
Housing Site Allocations Development Plan Document 2006-2026 (HSA DPD) http://info.westberks.gov.uk/hsa
West Berkshire District Local Plan 1991-2006 Saved Policies 2007 (WBDLP) http://info.westberks.gov.uk/article/28783
Stratfield Mortimer Neighbourhood Development Plan (NDP) 2017 https://info.westberks.gov.uk/smndp
South East Plan (Regional Spatial Strategy for the South East of England) https://info.westberks.gov.uk/CHttpHandler.ashx?id=45126&p=0
Replacement Minerals Local Plan for Berkshire (1997/2001) https://info.westberks.gov.uk/CHttpHandler.ashx?id=34864&p=0
Waste Local Plan for Berkshire (1998) https://info.westberks.gov.uk/CHttpHandler.ashx?id=34865&p=0

- 1.7 A number of documents are material conditions relevant to the proposed planning obligations.
- 1.8 The **National Planning Policy Framework (NPPF)** sets out the Government's planning policies for England and how these should be applied. The NPPF is a material consideration in planning decision, which should be read as a whole (including its footnotes and annexes). The latest version was published in February 2019.
-

1.9 The **Planning Practice Guidance (PPG)** is an online publication which supplements the NPPF and, as a statement of government policy, may also be material when deciding applications/appeals.

1.10 The **Planning Obligations SPD (2014)** was adopted by the Council in December 2014, following a period of consultation which took place in Summer 2014. It sets out the Council's approach for securing contributions and requiring obligations from development, alongside the Community Infrastructure Levy (CIL). This approach is in accordance with national CIL Regulations and the council's pdf CIL Regulation 123 List.

1.11 The **Sandleford Park SPD (2015)**

Proposed planning obligations

1.12 The following planning obligations are proposed. CIL compliance is considered in subsequent sections of this statement.

a) Education;

b) Community Facility

c) Public Open Space

d) Highway Infrastructure

e) Sport facilities (Rugby Club)

f) Public Transport

g) Health Care

h) Travel Plan

i) Affordable Housing

1.13 Reason for refusal number 14 of the planning refusal raised a number of issues that the council seeks to deal with by way of S106 obligations. Most of them are still reflected below.

2. Proposed planning obligations

Primary Education

- 2.1 Primary Education Mitigation comprising the agreed identification and transfer of primary school land measuring 20,430sq.m. within Development Parcel North 2 transferred to the Council (Education Authority); the Appellants have also opted to pay a contribution for the Council to fully cover the construction of a two form entry (2FE) primary school plus early years reception class, instead of constructing it themselves.
- 2.2 The primary school contributions have been agreed to be paid as follows:

10% prior to Commencement of the Development; 81% prior to Occupation of the 250th Dwelling; and the remaining 9% prior to Occupation of the 750th Dwelling.
- 2.3 This further to the requirement of Core Strategy policy CS3 and Sandleford Park SPD and as per the Appellants' feasibility study in Appendix 4 of the Planning Statement.
- 2.4 The above primary education provision is necessary to mitigate the impact of the development in terms of primary education and therefore to make it acceptable. It is directly related to the development, provided within the site and cater for the future residents of the appeal scheme. The 1080 unit development gives rise to the need for a 2FE primary school plus reception class primary school and it is therefore fairly and reasonably related in scale and kind to the development.

Secondary Education

- 2.5 The development of the Sandleford Park strategic allocation requires secondary education mitigation in the form of the expansion of the adjoining Park House School (a sports academy) through the expansion of its facilities and accommodation and the delivery of expansion land to provide a natural-turf full-size football pitch to be provided in mitigation. This is supported by the Core Strategy allocation policy CS3 and the Sandleford Park SPD. The Appellants' feasibility study in Appendix 3 of the Planning Statement, sets out a scheme for the expansion of Park House School to accommodate the new population at Sandleford Park and also a small number of additional pupils

which the Council needs to accommodate in the school from other recent smaller developments in Newbury.

