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Appeal Reference APP/W3005/W/24/3350529

Planning Reference V/2022/0629

Land at Newark Road Sutton in Ashfield

CIL Compliance Statement **Comments by Appellant in red**

The purpose of this note is to set out the policy justification for each obligation and to demonstrate their compliance with the tests set out in Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended) (“the CIL Regulations”).

The requirements of the Regulations are that a planning obligation can only be a reason to grant planning permission provided that it is 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.

In this case there has never been a suggestion that providing the following would result in the development unviable and no viability assessment has been submitted.

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.
Affordable Housing		
<p>The National Planning Policy Framework (NPPF) (December 2023) Paragraph 64 sets out that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership.</p> <p><b>The requirement for 10% affordable housing has now been omitted from the latest version of the NPPF</b></p>	<p>Affordable housing is required to meet local housing needs which are not being met by the market and should be provided on site as part of sustainable and mixed community.</p> <p><b>Noted</b></p>	<p>Whilst 10% of the dwellings are proposed to be affordable, 75% affordable Rent and 25% shared ownership, this is clearly reasonable in scale and kind to the development. However the Greater Nottingham and Ashfield Housing Needs Assessment Report, October 2020 (HNA) prepared by ICENI consultants to address the requirements of the NPPF in respect of paragraphs 62 and 63 identifies a greater need for affordable</p>

		<p>housing. Policy H3 of the emerging local plan using the above assessment requires A minimum of 25% affordable housing on greenfield sites, with a tenure mix of</p> <ul style="list-style-type: none"> <li>• 25% Shared ownership,</li> <li>• 25% Social Rents, and □ 50% Affordable Rents. This plan is currently at examination, whilst affordable housing is required and is a benefit for the proposal, not meeting the minimum requirement on a green field site where there is no viability issues may result in the affordable housing requirements not being met in the district.</li> </ul> <p>The 2020 assessment was updated in March 2024 which identifies a need for 302 affordable rented dpa and 97 affordable home ownership dpa, equating to a 76:24 split between the tenures. The proposed 75:25 tenure mix aligns closely with this, with affordable rent meeting priority needs from the housing register and shared ownership meeting needs from those households unable to buy without assistance. The proposed 10% contribution and mix is considered CIL reg 122 compliant.</p>
<p>Nottingham and Nottinghamshire Integrated Care Board improve medical centre and health care facilities</p>		

<p>There is currently an increased pressure on health Care facilities and any new development will add to these pressures. If facilities are not improved locally the development would not be sustainable</p>	<p>The development will add further pressure on under resourced facilities and therefore improvements are required to accommodate the increase in population in the area.</p>	<p>The closest medical centres</p> <ul style="list-style-type: none"> <li>• Willowbrook Medical Practice</li> <li>• Family Medical Centre Kirkby •</li> </ul> <p>Healthcare Complex Kirkby are all operating at capacity therefore a sum of £162,562.50 which is calculated on the basis of the proposed increase in population (750 new patients) due to new developments and is considered to be a proportionate figure and is reasonable.</p> <p>The draft S106 proposes £541.88 per dwelling and is based on an accepted formula from the NHS to extend specific facilities near the site.</p>
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Nottinghamshire County Council – Waste Management upgrade waste disposal and recycling facilities

