

CIL COMPLIANCE STATEMENT

PRODUCED BY ST ALBANS CITY AND DISTRICT COUNCIL (SADC)

Appeal by: Vistry Homes Ltd

LPA Ref: 5/2022/1998

PINS Ref: APP/B1930/W/23/3323099

Site: Land to the Rear of 42-100 Tollgate Road and 42 Tollgate Road, Colney Heath

Date: 27 September 2023

A. Description

A.1. Outline application (access sought) - Demolition of existing house and stables and the construction of up to 150 dwellings including affordable and self-build and custom housebuilding dwellings together with all ancillary 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 2021 (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 Martin Wells of Hertfordshire County Council's Growth and Infrastructure Unit, with associated appendices A to V.

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

1.7.1. 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.

First Strand Obligations

2.4. As noted above, first strand obligations are required to address the immediate impacts of the new development.

2.5. The Appellant provided a Framework Travel Plan for the proposed residential development, which aims to increase the use of sustainable transport modes in accordance with the HCC Travel Plan Guidance. A contribution towards the monitoring and evaluation of the Travel Plan is required to cover the County Council's administration costs. For residential and workplace Travel Plans, the Evaluation and Supporting Fee is £10,200. This contribution amount is based on a charge of £1,200 per annum for 8.5 years. This 8.5 years includes a build out time of 3.5 years (estimated by the Appellant) and 5 years post full occupation. This approach to calculating the Evaluation and Supporting Fee is in accordance with the HCC Guide to Developer Contributions – The Legal Pack (2021).

2.6. A contribution towards sustainable travel vouchers for each of the proposed dwellings is sought to incentivise the uptake of public transport, cycle or walking by future occupiers. A £50 voucher per flat and £100 voucher per house is required within one month of the first occupation of each dwelling (in accordance with HCC's Travel Plan Guidance (2020)).

Second Strand Obligations

2.7. As noted above, second strand obligations are required to address the cumulative impacts of all development on non-car networks.

2.8. Second strand obligations are sought at a charge of £1,299,000 towards increasing the frequency of the 305 bus for a period of three years. The total contribution of £1,299,000 is based on a charge of £433,000 per annum over three years. The charge of £433,000 per annum has been calculated by HCC Highways Public Transport Team in liaison with public transport operators. The figure of £433,000 per

annum for three years takes into account the current level of provision and how much it would cost to increase the frequency of the service to provide a bus service every 30 minutes during Monday to Saturday and an hourly service on Sundays.

Summary

- 2.9. The contributions would be necessary to help improve access to sustainable transport modes in the local area, in line with LTP4.
- 2.10. The highways obligations are directly related to the development as they seek to encourage future occupants of the proposed development to use more sustainable modes of transport.
- 2.11. The obligations are fairly and reasonably related in scale and kind to the proposed development. The Evaluation and Supporting Fee for the Travel Plan has been calculated based on the anticipated build out time of the proposed development and a period of five years following full site occupation, in accordance with HCC guidance.
- 2.12. The contribution towards sustainable travel vouchers for each of the proposed dwellings is based on the type of dwelling, with a different charge for flats and houses. The total contribution would be calculated at the reserved matters stage when the breakdown in property types is confirmed.
- 2.13. The contribution towards additional bus services has been calculated through consultation with public transport providers. The contribution is based on the cost of increasing the frequency of the 305 bus to a level that the County Council considers would provide future residents at the site with an acceptable level of public transport accessibility. HCC Highways would typically seek a bus service enhancement contribution over a period of five years. However, HCC reduced the contribution period to three years in this instance as the cost for five years would be too great compared to the scale of development.

St Albans City and District Council Contributions

2.14. Leisure and Cultural Centres Contribution

- 2.14.1. 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.
- 2.14.2. 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 accurately calculated or defined. Therefore the District Council has suggested a formula approach in this case, with the formula to be applied at Reserved Matters stage.
- 2.14.3. 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 Council:
 - 1 bed – 1.5 people
 - 2 bed – 1.7 people
 - 3 bed – 2.3 people
 - 4 bed – 3 people
 - 5+ bed – 4 people

2.14.4. The financial contribution sought would be directed towards improvements to Roestock Scout Hut. Roestock Scout Hut is located around 250m north east of the site (around a 5 minute walk). It is therefore expected that residents of the proposed development would make use of Roestock Scout Hut as a community facility.

