

CIL COMPLIANCE STATEMENT

PRODUCED BY ST ALBANS CITY AND DISTRICT COUNCIL (SADC)

Appeal by: Tarmac Ltd

LPA Ref: 5/2022/0599

PINS Ref: APP/B1930/W/23/3333685

Site: Land to the Rear of 96 to 106 High Street Colney Heath, Hertfordshire

Date: 18 April 2024

A. Description

A.1. Outline application (access sought) for up to 45 dwellings including new affordable homes, with areas of landscaping and public open space, including points of access, and associated infrastructure works

B. Background

B.1. Regulation 122 of the Community Infrastructure Levy Regulations 2010 Statutory Instrument 2010/948 makes it unlawful for any planning obligation to be taken into account as a reason to grant a planning permission if it does not meet the three tests set out in the Regulation.

B.2. The National Planning Policy Framework 2023 (NPPF) sets out at paragraph 57, three policy tests which mirror the tests in the Regulations:

- 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.

B.3. This statement should also be read in conjunction with the statement of Charlie Thompson of Hertfordshire County Council's Growth and Infrastructure Unit, with associated appendices A to X.

C. Relevant Policy

C.1. The policies for the contributions sought by Hertfordshire County Council (HCC) are set out in HCC Guide to Developer Infrastructure Contributions. See the Statement of the Growth and Infrastructure Unit for further detail at Appendix 1.

C.2. The policies for seeking the contributions sought by SADC are set out in the Local Plan Review 1994 and NPPF. In particular, saved Policy 143B of the St Albans Local Plan Review provides that:

"The District Council will expect planning applications for the development of sites to include within them, provision for the infrastructure consequences. Such provisions may include:

(i) on-site facilities directly related to the proposed use in the interests of comprehensive planning.

(ii) off-site facilities necessary as a result of the development, in order to avoid placing an additional burden on the existing community.

...”

C.3. Relevant policies in relation to specific contributions are referenced as appropriate below.

D. Justification for the Obligations

D.1. Justification is set out below in the order the obligations are set out in the draft s106 agreement.

1. County Council Contributions

1.1. Primary Education Contribution

1.1.1. See County Council Statement at Appendix 1.

1.2. Secondary Education Contribution

1.2.1. See County Council Statement at Appendix 1.

1.3. Special Education Needs and Disabilities (SEND) Contribution

1.3.1. See County Council Statement at Appendix 1.

1.4. Library Service Contribution

1.4.1. See County Council Statement at Appendix 1.

1.5. Youth Service Contribution

1.5.1. See County Council Statement at Appendix 1.

1.6. Waste Service Contributions (Recycling Centre and Transfer Station)

1.6.1. See County Council Statement at Appendix 1.

1.7. Childcare Services Contribution

1.7.1. See County Council Statement at Appendix 1.

1.8. Fire and Rescue Contribution

1.8.1. See County Council Statement at Appendix 1.

1.9. The County Council Monitoring Fee

1.9.1. See County Council Statement at Appendix 1.

2. Sustainable Transport Improvements

Background

2.1. Policy 35 of the Local Plan relates to Highway Improvements in Association with Development and sets out that in order to mitigate the highway effects of development proposals, the District Council, in conjunction with the County Council where appropriate, will seek highway improvements or contributions to highway improvements and/or improvements to the public transport system from developers whose proposals would otherwise result in detrimental highway conditions.

