

Three Rivers District Council

Town and Country Planning Act 1990 (As Amended)

Land East of Oxhey Lane, Carpenders Park

Planning Appeal

Appeal Reference: APP/P1940/V/26/3378268

Community Infrastructure Levy Compliance Statement

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1. Background

1.1 Paragraph 58 of the National Planning Policy Framework 2024 (“Paragraph 58” and “the Framework”) and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (“Regulation 122”) set tests in respect of planning obligations. A planning obligation may only constitute a reason for granting planning permission for the development if the obligation 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.

1.2 For the avoidance of doubt (and as the Applicant is aware), the Council does not consider the proposed planning obligation as currently drafted to be adequate. The Council’s concerns in this regard are summarised below. Without prejudice to the Council’s position that (as currently drafted) the proposed planning obligation is inadequate, this CIL Compliance Statement prepared by the District Council assesses the performance of those obligations that have been proposed by the Applicant (in the draft planning obligation), against the requirements of Regulation 122 and Paragraph 58. It should be read in conjunction with the CIL Compliance Statement prepared by Hertfordshire County Council in its capacity as the Education Authority, Highway Authority, Social Service Authority and Waste Authority

2. Policies

2.1 The development plan for Three Rivers District Council is the Three Rivers Core Strategy (adopted October 2011), the Site Allocations Local Development Documents (adopted November 2014), and the Development Management Policies Local Development Document (adopted in July 2013).

2.2 The following policies are referred to in the Council’s analysis of compliance with the CIL tests:

Core Strategy

Policy CP1 (Overarching Policy on Sustainable Development)
Policy CP2 (Housing Supply)
Policy CP3 (Housing Mix and Density)
Policy CP4 (Affordable Housing)
Policy CP8 (Infrastructure and Planning Obligations)
Policy CP10 (Transport and Travel)

Site Allocations Local Development Document

Policy SA1 (Housing Site Allocations)

3. Proposed Planning Obligations

3.1 The proposed planning obligations, included with the Section 106 Unilateral Undertaking secure the following:

- **Affordable Housing** – The provision of affordable housing as part of the proposed scheme. The proposed residential (Class C3) element of the scheme would include up to 128 affordable dwellings. This represents 50% of the total number of units proposed. A mix of 30% will be shared ownership and 70% will be social rent.
- **Self/Custom Build Homes** – the provision of 13 self/custom build plots.
- **Housing with Care** – the provision of housing with care as part of the proposed scheme. The proposed residential (Class C2) element of the scheme would include a care provision of 60 units.
- **Affordable Housing with Care** – the provision of a financial contribution in lieu of any on site affordable housing with care provision to meet the 50% affordable provision. A contribution of £110,722.50 index linked is sought.
- **Children's Home** – the provision of a 4-bed children's home constructed and transferred to HCC.
- **Travel Plan** – the provision of a financial contribution of £12,000 (residential and residential with care) to enable Hertfordshire County Council to:

- Appraise Travel Plan(s) submitted to the Local Planning Authority and provide constructive feedback;
 - Undertake an annual study reviewing and monitoring the provisions of the Travel Plan;
 - Manage on behalf of the owners the implementation monitoring progression reporting and review of the Travel Plan in order to achieve its objectives and targets.
- **Secondary Education** – the provision of a financial contribution towards the provision of secondary school places. Based on the outline application it is anticipated to be in the region of £1,945,838 index linked.
 - **Special Educational Needs and Disabilities (SEND)** – the provision of a financial contribution towards the delivery of new severe learning difficulty school places. Based on the outline application it is anticipated to be in the region of £329,609 index linked.
 - **Waste Services Transfer Station** – the provision of a financial contribution towards increased capacity at Waterdale Waste Transfer Station, or another site to serve the development. A contribution of £26,033 index linked is sought.
 - **Bus Service** – the provision of a financial contribution split over 5yrs towards the provision of a new or extended bus service. A contribution of £613,558.69 index linked is sought.
 - **Bus Stop and Associated Infrastructure** – the provision of a financial contribution towards the provision of a bus stop, Kassel kerbing and RTI screen to be provided along Oxley Lane. A contribution of £38,000 index linked is sought.
 - **Beryl Bikes** – the provision of a financial contribution towards the provision of additional Beryl Bikes to benefit the site. A contribution of £20,000 index linked is sought.
 - **Healthcare Contribution** – a financial contribution towards the provision of additional space to meet the demands from new residents in the area. A contribution of £428,032 index linked is sought.

- **Biodiversity Net Gain** – the provision to secure off site habitat units to ensure delivery of 10% net gain.

