

UTTLESFORD DISTRICT COUNCIL

CIL COMPLIANCE STATEMENT 25 July 2022

APPEAL BY ROSCONN STRATEGIC LAND

(APP/C1570/W/22/3296426)

LPA Ref: UTT/21/2509/OP

LAND AT SOUTH OF RADWINTER ROAD (EAST OF GRIFFINPLACE)

1.0 Introduction

- 1.1 This statement addresses the planning obligations sought by the Council in association with the appeal scheme. This statement is provided without prejudice to the Council's case to have the appeal dismissed. 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 Development Plan are referred to in support of the case that the proposed planning obligations meet these tests:

Uttlesford Local Plan 2005

Policy GEN6 –Infrastructure Provision to Support Development

- 2.3 This policy states that Development will not be permitted unless it makes provision for infrastructure that is made necessary by the proposed development. Where the cumulative impact of developments necessitates such provision, developers may be required to contribute to the costs of such provision.

Policy H9- Affordable Housing

- 2.4 This policy confirms that the Council will seek to negotiate on a site to site basis an element of affordable housing of 40% of the total provision of housing on appropriate allocated and windfall sites, having regard to the up to date Housing Needs Survey, market and site considerations.

Policy GEN1 – Access

- 2.5 This policy states “Development will only be permitted if it meets all of the following criteria: a) Access to the main road network must be capable of carrying the traffic generated by the development safely.
- b) The traffic generated by the development must be capable of being accommodated on the surrounding transport network.
- c) The design of the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired.
- d) It must be designed to meet the needs of people with disabilities if it is development to which the general public expect to have access.
- e) The development encourages movement by means other than driving a car.”

- 2.6 The preamble to the Policy GEN1 highlights that;

“The objectives in this Plan are to locate high trip generating activity in areas well served by public transport; to increase the proportion of journeys made by rail and bus, on foot and by cycle; to reduce the number and length of motor vehicle trips by the location of Uttlesford Local Plan – Adopted January 2005 12 development; and to minimise the adverse effects of traffic on residential and shopping areas by traffic management measures.

3.6 The Council will work with highway authorities to ensure that, whenever possible, transport investment and the resultant transport network will support the Plan’s development strategy and policies.

3.7 The impact of development on the road network will be assessed and Traffic Impact Assessments may be required as part of applications for planning permissions. Improvements to the transport infrastructure will be sought where appropriate. The environmental impact of traffic arising from a development will similarly be assessed and Environmental Assessments may also be required. The cumulative impact of developments will also be taken into account.

3.8 Development proposals for any building that the public may use will be required to provide safe, easy and inclusive access for all people regardless of disability, age or gender. This should include access to, into and within the building and its facilities, as well as appropriate car parking and access to public transport provision. 3.9 The needs of walkers, cyclists and horse riders will be taken into account whenever development would affect routes used by riders or where the potential for the creation of new paths along strategic routes would be jeopardised. Suitable replacement paths will be required when routes used by walkers and riders will no longer be suitable for continued use as a result of other changes to the road network or new development.”

Policy GEN2 – Design

2.7 “Development will not be permitted unless its design meets all the following criteria and has regard to adopted Supplementary Design Guidance and Supplementary Planning Documents.

a) It is compatible with the scale, form, layout, appearance and materials of surrounding buildings;

b) It safeguards important environmental features in its setting, enabling their retention and helping to reduce the visual impact of new buildings or structures where appropriate;

c) It provides an environment, which meets the reasonable needs of all potential users.

d) It helps to reduce the potential for crime;

e) It helps to minimise water and energy consumption;

f) It has regard to guidance on layout and design adopted as supplementary planning guidance to the development plan. g) It helps to reduce waste production and encourages recycling and reuse.

h) It minimises the environmental impact on neighbouring properties by appropriate mitigating measures.

i) It would not have a materially adverse effect on the reasonable occupation and enjoyment of a residential or other sensitive property, as a result of loss of privacy, loss of daylight, overbearing impact or overshadowing.”

