

Derby City Council
CIL Compliance Statement
Land to the West of Royal Hill Road, Derby
LPA Ref: 23/01631/OUT
APP/C1055/W/24/3356476

Background

The NPPF and Regulation 122 of the Community Infrastructure Levy Regulations 2010, as amended, set out the tests for the use of planning obligations. Obligations should only be sought when they meet the following tests:

- 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.

Relevant Policies

The Derby City Council Local Plan Part 1 was adopted in January 2017. The following policies are relevant to the planning obligations being sought through the S106 for this development.

- i. MH1 – Making it Happen
This policy allows the use of S106 Agreements to secure appropriate mitigation for development. It details the types of obligations that can be sought.
- ii. CP7 – Affordable and Specialist Housing
This policy requires up to 30% of sites of 15 units or more to be provided as Affordable Housing.
- iii. CP16 – Green Infrastructure
This policy ensures that green infrastructure is an integral part of new development.
- iv. CP17 – Public Green Space
This policy provides more detail on how green space should be provided in new development, including the open space standards per 1000 population.
- v. CP21 – Community Facilities
This policy covers the need to improve community facilities, including school places, as part of new development.
- vi. CP23 – Delivering a Sustainable Transport Network
This policy ensures that new development contributes to public transport, cycling and pedestrian facilities and services.

The Planning Obligations Supplementary Planning Document (SPD) was adopted in August 2018:

<https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/planningpolicy/Final-version-of-Adopted-SPD2018.pdf>

This provides more detail and justification for necessary infrastructure and contributions as well as providing formulas for the calculation of contributions. The SPD goes into further details on

how the formula costs for each type of infrastructure were calculated. The costs have been calculated using real costs for projects developed in the City, together with specialist costs from appropriate sources, such as the Sport England Facilities Calculator, Department of Education published costs and costs from the Derby and Derbyshire Integrated Care Board. The cost of all the contributions is updated annually in April and published on the Council's website.

Planning Obligations

During the life of the planning application the Council entered into detailed discussions with the applicant over the Heads of Terms for the S106 Agreement. The applicant agreed to full policy compliant obligations which fully mitigated the impacts of the development. Since the appeal was submitted there have been further discussions and the Heads of Terms remain as agreed as part of the application. The planning obligations are as follows:

- Affordable Housing – on-site provision
- Amenity Green Space – on-site provision
- Major Open Space – financial contribution
- Primary & Secondary Education – financial contribution
- Transport – financial contribution
- Community Facilities – financial contribution
- Sports Facilities – financial contribution
- Health Facilities – financial contribution

The table below sets out the planning obligations required from this development and the justification for them. As this is an outline application the planning obligations are all drafted as per unit type contributions so that the precise mitigation for the end development are secured.

Planning obligations have only been sought where there is a proven need due to increased demand from the development that cannot be accommodated in existing facilities. Any financial contributions are to be spent on named pieces of infrastructure or facilities that can serve the development. The contributions are also all time limited, so that if the Council does not spend the contributions in a reasonable time frame, they are paid back to the party who originally paid them.

Planning Obligation	Justification
Affordable Housing – 30% provision on site with a mix of 80% social rent and 20% shared ownership	<p>The provision of affordable housing is sought in line with Government policy.</p> <p>Section 2.1 of the SPD states that Derby has a significant need for affordable housing and requires up to 30% of units to be provided for affordable on sites of 15 units or above.</p>

	<p>The S106 secures 30% affordable on-site and also meets the target tenure mix set out in the SPD of 80% social rent and 20% shared ownership.</p>
<p>Amenity Green Space – on-site provision with play area in line with the standards in the Local Plan & SPD</p>	<p>Section 2.3 of the SPD deals with Public Green Space and requires developments of 11 units and above to provide Amenity Green Space, on-site if possible.</p> <p>The S106 requires the provision of on-site Amenity Green Space to be provided together with a play area. These are to be laid out and managed by a Management Company appointed by the developer as required in the SPD.</p> <p>The amount to be provided is to be related to the unit numbers and types provided through any subsequent Reserved Matters application making it directly related and in scale with the development.</p>
<p>Major Open Space – financial contribution</p>	<p>Section 2.3 of the SPD deals with Public Green Space and requires developments of 25 units and above to provide Major Open Space, usually in the form of financial contributions towards green space with the City's parks hierarchy.</p> <p>The S106 requires the payment of a financial contribution towards named local parks for improvement of existing facilities.</p> <p>The level of contribution is to be related to the unit numbers and types provided through any subsequent Reserved Matters application making it directly related and in scale with the development.</p>
<p>Primary and Secondary Education – financial contributions</p>	<p>Section 2.4 of the SPD deals with Education contributions where existing capacity in the local schools is not sufficient to cope with the new demands created by the development. Contributions are required for developments of 25 units and above.</p> <p>Currently the local catchment Primary and Secondary schools are full, however there is sufficient capacity within the wider school planning area to accommodate the expected pupils arising from the new development. However, this is an outline application and therefore, in line with paragraph 2.4.7 of the</p>

	<p>SPD, an assessment of spare capacity will be carried out at Reserved Matters stage. If there is no spare capacity a contribution will be required towards named local schools, but if there is sufficient capacity there will be no contribution. This ensures that the mitigation is directly related and in scale with the development.</p> <p>If any contribution is due, the level of that contribution is to be related to the unit numbers and types provided through any subsequent Reserved Matters application making it directly related and in scale with the development.</p>
Transport – financial contribution	<p>Section 2.2 of the SPD deals with Transport issues and the requirement to provide contributions to improve modal choice and make developments as sustainable as possible. Contributions are required for developments of 11 units and above.</p> <p>The S106 requires the payment of a financial contribution towards public transport, cycling and pedestrian facilities, in particular towards the provision of a bus service to serve the development.</p> <p>The level of contribution is to be related to the unit numbers and types provided through any subsequent Reserved Matters application making it directly related and in scale with the development.</p>
Community Facilities – financial contribution	<p>Section 2.5 of the SPD deals with Community Facilities, including the provision of and improvements to Community Centres. Contributions are required for developments of 50 units and above.</p> <p>The S106 requires the payment of a financial contribution towards improvements to the local Community Centre.</p> <p>The level of contribution is to be related to the unit numbers and types provided through any subsequent Reserved Matters application making it directly related and in scale with the development.</p>
Sports Facilities – financial contribution	<p>Section 2.5 of the SPD deals with Community Facilities, including the provision of and improvements to Sports Facilities.</p>

	<p>Contributions are required for developments of 50 units and above.</p> <p>The S106 requires the payment of a financial contribution towards named sports facilities capable of serving the application site.</p> <p>The level of contribution is to be related to the unit numbers and types provided through any subsequent Reserved Matters application making it directly related and in scale with the development.</p>
Health facilities – financial contribution	<p>Section 2.5 of the SPD deals with Community Facilities, including the provision of and improvements to Health Facilities. Contributions are required for developments of 75 units and above.</p> <p>The S106 requires the payment of a financial contribution towards named local GP Surgeries.</p> <p>The level of contribution is to be related to the unit numbers and types provided through any subsequent Reserved Matters application making it directly related and in scale with the development.</p>

Conclusion

It is considered that the obligations sought 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, as well as with National and Local Policy, for the reasons set out above.