

**Planning Obligations CIL Compliance Statement**

**Gloucester City Council**

**Appeal Reference: APP/U1620/W/22/3296510**

**Land at Hill Farm, Hempsted Lane, Gloucester GL2 5LA**

**Outline application for the erection of up to 245 dwellings with public open space, structural planting and landscaping, surface water flood mitigation and attenuation and vehicular access point from Hempsted Lane. All matters reserved except for means of vehicular access**

## **1.0 Introduction**

### Community Infrastructure Levy Regulations 2010 (as amended)

1.1 The Community Infrastructure Levy (CIL) is a charge which can be levied by local authorities on new development in their area. The levy only applies in areas where a local authority has consulted on and approved, a charging schedule which sets out its levy rates and has published the schedule on its website.

1.2 The Joint Core Strategy (JCS) partnership of Gloucester City Council, Cheltenham Borough Council and Tewkesbury Borough Council adopted the Community Infrastructure Levy (CIL) in October 2018, which commenced on 1st January 2019. In accordance with the Council's charging schedule only the open market dwellings would be CIL liable. The affordable housing would be exempt.

1.3 Where planning applications are capable of being charged the levy, they must comply with the tests set out in the Regulation 122 of the CIL Regulations. These tests are as follows:

- (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.

1.4 As a result of these regulations, Local Authorities and applicants need to ensure that planning obligations are genuinely 'necessary' and 'directly' related to the development'. As such, the regulations restrict Local Authorities ability to use Section 106 Agreements to fund generic infrastructure projects, unless the above tests are met. Where planning obligations do not meet the above tests, it is 'unlawful' for those obligations to be taken into account when determining an application.

### Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019

1.5 Amendments to the Community Infrastructure Levy Regulations 2010 were introduced on 1 September 2019. The most noticeable change of the amendment is the 'lifting' of the 'pooling restriction' as a result of the deletion of Regulation 123. Any development granted planning permission on or after 1 September 2019 may now be subject to a section 106 agreement contributing to infrastructure that has already benefited from contributions from five or more planning obligations since 2010. However, the tests in Regulation 122 continue to apply.

1.6 The table below provides evidence to demonstrate that each obligation meets the tests in CIL Regulation 122 and the guidance in paragraph 55 and 57 of the NPPF (2021).

**CIL Compliance Statement - Justification (Compliance with Regulation 122)**

**Appeal Reference: APP/U1620/W/22/3296510 - Land at Hill Farm, Hempsted Lane,**

Obligation	Policy Context	Basis of Need	Statement of Common Ground Position	CIL Compliance <b>(a) necessary to make the development acceptable; (b) directly related to the development; (c) fairly and reasonably related in scale and kind to the development</b>
<p><b>Affordable Housing -</b> Proportion, dwelling mix, size, tenure and standard</p> <p>Twenty percent (20%) of the Dwellings to be constructed as part of the Development shall be Affordable Housing Units</p> <p>A tenure mix of 26% affordable rented units, 40% social rented units and 34% affordable home ownership has been requested by the LPA and the dwellings types are set out in Schedule 5, of the Unilateral Obligation</p>	<p>The NPPF 2021 sets out under Part 5 ‘Delivering a sufficient supply of homes’ that to support the Government’s objective of significantly boosting the supply of homes, it is important, that amongst other things the needs of groups with specific housing requirements are addressed (para.60).</p> <p>Policy SD12 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS) provides that the Council will seek to negotiate with developers to provide affordable housing. Policy SD12 specifies a</p>	<p>The provision of affordable housing on site is directly related to the development. It is explicitly excluded from the definition of infrastructure for the purposes of the Community Infrastructure Regulations 2010 and therefore falls outside the scope of regulation 123(3).</p> <p>The basis of need for the provision of on-site affordable housing is in accordance with the Gloucestershire Local Housing Needs Assessment 2020 <a href="https://www.gloucester.gov.uk/media/5156/hou11-">https://www.gloucester.gov.uk/media/5156/hou11-</a></p>	<p>It is common ground that provision for 20% affordable housing will be provided (para 5.2.1) to be secured through a section 106 planning obligation</p> <p>The parties have agreed the mix of affordable housing and draft planning obligations have been submitted. It is agreed that the provision of affordable housing is social benefit (para 5.23.1).</p>	<p>The provision of affordable housing on-site is necessary to meet an identified need and is a requirement of both national and local planning policy.</p> <p>The provision of affordable housing on site is directly related to the development and the provision of 20% on site is considered to be fairly and reasonably related in scale and kind to the development.</p>

