



CIL COMPLIANCE STATEMENT

LPA ref: 23/504068/OUT
PINS ref: APP/U2235/W/24/3346817
Date 6 November 2024

Appeal under Section 78 of the Town and Country Planning Act 1990 in respect of:

Site address: Land East Of Albion Road And North Of Copper Lane, Marden, Kent

Appeal by: B.Yond Homes (formerly Rydon Homes).

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1.0 Introduction

- 1.1 This statement addresses the planning obligations sought by the Local Planning Authority (LPA) in association with the appeal scheme.

2.0 CIL Charging Schedule

- 2.1 Maidstone Borough Council has a CIL Charging Schedule. The annual Infrastructure Funding Statement (IFS) includes a statement of infrastructure that will, or may be, wholly or **partly** funded by CIL.
- 2.2 The IFS states that s106 Planning Agreements are negotiated legal agreements which provide for on/off site infrastructure to mitigate the impact of a specific development required and to make a development acceptable. Where appropriate, planning authorities can seek planning obligations to secure the provision or contribution towards new or improved infrastructure.

3.0 Regulation 122 Assessment

- 3.1 Regulation 122 of the Community Infrastructure Levy Regulations 2010, (as amended) sets out the tests for the use of planning obligations. Obligations should only be sought when they meet the following tests and the obligations are:
- 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.

4.0 Maidstone Borough Council - Local Plan Review (2024) (LPR)

- 4.1 The Council's Spatial Objective no. 6 sets out:

'Provision of strategic and local infrastructure to support new development and growth including a sustainable integrated transport strategy, adequate water supply, sustainable waste and minerals management, energy infrastructure, and social infrastructure such as health, schools and other educational facilities.'

LPR Policy LPRSP13: Infrastructure Delivery

- 4.2 Policy LPRSP13 is clear that 'where development creates a requirement for new or improved infrastructure beyond existing provision, developers will be expected to provide or contribute towards the additional requirement being provided to an agreed delivery programme'.
- 4.3 The Policy sets out:

Where there are competing demands for contributions towards the delivery of infrastructure, secured through Section 106 legal agreements, the council will prioritise these demands in the manner listed below:

- a. Infrastructure priorities for residential development:*
- i. Affordable housing;*
 - ii. Transport;*
 - iii. Open space;*
 - iv. Education;*
 - v. Health;*
 - vi. Community facilities;*
 - vii. Public realm;*

viii. Waste management;
ix. Public services; and
x. Libraries.

5.0 Proposed Planning Obligations

Affordable Housing and First Homes

- 5.1 LPR Policy LPRSP10(B) requires affordable housing (AH) to be delivered at 40%. Of the 40% AH, there is a national requirement to provide 25% First Homes, which is a form of affordable home ownership
- 5.2 The appellant has agreed 40% contribution comprised of maximum of 25% (twenty five percent) (rounded to the nearest whole Dwelling) as First Homes with the remainder as Social Rented (SR) homes in the first instance.
- 5.3 The agreed s106 includes a clause that does allow for those SR units to become affordable rented(AR) units where, following the expiry of 6 months from the date of Practical Completion, the Owner has demonstrated to the reasonable satisfaction of the Council that they been unable to exchange contracts with a Registered Provider for the Social Rented Units.
- 5.4 The minimum 25% provision of First Homes meets the PPG both in terms of being the Government's preferred discounted market tenure and paragraph 66 of the NPPF in regard of at least 10% of the total number of homes to be available for affordable home ownership.
- 5.5 The agreement with the appellant to provide SR tenure in the first instance arises because local market rental levels are such that housing at a SR would much better meet the needs of working households on minimum or low wages.
- 5.6 The s106 will secure the delivery of this provision which is necessary to meet both identified AH needs and the cited national policy criteria and complies with Regulation 122 of the Community Infrastructure Levy Regulations 2010.
- 5.7 The type and size of dwellings to be provided as the affordable dwellings and first homes will be subsequently agreed (prior to commencement of development) to ensure that they best meet local housing needs closer to the time of delivery.

Open Space (Sports)

- 5.8 Policy LPRSA295 requires:
- Provision of new open space on site in accordance with policies LPRSP13 and LPRINF1.
 - Where it is not feasible, due to site characteristics, to provide an appropriate level of on-site open space in accordance with policy LPRSP13 and LPRINF1, the scheme shall make appropriate financial contributions towards off-site provision targeted at known deficiencies in the area.
- 5.9 Policy LPRINF1 of the MBLP requires housing developments to provide public open space of various typologies. The obligation for the delivery of open space is necessary to comply with the policy and to make the development acceptable in planning terms, having regard to the need for future occupiers to have an accessible means of recreation in the interests of play, health and well-being, and

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general amenity. This is especially the case bearing in mind the location of the site at the outer edge of the village.

