

**THE TOWN AND COUNTRY PLANNING ACT 1990**

**BMBC**

**CIL COMPLIANCE STATEMENT**

**APPEAL BY:**

Hargreaves Land Limited, G. N. Wright, M. M. Wood, M. J. Wood, and J.D. Wood

**APPEAL AGAINST THE REFUSAL OF:**

Outline planning application for demolition of existing structures and erection of residential dwellings with associated infrastructure and open space. All matters reserved apart from access into the site

**SITE**

Land north of Hemingfield Road, Hemingfield, Barnsley

**LPA REF: 2024/0122**

**INSPECTORATE REF: APP/R4408/W/25/ 3359917**

**May 2025**

## **1.0 INTRODUCTION**

- 1.1 This statement addresses the planning obligations sought by the Council in association with the development outlined above. This statement is provided without prejudice to the Council's case. The CIL compliance note remains in draft form until the section 106 agreement has been agreed between the parties.

## **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 Barnsley Local Plan are referred to in support of the case that the proposed planning obligations meet these tests:

### **Policy I1 Infrastructure and Planning Obligations**

- 2.3 This policy states that development must contribute as necessary to meet all on and off site infrastructure requirements to enable development to take place satisfactorily. Where the necessary provision is not made directly by the developer, contributions will be secured through planning obligations. Where appropriate, pooled contributions will be used to facilitate delivery of the necessary infrastructure.

### **Policy H7 Affordable Housing**

- 2.4 This policy states that housing developments of 15 or more dwellings will be expected to provide affordable housing. Differing percentages are required across the borough, in this particular area 10% is expected. The percentages in the policy are sought unless it can be demonstrated through a viability assessment setting out that the required figure would render the scheme unviable. The developer must show that arrangements have been put in place to keep the new homes affordable.

### **Policy GS1 Green Spaces**

- 2.5 In order to improve the quantity, quality and value of green space provision this policy requires qualifying new residential developments to provide or contribute towards green space in line with the standards set out in the Green Space Strategy and in accordance with the requirements of the Infrastructure and Planning Obligations Policy. The Supplementary Planning Document 'Open Space Provision on New Housing Developments' offers guidance to developers on what will be expected in terms of open space provision in order to achieve those standards.

### **BIO1 Biodiversity and Geodiversity**

- 2.6 This policy states that development will be expected to conserve and enhance the biodiversity and geological features of the borough, including encouraging provision of biodiversity enhancements.

### **Policy T1 Accessibility Priorities**

- 2.7 This policy relates to transport investment in order to improve sustainable transport, the transport network, sustainable transport links and promote high quality public transport.

### **Policy T3 New Development and Sustainable Travel**

- 2.8 This policy sets out the requirements for new development including being accessible by public transport and meeting the needs of pedestrians and cyclists, meeting the minimum level of parking for cycles, motorbikes, scooters, mopeds and disabled people, providing Transport Assessments and Providing Travel Plans.

- 2.9 The National Planning Policy Framework (NPPF) indicates that Local Development Documents form the framework for making decisions on applications for planning permission. Decisions have to be taken in accordance with the development plan unless other material considerations indicate otherwise. NPPF advises that a local planning authority may prepare Supplementary Planning Documents to provide greater detail on the policies in its Local Plan. Supplementary Planning Documents are a 'material' consideration when planning applications are decided. The following SPD's are in support of the case that the proposed planning obligations meet the tests set out above:

### **Planning Obligations**

- 2.10 Introduces the SPDs on specific topics which seek section 106 contributions. This includes sustainable travel, affordable housing, financial contributions for schools and open space provision on new housing developments. This SPD sets out priorities for contributions. It makes it clear that where multiple developer contributions are required, those for schools and sustainable travel will take precedence.

### **Open Space Provision on New Housing Development**

- 2.11 Provides guidance on what will be expected in terms of open space provision for new residential developments.

### **Affordable Housing**

- 2.12 Advice on when contributions will be sought for affordable housing and how they will be calculated. Provides guidance on other issues such as the type and tenure of affordable housing, off-site provision, etc.

### **Biodiversity and Geodiversity**

- 2.13 Sets out how Local Plan policy BIO1 and GI1 on green infrastructure will be applied.

### **Sustainable Travel**

- 2.14 Seeks contributions for sustainable and active travel.

