



**Appeal by Fairfax Aspire Ltd against the refusal of planning permission by
Epsom and Ewell Borough Council of**

*"Outline application for up to 110 dwellings including affordable homes (all matters reserved except
access from Langley Vale Road)."*

at Farm View, Langley Vale Road, Epsom, Surrey, KT18 6AP

Planning Inspectorate Reference: 6006971

Council Reference: 25/00846/OUT

CIL REGULATION 122 COMPLIANCE STATEMENT

Contents	Page
1.0 Introduction	3
2.0 Policy Context	4
3.0 Summary of s106 Obligations	5
4.0 Public Transport Infrastructure	7
5.0 EV Car Club Membership and Credit	8
6.0 Cycle Vouchers	9
7.0 Police Infrastructure	10
8.0 Biodiversity Net Gain Monitoring Fee	12
9.0 Travel Plan Monitoring Fee	13
10.0 Section 106 Administration and Compliance Fees	14
11.0 Affordable Housing	15
12.0 Habitat Creation and Management Plan	16
13.0 Open Space Management and Maintenance Strategy	17
14.0 Play Area Management and Maintenance Strategy	18
15.0 Landscape Management and Maintenance Strategy	19

1.0 Introduction

- 1.1 This Regulation 122 Compliance Statement has been prepared in respect of the public inquiry appeal concerning Farm View, Langley Vale Road, Epsom KT18 6AP. The proposal seeks outline planning permission for up to 110 dwellings, including affordable homes, with all matters reserved except access. The purpose of this statement is to demonstrate that the planning obligations sought through a Section 106 Agreement satisfy the statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010, as amended.
- 1.2 Regulation 122 provides that a planning obligation may only constitute a reason for granting planning permission if it 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.
- 1.3 Epsom and Ewell Borough Council is a 'Charging Authority' for the purposes of the Regulations and has an adopted CIL Charging Schedule that was implemented on 29 April 2014. Development permitted from 1 July 2014 onwards is liable to pay the Levy as set out in the CIL Charging Schedule. The CIL Charging Schedule imposed a rate of £125 per square metre of new residential development. In accordance with Regulation 121C of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended), the CIL rates are subject to annual indexation based on the Index is based on the BCIS All-in Tender Price Index (BCIS TPI).
- 1.4 All eligible development must pay CIL, as well as contribute to any direct site- specific infrastructure that is required to make a development acceptable in planning terms and is directly linked to the development.
- 1.4 A draft s106 agreement has been prepared to secure appropriate planning obligations.

2.0 Policy Context

- 2.1 Policy DM3 and DM6 of the National Planning Policy Framework 2026 require consideration of whether otherwise unacceptable development can be made acceptable through planning obligations, but only where such obligations are necessary, directly related to the development, and fairly and reasonably related in scale and kind
- 2.2 Policy CS12 of the Core Strategy and the Developer Contributions SPD require development to demonstrate that the service and community infrastructure necessary to serve the development is available, either through on-site provision or financial contributions secured through planning obligations.
- 2.4 The following policies from the Council's Core Strategy (2007) and the Development Management Policy Document (2015) relevant to the planning obligations to be secured are as follows:

Core Strategy (2007)

Core Strategy: CS3 Biodiversity

Core Strategy: CS4 Open Spaces and Green Infrastructure

Core Strategy: CS9 Affordable Housing and Meeting Housing Needs

Core Strategy: CS12 Developer Contributions to Community Infrastructure

Core Strategy: CS16 Managing Transport and Travel

Development Management Policy Document (2015)

Development Management Policy Document: DM4

Development Management Policy Document: DM6

Development Management Policy Document: DM36

- 2.5 The policies are supported by the Revised Developer Contributions Supplementary Planning Document 2014. It sets out the Council's approach for securing contributions and requiring obligations from development, alongside the CIL. This approach is in accordance with national CIL Regulations.

