

Town and Country Planning Act 1990

Town and Country Planning (Development Management Procedure) (England) Order 2010 Town
and Country Planning (Inquiries Procedure) (England) Rules 2000

Planning Obligations CIL Compliance Statement

Planning Inspectorate Ref: APP/M1520/W/22/3310794

LPA Ref: 21/0532/OUT

Outline Planning Application Comprising of 68 Residential Units, Three Class E (Commercial, Business and Service) Units, One B2 (General Industrial) Unit and Two B8 (Storage and Distribution) Units with Associated Access, Parking, Amenity Space, Strategic Landscaping and Noise Attenuation. Restoration and Improvement of Existing Estate Roads and Infrastructure.

Location: Land East Of Manor Trading Estate Benfleet Essex SS7 4PS

1.0 Introduction

1.1 This statement addresses the planning obligations sought by Castle Point Borough Council in association with the above appeal scheme. This statement is provided without prejudice to the Council's case to have the appeal dismissed. This CIL compliance note addresses the contents of the agreed S106 Obligation. It is accompanied by a number of documents listed below which set out the requirements for various contributions sought in the S106.

2.0 Relevant Legislation and Policies

2.1 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.

2.2 The following policies of the Development Plan are referred to in support of the case that the proposed planning obligations meet these tests:

POLICY RE4 - PROVISION OF CHILDREN'S PLAYSPACE AND PARKS

The Council will seek to provide and facilitate the provision of additional children's playspace and parks in areas of identified need. Where possible and appropriate, such provision shall be made in association with new development.

POLICY H7 - AFFORDABLE HOUSING

Where appropriate the Council will seek to negotiate a proportion of affordable housing for rent, shared ownership, or outright sale, where appropriate to the scale of development schemes. The number of affordable dwellings to be provided will be dependent upon the size of the site, its location, and any substantial costs associated with the provision of other necessary infrastructure, and will be determined by the council, following negotiation with the applicant.

POLICY EC14 - CREATION OF NEW WILDLIFE HABITATS

The Council will encourage proposals for further nature reserves. It will also promote the creation of new wildlife habitats in conjunction with development proposals. In considering planning applications, the council will take into account the potential for the

creation of wildlife habitats, particularly where these would enhance and complement existing elements of nature conservation on adjoining land.

POLICY T8 - CAR PARKING STANDARDS

The Council will apply, with specified exceptions¹, the revised standards for car parking in Essex, published by the Essex County Council.

POLICY CF1 - SOCIAL AND PHYSICAL INFRASTRUCTURE AND NEW DEVELOPMENTS

Where the infrastructure requirements generated by development cannot be met by the existing provision the Council will require developers to provide, prior to the occupation of the development approved:

- (i) appropriate highway and drainage improvements; and
- (ii) appropriate improvements to social infrastructure to serve the needs of the new development.

Supplementary Planning Documents:

Developers Contributions Guidance SPD 2008; contains the specific requirement for affordable housing and other necessary contributions.

Essex Coast RAMS SPD

3.0 Planning Obligation

3.1 As set out in the Council's Statement of Case, the planning obligation covers the following issues:

- a) Provision, maintenance and management of open space
- b) Provision of 50% affordable housing
- c) Contribution towards the provision of playing pitches
- d) Contribution towards the provision of indoor sports facilities
- e) Contribution towards education facilities
- f) Payment of the RAMS Tariff
- g) Improvements to the Manor Trading Estate highway and drainage infrastructure
- h) Provision, maintenance and management of a new school drop off and parking facility

- i) Contribution towards health care
- j) Provision, maintenance and management of land within the site to secure 10% Biodiversity net gain
- k) Payment of monitoring fees to Castle Point Borough Council
- l) Payment of monitoring fees to Essex County Council

The table below sets out the requirements of the Section 106 Agreement and the reasons and justification for the respective requirements.