### 3.0 Planning Obligation

3.1 The planning obligation is required to cover the following issues;

- Affordable housing scheme at - **10%**
- Public Transport Enhancements - Bus Service Contribution - **£44,374.00** Index Linked, Bus Stops Infrastructure Contribution - **£45,626.00** Index Linked
- Greenspace / Open Space – equipped children’s play / informal – Appellant confirms to be provided on-site, therefore an offsite formal recreation contribution is required to be calculated in accordance with Local Plan Policy GS1 and the formulas set within the SPD Open Space Provision on New Housing Developments
- Skylark Mitigation Contribution - **£1,320.00** Index Linked

The table below sets out the requirements of the section 106 legal agreement and the reasons for the agreement;

Planning Obligation	Justification
Affordable Housing	<p>Local plan policy H7 ‘Affordable Homes’ requirement for 10% affordable Housing to be provided on site. SPD ‘Affordable Housing’ provides further justification.</p> <p>The requirement for the provision of affordable housing conforms to the three regulation 122 tests.</p>
Public Transport Enhancements  Bus Service Contribution - £44,374.00 Index Linked Bus Stops Infrastructure Contribution - £45,626.00 Index Linked	<p>In line with the spatial strategy in the Local Plan and the requirements of Local Plan Policies T1 ‘Accessibility Priorities’, T3 ‘New Development and Sustainable Travel’ and I1 ‘Infrastructure and Planning Obligations’.</p> <p>There is also a specific Sustainable Travel SPD which provides further justification and types of schemes/public transport which would benefit from financial contributions to sustainable travel.</p> <p>SYMCA has requested a financial contribution towards public transport enhancements. This includes the supply and installation of bus waiting shelters and R-T PID at 2 no. bus stops. Also platform works and accessible pavement works should be undertaken by applicant at a cost of £45,626. A Bus service contribution is requested at a proportionate share of the costs towards service 21a (or equivalent) for a period of 3 years of £44,374. Total Cost £90,000.</p>

	The requirement for the provision of Sustainable Travel contributions conforms to the three regulation 122 tests.
<p>Greenspace/Open Space</p> <p>Offsite formal recreation contribution</p>	<p>In line with Local Plan Policy GS1 'Green Space' and I1 'Infrastructure and Planning Obligations'</p> <p>SPD 'Open Space Provision on Housing Sites' expands further. Para 8.1 sets out the type and quality of green space required. An off site financial contribution, based on the figures at Appendix 2 of the SPD, will be required in lieu of any of the open space types not provided on site. Appellant confirms that A) Equipped children's play areas 20-100 houses: (B) Informal play space and informal landscaped areas 20-40 houses are to be provided on-site, therefore an offsite formal recreation contribution is required to be calculated in accordance with Local Plan Policy GS1 and the formulas set within the SPD Open Space Provision on New Housing Developments</p> <p>In terms of formal recreation the SPD states that for (C) Formal recreation (sports pitches, courts, greens etc.) 20-200 houses: 'Financial contribution required to enhance existing facilities or to provide additional provision if there is a shortfall in quantity or quality in the locality.' There is a shortfall in quantity and quality within the area and as such a contribution is required.</p> <p>The requirement for the provision of formal recreation contributions conforms to the three regulation 122 tests.</p>
<p>Skylark Mitigation Contribution - <b>£1,320.00</b> Index Linked</p>	<p>Justified through Local Plan Policies BIO1 'Biodiversity and Geodiversity', and I1 'Infrastructure and Planning Obligations' and the SPD Biodiversity and Geodiversity.</p> <p>A single skylark territory will be lost to accommodate the proposals. The average territory of a single pair of nesting skylarks is between 0.25-2ha (Wilson <i>et al</i> 1997). One pair of nesting skylark were recorded during the breeding bird survey undertaken. Grants are available under the governments Countryside Stewardship Scheme to create skylark plots; payments</p>

	<p>are £11 per plot, with a minimum of 2 plots per ha required. On the basis of one pair of nesting skylark requiring 2ha of land to breed, the following payment from the applicant (if a suitable on-site/off-site option is not proposed) is suggested:</p> <p>£11.00/plot x 4 = £44.00 x 30 years (including an annual inflation rate of 2%) = <b>£1,320.00</b></p> <p>The requirement for the provision of the Skylark Mitigation contribution conforms to the three regulation 122 tests.</p>