3.0 Summary of Section 106 Obligations

3.1 The following planning obligations are to be secured through the Section 106 Agreement.

Financial Obligations

Obligation	Amount
Enhanced bus service provision to the site, either through Digital Demand Responsive Transport or securing/improving the existing bus service to Langley Vale	£200,000 per annum for five years
Police infrastructure contribution to mitigate for population growth	£28,930.97
EV Car Club Membership and Credit	Three years' free membership and £50 worth of driving time credit for occupiers of the new development
Cycle Vouchers	Provision of cycle vouchers for occupiers of the new development at a value of £150.00 per occupant
Biodiversity Net Gain Monitoring Fee	£6,900
Travel Plan Monitoring Fee	£5,000
Section 106 Administration and Compliance Fees	£20,000

Non- Financial Obligations

Obligation	Amount
Affordable Housing	70% rented dwellings, anticipated as social rent levels and 30% intermediate dwellings, anticipated as shared ownership, in a mix of unit sizes reflecting the future housing mix configuration of the site
Habitat Creation and Management Plan	To secure habitat creation, management and monitoring
Open Space Management and Maintenance Strategy	To secure management and maintenance of open space and unrestricted public access

Play Area Management and Maintenance Strategy	To secure management and maintenance of play areas and unrestricted public access
Landscape Management and Maintenance Strategy	To secure ongoing landscape management and maintenance

4.0 Public Transport Infrastructure

Obligation sought

- 4.1 A financial contribution of £200,000 per annum for five years is sought to provide enhanced bus service provision to the site, either through Digital Demand Responsive Transport or by improving the existing bus service to Langley Vale.

Necessity

- 4.2 Policy DM36 of the DMPD requires new development to secure sustainable transport patterns and usage across the Borough.
- 4.2 The site is located where existing public transport provision is limited and the contributions are necessary to mitigate the cumulative residual impact of significant housing development in the area on the local highway network by reducing reliance on private car travel. The contributions would also improve sustainable transport opportunities for future residents of the site.

Directly Related to the Proposed Development

- 4.3 The requested contribution is related to the provision of an on demand bus service or an enhanced frequency of the existing public bus service that would be accessible for the future residents of the development, to ensure access to high-quality public transport for new residents and is therefore directly related to the proposed development.

Fairly and Reasonably Related in Terms of Scale and Kind

- 4.4 The requested contribution relates to an enhanced bus service provision to the site, supported for an initial 5 year period, which has been costed at £200,000 per year by the County Council, with 5 years of support considered appropriate to ensure a sustainable service and as such is fairly and reasonably related in terms of scale and kind. Beyond 5 years, the service would sustain itself.

5.0 EV Car Club Membership and Credit

Obligation sought

- 5.1 Three years of free membership to an EV Car Club and £50 per dwelling Car Club Credit (£5,500) to future occupants of the proposed development.

Necessity

- 5.2 Policy DM36 of the DMPD requires new development to secure sustainable transport patterns and usage across the Borough.
- 5.3 The site is located where existing public transport provision is limited and the contributions are necessary to mitigate the cumulative residual impact of significant housing development in the area on the local highway network by reducing reliance on private car travel. The contributions would also improve sustainable transport opportunities for future residents of the site.

Directly Related to the Proposed Development

- 5.4 The three years free EV Car Club Membership and £50 Car Club credit per dwelling would be provided solely to future occupiers of the development and is intended to influence travel behaviour. The contribution is therefore directly related to the proposed development.

Fairly and Reasonably Related in Terms of Scale and Kind

- 5.5 The requested contribution reflects the level of incentive considered proportionate to encourage initial uptake of a local car club thereby influencing longer term trends and is applied on a per-dwelling basis and as such is fairly and reasonably related in terms of scale and kind.

6.0 Cycle Vouchers

Obligation sought

- 6.1 Cycle vouchers of a value of £150 per occupant will be provided for all occupants of the new development that can be used to purchase cycles, e-bikes or cycling equipment.

Necessity

- 6.2 Policy DM36 of the DMPD requires new development to secure sustainable transport patterns and usage across the Borough.
- 5.3 The obligation supports delivery of the Travel Plan and encourages a modal shift towards active travel. The Travel Plan seeks to reduce reliance on private vehicles, increase cycling trips and promote sustainable travel choices amongst future residents. The provision of cycle vouchers will help reduce the initial cost barriers associated with purchasing a bicycle, e-bike or cycling equipment and will assist in achieving the Travel Plan's objectives and mode share targets. The obligation mitigates the transport impacts of the development by encouraging residents to adopt cycling as an alternative to private car use.

Directly Related to the Proposed Development

- 6.3 The cycle vouchers are to be provided solely to future occupants of the development and are intended to influence travel behaviour generated by the scheme. Cycle storage facilities form part of the development and the vouchers support the sustainable transport strategy proposed for the development and are directly linked to reducing transport impacts arising from occupation of the development and to delivering the objectives of the Travel Plan.

