

East Herts Council

CIL Compliance Statement

APPEAL BY: Hallam Land Management Ltd

LOCATION: Land North of the A507 and West of A10,
Buntingford, Hertfordshire

APPEAL REFERENCE: 6008238

LOCAL PLANNING AUTHORITY REF: 3/24/0966/OUT

Appeal by Hallam Land Management Ltd under S78 of the Town and Country Planning Act 1990 (as amended) against the decision by East Herts Council to refuse planning permission in respect of the *'Outline planning application for development of up to 600 dwellings (C3), elderly accommodation (C3), Mixed Use Local Centre (including flexible use E, F and Sui Generis), First School, informal and formal open space, associated works and infrastructure including a new access from the A507 and pedestrian bridge over the A10, with all matters reserved except access'*.

1. Introduction

- 1.1 This statement addresses the planning obligations sought by East Herts Council in association with the appeal scheme. This statement is provided without prejudice to the Council's case that the appeal should be dismissed.
- 1.2 It should be noted that East Herts Council has not adopted CIL and therefore does not have a CIL charging schedule and relies solely on Section 106 contributions and obligations.

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 three criteria, namely that they 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 relevant to the proposed contribution obligations that are sought by the Council. These policies are contained within the East Herts District Plan 2018, which can be found within the Core Documents.

DEL2 – Planning Obligations

This policy states that 'The Council will seek a range of planning obligations. Planning obligations will only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.'

HOU3 – Affordable Housing

This policy contains the affordable housing provision that will be expected on all development sites that propose development that falls within Class C3. In this instance I (c) is relevant and seeks up to 40% on sites proposing 15 or more gross additional dwellings.

CFLR1 – Open Space, Sport, and Recreation

This policy requires residential developments to provide open spaces, indoor and outdoor sport, and recreation facilities to provide for the needs arising from the development. Local areas of play, informal and formal open spaces should be provided on site, while contributions towards off-site provision or the enhancement of existing facilities may be more appropriate for other types of provision.

CFLR7 – Community Facilities

This policy requires developers to provide either on-site provision, or where appropriate a financial contribution towards either off-site provision, or the enhancement of existing off-site facilities.

CFLR9 – Health and Wellbeing

This policy requires contributions towards new or enhanced health care facilities will be sought to ensure the health care requirements arising from new developments are met and to prevent a shortfall or worsening of provision.

2.3 Supplementary Planning Documents and Guidance

All East Herts Section 106 financial contributions are calculated in accordance with the current East Herts Local Plan and relevant Supplementary Planning Documents and the associated calculation spreadsheets - specifically the Planning Obligations SPD (Oct 2008), the Affordable Housing SPD (May 2020) and the Open Space, Sport and Recreation SPD (May 2020).

These SPDs detail the circumstances in which the Council would use planning obligations and the circumstances in which different obligations would be required. The individual SPDs set out the policy drivers and methods of calculation for each contribution required. Whilst the Council acknowledges that the Planning Obligations SPD refers to policies contained within the previous District Plan, the current Local Plan and associated SPD provide the policy foundation for the contribution and obligation requirements. Following the adoption of the District Plan 2018, the relevant policies are those of the current District Plan.

3.0 Proposed Planning Obligations

3.1 East Herts Council Contribution Obligations

- 3.2 At the time of finalising this document, the Draft Section 106 Agreement through which the obligations will be secured is in the process of negotiation between the Appellant, Council and County Council (see Draft Section 106 document 24.8.26). Where necessary, further information will be provided in relation to any changes to the agreement prior to the appeal hearing.
- 3.3 As this is an Outline application, the contributions requested by East Herts Council have been listed in the Draft Section 106 Agreement as a per Dwelling amount with the payment triggers listed in Schedule 3 to be finalised. Following negotiations between the parties some initial obligations were removed and the on-site provision of facilities agreed.