- 2.6 As the Appellants' Planning Statement says (p.10) this is based on an increase in the size of the school by 236 additional secondary school pupils, which corresponds with 139 places for pupils from the appeal development, 57 pupils from the DNH development and 40 places required by West Berkshire Council. The additional places as a result of the appeal proposal is the largest the three components and corresponds to 59% of the overall additional demand that needs to be mitigated.
- 2.7 The scheme for the expansion land with associated football pitch as refused, as per the Wheatcroft amendment and as per the third option put forward by the Appellants' witness on education matters in their proof of evidence, have been unacceptable on ecological (including Ancient/Veteran tree and ancient Woodland) grounds. However, at the time of writing of this statement, the parties continue to liaise with a view to finding an acceptable option that overcomes and avoids the ecological harm in the context of the discussions on the Appellants' draft Unilateral Undertaking.
- 2.8 Assuming, without prejudice that such a compromise and acceptable solution is arrived at, then the Appellants and the Council agree that the feasibility scheme is a satisfactory way of achieving the expansion of the facilities and land of Park House School and accommodating the needs of the additional population.
- 2.9 It is anticipated that the emerging UU will propose to transfer expansion land of sufficient size in an acceptable and suitable condition (enclosed and levelled with all necessary planning permissions), to provide the football pitch and preserve the ecology and irreplaceable habitats on site. It is understood it will do so by the occupation of the 200th dwelling at the appeal scheme.
- 2.10 On its own, the appeal scheme, by reason of its size and corresponding numbers of schools places, gives rise to the need for the expansion land with the football pitch.
- 2.11 In addition (and again without prejudice) the emerging UU will seek the payment of proportional contribution towards the delivery of the required expansion of facilities at Park House School. This would involve three corresponding payments (relating to packages 1, 2 and 3 of those works) payable by the occupation of 100, 200 and 500 dwellings at the appeal scheme respectively.

- 2.12 The secondary education provision through the expansion of Park House School as indicated above is necessary to mitigate the impact of the appeal proposal in terms of secondary education and therefore to make it acceptable. It is directly related to the development, provided within the site (expansion land) and proportionate contributions as to the expansion of facilities at the school, to cater for the future residents of the appeal scheme. The contribution is proportional and therefore fairly and reasonably related in scale and kind to the development.

Community Facility

- 2.13 It is a strategic objective of the Sandford Park SPD for the development to provide community facilities within the proposed local centre. The appeal proposal seeks permission for up to 500sq.m. of Class D1 floorspace in the local centre to this effect.
- 2.14 The Council would expect the development to secure planning permission and construct this community facility as part of the development as an integral part of / to fit in with the local centre and transfer it (and associated land) to the Council or its nominee for a peppercorn rate.
- 2.15 The community facility is considered necessary to mitigate the needs and impact of the development in terms of forming a balanced and sustainable community and therefore to make it acceptable. It is directly related to the development, provided within the site and cater for the future residents of the appeal scheme. It is also fairly and reasonably related in scale and kind to the development.

Public Open Space

- 2.16 Core Strategy allocation Policy CS3 and the Sandford Park SPD require the restriction of development within the site to minimise landscape and heritage impact, and the protection/conservation of ancient woodlands on site, formation of a country park and provision open space within the development including play areas. The open space and play areas would be situated within the development areas and serve the future residents of the appeal development directly. The country park would attract visitors from beyond the development. This however would counterbalance and mitigate the pressures that the introduction of a population of c. 2500 future residents would give rise to by way of the resulting increased numbers of visitors to the nearby Greenham and Crookham Commons SSSI.

- 2.17 The appeal scheme puts forward such proposals, with a phased delivery of the country park and the draft UU indicates that the management of the country park and open space will be transferred to a Management Company and would include a full time country park warden, with the future residents of the development contributing to the cost of the upkeep.
- 2.18 There are currently outstanding issues, concerns and objections in relation to landscape, ecology, trees, irreplaceable habitats, drainage and encroaching development beyond the settlement boundary, within this area of green infrastructure and open countryside, as part of the appeal case. However, and without prejudice to the Council's case, were these issues to be overcome as a result of the ongoing discussions on the draft s106 UU, then the country park and open space proposals would be acceptable mitigation.
- 2.19 They would therefore be considered necessary to mitigate the needs and impact of the development in terms of open space, landscape, ecology and heritage and therefore to make it acceptable. The proposals are directly related to the development, provided within the site. They are also fairly and reasonably related in scale and kind to the development as they cater for the future residents of the development and also use by other visitors would balance out the otherwise resulting pressure on the nearby SSSI.