- 2.2. Policy 34 of the Local Plan relates to Highways Considerations in Development Control and sets out a number of considerations which are generally consistent with those of Section 9 of the NPPF (apart from its degree of emphasis on sustainable transport). It states that in assessing applications, account will be taken of the advice contained in current documents prepared by HCC, amongst others. The County Council as the local Highway Authority (HA) adopted a Local Transport Plan (LTP4) in 2018 which sets out in Policy 1 'Transport User Hierarchy' that to support the creation of built environments that encourage greater and safer use of sustainable transport modes, the county council will in the design of any scheme and development of any transport strategy consider in the following order:
- Opportunities to reduce travel demand and the need to travel.
 - Vulnerable road user needs (such as pedestrians and cyclists).
 - Passenger transport user needs.
 - Powered two wheeler (mopeds and motorbikes) user needs.
 - Other motor vehicle user needs.
- 2.3. Contributions are sought via the s106 agreement using HCC's Guide to Developer Infrastructure Contributions (2021). HCC's Guide to Developer Infrastructure Contributions implements a two-strand approach to planning obligations in order to address the immediate impacts of the new development (first strand), and the cumulative impacts of all development on non-car networks (second strand). The Highway Authority uses the toolkit in conjunction with the three CIL tests, noted below:
- 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.

Second Strand Obligations

- 2.4. As noted above, second strand obligations are required to address the cumulative impacts of all development on non-car networks.
- 2.5. Second strand obligations are sought at a charge of £307,170 towards the cost of sustainable transport improvements in the County area including, but not limited to package 30 of the South-Central Hertfordshire Growth and Transport Plan such as A414 active travel improvements between London Colney and Hatfield and those identified in the St Albans Local Cycling and Walking Infrastructure Plan (November 2023) such as improvements between St Albans to Colney Heath and/or other such provisions serving the Development
- 2.6. This is to mitigate the predicted impact of the development to the operation of the local highway, active travel, and public transport impacts, and promote sustainable transport modes
- 2.7. These obligations are considered to be:
- a) Necessary to make the development acceptable in planning terms, by virtue of Policies 34 and 35 of the Local Plan and the NPPF;
 - b) Directly related to the development, by virtue of the fact they are directly required to mitigate for highways impacts and to encourage travel by sustainable modes from the site; and
 - c) Fairly and reasonably related in scale and kind, for the reasons outlined above.

3. St Albans City and District Council Contributions

3.1. Leisure and Cultural Centres Contribution

3.1.1. As noted above, Policy 143B of the St Albans Local Plan Review provides for contributions towards infrastructure consequences. Leisure and cultural centres represent one such form of infrastructure that would be impacted by the proposals though additional demands on their use generated by the new resident population and consequential wear and tear.

3.1.2. A precise financial contribution cannot be calculated because the housing mix is not part of the application at outline stage, and therefore the population arising from the development, and totality of the impact on Leisure and Cultural Centres, cannot be certain at this stage. Therefore the District Council has suggested a formula approach in this case, with the formula to be applied at Reserved Matters stage.

3.1.3. The formula is as follows:

$$(A \times B) / 1,000 = C \times \text{Occupancy} = D$$

- A = Local Standard of Provision – 82.58sqm per 1,000 population. This figure is based on the Councils Sport & Recreation Facilities Strategy (page 133, section 9, point 9.25).

- B = Cost per sqm – £3,908. This figure is based on the re-development of Westminster Lodge Leisure Centre in 2012. The centre is 4862sqm in size and cost £19million to build under a tender process.

- C = Contribution per person – £322.72.

- D = Total contribution.

- Occupancy – The Council will base its calculations for the net increase in on-site population on the following occupancy rates, which are taken from the latest available information from Hertfordshire Council:

- 1 bed – 1.5 people
- 2 bed – 1.7 people
- 3 bed – 2.3 people
- 4 bed – 3 people
- 5+ bed – 4 people

3.1.4. The financial contribution sought would be directed towards improvements to Colney Heath Recreation Centre which is located on the hardstanding adjacent to the proposed access road to the site from High Street. It is therefore expected that residents of the proposed development would make use of Colney Heath Recreation Centre as a community facility.

3.1.5. This contribution is therefore:

- a) Necessary to make the development acceptable in planning terms, by virtue of Policy 143B.

- b) Directly related to the development, by virtue of its proximity and the likelihood that the new residents will make use of this important local community facility.
- c) Fairly and reasonably related in scale and kind, by virtue of the use of the formula approach in this instance, for the reasons outlined above.