3.0 Planning Obligation

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

- Provision of 40% affordable housing
- Financial contribution for long-term on-going maintenance of public open space
- Financial contribution for health care
- Custom built dwellings 5%
- Payment of education financial contributions
- Library contribution
- Highways and Transport measures
- ECC monitoring fees
- UDC monitoring fees

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

Planning Obligation	Justification
Schedule3 Part 1 – Affordable housing (40%)	<p>40% affordable housing is required to mitigate the development by providing a balanced community in accordance with Local Plan Policy H9. The NPPG also recognises the need for affordable housing in delivering a sufficient supply of homes. 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. The provision of affordable housing on site is directly related to the development and the provision of 40% on site is considered to be fairly and reasonably related in scale and kind to the development.</p> <p>The requirement for the provision of affordable housing conforms to the three regulation 122 tests.</p>
Schedule 3 Part 2 Public open space	<p>In order to provide high quality, sustainable developments which have a good design area required in accordance with the Essex Design Guide, Local Plan Policy GEN2 and GEN7.</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 and Paragraph 92 supports healthy lifestyles and local well-being by providing access to healthier food and allotments</p> <p>Planning policy therefore requires the provision of open space on site, which is necessary to make the development acceptable in planning terms. The open space and play areas would be situated within the development areas and serve the future residents of the appeal development directly and would be available to all residents as public open space.</p> <p>The requirement for the provision of open space conforms to the three regulation 122 tests .</p>
Schedule 3 Part 3 Health care contribution of £119,730 to mitigate the capital cost to the NHS	<p><u>Existing Healthcare Position Proximate to the Planning Application Site</u></p> <p>The proposed development is likely to have an impact on the services of 2 GP practices operating within the vicinity of the application site. The GP practices do not have capacity for the additional growth resulting from this development.</p>

	<p>The proposed development will likely have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. Hertfordshire and West Essex Integrated Care Board would therefore expect these impacts to be fully assessed and mitigated.</p> <p><u>Review of Planning Application</u></p> <p>Hertfordshire and West Essex Integrated Care Board acknowledge that the planning application does include a Health Impact Assessment (HIA), however this does not appear to recognise that a capital contribution may be required to mitigate the primary healthcare impacts arising from the proposed development</p> <p>A Healthcare Impact Assessment has been prepared by Hertfordshire and West Essex Integrated Care Board to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area.</p> <p><u>Assessment of Development Impact on Existing Healthcare Provision</u></p> <p>The existing GP practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 582 residents and subsequently increase demand upon existing constrained services.</p> <p><u>Healthcare Needs Arising From the Proposed Development</u></p> <p>The intention of Hertfordshire and West Essex Integrated Care Board is to promote Primary Healthcare Hubs with co-ordinated mixed professionals. This is encapsulated in the strategy document: The NHS Five Year Forward View.</p> <p>The development would give rise to a need for improvements to capacity, in line with the emerging Hertfordshire and West Essex Integrated Care Board estates strategies, by way of extension, refurbishment, reconfiguration or potential relocation for the benefit of the patients at Gold Street Surgery, a proportion of the cost of which would need to be met by the developer.</p> <p>A developer contribution will be required to mitigate the impacts of this proposal. Hertfordshire and West Essex Integrated Care Board calculates the level of contribution required, in this instance to be £119,730. Payment should be made before the development commences.</p> <p>The requirement for the provision of a health care contribution conforms to the three regulation 122 tests .</p>
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<p>Schedule 3 Part 4 Custom build housing (5% of the number of market dwellings)</p>	<p>Paragraph 60 of the NPPF sets out that “[t]o support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”</p> <p>Para 62 sets out that “within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to... people wishing to commission or build their own homes²⁸)</p> <p>Footnote 28 further explains that “under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom housebuilding. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand.” The Council has a list of those registered for serviced plots whose need can be accommodated by the proposed development.</p> <p>The proposals are being put forward as part of the application in order to meet an identified need.</p> <p>As set out above, the requirement conforms to the three regulation 122 tests</p>
<p>Schedule 3 Part 5</p>	<p><u>Car club contribution</u></p> <p>Car clubs allow users to access a vehicle without owning one and can offer a flexible, convenient alternative to private car ownership or leasing. Car clubs provide residents, visitors or businesses with access to a vehicle, often as a short-term rental by the hour.</p> <p>By providing an alternative to driving a private car, car clubs reduce carbon emissions, air pollution, parking pressure and congestion, while supporting the shift to lower carbon forms of travel. A 2022 CoMoUK report suggests that each car club vehicle on average can replace 18 private cars, with some users directly exchanging their car for car club membership, while others may replace a second household car, decide against, or delay a private vehicle purchase or lease.</p> <p>By putting a direct cost and adding a small element of extra effort (for example, getting to a car club vehicle, even if this only takes a minute) on using any vehicle for a particular journey, car clubs can also encourage a shift to active and public transport for shorter journeys and incentivise trip chaining to make use as efficient as possible. Many members use car club vehicles for trips where public transport is not</p>

