

**TOWN AND COUNTRY PLANNING ACT 1990**

**PLANNING AND COMPULSORY PURCHASE ACT 2004**

**SECTION 78 APPEAL**

**BY**

**Dudsbury Homes (Southern)**

**LAND SOUTH OF Ringwood Road**

**Alderholt**

**DORSET**

**CIL Compliance Note**

**DORSET COUNCIL**

**Planning Inspectorate Reference: APP/D1265/W/23/3336518**

**Local Planning Authority Reference: P/OUT/2023/01166**

## **1. Introduction**

- 1.1. This statement addresses the planning obligations sought by the Council in association with the Section 78 appeal. 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. 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:

- KS11 Transport and Development
- HE4 Open Space Provision
- LN3 Affordable Housing
- LN6 Housing and Accommodation for Vulnerable People
- LN7 Community Facilities and Services
- Affordable Housing SPD
- Dorset Heathlands SPD
- Bournemouth, Poole and Dorset Local Transport Plan 3

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

Planning Obligation	Justification
Schedule 1: Affordable Housing and First Homes	
Part 1 - 1.6 Affordable Housing	<p>Policy LN3 requires that greenfield residential development which results in a net increase of housing is to provide up to 50% of the residential units as affordable housing. If a lower level of affordable housing is proposed, then this must be accompanied by clear and robust evidence. In this instance the Appellant and the Council have reached agreement on viability, with the development to provide 37% affordable housing.</p> <p>Affordable housing is required due to the high levels of local housing need in the area.</p>
Part 1 - 1.8 First Homes and Tenure Mix	<p>Policy LN3 says that the tenure split should normally allow for 30% intermediate housing, with the remainder being affordable rented. Since Policy LN3 was adopted the PPG has introduced First Homes and identified that 25% of affordable homes should be First Homes. As such the proposed affordable tenure mix of 25% first homes, with the remainder split 30% shared ownership and 70% affordable rented, complies with national and local policy.</p>
Accessible and Adaptable Housing (Wheelchair Units)	<p>Policy LN3 requires that where developments are required to provide 10 or more affordable homes, 10% of the affordable housing element should be planned for households requiring specially adapted or supported housing. This is reflected in the definition of Wheelchair Units and the requirement within the definition of the Affordable Housing Scheme that these be included in the development.</p>
Part 1 - 1.17 Extra care	<p>The supporting text to Policy LN6, para. 15.13 of the CEDLP, says that to achieve sustainable and inclusive communities, larger scale developments and new neighbourhoods should make provision for older and vulnerable people in both the market and affordable housing sectors. The Appellant has proposed to include both market and affordable extra care provision as part of the scheme and has agreed to secure this provision through the S106.</p>
Part 3 Viability Review	<p>The Affordable Housing SPD (paras. 8.12-8.13) provides guidance on situations where financial viability evidence concludes that it is not possible to meet the relevant affordable housing targets. On large scale phased developments S106 legal agreements will include provisions for further viability assessment to be carried out part way through the development and any change in financial viability to be reflected in revised affordable housing contributions either on-site or as financial contributions. Viability assessments will be expected to follow the RICS Guidance note Financial Viability in Planning (GN94/2012) or any subsequent RICS updates.</p> <p>There is also support for viability review within the PPG.</p>