- 5.10 The appeal scheme proposes some open space, but no sports provision. A pro-rata contribution sum has been agreed by the appellant in mitigation with a formula of (number of dwellings x £1575 (Index Linked) x 0.173). This is to be provided for a replacement pavilion at Southons Field with utilities (including toilets) and associated services or towards an alternative sports facility in the Parish of Marden
- 5.11 The obligation is directly related to the development given the policy context and where the occupiers of the development generate a need for sports infrastructure that is fit for purpose and adequately managed and maintained.
- 5.12 The obligation is fairly and reasonable related in scale and kind to the development where the provision of open space is related to the nature of the development. and complies with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Section 106 Monitoring

- 5.13 There is a need to monitor the section 106 in order to ensure that monies are spent on the delivery of the necessary infrastructure, and this is carried out by the LPA. This will involve monitoring the trigger points within the s106, ensuring provision of the infrastructure, requesting payments from the appellant where necessary, liaising with the Parish Council re. the Open Space monies and their transfer, and ongoing monitoring of the spending/provision.
- 5.14 National guidance on planning obligations (Paragraph: 036 Reference ID: 23b-036-20190901) sets out that LPAs can charge a monitoring fee to cover the cost of monitoring and reporting on delivery of s106s. The LPA's [monitoring fees](#) are set out on the Council's. The s106 for the appeal has three obligations on MBC (Affordable Housing, First Homes and Open Space) and so the total fee is £3,519.

Biodiversity Gain Plan Monitoring

- 5.15 Policy LPRSP14(A) requires 20% biodiversity net gain for new residential development. The provision, delivery and long-term management for Biodiversity Net Gain (BNG) is necessary to meet the requirements of the National Planning Policy Framework. It is directly related to the development, and fairly and reasonably related in scale and kind to the development.
- 5.16 It is necessary for the monitoring fees of the Biodiversity Gain Plan to be secured by s106 legal agreement due to the requirement on the LPA to monitor BNG over a 30-year period to correspond with review of Habitat Management and Monitoring Plans and regular site monitoring from the date of first use/occupation of the development.
- 5.17 The Council has recently assessed the long-term costs of this review and monitoring and for sites in excess of 21 units, the fee would be £20,000. This has been agreed with the appellant. This is considered to be necessary, directly related to the development, and reasonable and proportionate to the nature and scale of the proposal. This is in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Kent County Council Contributions

Education

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5.18 The Local Planning Authority consulted Kent County Council (KCC) in its capacity as the Local Education Authority. KCC acknowledges that Maidstone Borough Council is now a CIL Authority. However, it has assessed impacts upon County services which cannot be accommodated within existing capacity. It has sought a level of contributions as follows:

Contribution Request Summary	Rate Per Applicable House (excludes 1 bedroom units or <56 sqm gross internal area)	Project
Primary Education (expansion)	£5,412.74	Towards the expansion of schools in the Marden & Staplehurst primary education planning group serving the development, including Marden Primary School
Secondary Education (expansion)	£5,329.27	Towards the expansion of secondary schools in the Maidstone District non-selective and Maidstone & Malling selective planning groups
Special Education Needs & Disabilities (SEND)	£559.83	Towards the provision of additional SEND places within the Maidstone district.

5.19 Kent County Council is the Statutory Authority for education and is the Strategic Commissioner of Education Provision. KCC Education has set out justification within its consultation response to the Council. This proposal has been assessed in accordance with the KCC Development Contributions Guide methodology of assessment. This assessment will start with the forecast capacity of existing schools, taking in to account existing cohorts, the pre-school aged population, historic migration patterns and new residential developments in the locality.

5.20 Contributions are sought based upon the additional need required, where the forecast pupil product from new developments in the locality results in the maximum capacity of local schools being exceeded.

5.21 Primary Education: The proposal gives rise to additional primary school pupils during occupation of the development. This need, cumulatively with other new developments in the vicinity, generates the need for mitigation by expanding local primary schools.

5.22 Secondary School Provision: The proposal is projected to give rise to additional secondary school pupils during occupation of the development. This need, cumulatively with other new developments in the vicinity, generates a requirement for mitigation by expanding local primary schools

5.23 Special Education Needs and Disabilities Provision: This proposal gives rise to additional pupils with Education and Health Care Plans (EHCPs) requiring extra support through specialist provision. All SEND infrastructure in Kent is currently at capacity.

5.24 Securing the contributions as outlined is considered to pass the three tests as set out by Regulation 122.

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- 5.25 However, as primary and secondary education are both infrastructure types which can also be funded by CIL, the draft legal agreement includes a requirement on the County Council to use reasonable endeavours to bid for CIL for the Primary Education Facilities and the Secondary Education Facilities to coincide with available CIL bidding rounds held by the Borough Council. If CIL monies are received, the contributions to be paid under the s106 agreement would reduce accordingly.

PROW Improvements

- 5.26 The appellant and Kent County Council as Local Highway Authority have agreed a contribution of £7500 (index linked) towards surface improvement works to Public Footpath KM281 between Albion Road and Blossom Way.
- 5.27 These contributions are intended to pay for KCC to install a tarmac/bitmac surface to enable all weather use of a non-vehicular route to access the services in the village via Blossom Way as an alternative to using Albion Road.
- 5.28 Securing the contributions as outlined is considered to pass the three tests as set out by Regulation 122.