<p>The residents will require waste disposal facilities and the current facilities closest to the site are operating at or close to full</p>	<p>Facilities for waste disposal are essential for the development to be sustainable</p>	<p>The proposed development is expected to generate an additional 75 tonnes of waste per annum based on current</p>
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<p>capacity, particularly at peak times. Upgrades or new facilities are therefore required to be provided to service the proposed development.</p>		<p>figures and taking into account housing growth in the area the contribution of £28,860 has been calculated proportionally to the size of the development against the required housing levels in the district. This sum will contribute to increasing capacity at the Kirkby and Mansfield Recycling Centres and is considered to be a proportionate figure and is reasonable.</p>
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		<p>The contribution requested is based on the cost of a new recycling centre at £5,000,000 divided by the local plan housing expectation of 9,020 dwellings added to existing housing stock of 43,273 to give a per dwelling contribution of £104.72. Given the uncertainty of the local plan housing delivery this is potentially non CIL regulation 122 compliant.</p>
<p>Nottinghamshire County Council – Library Services</p>		
<p>The residents will require library facilities and Sutton in Ashfield Library is the closest facility. The issue is not the facilities but the extra demand placed on resources and the Library is currently below the Museums, Libraries and Archives Council (MLA) optimum stock level.</p>	<p>The development will generate demand for additional stock levels and this has been costed per average number of items expected for the increase in population due to this development.</p>	<p>An amount of £10,571 is therefore required and is considered to be proportionate and reasonable to the development proposed.</p> <p>The contribution requested towards additional library stock at Ashfield Library based on 1532 items per 100 persons and £10 cost per item (new population of 690) = £10,571. The draft S106 is a per dwelling sum of £35.24.</p>
<p>Nottinghamshire County Council – Public Transport improvements to local bus services</p>		

<p>In March 2021 the government published its document ‘Bus Back Better – A National Bus Strategy for England’, as part an initiative to build back better services post pandemic. The strategy requires Local Transport Authorities to implement ambitious bus priority schemes and draw up ambitious Bus Service Improvement Plans (BSIPs). This includes requiring the provision of</p>	<p>Nottinghamshire County Council’s Highway Design Guidance (Part 3.1) states that walking distances to bus stops in urban areas should be located within a maximum of distance of 400 metres and desirably no more than 250 metres. The closest existing bus stops are located on Kirkby Folly Road approximately 840 metres from the centre of the site. Which significantly exceeds the standards.</p>	<p>The requested bus service contribution of £220,000 would enable either an enhancement of any of the existing services to provide capacity to meet the identified trip demands from the site and/or potentially a diversion of a service(s) into the site should access be provided as part of this or any future development. The local bus service network is subject to review and the level</p>
<p>economically necessary bus services, including those which improve people’s access to employment at all times of the day and night. The requirements of the National Bus Strategy should be reflected in the public transport facilities for this site. Policy TR6 of the ALPR 2002 requires developer contributions towards transport improvements</p>	<p>For this site to be sustainable for public transport access, additional public transport provision would be required to accommodate the additional demand. It is estimated that this development will generate up to 60 public transport trips per day (120 two-way trips).</p>	<p>of contribution requested is reflective of the current anticipated cost to support the service enhancements.</p> <p><b>Agreed.</b></p>
<p>Nottinghamshire County Council – Public Transport bus stop improvements</p>		

<p>The current level of facilities at the nearest bus stops are not at the standard in the appendix to the County Council's Public Transport Planning Obligations Funding guidance.</p> <p>Policy TR6 of the ALPR 2002 requires developer contributions towards transport improvements</p>	<p>The overall impact of providing real time and disruption information to customers is positive with additional patronage and increased confidence and is a major factor in encouraging modal shift to public transport, thus making the development sustainable.</p>	<p>The following improvement provide real value for money at a contribution of £45,600 towards two stop improvements on Kirkby Folly Road</p> <ul style="list-style-type: none"> <li>• The real time display.</li> <li>• Raised boarding kerbs to promote safety and provide level access boarding and alighting for people with pushchair's, wheelchairs, and those with reduced mobility. The bus stop clearway will enable services to pull in, directly against the raised kerb, therefore enabling passengers with limited mobility and wheelchair users to access the bus</li> </ul> <p>Agreed. The draft S106 seeks some flexibility on which bus stops are improved, dependant on which bus service is improved. The costs are derived from the attached NCC document Public Transport Planning Obligations Funding Guidance For Prospective Developers (see page 9).</p>
<p>Nottinghamshire County Council – Public Transport secure cycle parking at station</p>		
<p>The developer in their submissions claimed the development was sustainable because of the secure Cycle</p>	<p>Secure cycle parking is considered to be essential because of the distance between the development and the station</p>	<p>A contribution of £10,000 towards secure cycle parking facility at the station is</p>