3.2. Affordable housing

3.2.1. Paragraph 7.13 of the Affordable Housing SPG (2004) states:

“The Council will seek, by negotiation, a target level of 35% affordable units on suitable sites above the site size thresholds.”

3.2.2. The SPG states at paragraph 7.10 that the Council is applying the threshold of Circular 6/98 that on all sites of 1ha or more or of 25+ dwellings the Council will seek an on-site affordable housing provision equivalent to 35% of dwellings on the site. However, Circular 6/98 is no longer relevant and SADC therefore applies the threshold that affordable housing is required on sites where 15 or more dwellings are proposed, as set out in Policy 7A (Affordable Housing in Towns and Specified Settlements), across the entire District.

3.2.3. The application proposes 40% affordable housing (including First Homes). It is considered reasonable and necessary to secure the provision of 40% affordable housing by way of the legal agreement given the policy requirement and the level of proposed provision which is a central element of the Appellant’s very special circumstances case.

3.2.4. A condition would not be capable of securing the provision and retention of the housing in line with an appropriate tenure mix and other detailed requirements.

3.2.5. The obligation is therefore:

- a) Necessary to make the development acceptable in planning terms, since affordable housing is a local policy requirement of SADC.
- b) Directly related to the development, because the affordable housing is secured on site.
- c) Fairly related in scale and kind because the affordable housing provided for is at the proportion proposed by the appellant.

3.3. Self-Build and Custom House Building

3.3.1. The application includes the provision of self-build and custom build housing plots (9% of the market dwellings).

3.3.2. It is considered reasonable and necessary to secure the provision of 9% self-build and custom build housing plots by way of the legal agreement given this provision is part of the Appellant’s very special circumstances case. A condition would not be capable of securing all of the provisions required to secure the self-build and custom build housing.

3.3.3. The obligation is therefore:

- a) Necessary to make the development acceptable in planning terms, by securing the provision of the proposed self-build and custom build housing plots.

- b) Directly related to the development, because it relates to provision on site.
- c) Fairly and reasonably related in scale and kind, because it refers only to the self-build and custom house building plots proposed on site by the appellant.

3.4. Provision/Management of Public Open Space and Play Space

- 3.4.1. Policy 70 of the St Albans Local Plan Review requires the provision of public open space and play space on site for developments of more than 100 dwellings and toddlers play space in developments of over 30 dwellings
- 3.4.2. The proposal would provide a minimum of 0.35ha public open green space within the site.
- 3.4.3. It is considered reasonable and necessary to secure the provision and ongoing management of public open space and play space by way of the legal agreement given the policy requirement. Furthermore, it is necessary to ensure that the management of the open space/play space provision is sustained over the lifetime of the development. A condition would not be capable of securing all of the provisions required to secure the management company.
- 3.4.4. The obligation is therefore:
 - a) Necessary to make the development acceptable in planning terms, by securing the long term retention and management of open space required by policy and that forms part of the Appellant's very special circumstances case.
 - b) Directly related to the development, because it relates to provision on site.
 - c) Fairly and reasonably related in scale and kind, because it refers only to the open space proposed on site by the appellant.

3.5. Biodiversity Net Gain

- 3.5.1. The application includes the provision of 10% biodiversity net gain. A biodiversity calculation is required at Reserved Matters stage as details of the final layout and landscaping plans are not currently known.
- 3.5.2. It is considered reasonable and necessary to secure the 10% biodiversity net gain by way of the legal agreement given this provision is part of the Appellant's very special circumstances case.
- 3.5.3. The obligation is therefore:
 - a) Necessary to make the development acceptable in planning terms, by securing the provision of the proposed 10% biodiversity net gain which forms part of the Appellant's very special circumstances case.
 - b) Directly related to the development, because it relates to a net gain in biodiversity as a result of the proposed development.
 - c) Fairly and reasonably related in scale and kind, because it refers only to the biodiversity net gain that the Appellant has proposed.