OBLIGATION	POLICY CONTEXT	Regulation 122 Test 1 Necessary to make the development acceptable in planning terms	Regulation 122 Test 2 Directly related to the development;	Regulation 122 Test 3 Fairly and reasonably related in scale and kind to the development.
Schedule 1				
OPEN SPACE	<p>NPPF Chapter 8.</p> <p>Policy RE4 of the adopted Local Plan (1998)</p> <p>Developer Contributions SPD (2008).</p>	<p>The proposed development will lead to an increase in population and an increase in the demand for local areas of recreational space.</p> <p>The provision of such features within the site is necessary to secure an appropriate living environment and promote sustainable patterns of movement.</p>	<p>The proposed open space will serve the outdoor recreational needs of the future occupiers of the proposed development.</p> <p>It is therefore directly related to the proposed development.</p>	<p>Application of the Fields in Trust Guidance suggests that some 0.45 ha of open space should be provided within the site.</p> <p>The appellant has suggested the provision of some 0.47ha within the submitted Area Measurements Plan (REF: NC18.442-P204 Rev B)</p>

		Provision of open space within the site is therefore considered necessary to make the development acceptable in planning terms.		
Schedule 2				
<p>AFFORDABLE HOUSING</p> <p>Affordable Housing is excluded from the definition of infrastructure for the purposes of CIL</p>	<p>NPPF Chapter 5</p> <p>Policy H7 of the Adopted Local Plan (1998)</p> <p>Developer Contributions SPD (2008). Chapter 6 and Appendix A</p>	<p>Without a planning obligation securing the provision of an adequate proportion and mix of affordable housing the proposal would fail to meet the housing needs of the borough, contrary to paragraphs 63 and 65 of the NPPF and Policy H7 of the adopted Local Plan.</p>	<p>Para 60 of the NPPF states that to support the Government's objective of significantly boosting the supply of homes, it is important that the needs of groups with specific housing requirements are addressed. Housing need assessments have identified a significant requirement for affordable housing in the Borough. Paragraph 63 of the NPPF identifies that where a need for affordable housing is identified planning policies should specify the type of housing required and expect it to be met on site.</p>	<p>It is considered that the provision of 35% affordable housing across the site is fair and reasonably related in scale and kind to the development.</p> <p>It is noted that the appellant is offering 50% affordable housing.</p>

			<p>Para. 65 states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership.</p> <p>The adopted SPD identifies that in Major residential proposals 35% of the proposed dwellings should be provided as affordable housing.</p> <p>The proposal represents a major residential proposal and is subject to this requirement. The requirement is therefore directly related to the proposed development</p>	
Schedule 3				
PITCHES CONTRIBUTION	NPPF Chapter 8	The Castle Point Playing Pitch Strategy identifies	As the contribution is required to satisfy the	As the contribution seeks to fund only those facilities

	<p>Adopted Local Plan (1998) Policy CF1</p> <p>Castle Point Playing Pitch Strategy and Action Plan (2022)</p>	<p>that growth associated with the development of this site will generate a need for additional football pitch provision. A contribution towards the provision of additional pitches, to be delivered through the Football Association's Local Football Strategy for Castle Point, is therefore required.</p>	<p>needs of future occupiers of the proposed development, the contribution is considered directly related to the proposed development</p>	<p>required to satisfy the needs of the future occupiers of the proposed development, it is considered fairly and reasonably related in scale and kind to the development.</p>
Schedule 4				
SPORTS HALL CONTRIBUTION	<p>NPPF Chapter 8</p> <p>Adopted Local Plan (1998) Policy CF1</p> <p>The Castle Point Built Facilities Strategy and Action Plan (2022)</p>	<p>The Castle Point Indoor Built Facilities Strategy and Action Plan identifies that growth associated with the development of this site will place additional demand on swimming pool provision, indoor bowls provision and sports/community hall provision. A contribution towards built sports facilities is also therefore required.</p>	<p>As the contribution is required to satisfy the needs of future occupiers of the proposed development, the contribution is considered directly related to the proposed development</p>	<p>As the contribution seeks to fund only those facilities required to satisfy the needs of the future occupiers of the proposed development, it is considered fairly and reasonably related in scale and kind to the development.</p>
Schedule 5				

