

CIL Compliance Statement

Local Planning Authority

Town and Country Planning Act 1990
Community Infrastructure Levy Regulations 2010
Section 78 appeal against the refusal of planning permission

Appeal: APP/W0340/W/25/3359935

Site: The Mall, Kennet Centre, Newbury RG14 5EN

Proposal: Full planning permission for the redevelopment of the Kennet Centre comprising the partial demolition of the existing building on site and the development of new residential dwellings (Use Class C3) and residents ancillary facilities; commercial, business and service floorspace including office (Class E (a, b, c, d, e, f, and g)); access, parking, and cycle parking; landscaping and open space; sustainable energy installations; associated works, and alterations to the retained Vue Cinema and multi storey car park.

Date: May 2025

Council Reference: 23/02094/FULMAJ

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Council Reference: May 2025

Revision:

Issued: May 2025

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1. Introduction

Scope of statement

- 1.1 This statement has been prepared for Appeal reference APP/W0340/W/25/3359935 for the redevelopment of the Kennet Centre comprising the partial demolition of the existing building on site and the development of new residential dwellings (Use Class C3) and residents ancillary facilities; commercial, business and service floorspace including office (Class E (a, b, c, d, e, f, and g)); access, parking, and cycle parking; landscaping and open space; sustainable energy installations; associated works, and alterations to the retained Vue Cinema and multi storey car park at The Mall, Kennet Centre, Newbury RG14 5EN.
- 1.2 This statement justifies the planning obligations sought in relation to the appeal proposal, in the context of the relevant legislation and policies.
- 1.3 Section 122 of the Community Infrastructure Levy (CIL) Regulation 2010 (as amended) provide the three tests for planning obligations, which are repeated by the NPPF. It provides that a planning obligation may only constitute a reason for granting planning permission for development if the obligation is:
 - 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.
- 1.4 West Berkshire Council is the Local Planning Authority and the CIL Charging Authority in respect of this application. The Council's CIL was implemented on 1 April 2015. Whilst CIL replaces most of the previous system of developer contributions collected under Section 106, it will still be necessary to have S106 planning obligations under certain circumstances, for example to provide affordable housing, or provide infrastructure on site, or pay for infrastructure improvements required off site but specifically as a result of a development.
- 1.5 The Council adopted a CIL Charging Schedule (CD4.14) and approved a Regulation 123 List on 4th March 2014, with an implementation date of 1st April 2015. Development

permitted from 1 April 2015 onwards is liable to pay the Levy as set out in the CIL Charging Schedule.

- 1.6 This statement considers compliance in respect of each of the planning obligations proposed in the S106 agreement between the Appellants and the Council.

Policy context

- 1.7 The statutory development plan for West Berkshire is currently made up of a number of different documents¹. The table below sets out those development plan documents that are relevant to the proposed planning obligations, together with a list of the relevant policies.

Development Plan Document	Relevant Policies
West Berkshire Core Strategy 2006-2026 (WBCS) http://info.westberks.gov.uk/corestrategy	CS5, CS6, CS13
West Berkshire District Local Plan 1991-2006 Saved Policies 2007 (WBDLP) http://info.westberks.gov.uk/article/28783	RL1, RL2 and RL3,

- 1.8 The Statement of Common Ground (CD 5.7) updates the current position on the Local Plan Review 2022-23 (LPR), that following the independent examination has now ended, and the Inspector's Report has concluded that with the Main Modifications the Plan is sound, legally compliant, and capable of adoption. A special meeting of Council will be held on 10 June 2025, where Councillors will decide whether to adopt the LPR. The following policies of the LPR as amended by the Main Modifications (CD4.4 & CD4.5) are relevant to the proposed planning obligations SP19, SP24, DM3, DM40, and DM45

¹ Full development plan: West Berkshire Core Strategy 2006-2026 (adopted July 2012); Housing Site Allocations DPD 2006-2026 (adopted May 2017); West Berkshire District Local Plan 1991-2006 Saved Policies 2007 (as amended in July 2012 and May 2017); Stratfield Mortimer Neighbourhood Development Plan (adopted June 2017); South East Plan, Natural Resource Management Policy 6 (relating to the Thames Basin Heaths Special Protection Area; Cold Ash Neighbourhood Development Plan (adopted May 2024); Compton Neighbourhood Development Plan (adopted February 2022); Hermitage Neighbourhood Development Plan (adopted May 2024); and Minerals and Waste Local Plan 2022-2037 (adopted December 2022).