<p>Parking available at Sutton Parkway train Station. This was found to be incorrect and although there was a cycle stand it was not secure with a cycle stripped of all items with only a frame connected to the stand.</p>	<p>and to encourage modal shift changes in transport usage, thus making the development sustainable.</p>	<p>considered to be a proportionate figure and is reasonable.</p> <p>Agreed.</p>
<p>Nottinghamshire County Council – Public Transport free bus pass</p>		
<p>Ticketing incentives are a proven intervention which ensures that developers can meet their modal shift targets from the outset. The optimal time to encourage modal shift is upon occupation of the development before alternative travel patterns become embedded. The Travel Plan should include reference to a suitable target for public transport modal share to achieve an uplift in the target share for this site.</p>	<p>This is a requirement to ensure the development is as sustainable as possible.</p>	<p>The provision of free bus passes are a benefit to the development and welcomed. However limiting them to 3 months after occupation and only 1 ticket per household appears to be limited and is not a significant incentive to encourage modal shift. The Travel plan should consider this issue in more detail and it should be related to the travel plan findings and it should be based on the situation at the time the development takes place and on monitoring the arrangements and success of any scheme.</p> <p>There appears to be no policy for requesting bus taster tickets via S106 agreements. It is considered appropriate to provide for these to encourage bus usage and ensure the subsidised route remains active and viable into the future.</p> <p>One bus pass per household for two months has generally been accepted in the past by both ADC and NCC, so three months as is proposed here is an improvement and considered appropriate.</p>



Nottinghamshire County Council – Education (SEND) additional Special Needs Education		
In line with the NCC Developer Contribution Strategy, a development of this size would yield two pupils requiring a place in a non-mainstream setting.	There is a current shortage of specialist places for pupils with SEND, which is forecast to continue. and this development will add to the need.	The County Council seeks a SEND education contribution of £190,100 (2 place x £95,050). The contribution will be used towards expanding special school facilitates or to fund the provision of specialist provision attached to a mainstream school. The appellant appears to have used an earlier figure of
		£180,644 which may have been originally requested but is not increased in line with inflation.  <b>Amended to £190,100 and agreed</b>
Ashfield District Council - Monitoring		
The monitoring of legal agreements is essential to ensure the development is carried out sustainably. Monitoring is time consuming and requires significant officer resources to ensure all the monies are collected and spent appropriately and that any management plans are being followed	The monitoring of the requirements of the legal agreement is individual to the particular development	The District Council is collecting all the monies and forwarding if appropriately when required to others. A one off payment of £4,000 towards these costs is considered to be reasonable.  <b>Agreed</b>
Ashfield District Council – Landscape and Ecology Management plan		

<p>On site open space is an essential design element to ensure the development is sustainable and provides pleasant areas for residents to walk and enjoy. Its future provision and maintenance is therefore essential</p>	<p>This will be provided directly for the benefit of future residents and their visitors</p>	<p>The future maintenance of all areas of open space, ecological corridors, footpaths and drainage areas is essential for any development.</p> <p><i>Agreed.</i></p>
<p>Ashfield District Council - cycle route</p>		
<p>There is an area of land which does not fall within the appellants ownership or within the adopted highway which is required to facilitate the proposed cycle route along Newark Road.</p>	<p>This cycle route is required to ensure the development is sustainable and provides a route which meets the County Council Standards, contributing to connectivity to key infrastructure and facilities including the Railway Station and public open space.</p>	<p>The requirement is for the developer to use best endeavours to provide this route where it crosses land whose ownership is unknown.</p> <p><i>Draft S106 requires reasonable endeavours.</i></p>
<p>Nottinghamshire County Council – Education- secondary school provision</p>		
<p>Education is an important consideration in bringing forward any development and</p>	<p>Developments are assessed on the outcomes and take into account other</p>	<p>The County Council therefore seeks a proportionate contribution from this</p>