3.4 The table below provides information on the contribution obligations sought by East Herts Council.

Contribution	Project	Contribution	Indexation
Affordable Housing – 40% to be delivered	On-site provision of Affordable Housing	40% On-site provision of Affordable Housing See Schedule 2 of the Draft Section 106 Agreement for detailed requirement information.	N/A
Allotments	To support the provision and maintenance of allotments within the site to meet additional demand generated by the development.	Details of on-site provision required to be submitted pursuant to schedule 5 paragraphs 3.2-3.4 of the draft S106 agreement.	N/A
Buntingford Community Transport Scheme (BCAT) Contribution	Buntingford Community Transport Scheme operated by the Buntingford Community Area Transport Trust.	Means the sum of £500 per Dwelling payable as a contribution towards the costs of provision or improvement of a Community Transport Scheme operated by the Buntingford Community Area Transport Trust	RPI All Items from Date of Resolution
Council Monitoring Contribution	Towards the Council's cost of monitoring the obligations within the Section 106 Agreement over the lifetime of the development	Means a sum of £300 per Council obligation plus £300 – final amount to be confirmed on finalisation of the Section 106 Agreement	RPI All Items from Date of Resolution
Fitness Gym Contribution	Towards the provision of indoor fitness at Grange Paddocks Leisure	Means a sum of £254.38 per Dwelling as a contribution towards the costs of provision of	RPI All Items from May 2020

	Centre and Seth Ward Community Centre	facilities, improvements, and maintenance to the fitness gym at Grange Paddocks Leisure Centre and/or provision of indoor sports and fitness at Seth Ward Community Centre	
Health Care Contribution	Increasing capacity of Medical Services in Buntingford – collected by East Herts Council on behalf of the NHS Central East Integrated Care Board	Means a sum of £1,672.00 per Dwelling towards the costs of increasing capacity of Medical Services in Buntingford. To be transferred to the NHS Central East Integrated Care Board	RPI All Items from May Date of Resolution
Outdoor Sports Contribution	Towards increasing provision of outdoor sports in Buntingford - in partnership with Buntingford Town Council and local sports clubs	Means a sum of £406.00 Index Linked per Dwelling towards increasing the provision of outdoor sports including cricket, tennis, pickleball, and bowls facilities, in the vicinity of the Development	RPI All Items from May 2020
Recycling Contribution	Provision of refuse and recycling containers to each new dwelling on the development	Means a sum of £72 per individual Dwelling and £76 per dwelling with communal facilities (flats) towards the provision of refuse and recycling receptacles and/or provision serving the Development	RPI All Items from Oct 2008
Swimming Pool Contribution	Towards swimming pool provision at Grange Paddocks Leisure Centre and Ward Freman Pool	Means a sum of £585 per Dwelling towards the costs of provision of facilities, improvements, and maintenance of the swimming pool facilities	RPI All Items from May 2020

		at Grange Paddocks Leisure Centre and/or at the Ward Freman Pool	
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3.3 Regulation 122 Compliance

- 3.4 The table below assesses each of the proposed obligations against the criteria in regulation 122, to demonstrate their compliance with the statutory tests. In addition, it should be noted that where changes to the name of the contribution have occurred within the Draft Section 106 this is reflected in the table.

Obligation	Test 1 - Necessity	Test 2 – Directly related to the proposed development	Test 3 – Fairly and reasonably related in scale and kind to the development
Affordable Housing	The provision of affordable housing is required for compliance with Local Plan policies HOU3, DEL2 and the EHDC Planning Obligations SPD. This requirement arises because of the increase in gross additional dwellings on the site. Should this not be sought the development would fail to comply with the development plan and would fail to contribute to the provision of affordable housing in the District.	The extent of the provision of affordable housing at the site represents the maximum amount, established through viability testing, specific to the proposed development. The obligation is therefore directly related to the development.	The extent of the affordable housing provision is directly related in scale and kind to the development as it represents the maximum reasonable amount that this specific development can achieve.
Allotments Contribution	The provision of the Allotments	This provision is required to support	The extent of the contribution is