4. CIL Tests

4.1 The following table explains how the above planning obligations given in favour of the District Council comply with the three tests set out in paragraph 58 of the Framework and Regulation 122. Hertfordshire County Council has prepared its own CIL Compliance Schedule in respect of those planning obligations given in favour of it as the Education Authority, Highways Authority, Social Services Authority and Waste Authority.

Planning Obligation	Regulation 122 Test 1 - Necessity	Regulation 122 Test 2 – Directly related to the proposed development	Regulation 122 Test 3 – Fair and reasonable in terms of scale and kind	Regulation 122 CIL Compliance	S106 Position (as at 25 June 2026)
Affordable Housing	The provision of affordable housing is required for the proposal to comply with the provisions of the Three Rivers Core Strategy Policy CP4 (Affordable Housing). Without a planning obligation securing the provision of an adequate mix of affordable housing, the proposal would fail to meet the housing needs of the District and area in general and would fail to comply with the	The provision of on-site affordable housing as a proportion of the housing development means the obligation is directly related to the proposed development.	The level of affordable housing accords with the requirements of Three Rivers Core Strategy Policy CP4 (Affordable Housing). The provision of affordable housing is therefore considered fair and reasonable as the proportion advocated under the development plan policy.	The planning obligation is specific to the proposed development.	The draft S106 contains clause (12) “ <i>Individual Occupiers and Owners</i> ” which secures that, subject to the exceptions listed, none of the planning obligations secured will be enforceable against individual owners/occupiers of the Development. The applicant has deleted the following paragraphs inserted by the Council as

	golden rules and would therefore be contrary to the provisions of paragraphs 8(b), 63, 64, 66, 155, 156 and 157 of the NPPF.				necessary exceptions to this general “carve out”: (1) Paragraph 4.1 of Sch 5 (<i>Not to Occupy nor permit Occupation of more than: (1) 50% of the Market Units until sixty percent 60% of the Affordable Housing Units have been Provided, and (2) 80% of the Market Units until all of the Affordable Housing Units have been Provided</i>). This important restriction has no value if it is not enforceable against occupiers of those Market Units. 2) Paragraphs 2.3, 3.3 and 4.3 of Sch 3
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					(Healthcare Contribution, Housing with Care Contribution and Beryl Bikes Contribution). Each of these three paragraphs restricts occupation of the development until the contribution has been paid. -MiP period: Notwithstanding the fact that this is a live issue to be determined by the SOS, the deed does not contain a blue pencil clause which would enable the period to reflect the SOS decision having heard the parties' respective submissions, were he
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					minded to grant planning permission. -The definition of “Agreed Tenure Mix” (ATM) which would otherwise secure 70% of the Affordable Housing Units as Social Rent and 30% as Shared Ownership contains wording which would permit any proposed variation of the mix to be referred to an Expert in the event of the Council failing to agree to the proposed amended mix. The ATM should be a matter exclusively for the Council due to its detailed knowledge of local housing need
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					(planning department, planning policy and housing department).
Provision of Self/Custom Build Homes	The proposed 13 self/custom build homes are not a policy requirement as part of the adopted Development Plan. The emerging Local Plan seeks to secure at least 2% provision on sites of more than 200 units. The proposal seeks to secure 10% which would be in excess of this policy requirement. The need identified as part of the evidence base for the emerging plan accords with the NPPF and therefore the delivery of self/custom build homes	The provision of on-site self/custom build homes as a proportion of the housing development means the obligations is directly related to the proposed development.	Given the proportionate scale of self/custom homes proposed it is considered that this is fair and proportionate to the development proposed.	The planning obligation is specific to the proposed development.	

	is considered to accord with paragraph 63.					
Housing with Care	HCC have confirmed that there is a need locally for housing with care (Class C2) such that there is an identified need for the proposed provision. The proposed inclusion of this element is considered to accord with paragraph 63 of the NPPF.	The provision of on-site housing with care forms part of the proposed development and means the obligation is directly related to the proposed development.	Given the identified need and the scale of development proposed, a 60 bed C2 housing with care element is considered to be fair and proportionate.	The planning obligation is specific to the proposed development.	The Council notes that the s106 does not currently secure the delivery of the HWC element of the scheme.	
Affordable Housing with Care	Having regard to the 'Golden Rules' set out in paragraphs 156-157 of the NPPF. As this is major development, any housing development is required to deliver 15% affordable provision over the locally set policy requirement. As there is no affordable housing policy requirement in the	The provision of a contribution towards affordable housing with care as a proportion of the housing development means the obligation is directly related to the proposed development.	The provision of an affordable housing with care is considered fair and reasonable as the proportion advocated under the development plan policy.	The planning obligation is specific to the proposed development.		