<p>EDUCATION CONTRIBUTION</p> <p>A formula based contribution.</p>	<p>NPPF Chapter 8</p> <p>Adopted Local Plan (1998) Policy CF1</p> <p>The Castle Point Primary Group 2 - Thundersley & Benfleet): forecasts, set out in the Essex School Organisation Service's Ten Year Plan 2021-2030,</p>	<p>The NPPF identifies that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities.</p> <p>The Castle Point Primary Group 2 - Thundersley & Benfleet): forecasts, set out in the Essex School Organisation Service's Ten Year Plan 2021-2030, suggests the proposed development will generate a requirement for an additional 17.1 primary places which cannot be met within existing primary school facilities. Such provision is necessary to make the proposal acceptable in planning terms.</p>	<p>As the contribution is required to satisfy the needs of future occupiers of the proposed development, the contribution is considered directly related to the proposed development</p>	<p>As the contribution seeks to fund only those facilities required to satisfy the needs of the future occupiers of the proposed development, it is considered fairly and reasonably related in scale and kind to the development.</p>
<p>Schedule 6</p>				
<p>LIBRARY CONTRIBUTION</p>	<p>Essex County Council Developers' Guide to</p>	<p>The suggested population increase brought about by the</p>	<p>As the contribution is required to satisfy the needs of future</p>	<p>As the contribution seeks to fund only those facilities required to satisfy the needs</p>

	<p>Infrastructure Contribution (Revised 2020)</p> <p>Adopted Local Plan (1998) Policy CF1</p>	<p>proposed development is expected to create additional usage of the local library. In accordance with the Essex County Council Developers' Guide to Infrastructure Contribution (Revised 2020), a contribution is therefore considered necessary to improve, enhance and extend the facilities and services provided at the nearest library, and thus make the proposal acceptable in planning terms.</p>	<p>occupiers of the proposed development, the contribution is considered directly related to the proposed development</p>	<p>of the future occupiers of the proposed development, it is considered fairly and reasonably related in scale and kind to the development.</p>
Schedule 7				
ECOLOGICAL MITIGATION	<p>The Habitats Regulations Assessment 2020.</p> <p>Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).</p> <p>This is a pooled contribution that is</p>	<p>Consideration of the proposal within the context of the Habitats Regulations Assessment 2020 identified that release of the site for development purposes had the potential for likely significant effects (LSE) on the designated areas.</p> <p>The RAMS identifies that within Castle Point any</p>	<p>As the contribution is required to mitigate the impact of future occupiers of the proposed development, the contribution is considered directly related to the proposed development</p>	<p>As the contribution is required to mitigate the impact of future occupiers of the proposed development, the contribution is considered fairly and reasonably related in scale and kind to the development.</p>

	<p>wholly in line with the Essex Coast RAMS SPD. Every new residential unit in the Borough contributes to the RAMS project. The RAMS identifies a detailed programme of strategic mitigation measures which would be funded by contributions from residential development schemes. The SPD contains details of the full mitigation package. The overall cost for the mitigation package is £8,916,448.00 in total from March 2019 until 2038</p> <p>Policy EC 14 of the Castle Point Adopted Local Plan.</p>	<p>new residential development will be likely to generate recreational activity within designated areas.</p> <p>The RAMS identifies however that such impact can be mitigated through investment in the management, education and control of visitor numbers.</p> <p>In order to fund such investment every net dwelling provided within the Borough is required to make a financial contribution based on a tariff which has been established county-wide.</p>		
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Schedule 8				
ESTATE ROADS	NPPF Chapter 8	<p>It would appear that the appellant intends to improve all of the roads and drainage infrastructure within the adjoining Manor Trading Estate, in accordance with the provisions of planning application 20/0159/FUL.</p> <p>Whilst improvements to Armstrong Road and Brunel Road are considered appropriate within the context of providing adequate access to serve the proposed B2 and B8 units, improvement all of the roads within the adjoining estate and the underlying infrastructure is not considered necessary to make the proposal acceptable in planning terms.</p>	<p>Whilst improvements to Armstrong Road and Brunel Road are considered directly relevant within the context of the proposed development, in order to provide adequate access to serve the proposed B2 and B8 units, the improvement all of the roads within the adjoining estate and the underlying infrastructure is not considered directly relevant to the proposed development.</p>	<p>The improvement of all of the roads within the adjoining estate and the underlying infrastructure is considered excessive to meet the needs of the proposed development. Such provision is not therefore reasonably related in scale or kind.</p>
Schedule 9				