	contribution is required for compliance with Local Plan policies DEL2, CFLR1 and the EHDC Planning Obligations SPD. This requirement arises because of the increase in gross additional dwellings on the site. Should this not be sought the development would fail to comply with the development plan and would fail to contribute to the provision of allotment facilities in the District.	the provision, improvements, and maintenance of allotments within the development. The financial contributions sought are based on the agreed occupation numbers of the dwellings compromising this development.	directly related in scale and kind to the development as it represents the maximum reasonable amount that this specific development can achieve. The level of provision sought will be based on the amount of dwellings and future occupiers within the development.
Buntingford Community Transport Scheme (BCAT) Contribution	The provision of Buntingford Community Transport contribution is required for compliance with Local Plan policies DEL2, TRA1 (community-based transport initiatives) and TR8 and the EHDC Planning Obligations SPD.	This contribution is required to support the provision of the Buntingford Community minibus service run by the Buntingford Community Area Transport Trust to provide an ancillary transport service that is not provided by public transport. This service is crucial as the town grows, new developments are built on the outskirts of the town creating a greater	The extent of the contribution is directly related in scale and kind to the development as it represents a reasonable amount per Dwelling that this specific development can achieve. The financial contribution sought is based on the agreed financial amount per Dwelling and the total contribution amount will be calculated based on the final

		distance to travel into the centre of the town to access services and facilities, especially for the elderly, disabled, and mothers with young children.	number of dwellings compromising this development.
Council Monitoring Contribution	The monitoring fee is required to ensure that the contribution obligations of the development will be delivered in accordance with District Plan policy DEL2 and the Planning Obligations SPD	This contribution is required for the Council to monitor the collection and delivery of the necessary infrastructure requirements and contribution obligations of the legal agreement (once agreed).	The fees are directly related to the scale of the requirements for resources to monitor the collection and delivery of the legal agreement obligations.
Fitness Gyms Contribution*	The provision of fitness gyms infrastructure contribution is required for compliance with Local Plan policies DEL2, CFLR1 and CFLR9 and the EHDC Planning Obligations SPD. This requirement arises because of the increase in gross additional dwellings on the site. Should this not be sought the development would fail to comply with	The future occupiers are likely to use Grange Paddocks Leisure Centre as the flagship district-wide facility and/or the provision of indoor sports and fitness facilities at Seth Ward Community Centre. The contribution will be used as per the Council capital expenditure repayment requirement for the existing fitness gym at Grange Paddocks Leisure Centre (see	The extent of the contribution is directly related in scale and kind to the development as it represents the maximum reasonable amount that this specific development can achieve. The financial contribution sought is based on the agreed financial amount per Dwelling and the total contribution amount will be calculated based on the final

	the development plan and would fail to contribute to the provision of fitness gym facilities in the District.	note below) and/or for the provision of indoor sports and fitness at Seth Ward Community Centre.	number of dwellings compromising this development.
Healthcare Contribution	The Healthcare contribution is required by the Central East Integrated Care Board as per their consultation response and for compliance with Local Plan policies DEL2, CFLR9 and the EHDC Planning Obligations SPD.	For additional primary healthcare provision to mitigate the impacts arising from the proposed development. NOTE: The Council are only the collection authority for this contribution.	The cost calculation is as the CE ICB deem appropriate having regard to the formulated needs arising from the development. The financial contribution sought is based on the agreed financial amount per Dwelling and the total contribution amount will be calculated based on the final number of dwellings compromising this development.
Outdoor Sports Contribution	The provision of the Outdoor Sports contribution is required for compliance with Local Plan policies DEL2, CFLR1 and CFLR9 and the EHDC Planning Obligations SPD. This requirement arises because of the increase in gross additional dwellings on the site. Should this not be sought	The future occupiers are likely to use the local outdoors sports facilities within the vicinity of the development. These sports facilities include Buntingford Bowls Club, tennis facilities at Ward Freman pool and/or at the MUGA at Norfolk Road Playing Fields, cricket, and playing pitch facilities	The extent of the contribution is directly related in scale and kind to the development as it represents the maximum reasonable amount that this specific development can achieve. The financial contribution sought is based on the agreed financial amount per Dwelling