Highways Infrastructure

- 2.20 The highways infrastructure improvements are further to Core Strategy Policy CS3 and CS13 and the Sandford Park SPD and the need for the development to mitigate its impact on highways. This relates to works relating to access onto the site, improvements to the local highways network and pedestrian and cycle improvements.
- 2.21 A number of improvement works on the public highway, including in connection with the three proposed Monks Lane accesses, Swan Roundabout, and pedestrian and cycle improvements including along Monks Lane, Newtown Road and across the A339, will be carried out by the developer under s278 agreements. These are necessary to mitigate the impact of the appeal proposal and directly related to the development. They are also They are also fairly and reasonably related in scale and kind to the development as they cater for the future residents of the development.

- 2.22 The proposal also includes improvements to the existing PROW GREE9 which runs through the site, as per the draft s106 Unilateral Undertaking. They will be carried out as the relevant phases of the development progress such as the Development Parcel Central and the two phases of the country park. These improvement arise as a result of the appeal proposal and are necessary to mitigate its impact, are within the site and are directly related to the development and they are fairly and reasonably related in scale and kind to the appeal proposal.
- 2.23 The proposal will also be accessed from the east by the A339 link road, which in addition to the appeal site also provides access to Highwood Copse School. This a c. £4m project is being undertaken by the Council and the Appellants have agreed and offered to contribute £1.5m towards it. The need for the project arose as a result of the development of Sandleford Park and is needed to disperse traffic to beyond Monks Lane and provide the required third primary access to the appeal site, were it to be developed on its own and the fourth to the greater Sandleford Park strategic allocation. It is therefore necessary to mitigate the impact of the appeal scheme, it is directly related to the appeal development, and as a part contribution is fairly and reasonably related in scale and kind to the appeal proposal.
- 2.24 The VISSIM highways modelling has also shown that the development of the appeal site or of the whole SSSA would result in a severe impact on the local highways network without improvements to the Pinchington Lane junction, the St John's Roundabout and also the Newtown Road / Pound Lane Street and Bartholomew Street / Market Street traffic signals. This is accepted by the submitted Transport Statement.
- 2.25 The Council therefore is seeking the Appellant to make a proportional contribution of 68.35% of the cost of these works (i.e.1080 proposed dwellings out of 1580 dwellings within the whole of the SSSA), with the proportional balance of 31.65% to be paid by DNH, the developers of the 500 dwellings development currently being proposed at Sandleford Park West (SPW). However, were for any reason the development of SPW not to commence or materialise over the lifetime of the construction of the appeal site, then the Appellants would have to pay for the balance of the cost of these highways improvement works in full, as their need arises also as a result of the appeal proposal proceeding on its own and it is necessary to mitigate its impact. The Council would be seeking that balance to be paid by the Appellants only in that scenario and indeed the Council is suggesting that the balance is paid very late into the build.

2.26 Both the proportional 68.35% and full (100%) contribution options to the above highway improvement works (as per the two scenarios) are necessary to mitigate the impact of the appeal proposal in the respective circumstances, directly related to the appeal scheme and fairly and reasonably related in scale and kind to the appeal development.

Sport Facilities (Triangle Land and the Rugby Club)

2.27 Further to Core Strategy Policies CS3 and CS18 the proposal will return part of the adjoining Rugby Club land previously bought by the Appellants back to the Rugby Club to assist in the enlargement of an existing playing pitch to a full size pitch. In addition the proposal will provide a contribution of £180k towards the construction of surface and drainage upgrades to the above pitch and other playing pitches at the Newbury Rugby Club.

2.28 The above land return (transfer) and contribution to improve playing pitches at the Rugby Club, along with the opportunity for dual community use of the Park House School football pitch, was sufficient to overcome Sport England's objection to the proposal for not providing playing pitches on the appeal site.