	<p>viable (such as unsociable hours or night shift workers), or when needing to move bulky items, for instance.</p> <p>In 2020, CoMoUK found that car club members showed higher than average use of public and sustainable transport modes – with 30% using a bike 3 times a week, compared to a national average of 14% using a bike more than once. Bike parking next to dedicated car club bays can also provide improved access for users.</p> <p>Car clubs can help reduce demand for residential parking spaces as research by the RAC Foundation has found that the average vehicle spends over 70% of the time parked at home, a usage pattern that has changed very little in over 25 years. This in turn can mean that there is reduced demand for brownfield or greenfield land because less space is required for parking, or it allows for the inclusion of more shared amenity space and for the development of sites previously thought too small, because they lacked space for adequate parking.</p> <p>In more dispersed rural communities, a community car club may be more appropriate to serve residents' needs due to having closer links with the population. There is a role for Uttlesford and ECC in helping to set up and promote the community car club to ensure it is integrated with other transport or mobility hubs. Placing vehicles at community hubs, such as village halls, is also likely to encourage sign ups.</p> <p>Uttlesford will seek to require developers to support the establishment of a scheme, either as a direct contribution towards car club set-up and operating costs, or via a contribution for district wide active sustainable travel initiatives.</p> <ol style="list-style-type: none"> i. All new developments should provide opportunities for reducing the need for car parking through the inclusion of dedicated car club bays on site, where a scheme is considered viable by the Highway Authority. If a scheme is considered viable then the developer will be expected to contribute towards the start-up and operation of a car club in the new community for a period up to five years. This will include financial contribution towards any, or all of the following: <ol style="list-style-type: none"> a) <i>provision of car club spaces where required (if car club bays on site are not appropriate then a financial contribution towards the delivery of a bay on the public highway may be sought instead)</i> b) <i>promotion of the car club and free membership for all dwellings for the first 3 years including approximately 10 hours free membership credit for all new residents of the development</i> c) <i>dedicated electric vehicle charging facilities for each car club bay</i>
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	<p>d) <i>pump prime car club vehicle leasing costs for at least 3 years</i></p> <p>e) <i>promotion and marketing details as part of the travel plan activities (where travel plan or travel plan statement required)</i></p> <p>ii. For developments of 100+ dwellings and where a car club operation is deemed feasible then the developer will be expected to contribute towards the delivery of a minimum of two car club vehicles/bays either on site or in the wider community for the first 100 dwellings, with a further 1 vehicle/bay for every additional 100 dwellings, to be agreed with the Highway Authority.</p> <p>iii. For developments of 400+ dwellings the developer will be expected to contribute towards and/or deliver one car club vehicle and dedicated bay for every 200 dwellings built (starting with a minimum of 4 vehicles/bays). For example, a development of 600 dwellings will require 5 car club vehicles/bays and for a development of 1200 dwellings will require 8 car club vehicles/bays.</p> <p>iv. Provision of car clubs at commercial developments and business parks will be determined on a site-by-site basis by the Highway Authority.</p> <p><u>Car club - costs</u></p> <p>Annual membership for 5 years- £300 per dwelling; • 10 hours driving credit- £80 per dwelling; and • Pump priming operational costs of 1 electric vehicle for 5 years- £43,333. This length of time has been lengthened from 3 years now to 5 years with agreement from both sides. The formula for contribution and precise requirements have been calculated by Essex County Highways.</p> <p>The requirement would conform to the three regulation 122 tests.</p>
Schedule 4 Part 1 Education contribution	<p><u>Early years and childcare</u></p> <p>ECC consultation response to the outline application advised that according to Essex County Councils childcare sufficiency data, a total of zero unfilled places were recorded. For Essex County Council to meet its statutory duties it must both facilitate sufficient places to meet free childcare entitlement demand and also ensure a diverse range of provision so that different needs can be met. The data shows insufficient places to meet demand from this proposal. An additional 18.18 would be provided at an estimated cost of £313,932.24 at January 2020 prices. This equates to £17,268 per place and so based on the demand generated by this proposal as set out above, a developer contribution of £313,932.24 index linked to January 2020 is sought to mitigate its impact on local Early Years and Childcare provision.</p>