	Development Plan for Housing with Care, 15% affordable provision is required.				
Children's Home	HCC have confirmed that there is a need locally for children's homes such that there is an identified need for the proposed provision. The proposed inclusion of this element is considered to accord with paragraph 63 of the NPPF.	The provision of an on-site children's home as a proportion of the housing development means the obligations is directly related to the proposed development.	Given the proportionate scale of the children's home proposed, it is considered that this is fair and proportionate to the development proposed.	The planning obligation is specific to the proposed development.	
Travel Plan	The provision of a financial contribution for £12,000 in respect of appraising and monitoring the Travel Plans (residential and residential with care), is required to comply with Three Rivers Core Strategy Policies CP1 (Overarching Policy on	The financial contribution is necessary to ensure the measures are complied with to promote the use of sustainable transport for residents of the proposed development. The travel plan would support the need to secure specific objectives, targets and	It is fairly and reasonably related in scale and kind to the development because the development proposals meet the thresholds for requiring a full travel plan and its associated level of financial contribution as laid out in Hertfordshire County	The Council's Infrastructure Funding Statement does not reference these requirements. The planning obligation is specific to the proposed development.	

	Sustainable Development), Policy CP8 (Infrastructure and Planning Obligations) and CP10 (Transport and Travel) and Hertfordshire County Council's Local Transport Plan (LTP4). It is necessary to make the development acceptable in planning terms because travel plans are a necessary tool in ensuring that sustainable travel modes are encouraged, promoted and regulated to be in accordance with the NPPF and LTP4. The NPPF states that "all developments that will generate significant amounts of movement should be required to provide a Travel Plan".	commitments (including details of survey methods, funding and any required third party engagement) and be required to address the transport impacts generated by the development. As such the obligation is directly related to the proposed development.	Council's Travel Plan Guidance (TPG, 2020), which is a supporting document to LTP4. A planning obligation is "the only mechanism to secure Travel Plan Evaluation and Support Contributions, that allow for the Travel Plan to be supported by the County Council for a minimum period of 5 years" TPG, 2020.	
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	The securing of a travel plan via a planning obligation allows for a greater level of detail to be agreed than could reasonably be achieved by a planning condition, particularly in relation to the implementation and monitoring of the plan.				
Secondary Education	Policy CP8 of the Three Rivers Core Strategy requires adequate contributions to be made towards infrastructure and service to meet the demands arising from proposed development. The development plan therefore supports the provision of planning contributions. The provision of community facilities is a	The occupiers of new residential developments will have an additional impact upon local services. The financial contributions sought towards the above services are based on the size, type and tenure of the individual dwellings comprising this development following consultation with the	The financial contributions have been calculated according to the size, type and tenure of each individual dwelling comprising the proposed development (based on the person yield). The final figure will be calculated based on the reserved matters detail.	The Council's Infrastructure Funding Statement does not reference these requirements as they are County Council contributions. The planning obligation is specific to the proposed development.	

	matter that is relevant to planning. The contributions sought will ensure that additional needs brought on by the development are met.	service providers and will only be used towards services and facilities serving the locality of the proposed development and therefore, for the benefit of the development's occupants.			
Special Educational Needs and Disabilities (SEND)	Policy CP8 of the Three Rivers Core Strategy requires adequate contributions to be made towards infrastructure and service to meet the demands arising from proposed development. The development plan therefore supports the provision of planning contributions. The provision of community facilities is a matter that is relevant to planning. The	The occupiers of new residential developments will have an additional impact upon local services. The financial contributions sought towards the above services are based on the size, type and tenure of the individual dwellings comprising this development following consultation with the service providers and will only be used	The financial contributions have been calculated according to the size, type and tenure of each individual dwelling comprising the proposed development (based on the person yield). The final figure will be calculated based on the reserved matters detail.	The Council's Infrastructure Funding Statement does not reference these requirements as they are County Council contributions. The planning obligation is specific to the proposed development.	

	contributions sought will ensure that additional needs brought on by the development are met.	towards services and facilities serving the locality of the proposed development and therefore, for the benefit of the development's occupants.		
Waste Services Transfer Station	Policy CP8 of the Three Rivers Core Strategy requires adequate contributions to be made towards infrastructure and service to meet the demands arising from proposed development. The development plan therefore supports the provision of planning contributions. The provision of community facilities is a matter that is relevant to planning. The	The occupiers of new residential developments will have an additional impact upon local services. The financial contributions sought towards the above services are based on the size, type and tenure of the individual dwellings comprising this development following consultation with the service providers and will only be used towards services and facilities serving the	The financial contributions have been calculated according to the size, type and tenure of each individual dwelling comprising the proposed development (based on the person yield). The final figure will be calculated based on the reserved matters detail.	The Council's Infrastructure Funding Statement does not reference these requirements as they are County Council contributions. The planning obligation is specific to the proposed development.

