



CIL COMPLIANCE STATEMENT (UPDATED)

LPA ref: 23/504471/OUT
PINS ref: APP/U2235/W/24/3351435
Date 26 February 2025

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

Site address: Land At Moat Road, Headcorn TN27 9NT

Appeal by: Catesby Strategic Land Ltd & The Master Fellows & Scholars of the College of Saint John The Evangelist in the University Of Cambridge

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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

- 5.1 LPR Policy LPRSP10(B) requires affordable housing (AH) to be delivered at 40%.
- 5.2 Until December 2024, there was a national requirement to provide 25% First Homes, which is a form of affordable home ownership. This requirement has been removed in the NPPF 2024 in its footnote 31. The Council does not consider that tenure is needed on this site.
- 5.3 The appellant has agreed 40% contribution. The Council request this to be comprised of maximum of 25% (twenty five percent) (rounded to the nearest whole Dwelling) as Shared Ownership Homes with the remainder as Social Rented (SR) homes.
- 5.5 The requested for SR tenure rather than Affordable rent arises because local market rental levels are such that SR housing would much better meet the needs of working households on minimum or low wages.
- 5.6 The s106 seeks 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 will need to favour 1 and 3 bedroomed properties, to ensure that they best meet local housing needs.

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 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 open space, but no sports provision. A pro-rata contribution sum has been sought in mitigation with a formula of (number of dwellings x £2565 (Index Linked) x 0.173). This is to be provided for the improvement and/or provision of sport features at either:

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- Headcorn Football Club TN27 9LU
- Headcorn Cricket and Tennis Club, TN27 9LE
- Headcorn Bowls Club TN27 9RL
- Accessible sports facilities within 1km of the application site

- 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.
- 5.11 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.
- 5.12 The figure of £2565 derives from work done by MBC's Open Spaces team in 2008 to cost the provision of various typologies of open space facilities, indexed from that date. The ratio of 0.173 represents the proportion of open space in LPRINF1 that relates to the typology of sport. Hence the overall request is £443.75 per dwelling (indexed).

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 inputting details into the database and regular reporting to Council Infrastructure Committees, monitoring the trigger points within the s106, ensuring provision of the infrastructure, requesting payments from the appellant where necessary, liaising with potential recipients of the Open Space (Sport) 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 website and are relate to the number of obligations.

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 [biodiversity-net-gain](#) and monitoring and for sites in excess of 21 units, the fee would be £20,000. 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.

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Local Labour

- 5.18 The supporting text to LPRSP11 (Economic Development) states that for the construction phase of major development schemes over 20 residential units, there is a requirement to secure labour from across the Borough through apprenticeships or other schemes so that all residents have the opportunity to share in the benefits of growth.
- 5.19 Policy LPRSP11(B) – Creating New Employment Opportunities states that major development schemes will be required to demonstrate how they have considered and provided for employment opportunities for all of the Borough's residents. Therefore, developers will be required to encapsulate their commitments by entering into Section 106 legal agreements in order to deliver labour opportunities for these residents in relation to the construction phase of major new developments.
- 5.20 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.

Curtilage Listed Building - management and maintenance

- 5.21 The s106 includes a commitment not to carry out the the work on the curtilage listed building pursuant to an allowed appeal and any subsequent listed building consent unless there is obtained a grant of listed building consent.
- 5.22 Within 3 months of practical completion of the curtilage listed building works, the curtilage listed building would be transferred to a Management Company which would secure that the curtilage listed building is managed and maintained and is accessible to the public for the lifetime of the development.
- 5.23 Until it is transferred to the Management Company, the curtilage listed building will be managed and maintained with accessibility given to the public.
- 5.24 The obligation is fairly and reasonable related in scale and kind to the development where the management and maintenance and future public access of the curtilage listed building is integral to the nature of the development being a public benefit in the planning balance. It therefore complies with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Kent County Council Contributions

Education

- 5.25 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
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Primary Education (expansion)	£5,412.74	Marden Primary School and/or Staplehurst Primary School and/or Lenham 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.

- 5.26 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.
- 5.27 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.
- 5.28 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.
- 5.29 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
- 5.30 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.
- 5.31 Securing the contributions as outlined is considered to pass the three tests as set out by Regulation 122.
- 5.32 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.

Travel Plan and Monitoring

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- 5.33 The draft agreed conditions include the submission of a Travel Plan to the Local Planning Authority which would be Maidstone Borough Council.
- 5.33 Kent County Council have also sought for the Travel Plan to be submitted to KCC in the s106 agreement, together with a fee for its monitoring by the County Council of £980. This is considered to pass the three tests as set out by Regulation 122.

Traffic Regulation Contribution

- 5.35 Kent County Council have secured a contribution of a sum of £10,000 to be paid prior to the commencement of development to enable reasonable endeavours to make an appropriate order pursuant to the Road Traffic Regulation Act 1984 to extend the 30mph speed limit on Moat Road to incorporate the access to the appeal development.
- 5.36 The s106 includes for KCC to be indemnified in respect of any further costs (reasonably and properly incurred) in processing any application for and the making of an appropriate order in the event that the costs exceed £10,000.00.
- 5.37 This is considered to pass the three tests as set out by Regulation 122.