<p>if there is a lack of places in local schools then the development should be ensuring they are provided and available otherwise the development is not considered to be sustainable. It is accepted that the impact of this proposal alone would not currently result in a deficit of provision of school places in the secondary schools in the area. However, there are numerous developments coming forward within the area which would cumulatively result in a deficit in school places. These development sites are required to ensure the council has a housing land supply and meets central government requirements. It is therefore necessary to ensure that the cost of any additional places that are required are shared between development sites. In all development assessments we are considering the impact the development will have when the development is completed and not what it is at present. The decision maker assesses all impacts such as traffic, health, etc. and school provision is no different. If all developments were considered in isolation there would be no requirements to provide any improvements. Suggesting that cumulative impacts is only for the</p>	<p>developments that are taking place or are proposed. The impacts are directly related to the proposal but are also shared with other proposals and that is why a proportionate approach is taken in assessing these matters and not just ignoring or “kicking down the Line” for someone else to pick up all the costs and problems. Not meeting the provision of school places would result in the development being unsustainable. Ignoring developments that are coming forward is irresponsible and just a cost saving exercise that another developer will have to meet.</p>	<p>development of £729.000 taking into account the number of dwellings proposed compared to the overall number of dwellings that are proposed to be built in the area. (See attached updated secondary school provision statement) The requested contribution is considered to be fairly and reasonably related in scale to the development and will ensure the development is sustainable and that residents have access to secondary school places. If school places are not required when the development is carried out and the amount is not spent on providing school places the contribution will be returned. If however the contribution is not agreed and there are a lack of school places the development will not be sustainable.</p> <p><b>This requested contribution is not accepted.</b></p>
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local plan to consider and is not to be taken into account in the determination of a planning application is not good planning. The local plan is at an advanced stage and the required housing is established and there are developments that are required to come forward to meet the Council's housing need. These should therefore be taken into account especially where it is clearly established that the developments will result in a shortage of school places. This method for calculating contributions follows the Inspectors decision, albeit on primary education places, in the Ashland Road West appeal decision (para 69) APP/W3005/W/21/3274818 (Core Document 7.7)

Off-site Public Open Space improvements provision of off site sports and recreation facilities

<p>Policy HG6 of the ALPR 2002 requires a minimum of 10% onsite open space including the provision of recreational facilities. This is to provide health and wellbeing through open space provision as well as recreational facilities for the new residents. Residents will also require access to community and recreation facilities.</p> <p>The above policy is in general conformity with paragraph 102 of the NPPF which</p>	<p>The development provides open space which includes landscaping and pedestrian links and a Locally Equipped Area of Play LEAP recreation facility, which is focused on younger children to access within a short walking distance. The new residents will require additional recreational and community facilities above what the council currently provide These facilities are for all ages and include play areas, formal recreation pitches and courts etc through to sport centres non of which are to be provided</p>	<p>The Council's Corporate Plan includes 6 priorities one of which is health and happiness. Strategies have also been adopted in respect of playing pitches and public open space as well as a health and wellbeing partnership to help residents to lead a healthy and active lifestyle.</p> <p>The Council have plans with planning permission (or under permitted development rights) to improve the</p>
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recognises 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 and can deliver wider benefits for nature and support efforts to address climate change' whilst expressing the need to have policies supported by robust and up-to-date assessments.

on site but will be essential to the occupiers of the development. The applicant agreed prior to the application being determined to pay £900, 000 towards the provision of off-site formal sports and recreational facilities.

facilities it provides for residents at Roundhill Recreation Ground, Sutton Lawns and Kingsmill Reservoir these are the nearest recreation facilities to the development site. It is not expected that this development will cover the costs for these improvement schemes or other facilities the residents will require but a contribution of £3,000 per dwelling is sought to mitigate the lack of provision for adult and older children on the site. If formal recreation facilities (for example a MUGA) were provided on site with 10 years maintenance costs the cost would be significantly greater and the number of properties would also be reduced. The sum of £900,000 is therefore considered to be reasonable and related to the development. If the contribution is not spent on the provision of facilities the contribution will be returned. If however the contribution is not agreed and there are a lack of facilities the development will not be sustainable and the health and wellbeing of residents will suffer.

Whilst specific facilities are now identified on where monies will be spent, no information is provided on:

- what actual works are proposed (of costs of those improvements),
- any evidence of a deficiency or

- how the sum of £3,000 per dwelling has been calculated

The requested contribution does not accord with CIL Reg 122.