	contributions sought will ensure that additional needs brought on by the development are met.	locality of the proposed development and therefore, for the benefit of the development's occupants.			
Bus Service	HCC's Place and Movement Planning and Design Guidance 2024 (P&MPDG) states an expectation that all occupied parts of development should be within 400m walking distance of a bus stop or transport hub by public walking routes. Policy CP10 of the Three Rivers Core Strategy expects development proposals to contribute to the delivery of transport and travel measures identified as necessary	The need for a bus route serving this site is as a direct result of the proposed development and is therefore directly related to the development proposed.	The proposed contributions have been calculated based on the provision of a bus loop to serve the site providing for 1no bus per hour.	The Council's Infrastructure Funding Statement does not reference these requirements as they are County Council contributions. The planning obligation is specific to the proposed development.	

for the development, either on-site as part of the development or through contributions to off-site provision as appropriate. Provision for interchange and access by public transport, walking and cycling will be regarded as particularly important.

Paragraphs 110, 115 and 155 of the NPPF require sites to be sustainable or capable of being made sustainable.

There is an identified absence of an appropriate bus route within the proximity of the site, therefore the provision of an appropriate bus route to

	serve the site is considered to be necessary to encourage sustainable movements to and from the site.				
Bus Stop and Associated Infrastructure	HCC's Place and Movement Planning and Design Guidance 2024 (P&MPDG) states an expectation that all occupied parts of development should be within 400m walking distance of a bus stop or transport hub by public walking routes. Policy CP10 of the Three Rivers Core Strategy expects development proposals to contribute to the delivery of transport and travel measures identified as necessary for the development,	The need for a bus stop provision serving this site is as a direct result of the proposed development and is therefore directly related to the development proposed.	The provision of a single bus stop and associated infrastructure is required to connect this site to a bus route. This is considered to be proportionate and fair.	The Council's Infrastructure Funding Statement does not reference these requirements as they are County Council contributions. The planning obligation is specific to the proposed development.	

	either on-site as part of the development or through contributions to off-site provision as appropriate. Provision for interchange and access by public transport, walking and cycling will be regarded as particularly important. Paragraphs 110, 115 and 155 of the NPPF require sites to be sustainable or capable of being made sustainable. The provision of a bus stop and associated infrastructure within 400m of the site is considered necessary to facilitate the provision of a bus route to serve the site.				
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Beryl Bikes	Policy CP10 of the Three Rivers Core Strategy expects development proposals to contribute to the delivery of transport and travel measures identified as necessary for the development, either on-site as part of the development or through contributions to off-site provision as appropriate. Provision for interchange and access by public transport, walking and cycling will be regarded as particularly important. Paragraphs 110, 115 and 155 of the NPPF require sites to be sustainable or capable of being made sustainable.	The occupiers of new residential developments will have an additional impact upon local services. The financial contributions sought towards the above services are based on the scale of development following consultation with the service providers and will only be used towards services and facilities serving the locality of the proposed development and therefore, for the benefit of the development's occupants.	The contribution has been calculated based on the size of the scheme and a proportionate increase in the number of bikes and docking stations available that will benefit the site. It is therefore considered to be reasonable and proportionate.	The Council's Infrastructure Funding Statement does not reference these requirements as they are County Council contributions. The planning obligation is specific to the proposed development.	
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Healthcare Contribution	Policy CP8 of the Three Rivers Core Strategy requires adequate contributions to be made towards infrastructure and service to meet the demands arising from proposed development. The development plan therefore supports the provision of planning contributions. The provision of community facilities is a matter that is relevant to planning. The contributions sought will ensure that additional needs brought on by the development are met.	The occupiers of new residential developments will have an additional impact upon local services. The financial contributions sought towards the above services are based on scale of development proposed following consultation with the service providers and will only be used towards services and facilities serving the locality of the proposed development and therefore, for the benefit of the development's occupants.	The financial contributions have been calculated according to the scale of the proposed development (based on the person yield). It is therefore proportionate to the development proposed.	The planning obligation is specific to the proposed development.	
Biodiversity Net Gain	S7A of the Environment Act 2021 mandates a 10% increase in biodiversity over the pre-development baseline	The need for off-site credits arises as a direct result of the proposed development.	The quantum of off-site credits required arises from the site specific BNG metric. It is	The planning obligation is specific to the proposed development.	

	for development applications. As the 10% increase cannot be accommodated on site and the Applicant has no other land, there is a need to secure off-site credits to be purchased to ensure compliance.		therefore a fair and proportionate approach.		
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