Fairly and Reasonably Related in Terms of Scale and Kind

- 6.4 The number and value of vouchers are proportionate to the scale of the development and the travel demand it will generate. The vouchers are targeted solely at future residents whose travel choices give rise to the need for mitigation. The £150 contribution per occupant provides a proportionate incentive to encourage cycling without exceeding what is necessary to support the Travel Plan objectives and promote sustainable travel behaviour.

7.0 Police Infrastructure

Obligation sought

- 7.1 A financial contribution of £28,930.97 is sought by The Office of the Police and Crime Commissioner for Surrey and is to be used for officer equipment, officer recruitment and training, staff equipment, staff recruitment, premises, fleet provision and a speed awareness kit as follows:

£5,176.68 highlighted as a pooled contribution towards 1 additional dedicated officer in the Epsom and Ewell South Neighbourhood Response Team (NRT)/Safer Neighbourhood Teams (SNT)

£1,321.32 towards one additional support staff to be based in Epsom & Ewell.

£15,439.97 towards fit for purpose facilities to accommodate the uplift in staff & officer numbers required to support the development.

£1,793 towards the full cost of one additional vehicle (and contribution towards the replacement after 4 years) in the Epsom & Ewell South SNT/NRT to deliver policing to the site and surrounding area and be based at Epsom & Ewell Police Base.

£5,200 towards the full cost of one Speed Awareness Kit to be used in the Epsom & Ewell South SNT/NRT to deliver policing to the site and surrounding area to be based at Epsom & Ewell Police Station.

Necessity

- 7.2 A financial contribution towards essential policing infrastructure is necessary to help support new officers required due to population growth associated with the proposed development and keep existing and future residents of Epsom & Ewell Borough safe. The Office of the Police and Crime Commissioner for Surrey have provided a separate submission in relation to the necessity of this obligation, which can be found at **Appendix 1**.

Directly Related to the Proposed Development

- 7.3 The additional population growth associated with the proposed development will lead to an increase in incidents, which will require a Police response. The infrastructure outlined within this obligation has been specifically identified by the SNT/NRT teams policing the areas of Epsom & Ewell as necessary to deal with the potential form, scale and intensity of incidents this new housing development will generate. The Office of the Police and Crime Commissioner for Surrey have provided a separate submission in relation to the functional link between the new development and the contributions requested obligation, which can be found at **Appendix 1**.

Fairly and Reasonably Related in Terms of Scale and Kind

- 7.4 The contributions requested have been based on a clear numerical, evidence-based approach to are to fund infrastructure identified by The Office of the Police and Crime Commissioner for Surrey as necessary to provide an appropriate level of policing to serve the proposed development and maintain the existing high level of community safety. The Office of the Police and Crime Commissioner for Surrey have provided a separate submission in relation to the reasonable and proportionate approach adopted for the sought contributions, which can be found at **Appendix 1**.

8.0 Biodiversity Net Gain Monitoring Fee

Obligation sought

- 8.1 A financial contribution of £6,900 is sought by the Local Planning Authority to fund the monitoring of the biodiversity works within the Habitat Creation and Management Plan.

Necessity

- 8.2 The obligation is necessary to monitor the delivery of the habitat creation, enhancement and management measures set out in the Habitat Creation and Management Plan, which are required to mitigate the biodiversity impacts of the development and achieve the required biodiversity net gain. The law requires biodiversity gain habitat to be secured and maintained for a minimum period of 30 years, and the Local Planning Authority has a statutory responsibility to monitor the implementation and effectiveness of significant on-site and relevant off-site biodiversity net gain during that period. The financial contribution is therefore necessary to enable the Local Planning Authority to undertake the monitoring required to ensure that the biodiversity mitigation and enhancement measures are delivered, maintained and remain effective throughout the relevant management period.

Directly Related to the Proposed Development

- 8.3 The contribution is directly related to the proposed development as it will fund the monitoring of the biodiversity net gain habitat and associated management measures required to mitigate the impacts of the development. The need for monitoring would not arise but for the development and is therefore directly related to it.

Fairly and Reasonably Related in Terms of Scale and Kind

- 8.4 The financial contribution is calculated based on the size of the development and the technical difficulty of the habitat creation and habitat enhancement over the over the 30 year monitoring period, as set out in the Council's [Fees and Charges](#).

9.0 Travel Plan Monitoring Fee

Obligation sought

- 9.1 A financial contribution of £5,000 is sought towards the County Council's costs of monitoring compliance with the Travel Plan.