	Given the scale of development and delivery timeframe costs may change during the development period which could have a positive impact on delivering additional affordable housing in line with policy LN3 target of 50%. A viability review clause has been agreed which the Council's advisors have confirmed complies with RICS guidance.
<b>Schedule 2: Traffic Regulation Order (TRO)</b>	
Traffic Regulation Orders	Policy KS11 requires that developers contribute towards local and strategic transport improvements. Two TROs are needed to provide mitigation and each requires an application process to be undertaken. The obligation ensures that the required applications will be made for this mitigation.
<b>Schedule 3: Financial Contributions</b>	
1. Dorset Heath Strategic Access Management and Monitoring Contribution (SAMM) Contribution	The Dorset Heathlands SPD explains the necessity of SAMM contributions to secure the day to day costs of helping local people to alter harmful behaviour through raising awareness of the issues and value of the protected Dorset Heathlands SPA sites. The amounts needed to provide SAMM are £394 per house and £269 per flat.
2. Education Contribution	<p>NPPF para. 99 sets out that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Policy LN7 sets out the Council's approach to delivery of community facilities and services, including education, stating that the Council will work with partners and service providers to ensure the timely provision of services.</p> <p>Contributions are necessary towards Upper school provision due to there being insufficient places available to provide for the children of this development. The contributions will be spent at the catchment upper school, QE in Wimborne. Proportionate per pupil calculations and costs are based on the East Dorset S106 and CIL Contributions guidance that was adopted by the former Dorset County Council in 2013.</p>
3. School Site and Contribution	<p>The development generates the need for a 2FE first school within Alderholt.</p> <p>The Appeal proposal does not include a school, however agreement has been reached on a S106 clause which would enable a school to be provided on the site through a planning mechanism.</p> <p>A school site would be provided to the Council, with the benefit of outline planning permission, with the Council making a proportionate contribution towards the cost of the land. The school site will be suitable for a primary school to allow flexibility in the future. This would be accompanied by a contribution to build a new 2FE first school. The replacement of St James First School is only required as a result of this proposal and would not otherwise be necessary. As such it is considered proportionate that this development funds the new school.</p> <p>This approach has been agreed between the Appellant and the Council however at present there is a requirement to secure planning permission for a primary school – the wording needs to be updated</p>

	to be more flexible, as the assumption at this stage is that Alderholt remains in the three-tier system.
5. Highway Management Contribution	In the event planning permission is granted, the developer/appellant will need to apply to the respective Local Highway Authority under S278 of the Highways Act 1980 to undertake works on the highway maintainable at public expense or to offer new infrastructure for adoption under S38 of the Highways Act 1980. As part of either process the Local Highway Authority will undertake pre and post construction surveys and secure remedial works for any damage caused to the highway as a result of construction works associated with the development.
6. 3G Pitch Contribution	Sport England have identified a shortfall of 3G pitches in the East Dorset area. A financial contribution towards offsite 3G pitch provision has been agreed with Sport England. A proportionate figure has been calculated based on the Sport England calculator to meet the needs of the expected site population.
7. New Forest Air Quality Contribution	<p>Modelling of traffic emissions from cumulative traffic growth within New Forest District identified the potential for significant adverse effects on parts of the New Forest SPA and SAC and Ramsar from nitrogen deposition and ammonia, particularly near main road corridors through the New Forest in areas lacking screening woodlands.</p> <p>Natural England's response (CDB21) to the application advised that the current air pollution modelling is inadequate to allow a conclusion that there will not be a likely significant effect on the designated sites either alone or in-combination with a number of significant development coming forward around Fordingbridge.</p> <p>During the inquiry agreement has been reached on provision of a financial contribution towards monitoring and managing the effects of traffic emissions on sensitive locations in the New Forest. This is necessary to satisfy the requirements of the Habitats Regulations. The contribution will be spent on monitoring, management and/or mitigation measures to improve air quality.</p> <p>A proportionate contribution is provided of £109 per Dwelling with the amount being that adopted by New Forest as a proportionate contribution.</p>
8. New Forest Strategic Access Management and Monitoring (SAMM) Contribution	<p>There is a 13.8km zone of influence around the New Forest sites within which recreational impacts require mitigation, which this proposal falls within. Natural England's response to the application (CDB21) identified the need for this proposal to contribute towards mitigation, but at that time there was no mechanism to enable this.</p> <p>Discussions have led to a suggested £500 per dwelling proportionate contribution, as set out at para. 4.16 of the IHRA. This has been accepted by Natural England.</p>
9. Public Rights of Way (Dorset) Contribution	The Bournemouth, Poole and Dorset Local Transport Plan 3 identifies the need to improve the functional Rights of Way network within villages and hamlets. The proposal would significantly increase the