2.14.5. 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. NHS Contributions

3.1. East of England Ambulance Service NHS Trust (EEAST) Contribution

3.1.1. The proposed development would put increasing pressure and demand on EEAST providing nationally set response times for ambulance emergency services around the local area. In its capacity as a healthcare and emergency service EEAST has identified that the development will give rise to a need for additional emergency and non-emergency healthcare provision to mitigate impacts arising from this development.

1.1.1. The funding would be used towards the capital cost of providing:

- New additional ambulances; and/or
- Extending/refurbishing existing ambulance station(s) within the locality;
- New additional medical equipment (both within and external to the ambulance);
- Recruiting, training and providing new equipment for additional Community First Responders (CFRs); and/or
- Use of digital solutions.

3.1.2. A precise financial contribution cannot be calculated because the number of dwellings that would be delivered at the site is not known at this outline stage, and therefore the population arising from the development, and totality of the impact on ambulance services, cannot be accurately calculated or defined. Therefore the EEAST 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:

$$A = B \times C \times D$$

- A = EEAST Contribution
- B = Population yield of the Development, calculated assuming 2.4 persons per dwelling.
- C = Rate of 0.19 (calculated using per head of population in Hertfordshire and West Essex 2020 of 1.5m and emergency activity volume in 2021/22 (288,262)).
- D = Ambulance callout cost of £675 (calculated using EEAST 2021 data).

3.1.4. This contribution is therefore:

- Necessary to make the development acceptable in planning terms, by virtue of Policy 143B.
- Directly related to the development, as it would fund the ambulance service that serves the appeal site and local area.
- 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. Hertfordshire and West Essex ICB

3.2.1. The proposed development would put additional strain on local GP services. The ICB propose to focus the monies either singularly or by way of a combination on the practices that deliver primary care services in Hatfield and the surrounding area, namely Burvill House Surgery and Northdown Road Surgery (branch of Wrafton House Surgery). The funding may involve expansion, reconfiguration and refurbishment, relocation, digitisation or

offsite storage of the patient records of Wrafton House Surgery which are stored at Northdown to allow the vacated space to be repurposed. All of these proposal are with a view to increasing clinical space and increasing the level of patient access in line with additional demand.

3.2.2. A precise financial contribution cannot be calculated because the number of dwellings that would be delivered at the site is not known at this outline stage, and therefore the population arising from the development, and totality of the impact on GP services, cannot be accurately calculated or defined. Therefore the Hertfordshire and West Essex ICB has suggested a formula approach in this case, with the formula to be applied at Reserved Matters stage.

3.2.3. A contribution of £1,292 per dwelling is sought, which is based on the following formula:

$A \times 2.4$ (average occupancy rate per dwelling) = B

$B / 2,000$ (ratio of 2,000 patients per 1 GP and 199sqm of floorspace, as set out in the NHS England "Premises Principles of Best Practice Part 1 Procurement & Development") = C

$C \times 199\text{sqm}$ = D

$D \times \text{£}5,410$ (build costs including land, fit out and fees) = E

$E / \text{total number of dwellings}$ = £1,291.91 per dwelling (this figure is rounded to £1,292)

- A = Number of dwellings
- B = Population yield
- C = Number of GPs required to serve the population yield
- D = Additional GP floorspace required to serve the population yield (sqm)
- E = Total cost of providing the additional GP floorspace required to serve the new population

3.2.4. The above formula is based on the number of dwellings proposed and therefore related in scale, not taking into account any existing deficiencies or shortfalls.

3.2.5. This contribution is therefore:

- d) Necessary to make the development acceptable in planning terms, by virtue of Policy 143B.
- e) Directly related to the development, as it would fund the provision of additional primary care capacity in the local area at Burvill House Surgery and/or Northdown Road Surgery.
- f) 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.

4. Affordable Housing

4.1. 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.”

4.2. 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.

4.3. 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.

4.4. 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.

4.5. 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.

5. Self-Build and Custom House Building

5.1. The application includes the provision of self-build and custom build housing plots (10% of the market dwellings).

5.2. It is considered reasonable and necessary to secure the provision of 10% 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.

5.3. 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.

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

- 6.1. 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
- 6.2. The submitted Land Use Parameter Plan allows for open space provision, which is expected to form part of submissions for reserved matters approval. However, the Land Use Parameter Plan does not state the minimum area that would be provided as public open space and play space.
- 6.3. 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.
- 6.4. 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.

7. Biodiversity Net Gain

- 7.1. 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. However, it is currently anticipated that part of the net gain may need to be delivered off-site.
- 7.2. 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.
- 7.3. 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.