Necessity

- 9.2 The financial contribution is necessary to secure the effective monitoring and implementation of the Travel Plan, which forms part of the mitigation for the transport impacts of the development. The contribution will enable the Council to assess compliance with the Travel Plan and ensure that the agreed measures to encourage sustainable travel are delivered and remain effective.

Directly Related to the Proposed Development

- 9.3 The financial contribution directly relates to achieving the delivery of the Travel Plan, which has been prepared by the appellant to mitigate the transport impacts arising from the development. The need for monitoring would not arise but for the development and is therefore directly related to it.

Fairly and Reasonably Related in Terms of Scale and Kind

- 9.4 The financial contribution is based on the County's costs of monitoring the Travel Plan required for the proposed development, which is set out in the County's [Travel Plans – A Good Practice Guide for Developers 2024](#) document. The fee is a single rate and proportionate for the monitoring activities required to ensure the Travel Plan remains effective throughout the agreed monitoring period.

10.0 Section 106 Administration and Compliance Fees

Obligation sought

- 10.1 A financial contribution of £20,000 is sought towards the Local Planning Authority's costs of monitoring compliance with the Section 106 Agreement.

Directly Related to the Proposed Development

- 10.3 The contribution directly relates to achieving the implementation of the planning obligations. Paragraph: 036 Reference ID: 23b036-20190901 of the NPPG clarifies that Local Planning Authorities can charge a monitoring fee to cover the costs incurred by the Council in monitoring and reporting on the delivery of the obligations set out in a Section 106 Agreement,

Fairly and Reasonably Related in Terms of Scale and Kind

- 10.4 The obligation is in proportion to the scale of the development and reflects the Local Planning Authorities estimated costs for monitoring a Section 106 Agreement that relates to more than 100 dwellings, as set out in the Council's adopted [Fees and Charges](#).

11.0 Affordable Housing

Obligation sought

- 11.1 On-site provision of 50% of dwellings to be affordable housing with, where the completed scheme is for 110 dwellings, would include 39 anticipated as social rent levels, and 16 intermediate dwellings, anticipated as shared ownership

Necessity

- 11.2 The on-site provision of affordable housing is necessary to meet identified housing needs and to ensure that the development contributes towards the delivery of mixed and balanced communities. Policy GB8 of the National Planning Policy Framework 2026 requires major development on Grey Belt land to provide at least 50% affordable housing in order to qualify as Golden Rules development. The proposed provision of 50% affordable housing is therefore necessary to ensure compliance National Policy and to make the development acceptable in planning terms. Without the obligation securing the delivery and retention of the affordable housing units, there would be no mechanism to ensure that the development provides the policy-compliant level of affordable housing required to address local housing needs arising from the development and within the Borough.

Directly Related to the Proposed Development

- 11.3 The obligation secures the delivery of affordable housing within the development itself. The requirement arises directly from the proposed residential development and ensures that the scheme contributes towards meeting identified affordable housing needs generated by and associated with the development.

Fairly and Reasonably Related in Terms of Scale and Kind

- 11.4 The obligation secures a policy-compliant level of affordable housing proportionate to the scale of the proposal. The requirement for 50% affordable housing reflects the national policy requirements applicable to the development and ensures that the scheme makes an appropriate contribution towards meeting identified housing needs within the Borough.

12.0 Habitat Creation and Management Plan

Obligation sought

- 12.1 A Habitat Creation and Management Plan, which includes compensation measures for the loss of SNCI habitat.

Necessity

- 12.2 The Habitat Creation and Management Plan is necessary to secure the creation, enhancement, management and long-term maintenance of habitats required to mitigate the biodiversity impacts of the development and deliver the biodiversity net gain associated with the proposal. Without the obligation, there would be no mechanism to ensure that the habitat works are implemented, managed and maintained for the required period.
- 12.3 The law requires biodiversity gain habitat to be secured and maintained for a minimum period of 30 years. The Habitat Creation and Management Plan is therefore necessary to secure the delivery, management, monitoring and maintenance of the habitat measures for that period and to ensure that the biodiversity net gain delivered by the development is achieved and retained in the long term.

Directly Related to the Proposed Development

- 12.4 The obligation secures the habitat creation, enhancement and management measures required to mitigate the biodiversity impacts of the scheme and achieve the proposed biodiversity net gain. The need for the Habitat Creation and Management Plan arises solely as a consequence of the development and is therefore directly related to it.