SCHOOL DROP OFF AND PARKING	Adopted Local Plan (1998) Policies T8 and CF1	Unmitigated loss of the existing parking facility is likely to lead to additional parking in the surrounding residential streets, to the danger and inconvenience of other road users and pedestrians and the detriment of residential amenity.	The proposal will result in the loss of an existing facility as a consequence of alterations to the existing access point and the need to maintain clear visibility sight splays to the west in the interests of highway safety.	<p>The provision of replacement car parking provision for the school is considered reasonable and fair.</p> <p>The Appellant has included the provision of a car park with 12 parking spaces within the submitted proposal.</p> <p>Such provision exceeds the quantity of parking spaces lost and could therefore be considered unreasonable in scale.</p>
Schedule 10				
NHS CONTRIBUTION		Existing GP practises do not have capacity to accommodate the additional growth resulting from the proposed development. The development will generate approximately 163 new residents and subsequently increase demand upon existing constrained services	The capacity of primary healthcare facilities in this area already below the recognised standards of provision for the existing population. Any additional population growth in the area resulting from new development will add to the deficit. If the impact on existing services is unmitigated	<p>Using the capital cost calculation adopted by NHS England the additional population generated by the proposed development will require an additional 11.2 square metres of facility floorspace, the capital cost for which will be £33,800.</p> <p>The level of provision is considered reasonably related in scale and kind to the development proposed.</p>

		<p>The contribution is required to fund improvements to capacity by way of refurbishment, reconfiguration, extension or potential relocation for the benefit of the patients at the surgeries of Dr Hiscock and Partners and the St Georges Medical Practice both serving the locality of the Site including the reimbursement of capital funding for such provision made by NHS England in anticipation of receipt of the Healthcare Contribution</p> <p>The proposed contribution is considered necessary to make the development acceptable in planning terms.</p>	<p>the development will impose an unsustainable burden on local healthcare services.</p> <p>The additional facilities are required as a direct result of the proposed increase in population arising from the proposed development</p>	
Schedule 11				
BIODIVERSITY NET GAIN	Environment Act 2021 NPPF	Without mitigation the development would not provide a BNG uplift as is required by the Environment Act 2021	The clause will mitigate the impact of the development	The clause is proportionate to the development and the scale is consistent with Government guidance as

	Policy EC 14 of the Castle Point Adopted Local Plan			set out in the Environment Act 2021 and the NPPF.
County Council; Monitoring Fee	A fee of £550 per each obligation due to the County Council under this Agreement towards the County Council's reasonable and proper administration costs of monitoring the performance of the planning obligations that the Owner is required to observe and perform pursuant to the terms of this Agreement	Without appropriate monitoring, full compliance with the revisions of the S106 is uncertain. The required fee is necessary to ensure that appropriate monitoring can be undertaken.	As the monitoring fee is required to fund the appropriate discharge of the provisions of this Agreement the fee is considered directly related to the proposed development	As the monitoring fee is required to fund the monitoring of the specific provisions within the S106, the level of provision is considered reasonably related in scale and kind to the development proposed.
Castle Point Borough Council; Monitoring Fee	A fee of £550 per each obligation due to the Borough Council under this Agreement towards the Borough Council's reasonable and proper administration costs of monitoring the	Without appropriate monitoring, full compliance with the revisions of the S106 is uncertain. The required fee is necessary to ensure that appropriate monitoring can be undertaken.	As the monitoring fee is required to fund the appropriate discharge of the provisions of this Agreement the fee is considered directly related to the proposed development	As the monitoring fee is required to fund the monitoring of the specific provisions within the S106, the level of provision is considered reasonably related in scale and kind to the development proposed.

	performance of the planning obligations that the Owner is required to observe and perform pursuant to the terms of this Agreement			
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