

Three Rivers District Council

Town and Country Planning Act 1990 (As Amended)

Development Site, Maple Lodge, Maple Lodge Close, Maple Cross, Hertfordshire

Planning Appeal

Appeal Reference: APP/P1940/W/21/3289305

Community Infrastructure Levy Compliance Statement

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1. Background

1.1 Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) sets statutory tests in respect of the lawfulness of planning obligations. These are summarised in the National Planning Policy Framework 2021 (NPPF) paragraph 57. A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonable related in scale and kind to the development.

2. Policies

2.1 The development plan for Three Rivers District Council is the Three Rivers Core Strategy (adopted October 2011), the Site Allocations Local Development Documents (adopted November 2014) and the Development Management Policies Local Development Document (adopted in July 2013).

2.2 The following policies are referred to in support of the case that the Council's proposed planning obligations in respect of biodiversity and a travel plan meet the CIL tests:

Core Strategy

Policy CP1 (Overarching Policy on Sustainable Development)

Policy CP8 (Infrastructure and Planning Obligations)

Policy CP9 (Green Infrastructure)

Policy CP10 (Transport and Travel)

Development Management Policies LDD

Policy DM6 (Biodiversity, Trees, Woodland and Landscaping)

3. Proposed Planning Obligations

3.1 The Council's proposed planning obligations to be secured by a Section 106 are as follows:

- **Biodiversity Net Gain** – the provision of a financial contribution of £142,800.00 to achieve 10% BNG in line with the Development Management Policies LDD and the guidance in the NPPF. The Heads of Term (HOT) would be expressed as:
 - Developer to pay the Council £142,800.00 (“the Biodiversity Loss Offset Contribution”) prior to Commencement (not to Commence until the contribution has been paid);
 - The Council at its absolute discretion, either:
 - Utilising the Biodiversity Loss Offset Contribution, to provide an area of species rich grassland in a location within proximity of the Site which in the opinion of the Council will deliver 11.90 Biodiversity Units applying the Natural England Biodiversity Metric Version 2 and thereafter manage and maintain that area for 25 years, **OR**
 - Pay the Biodiversity Loss Offset Contribution to a third party following receipt of details of a written scheme from that third party which would, if delivered, (in the opinion of the Council) secure the provision and thereafter management and maintenance for 25 years of an area of species rich grassland in a location within proximity of the Site delivering 11.9 Biodiversity Units applying the NE Biodiversity Metric Version 2
 - Contribution to be repaid to the Owner if either: 1) the Council has not provided an area of species rich grassland in a location within close proximity of the Site which in the opinion of the Council will achieve 11.90 BU, or 2) not made arrangements for the transfer of the monies to a third party for them to provide, protect, manage and maintain the area of species rich grassland within **5 years** of the date of payment of the contribution.
- **Travel Plan** – the provision of a financial contribution of £6,000 to enable Hertfordshire County Council to:
 - Appraise a Travel Plan(s) submitted to the Local Planning Authority and provide constructive feedback;
 - Undertake an annual study reviewing and monitoring the provisions of the Travel Plan;

- Manage on behalf of the owners the implementation monitoring progression reporting and review of the Travel Plan in order to achieve its objectives and targets.

4. CIL Tests

4.1 The following table explains how the above planning obligations comply with the three tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (“CIL Regulations”) and the NPPF 2021 paragraph 57.

Planning Obligation	Regulation 122 Test 1 - Necessity	Regulation 122 Test 2 – Directly related to the proposed development	Regulation 122 Test 3 – Fair and reasonable in terms of scale and kind	Regulation 121 CIL Compliance
Biodiversity Net Gain	Necessary – To ensure that there is no net loss of biodiversity by reason of the proposed development of the appeal site and to secure measurable net gains through appropriate long term management and monitoring of biodiversity features and to provide compensatory habitat for the Forester moth in accordance with policy and to comply with NERC Act 2006 obligations relating to the biodiversity duty and S41 species responsibilities	The provision of compensatory species rich grassland and habitat for the Forester moth is directly related to the proposed development as it would involve the loss of grassland of moderate intrinsic interest and grassland where the Forester moth has been recorded on the appeal site. In addition, the Biodiversity Net Gain contribution utilising V2 of the Natural England metric is directly related to the proposed development, having been calculated based	The contribution accords with the requirements of Policy CP9 of the Core Strategy (adopted October 2011), Policy DM6 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021). The contribution is, therefore considered fair and reasonable.	Such contributions are excluded from the definition of infrastructure for the purposes of the CIL Regulations and therefore fall outside the scope of CIL (the Planning Act 2008 Section 216(2) Application).

	See TR01: Committee Report 7.12.11 – 7.12.23, 7.12.42 – 7.12.60.	on the characteristics of the appeal site. See TR01: Committee Report p.45 paragraph 4.2.5.3 paragraphs 2.5 to 4. and pp.174-176 paragraphs 7.12.48 – 7.12.60		
Travel Plan	The provision of a financial contribution for £6,000 in respect of appraising and monitoring the Travel Plan, is required to comply with Three Rivers Core Strategy Policies CP1 (Overarching Policy on Sustainable Development), Policy CP8 (Infrastructure and Planning Obligations) and CP10 (Transport and Travel) and Hertfordshire County Council’s Local Transport Plan (LTP4). It is necessary to make the development acceptable in planning terms because travel plans are a necessary tool in ensuring that	The financial contribution is directly related to the development because the travel plan would provide a long-term management strategy for the site and its proposed use as an employment site. The travel plan would support the need to secure specific objectives, targets and commitments (including details of survey methods, funding and any required third party engagement) and be required to address the transport impacts generated by: employees commuting to and from the site; visitor	It is fairly and reasonably related in scale and kind to the development because the development proposals meet the thresholds for requiring a full travel plan and its associated level of financial contribution as laid out in Hertfordshire County Council’s Travel Plan Guidance (TPG, 2020), which is a supporting document to LTP4. A planning obligation is “the only mechanism to secure Travel Plan Evaluation and Support Contributions, that allow for the Travel Plan to be supported by the County Council for a	The Council’s Infrastructure Funding Statement 2019/20 does not reference these requirements. The planning obligation sought is specific to the proposed development.

	<p>sustainable travel modes are encouraged, promoted and regulated to be in accordance with the NPPF and the LTP4. The NPPF states that “all developments that will generate significant amounts of movement should be required to provide a Travel Plan”. The securing of a travel plan via a planning obligation allows for a greater level of detail to be agreed than could reasonably be achieved by a planning condition particularly in relation to the implementation and monitoring of the plan. See TR01:Committee Report p.24 paragraph 4.2.1.3/7 and p.164 paragraphs 7.9.43 -44</p>	<p>movements and freight/delivery movements.</p>	<p>minimum period of 5 years” (TPG 2020)</p>	
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