	<p><u>Primary education</u></p> <p>The development would sit within the priority admission area of RA Butler infant and junior school, which will have a published admission number of 90 pupils per year. As at the last school census in October, they had a combined number on roll of 636 pupils. Forecasts for the Saffron Walden Area (Uttlesford Group 2) set out in the Essex School Organisation Service 10 Year Plan, suggests growth demand for places over the period. It is anticipated that a new school may be required to serve the town long term and a land option to facilitate this has been secured through section 106 agreement. The estimated cost of the project is £1,046,440.80 at January 2020 costs. This equates to £17,268.00 per place so based on the demand generated by this proposal as set out above a developer contribution of £1,046,440.80 index linked to January 2020 is sought to mitigate its impact on local primary school provision.</p> <p>The requirement would conform to the three regulation 122 tests.</p>
Schedule 4 Part 2 Library contribution	<p>Essex County Council may seek contributions to support expansion of the library service to meet customer needs generated by residential development of 20plus homes. In this case the suggested population increase brought about by the proposed development is expected to create additional library usage. In accordance with the Essex County Council Development Guide to Infrastructure Contributions (revised 2020) a contribution is therefore considered necessary to improve enhance and extend facilities and services provided at a cost of £77.80 per unit,. Improvements could include (but is not limited to) additional facilities, additional furniture, provision of learning equipment/play equipment for younger children, improved access, external works such as parking and bike racks and IT. In this case it is calculated that a contribution of £18,127.40 is requested.</p> <p>The requirement would conform to the three regulation 122 tests.</p>
Schedule 4 Part 3 Highways and Transport	<p><u>Bus service contribution</u></p> <p>Within the context of the national bus strategy <i>Bus Back Better</i> Essex County Council has developed and formally adopted a <i>The Essex County Council Bus Service Improvement Plan, 2021 – 2026</i> (ECC BSIP) the council is also in the process of developing a bus strategy for Uttlesford. The ECC BSIP outlines the approach to securing bus service improvements to new developments, which is to take funding per dwelling and support a bus strategy for the local area.</p>