	<p>proportion of people using Rights of Way around Alderholt, resulting in the need to upgrade footpaths to accommodate this.</p> <p>Projects have been identified to upgrade the following footpaths:</p> <p>E34/4 Footpath improvements £47,474</p> <p>E34/6, E34/4 and E34/7 Maintenance £400,000</p> <p>Subtotal £447,474</p> <p>E34/7 Footpath improvements £4,210</p> <p>E34/7 Maintenance £8,420</p> <p>Subtotal £12,630.00</p> <p>E34/30 footpath improvements (with significant drainage and path raising works through 290m of wet ground) £135,263.63</p> <p>E34/30 Maintenance £270,527.26</p> <p>Total £405,790.89</p> <p>The combined total cost is £865,894. A proportionate contribution has been calculated at £494,796, based on apportioning the cost between the existing and proposed Alderholt population.</p> <p>The Appellant has offered a contribution of £400,000, which the Council has accepted.</p>
<p>10. Public Rights of Way (Hampshire) Contribution</p>	<p>Hampshire County Council (HCC) response (CBD9) included a request for a financial contribution towards improvements to their PROW network. HCC's Local Transport Plan 4 includes policies which support their request including to ensure sustainable access to the countryside, and to ensure sustainable maintenance for new and existing highways.</p> <p>HCC advise that, based on 1900m of PROW resurfacing, a contribution of around £200,000 (~ £118 per dwelling) would be expected. In addition, a commuted sum in the region of £400,000 is asked for to cover the ongoing maintenance at public expense of those works.</p> <p>The Appellant has offered to provide a financial contribution of £400,000.</p>
<p>11. Section 278 Agreement Commuted Sum Contribution</p>	<p>In the event planning permission is granted, the developer/appellant will need to apply to the respective Local Highway Authority under S278 of the Highways Act 1980 to undertake works on the highway maintainable at public expense. As such fees, costs, and sums associated with this process will be covered under the Highways Act 1980. Commuted Sums will be calculated in accordance with each Highway Authorities Commuted Sums Policy and the ADEPT Guidance.</p>
<p>Schedule 4: Community Hall and Local Centre</p>	
<p>Community Hall</p>	<p>Policy LN7 states that facilities and services will be provided to support existing and future population growth. New facilities will be</p>

	<p>required to serve the needs of the population and new development when the alternatives above are not feasible.</p> <p>In their response to the application Sport England (CDB36) identified an existing need for indoor sports and court space within the area, along with an estimated need arising from the development for 1.57 sports courts and 0.14 indoor bowls rinks.</p> <p>In line with Policy LN7, which seeks to group or cluster uses, it was proposed that the requirement identified by Sport England for a contribution to indoor sports be combined with the need to provide additional community space to meet the needs of the development within a new community hall. This progressed into the proposal for a community hall which would include one sports court and indoor bowls.</p> <p>The preference is for a local facility delivered on site, this is proportionate to the scheme and has been agreed.</p>
Local Centre	<p>The local centre is part of the proposal. Without it, and without it being appropriately phased, other parts, such as the delivery of 1,700 homes, would not be acceptable in planning terms, and it is therefore necessary that it is secured. Given the weight attributed to the benefits of the local centre it is directly related to the delivery of the residential components of this proposal.</p> <p>The Appellant has agreed to the inclusion of an obligation to secure the local centre within the S106.</p>
<b>Schedule 5: Health Care Centre</b>	
Health Care Centre	<p>Policy LN7 requires that facilities and services will be provided to support existing and future population growth. New facilities will be required to serve the needs of the population and new development where existing, well-located facilities cannot be expanded.</p> <p>The majority of Alderholt residents are served by the Fordingbridge Medical Practice which is oversubscribed. As such it is necessary that healthcare provision is expanded to meet the needs of this development.</p> <p>The NHS have explained that the existing doctor's surgery at Fordingbridge does not have space to expand and that an existing branch surgery in Alderholt is not used due to the need for extensive renovation works (CDA74).</p> <p>A new branch surgery could provide for both existing and new residents to access healthcare within Alderholt. The surgery would need to be 600sqm to accommodate all residents. A proportionate contribution arising from the development is 326sqm and the NHS have explained that it would be possible to build the surgery in two stages, with the Appellant delivering their necessary mitigation first, enabling future expansion through other funding methods.</p> <p>This approach meets the Reg 122 Tests and has been agreed between the Appellant, the Council and the NHS.</p>