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	<p>requirement for 20% affordable housing within Gloucester City administrative area.</p> <p>Policy SD11 of the Joint Core Strategy requires an appropriate mix of dwelling sizes, types and tenures in order to contribute to mixed and balanced communities and a balance housing market. Development should address needs as set out in the most up to date Strategic Housing Market Assessment.</p>	<p><a href="#">gloucestershire-lhna-2019.pdf</a></p> <p>The Gloucestershire Local Housing Needs Assessment 2020 provides evidence relating to affordable housing needs in the JCS area and Policy SD11 of the JCS confirms that housing development will be required in accordance with the needs as set out in the most up-to-date evidence base.</p> <p>The evidence base (figure 86) identifies a required tenure mix of 66% Affordable Rented Housing and 34% Affordable Home Ownership in Gloucester and the planning obligation reflects this requirement.</p>		

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<p><b>Formal Sports Contribution and Provision of Open Space</b></p> <p>The Formal Sports Contribution is a sum of five hundred thousand pounds (index linked) payable as a contribution towards the costs of the Council's pitch improvement grant programme and additional/improved sports provision within the local area of the site.</p> <p>The Open Space contribution means the provision of informal open space and landscaping including a play area for use by the general public to be provided on the site</p>	<p>Paragraph 98 of the NPPF 2021 sets out 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.</p> <p>JCS Policies INF3 and INF4 requires appropriate green infrastructure and social/community infrastructure to be delivered where development creates a need for it. Policies INF6 and INF7 support this requirement.</p> <p>The Gloucester City Council 2001 SPG: New Housing and Open Space <a href="https://www.gloucester.gov.uk">https://www.gloucester.gov.uk</a></p>	<p>The methodology set out in the SPG is based around levels of occupancy for each type and size of new housing and the expected numbers of new residents. The SPG provides a methodology to calculate an appropriate level of public open space (including formal sport and play facilities) to serve the needs of the new residents of the development. The SPG sets out that should there be insufficient space to create suitable open space, sports facilities or play provision on site, then an off-site contribution would be sought to improve provision on existing open spaces in the locality of the</p>	<p>It is agreed that the provision of open space and childrens play area is a public benefit (para 5.23.1).</p>	<p>The provision of on site open space/play areas and formal sports provision in the local area is necessary to meet an identified need and is a requirement of both national and local planning policy.</p> <p>The provision of on site open space/play areas and formal sports provision is directly related to the development of 185 dwellings which would create a demand for such facilities.</p> <p>The provision of the on site open space/play areas and formal sports provision and on site open space is considered to be fairly and reasonably related in scale and kind to the development.</p>

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in accordance with an open space works specification	<p><a href="http://v.uk/media/1994/spg-new-housing-and-open-space-2001.pdf">v.uk/media/1994/spg-new-housing-and-open-space-2001.pdf</a> was written to supplement planning policies OS.2 and OS.3 of the Gloucester City Local Plan (Second Stage Deposit 2002). These policies have been reviewed against the NPPF and the JCS and the Council consider that they remain consistent and have significant weight in the determination of planning applications.</p> <p>Policy C3 of the Emerging City Plan sets out similar policy requirements for the provision of new open space, playing fields and built sports facilities to meet the needs of the local area.</p>	<p>development. The SPG off-site contribution calculation is based around the council's adopted provision for POS of 2.8 hectares per 1000 population and the costs per person based on the costs of constructing standard quality open space and sports facilities. The full table is set out in the 2001 SPG). The calculation has been updated annually to keep it relevant to current costs and take account of changing inflation rates (taking advice from the council's Finance officers).</p> <p>The calculation sets out how many people will live in the new development and the amount of open space that each is entitled,</p>		

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		<p>plus the cost of providing the new open space and associated facilities (or improving other existing facilities to make them suitable for the increased number of users).</p> <p>The SPG calculation identified a requirement for an off-site sport contribution of £832,693 for 185 dwellings, but officers negotiated a contribution of £500,000 with the appellant taking account that some open space facilities are to be provided on site including a LEAP, NEAP, kickabout area and a MUGA and that the exact mix of dwellings at reserved matters stage is not yet known</p> <p>The facilities would directly</p>		

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		<p>relate to the development based upon the impact an increase in population will bring about. The open space and play area would be provided on site and the additional/improved formal sports provision would be provided in the local area.</p> <p>The on-site open space/play area and the additional/improved formal sports provision would be accessible to the new community.</p>		