	<p>Policy ENV13 of the UDC adopted local plan (exposure to poor air quality) is also relevant. Its titled 'Exposure to poor air quality' and the policy seeks to reduce exposure to long term poor air quality. This is relevant on the basis that at least 80% of the vehicles are likely to turn left on Radwinter Road leaving the site to Saffron Walden town going through the AQMA.</p> <p>In this case and in respect of bus services, a contribution of £2600 per dwelling is required, to enhance the provision of bus services in Saffron Walden. ECC commit to serving the site via a regular service to key services and facilities as part of the emerging transport plan for Saffron Walden.</p> <p>This is in accordance with NPPF paragraph 110, Local Plan Policies GEN1 and GEN2.</p> <p>The requirement would conform to the three regulation 122 tests.</p> <p><u>On site pedestrian cycle and pedestrian/cycle link extension</u></p> <p>An onsite pedestrian / cycle way of 3 metres width to be provided a spart of the development pursuant to a planning condition, as well as a pedestrian cycle link extension (3 metre width) which would connect the onsite pedestrian cycle way to the boundary of the adjacent development.</p> <p>This requirement would conform to the three regulation 122 tests.</p> <p><u>Sustainable travel voucher</u></p> <p>The implementation of a residential and a work place travel plan and provision of travel pack is required to ensure the appropriate opportunities to promote sustainable transport modes can be taken up in accordance with NPPF paragraph 110, Local Plan Policies GEN1 and GEN2 and ENV 13. In practice this would mean voucher of a value of £100 for sustainable travel which may include ticket passes/vouchers credits or other means of accessing transport (such as vouchers for use towards purchasing a bicycle/electric bicycle) or journey planning information as agreed with the ECC including the following as a minimum six scratch card bus tickets per household or a season ticket or voucher and or incentives for rail travel with the local rail operator</p> <p>These requirement would conform to the three regulation 122 tests</p>
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	<p><u>Improvement to the pedestrian crossing point at the access junction to the Tesco store</u></p> <p>The existing pedestrian crossing is poorly located with respect to the desire line and pedestrian visibility to approaching vehicle, which is partially restricted by adjacent vegetation. The Appellant is willing to include the requested improvement as part of the highway works. They advise in their very recent statement of common ground addendum that the design of a suitable scheme (to the satisfaction of ECC and within the publicly adopted highway) and delivery of the agreed scheme, can be secured via a S106 obligation. This S106 obligation would include a clause that should a suitable scheme to the satisfaction of ECC not be deliverable within the publicly adopted highway, there would be no obligation to undertake any works in this location.</p> <p>The crossing point is to ensure a safe crossing route for those going to and from the development to access local services and to encourage walking by providing the safe route rather than pushing residents to their vehicles. This is in accordance with Local Plan Policies GEN1, GEN2 and ENV13 of the Uttlesford Local Plan (adopted 2005) and the NPPF.</p> <p>This requirement would conform to the three regulation 122 tests.</p>
Schedule 4 Part 4 Safeguarded land	<p><u>Safeguarded Land for the purpose of an upgrade for a future relief road</u></p> <p>The Owners covenant with ECC to safeguard the Safeguarded Land for the Safeguarding Period so as not to prevent or materially hinder or limit the construction of the future relief road on the Safeguarded Land and not to prejudice the future use of the Safeguarded Land for the purpose of an upgrade for a future relief road.</p> <p>The Council understands ECC consider the safeguarding of land to potentially allow a highway connection from the site to the south as necessary, and that the Appellants agree. The Council has no particular position on this point, which it is agreed provides planning benefits in any event.</p>
ECC Monitoring fee	<p>The requirement for a residential and a work place travel plan and associated fee monitoring fee is outlined in the Essex County Council Developers Guide to Infrastructure Contributions 2020. The fee is for services supplied to the developer by ECC, for the provision of support and advice to the onsite Travel Plan Co-ordinator on the management and implementation of the Residential Travel Plan, thus enabling them to effectively deliver the Travel Plan.</p>

	<p>The fee for the residential travel plan is £1,533 per annum which covers 5 years.</p> <p>ECC - £550 per obligation (7), totalling £3,850.</p> <p>The sum is taken from the Essex County Council Developers Guide to Infrastructure Contributions 2020 and inflation since 2020 has been added.</p> <p>This would conform to the three regulation 122 tests.</p> <div data-bbox="655 566 708 622" data-label="Image"> </div> <p>Essex County Council Developers</p>
<p>Uttlesford District Council Monitoring fee</p>	<p>UDC Adopted S106 Monitoring Fees</p> <p>This monitoring fee includes a general monitoring fee of £416.</p> <p>UDC – total £22,776 to be paid in 3 instalments: on or before Implementation and then at 2nd and 4th anniversaries of Implementation.</p> <p>The justification and calculation is based on the number of 1 hour site visits based on a one year site build. It is estimated there would be circa 15 site visits per 'site build' annum.</p> <p>The justification and calculation is based on the number of 1 hour site visits based on a one year site build. It is estimated there would be circa 15 site visits per 'site build' annum.</p> <p>A calculation is then made on the number of units per annum (build out lifetime) based on the overall number of years build out, which is believed to be 6 years.</p> <p>An overall figure of ?? is required</p> <p>The requirement would conform to the three CIL tests.</p> <div data-bbox="651 1641 708 1704" data-label="Image"> </div> <p>S106 Monitoring Fees Breakdown.docx</p>