Fairly and Reasonably Related in Terms of Scale and Kind

- 12.4 The obligation secures the management measures necessary to maintain the habitats required to achieve the biodiversity net gain delivered by the scheme. The requirements are proportionate to the scale of the development and the biodiversity enhancements proposed and are limited to those measures necessary to secure the agreed biodiversity outcomes over the required management period.

13.0 Open Space Management and Maintenance Strategy

Obligation sought

- 13.1 On site provision for open space, including parks and gardens, natural and semi natural open space and amenity green space, together with details of long term management and maintenance of the open space.

Necessity

- 13.2 The obligation secures the long-term management and maintenance of the public open space provided by the development. The amount of open space provided is in accordance with Policy CS4 of the Core Strategy. Without an agreed management and maintenance strategy, there would be no certainty that the open space would be maintained to an appropriate standard for the benefit of future occupiers. The obligation would ensure the continued provision and quality of the open space that forms part of the mitigation and overall acceptability of the development.

Directly Related to the Proposed Development

- 13.3 The obligation secures the ongoing management and maintenance of the public open space provided by the scheme. The requirement arises solely from the provision of open space within the development and ensures that it continues to serve future occupiers and provide the amenity, recreational and environmental benefits for which it is proposed.

Fairly and Reasonably Related in Terms of Scale and Kind

- 13.4 The obligation applies only to the quantum of public open space provided as part of the scheme in accordance with Policy CS4 of the Core Strategy. The management and maintenance requirements are proportionate to the size, type and function of the open space and are limited to securing its ongoing maintenance to an appropriate standard for the benefit of future occupiers.

14.0 Play Area Management and Maintenance Strategy

Obligation sought

- 14.1 On site provision for play space, together with details of long term management and maintenance.

Necessity

- 14.2 The obligation secures the on site play provision and the long-term management and maintenance of the play areas provided by the development in accordance with Policy DM12 of the Development Management Policy Document and the Fields in Trust Guidance. Without an agreed management and maintenance strategy, there would be no certainty that the play areas would be maintained in a safe and suitable condition for future users. The obligation is therefore necessary to ensure the continued provision, quality and safety of the play facilities that form part of the infrastructure and mitigation provided by the development.

Directly Related to the Proposed Development

- 14.3 The obligation secures the management and maintenance of the play area provided by the scheme. The need for the play area arises solely as a consequence of the residential development and is intended to serve the needs of future occupiers. The obligation therefore relates directly to the infrastructure provided as part of the development and ensures its continued safe and effective use.

Fairly and Reasonably Related in Terms of Scale and Kind

- 14.4 The obligation applies only to the quantum of play area provided as part of the scheme in accordance with Policy DM12 of the Development Management Policy Document and the Fields in Trust Guidance. The management and maintenance requirements are proportionate to the size, type and function of the play area and are limited to securing its ongoing maintenance to an appropriate standard for the benefit of future occupiers.

15.0 Landscape Management and Maintenance Strategy

Obligation sought

- 15.1 On site landscaping provision, together with details of long term management and maintenance.

Necessity

- 15.2 The Landscape Management and Maintenance Strategy is necessary to secure the long-term management, maintenance and establishment of the landscaping delivered as part of the development. The landscaping forms an integral component of the scheme, contributing to visual amenity, landscape character, biodiversity, green infrastructure and the overall quality of the development. Without an agreed management and maintenance strategy, there would be no certainty that the trees, planting, landscaped areas, boundary treatments and associated features would be appropriately maintained, replaced where necessary, and managed in accordance with the approved landscape proposals. The obligation is therefore necessary to ensure the continued delivery of the landscape benefits that form part of the mitigation and overall acceptability of the development.

Directly Related to the Proposed Development

- 15.3 The obligation secures the long-term management and maintenance of the landscaping provided as part of the scheme. The obligation arises solely from the landscape works proposed within the development and ensures that the planting, trees, green infrastructure and landscaped areas established by the development are appropriately managed and maintained for the benefit of future occupiers and the surrounding area. The obligation relates only to the landscape features delivered by the proposal and is therefore directly related to the development.

Fairly and Reasonably Related in Terms of Scale and Kind

- 15.4 The obligation applies only to the landscaping provided as part of the scheme and secures its ongoing management and maintenance. The requirements of the strategy would be proportionate to the scale, nature and extent of the landscape works proposed and are limited to those measures necessary to ensure their successful establishment, retention and long-term management. The obligation does not extend beyond the landscape features created by the development and is no more

onerous than is necessary to secure their continued contribution to the quality and character of the development.