2.29 As such the above provision and contribution towards the improvement of existing sport facilities in the immediate locality will mitigate the need of the appeal proposal for sport facilities. It is therefore necessary, at close proximity and therefore directly related to the appeal scheme and fairly and reasonably related in scale and kind to the appeal development, rather than having to provide such facilities on site.

Public Transport Contribution

2.30 Further to Core Strategy policies CS3, CS5 and CS13, the IDP and Sandleford park SPD the proposal needs to provide the critical infrastructure of public transport by providing a bus service to serve the development.

2.31 This is necessary to mitigate the impact/needs of the development, within the site and at close proximity and therefore directly related to the appeal scheme and fairly and reasonably related in scale and kind to the appeal development to serve the future population of the development.

Health Care Contribution

- 2.32 Further to Core Strategy Policy CS3 and the Sandleford Park SPD the proposal needs to address the health care needs of the future population. In this respect the proposal will make a 68.35% proportional contribution towards the expansion of the nearby Falkland GP Surgery (costing a total of £750k) to provide the necessary health care provision. This avoids the need to have to provide a stand-alone health centre on the site.
- 2.33 This is necessary to mitigate the impact/needs of the development, at close proximity and therefore directly related to the appeal scheme and the proportional contribution means that it is fairly and reasonably related in scale and kind to the appeal development to serve the future population of the development.

Travel Plan Contribution

- 2.34 Further to Core Strategy Policies CS3 and CS13 and the Sandleford Park SPD and the Appellants' proposed travel Plan, the Council has proposed to develop and implement a consistent Travel Plan across the entire SSSA based on a tariff per unit. The latter is currently under discussion in the context of the draft UU discussions.
- 2.35 This is necessary to mitigate the impact/needs of the development, directly related to the appeal scheme and fairly and reasonably related in scale and kind to the appeal development to serve the future population of the development.

Affordable Housing

- 2.36 Further to Core Strategy Policies CS3, CS4 and CS6, the Sandleford Park SPD and the Planning Obligations SPD the development needs to deliver 40% (432 units) affordable housing on site with a 70% social rent and 30% intermediate tenure split across all the affordable housing, with 5/6^{ths} of the latter providing affordable home ownership tenures to meet the minimum NPPF requirement. The proposal includes 80 extra care units (70x1-bed and 10x2-bed) as part of the affordable provision. The remainder 352 units (or all of the 'general affordable housing' units) to be of a unit size mix in accordance with table 140 of the Western Berkshire HMA and pepper potted across the development in clusters of 5 units.

- 2.37 The proposal currently as per the draft UU remains deficient in its provision of affordable housing, as it does not include 70% social rented units across the whole of the affordable housing, the appellants do not guarantee the provision of the extra care units, which presents a major concern as to the eventual sufficient provision of affordable housing and the proposed cascade mechanism again raises serious concerns. In general the proposal as it stands does not guarantee fully policy compliant permanently available affordable housing.
- 2.38 it is considered that provided a) the 40% and 70% social rent / 30% intermediate is guaranteed; b) were the extra care units to not materialise they then become market housing rather than inadequate affordable housing and at the same time an equivalent number of appropriately pepper potted and clustered market dwellings are offered as affordable housing; and c) where the cascade mechanism results in affordable housing to become market units, the continued provision of X number of units as affordable housing of a certain tenure is demonstrated through the prior submission of a planning application with a full viability assessment (using an agreed toolkit) that this is not viable, then the Appellants would overcome the current concerns in respect of affordable housing provision.
- 2.39 The Council's requirement for fully policy compliant permanently available affordable housing, is necessary to mitigate the impact/needs of the development, directly related to the appeal scheme and fairly and reasonably related in scale and kind to the appeal development.

3. Conclusion

- 3.1 Without prejudice and subject to resolving any outstanding matters of substance and detail relating to the infrastructure matters at issue, the Council agrees that they can be effectively addressed by way of a satisfactory s106 Unilateral Undertaking.

The obligations sought in respect of affordable housing and infrastructure requirements, would not be duplicated through CIL funding and they are all necessary, directly related to the development and fairly and reasonably related in scale and kind to the appeal scheme. They are considered to comply with the CIL Regulations for the reasons set out above.