- 1.9 A number of documents are material conditions relevant to the proposed planning obligations.
- 1.10 The **National Planning Policy Framework (NPPF)** sets out the Government's planning policies for England and how these should be applied. The NPPF is a material consideration in planning decision, which should be read as a whole (including its footnotes and annexes). The latest version was published in December 2024.
- 1.11 The **Planning Practice Guidance (PPG)** is an online publication which supplements the NPPF and, as a statement of government policy, may also be material when deciding applications/appeals.
- 1.12 The **Planning Obligations SPD (2014)** was adopted by the Council in December 2014, following a period of consultation which took place in Summer 2014. It sets out the Council's approach for securing contributions and requiring obligations from development, alongside the Community Infrastructure Levy (CIL). This approach is in accordance with national CIL Regulations and the council's pdf CIL Regulation 123 List.

Proposed planning obligations

- 1.13 The following planning obligations are proposed. CIL compliance is considered in subsequent sections of this statement.
- a) Public Open Space contribution
 - b) Highways Infrastructure Improvements
 - c) Travel Plan Implementation and Monitoring
 - d) Car Club Contribution
 - e) Provision of primary healthcare facilities
 - f) Sustainable Travel Wayfinding Updates
 - g) Affordable Housing and Build to Rent Tenure

2. Public Open Space

Proposed planning obligation

- 2.1 Financial contribution of £52,738.56 indexed linked payable prior to the commencement of development towards the provision of public open space or improved facilities nearby (Schedule 4 of the draft obligation). The Statement of Common Ground (SoCG) (CD 5.7) agrees that the third reason for refusal can be overcome with a suitable worded legal agreement.

Mechanism	By reference to the Regulation 123 List the delivery of public open space improvements and which are off-site required solely as a result of this large scale residential development.
Necessary to make the development acceptable	<p>This financial contribution is required in lieu of the provision of public open space within the appeal site to meet the recreational needs of future residents, and to mitigate for the deficit of outdoor amenity space within the development.</p> <p>Saved Policies RL1, RL2 and RL3, emerging Policy DM40, and the Planning Obligations SPD.</p>
Directly related to the development	As detailed above, it is a requirement of the current and emerging development plan policies to provide public open space as part of the development, and to contribute towards the maintenance of facilities near to the development.
Fairly and reasonably related in scale and kind to the development	As detailed above the financial contribution is in proportion to the scale of the development and the proposed number of residential units proposed.
Pooling Restrictions	Provision of sports pitches, upkeep and provision of play areas, provision of new facilities to accommodate active

	recreation, investment in tree planting, environmental interpretation and spaces for quiet recreation and the appreciation of nature.
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3. Highway Infrastructure Improvements

Proposed planning obligation

3.1 The provision of financial contributions towards highway infrastructure improvements required to mitigate the impacts of the shortfall of parking spaces at peak times (Schedule 4 and Schedule 5). The principle of these improvements and the amount of the financial contribution have been agreed in the Transport and Highways Statement of Common Ground (CD5.10). The financial contributions are as follows

- i. Upgrading/replacing the town centre Visual Message Signing £500,000
- ii. A Traffic Regulation Order and signage for two-way cycling along Batholomew Street from Market Street to Bridge Street £15,000
- iii. Improvements to the Market Street/Station Multi Storey Car Park and pedestrian links to it £70,000

Mechanism	By reference to the Regulation 123 List the delivery of off-site infrastructure required solely as a result of this large scale development
Necessary to make the development acceptable	The requirements are required to direct traffic to alternative parking facilities, when full and avoid congestion, and to make the Market Street Multi-Storey Car Park more suitable for use by shoppers. Otherwise there may be displacement of vehicles in the road

	<p>network leading to congestion. Two-way cycling is required to access the residents parking area.</p> <p>Policy CS5, Policy CS13, emerging Policy SP24, and the Planning Obligations SPD</p>
Directly related to the development	Without the appeal proposal there would be no need to upgrade these facilities and to make the car park improvements more accessible and create a new access to the Kennet Centre Car Park.
Fairly and reasonably related in scale and kind to the development	It forms part of a package of highway measures that are proportionate to the scale of the development and the need to provide adequate parking facilities for the town centre.
Pooling Restrictions	The funding is part of wider improvements to Visual Message Upgrades, and works to the car park, and funding for cycle improvements within Bartholomew Street

4. Travel Plan Implementation and Monitoring

Proposed planning obligation

- 4.1 This is the provision of a travel plan, travel pack, and travel plan monitoring to ensure the effectiveness of the Framework Travel Plan when the development is occupied (Schedule 6). The principle of these improvements, as well as the travel plan, travel pack, travel plan monitoring, car club contribution and signage wayfinding improvements have been agreed within the Transport and Highways SoCG. (CD5.10)

Mechanism	By reference to the Regulation 123 List the delivery of on-site facilities as a result of this large scale development
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Necessary to make the development acceptable	To ensure the effectiveness of the Framework Travel Plan (CD1.77) when the development is occupied. Ts is required in accordance with Policy CS5, Policy CS13, emerging Policies SP24, DM45 and the Planning Obligations SPD.
Directly related to the development	The requirement for travel plans is directly related to the large scale of the residential development.
Fairly and reasonably related in scale and kind to the development	The proposed measures are proportionate to the scale of the development and related to the number of residential units proposed.
Pooling Restrictions	The measures within the travel pan relate to the Framework Travel plan for this development only.