	the development would fail to comply with the development plan and would fail to contribute to the provision of outdoor sports facilities in the District.	at Luynes Rise Recreation Area The contributions will be used in collaboration with Buntingford Town Council and sports clubs to increase outdoor sports provision in the local area.	and the total contribution amount will be calculated based on the final number of dwellings compromising this development.
Recycling Contribution	The recycling contribution is required for compliance with District Plan policy, DEL2 and the EHDC Planning Obligations SPD. <i>NOTE: This financial contribution covers the provision of the required refuse and recycling containers.</i> <i>Council Tax covers the actual collection of the household refuse and recycling.</i>	For the council to provide refuse and recycling containers to the individual dwellings on the development (container provision as per the requirements of the current Waste Contract). Financial contributions calculated as per the requirements of the Planning Obligations SPD.	The recycling contribution is directly related in scale and kind to the development as the financial contribution has been calculated according to the requirement of each individual dwelling comprising the proposed development. The financial contribution sought is based on the agreed financial amount per Dwelling and the total contribution amount will be calculated based on the final split and number of dwellings on the development.
Swimming Pool Contribution*	The provision of a swimming pool contribution is required for compliance with	The future occupiers are likely to use to the swimming pool at Grange Paddocks Leisure Centre as the	The extent of the contribution is directly related in scale and kind to the development as it

	Local Plan policies DEL2, CFLR1 and CFLR9 and the EHDC Planning Obligations SPD. This requirement arises because of the increase in gross additional dwellings on the site. Should this not be sought the development would fail to comply with the development plan and would fail to contribute to the provision of swimming and recreational facilities in the District.	flagship district-wide facility and/or Ward Freeman Pool (once refurbished) as it is within easy walking distance of the development. The financial contributions sought are based on the agreed occupation numbers of the dwellings compromising this development. The contributions will be used as per the Council capital expenditure repayment requirement for the existing swimming pool space at Grange Paddocks Leisure Centre (see note below) and/or towards the refurbishment of Ward Freeman Pool.	represents the maximum reasonable amount that this specific development can achieve.
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*** Section 106 financial contributions for Indoor Sports & Leisure Facilities** - In 2018, a comprehensive leisure strategy was agreed, designating Grange Paddocks and Hartham as flagship district-wide leisure centres.

The council's infrastructure provision strategy for leisure centres was to construct a brand-new leisure centre at Grange Paddocks in Bishop's Stortford and to refurbish and substantially extend the Hartham Leisure Centre in Hertford to accommodate the forecast growth in housing numbers in the District Plan.

As the council felt it could not wait until all the section 106 contributions were received to build these facilities, it was agreed that the council would build these facilities by forward funding them using short term borrowing. This was on the understanding that

the short-term borrowing would be repaid as further section 106 contributions were received as sites were built out.

The short-term borrowing amounts to £9.7 million for Hartham and £5.1 million for Grange Paddocks. To date a total of £1,896,077.84 has been repaid from triggered Section 106 contributions - £1,316,607.62 for Grange Paddocks and £576,470.22 for Hartham.

Non-financial & On-site Requirements:

Affordable Housing – See Schedule 2 of the Draft Section 106 Agreement for detailed information on the specification requirements and delivery of the Affordable Housing provision on site.

Allotments

- **Allotments** - the allocated on-site Allotments to be provided in accordance with The National Allotment Society guidance.

Open Space – see definitions below and Schedule 5 of the Draft Section 106 Agreement for detailed information of the Open Space requirements.

- **Open Space** means the areas within the Site shown shaded [] on the [Parameter Plan] and including other public open space features to be delivered within this area including LEAPs and LAPs, footpaths, and cycle routes and vegetation.
- **LEAPs and LAPs** means locally equipped areas for play and local areas for play shown in the indicative locations marked with [] on the [Parameter Plan] *[the precise number and locations of which will be determined through discharge of Planning Condition [29] and is subject to Reserved Matters Approval(s)]*.
- **Formal Sports Provision** means the on-site provision of sports pitches to include a cricket pitch, 1 youth sized football pitch and 1 adult sized football pitch, a multi-use games area ("MUGA").
- **Sports / community Pavillion Building** means the provision of a sports pavilion for use by the residents of the Development to be delivered in accordance with the approved specification submitted pursuant to Schedule 9 of this Deed.

Open Space Management – see 'Management Company' definition and Schedule 6 of the Draft Section 106 Agreement for detailed information on the requirements to have a Management Company to carry out the management and maintenance of the open space of the development.

Skylark Mitigation means land outside the application site to be managed to support skylark populations, to mitigate against the loss of skylark habitat on the site itself.