Schedule 6: Allotments	
Allotments	Policy HE4 of the CEDLP provides open space standards to be applied throughout the plan area. This includes allotments at 2.5sqm per person. Based on this requirement and the estimated population the development would require 1.02ha of Allotments. These would be delivered on the site.
Schedule 7: Travel Plans	
Travel Plan	KS11 requires the provision of travel plans to promote sustainable travel patterns.
Schedule 8: SANG Land	
SANG	<p>The Dorset Heathlands SPD explains the necessity of residential development within 400m-5km of the Dorset Heathlands SPA providing Suitable Alternative Natural Greenspace (SANG) as mitigation to prevent an increase in effects arising from recreational impacts at these Habitats sites. This proposal is located within the area that requires SANG provision, and due to the scale being over 40 dwellings the provision must be made through direct delivery, preferably on site.</p> <p>The proposal makes provision for 53ha of SANG Land and Natural England have agreed that the SANG will have sufficient capacity to serve the development.</p>
SANG Bond	A SANG bond will provide security in case the SANG should not be managed effectively and the Council have to step in to manage the SANG.
Schedule 9: Schedule 9 Play Area and Leisure/Sports Facility Provision	
Play Areas	Policy HE4 of the CEDLP provides open space standards to be applied throughout the plan area. This includes space for children and young people at 2.5sqm per person. Based on this requirement and the estimated population the development would require 1.02ha of space for children and young people. This would be delivered on the site.
Leisure/Sports Facility	<p>Policy HE4 of the CEDLP provides open space standards to be applied throughout the plan area. This includes space for active (outdoor) sports at 12.5sqm per person. Based on this requirement and the estimated population the development would require 4.5ha of space for children and young people. This would be delivered on the site at the proposed recreation ground extension.</p> <p>The precise form that the formal sports provision will take is to be determined at a later date. Sport England have identified a need for football pitches, and at least 2 adult pitches will be included. There is also a need for junior football pitches and these could be specified later. Alternatively the Appellant has identified an opportunity for a tennis facility, and has been in discussions with the Lawn Tennis Association regarding this.</p> <p>The requirement is that communities have access to sporting opportunities and given the scale of the proposed development the</p>



	<p>existing recreation ground is not sufficient to accommodate the needs of both existing and the new residents. Residents are likely to take up the sporting opportunities that are provided in the village, whatever these may be, and by nature of being within the village this provision will be directly related to the development. It is considered appropriate to include flexibility regarding the sporting provision rather than being prescriptive at this stage and that this approach meets the CIL Tests.</p>
<p>Schedule 10: Biodiversity Net Gain Management Scheme</p>	
Biodiversity Net Gain	<p>This application was submitted in advance of the enactment of the Environment Act and the requirement that all development deliver a 10% net gain in biodiversity. However, the Appellant sought to offer this as a benefit in advance of it being a requirement. As such this offer is secured through a S106 obligation.</p>
<p>Schedule 12: Formal Sports Provision</p>	
Swimming	<p>During the application Sport England identified a shortage of pool space, and that a contribution could be sought towards swimming provision. The Appellant agreed with Sport England to make a financial contribution towards off-site swimming, based on a proportionate cost per person using the Sport England calculator.</p> <p>Since the application was determined, the swimming pool that this contribution could have been spent at (Wimborne) has closed. The S106 obligation will therefore allow for the contributions to be spent on a project to be identified by Sport England.</p>
<p>Schedule 14: AONB</p>	
Recreational impacts	<p>Agreement has been reached between the Appellant and the Cranborne Chase National Landscape Partnership regarding a proportionate contribution towards mitigation of recreational impacts.</p> <p>The existing population of the settlements that lie on the fringes of the NL is about 115,000. The proposed increase in population is 4,066 against an existing population of settlements around the fringes at about 115,000. This represents an approx. 3.5% increase in population.</p> <p>The Partnership have identified issues with parking on verges within areas of the National Landscape accessible from Alderholt, along with 135 parking units which need attention to mitigate these impacts. Costs are estimated at £20,000 each totalling £2.7m. 3.5% of this cost at £94,500 represents a proportionate contribution.</p> <p>In addition, a contribution has been sought towards management i.e. a Ranger Services, with each dwellings to provide a contribution of £72 towards this as a one-off payment which would fund the service (as proportionate for this development) for 5 years.</p> <p>The Appellant has agreed to make the requested contributions.</p>