5. Car Club Contribution

Proposed planning obligation

- 5.1 The principle of the car club contribution of £150,000 (Schedule 7) has been agreed within the Transport and Highways SoCG (CD5.10)

Mechanism	By reference to the Regulation 123 List the delivery of on-site facilities as a result of this large scale development.
Necessary to make the development acceptable	To ensure the effectiveness of the Framework Travel Plan (CD1.77) when the development is occupied, and to address the overall shortfall in parking provision of the site and encourage travel less reliant in the ownership of a private car. This is required in accordance with Policy CS5, Policy CS13, emerging Policies SP24, DM45 and the Planning Obligations SPD.

Directly related to the development	The requirement for car club provision is directly related to the large scale of the residential development.
Fairly and reasonably related in scale and kind to the development	The proposed measures are proportionate to the scale of the development and related to the number of residential units proposed.
Pooling Restrictions	The car club membership may enable use by members in the wider car club and vice versa.

6. Provision of Primary Healthcare Facilities

Proposed planning obligation

- 6.1 A financial contribution towards the provision of appropriate primary healthcare facilities in the local area in Newbury to serve the proposed development of £262, 872 index linked (Schedule 4) The SoCG (CD5.7) has agreed that the third reason for refusal which includes the provision of primary health care facilities can be overcome with a suitably worded legal agreement.

Mechanism	By reference to the Regulation 123 List the delivery of on or off-site site facilities as a result of this large scale development.
Necessary to make the development acceptable	<p>To ensure that there is sufficient capacity within local surgeries to cope with the increased population as a direct result of the increase in population.</p> <p>This is required in accordance with Policy CS5, emerging Policies SP24, and DM3 and the Planning Obligations SPD.</p>

Directly related to the development	The requirement is directly related to the increase in population as a result of the large scale of the residential development.
Fairly and reasonably related in scale and kind to the development	The proposed measures are proportionate to the scale of the development and related to the number of residential units proposed.
Pooling Restrictions	The funding may be used to support plans for surgery alterations or capital project to support patient services.

7. Sustainable Travel Wayfinding Updates

Proposed Planning obligation

- 7.1 The provision of sustainable travel wayfinding updates a contribution of £15,000 (Schedule 4) This contribution has been agreed within the Transport and Highways SoCG (CD5.10)

Mechanism	By reference to the Regulation 123 List the delivery of off-site facilities as a result of this large scale development.
Necessary to make the development acceptable	To This is required in accordance with Policy CS5, Policy CS13, emerging Policies SP24, DM45 and the Planning Obligations SPD.
Directly related to the development	The requirement is directly related to the new pedestrian route which is proposed as part of the development.
Fairly and reasonably related in scale and kind to the development	The proposed measures are proportionate to the scale of the development and related to the new street which is proposed.

Pooling Restrictions	The funding may be used to support a wider upgrade of wayfinding signs within the town centre.
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8. Affordable Housing and Build to Rent Tenure

Proposed Planning Obligation

- 8.1 The proposed planning obligation is to secure a legal agreement that secures the Build to Rent Tenure (Schedule 2), and a viability review mechanism should the economics of provision change prior to occupation (Schedule 3). The legal agreement is also secure the Build to Rent tenure for a 10-year period to secure this tenure within the housing market in the longer term. This was agreed in principle in the SoCG (CD5.7).

Mechanism	By reference to the Regulation 123 List the delivery of off-site site facilities as a result of this large-scale development.
Necessary to make the development acceptable	It is a requirement of Policy CS6 and emerging policy SP15 that affordable housing is provided subject to the economics of provision. Where the viability position changes there can be a review of the provision at a late stage to provide affordable housing if it becomes viable. It is also required that the Build to Rent tenure is maintained for a period of 10 years a lower cost from of development.
Directly related to the development	The requirement for affordable housing relates directly to the residential development of the site.
Fairly and reasonably related in scale and kind to the development	The level of affordable housing required is directly related to the viability of the development and subject to review.

Pooling Restrictions	If the development is demonstrated to be viable to a level where an off-site contribution towards affordable housing can be made but not the provision of a dwelling, then the financial contribution can be pooled towards the provision or maintenance of affordable housing in the District.
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