

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: June 2025

Council Reference: 23/02094/FULMAJ

CIL Compliance Statement

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Buckinghamshire, Oxfordshire, and Berkshire West Integrated Care Board Response

Appendix 2

West Berkshire Council CIL Regulation 123 List

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 4 March 2014, with an implementation date of 1 April 2015. This list is

attached as Appendix 2. 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 Local Plan Review 2023-2041	SP16, SP19, SP20, DM3, DM40, DM42, DM44, and DM45

- 1.8 A number of documents are material conditions relevant to the proposed planning obligations.
- 1.9 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.
- 1.10 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.
- 1.11 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

¹ Full development plan: West Berkshire Local Plan Review (adopted June 2025); 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).

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 CIL Regulation 123 List.

Proposed planning obligations

1.12 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	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. Policy DM40, and the Planning Obligations SPD.
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, and the agreement specifies that this should be spent within Newbury.
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>Policies SP19, SP20, DM42, DM44, 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, travel plan and travel plan contribution of £277,550 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
Necessary to make the development acceptable	To ensure the effectiveness of the Framework Travel Plan (CD1.77) when the development is occupied. It is required in accordance with Policies SP20, DM42, DM44, 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 plan 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 Policies

	SP19, SP20, DM42, DM44, 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. A letter from the Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board also sets out how the contribution would meet the needs of the development in the support of a new surgery to increase capacity within the catchment surgery at Eastfield House. This is attached as Appendix 1.

Mechanism	By reference to the Regulation 123 List the delivery of on or off-site facilities as a result of this large-scale development.
Necessary to make the development acceptable	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.

	This is required in accordance with Policies SP20, and DM3 and the Planning Obligations SPD.
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 the proposed relocation of Eastfield House Surgery, which is required to accommodate the expanding population, including from the appeal development.

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 Policies SP19, SP20, DM42, 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.

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 also secures 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 facilities as a result of this large-scale development.
Necessary to make the development acceptable	It is a requirement of Policy SP16 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.
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.

APPENDIX 1

Appendix 1

Sian Cutts MRTPI
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11 June 2025

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Dear Sian,

**Appeal Ref.: APP/W0340/W/25/3359935 The Mall, The Kennet Centre, Newbury
(Planning Ref.: 23/02094/FULMAJ)**

Thanks for email dated 11 June 2025 regarding a request from the Planning Inspector for further justification for the requested healthcare contribution on what or when would the contribution spend and how this would be related to development. This letter is intending to provide additional

Introduction

Integrated Care Board is a statutory NHS organisation, which was established on 1 July 2022 by The Integrated Care Boards (Establishment) Order 2022 and has the delegated function of commissioning of primary care services including GPs. Primary healthcare estates including GP premises are funded through reimbursement of rents and business rates by the ICB based on the existing population data. **The ICB has no dedicated funding for any primary care estates development in their annual budgets.** Any developer contribution to be secured in this appeal will go towards capital costs of providing primary care mitigations resulting from an increase in population and additional demand on primary care facilities. **It is important to note that both the Council and the appellant do not raise objections to the requested contribution.**

Primary Care Estates Project

The site is in Central Newbury, and it is within the catchment areas of Eastfield House Surgery. The requested financial contribution would potentially go towards the cost of delivering the proposed GP facility, which already secured planning consent from the Council. The Project is subject to the ICB approval. However, it **bears emphasis that the project is specific and identified.**

Eastfield House Surgery currently does not have any additional capacity to accommodate any new patients from the appeal scheme. The Surgery has commissioned a feasibility report in 2023 and already concluded that the Surgery has no room for further extension. Therefore, the requested contribution is necessary to make the development acceptable in planning terms and is directly related to the development. Furthermore, **the requested development contribution is calculated based on projected population increase of the appeal scheme.**

Therefore, it is fairly and reasonably related in scale and kind to the development.
The developer contribution therefore fully complies with Section 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

Other Appeal Decisions

The ICB would like to draw the Council's attention to an appeal decision¹ at the land to the North of the A4, New Bath Road, Twyford in Wokingham Borough. Paragraph 51 of the appeal decision relates to a healthcare contribution request from the ICB. The Inspector agreed that the request would meet the necessary test as the ICB has demonstrated that *the existing Twyford Surgery is over capacity and requires additional clinical space to be able to accommodate any new patients from the proposed development. This would be achieved through either the reconfiguration of existing non clinical space or an extension to the premises. The contribution has been calculated based on the number of dwellings proposed which has been used to define an additional patient yield.*

The ICB has a recent appeal decision² at the land adjacent to Blagrove Lane, Wokingham in Wokingham Borough. Paragraph 70 of the appeal decision relates to a healthcare contribution request from the ICB. The Inspector agreed that the request would meet the necessary test and has had regard to the approaches adopted by the Inspector in the New Bath Road appeal.

The ICB also has an appeal decision³ at land at Churchway, Haddenham, Buckinghamshire. Paragraphs 19 to 22 of the appeal decision relate to a health contribution request from the ICB. The Inspector accepted the ICB confirmation that there is no capital funding budget for primary care infrastructure development. The Inspector also took into account an appeal decision at Warwickshire but confirmed that this did not apply as the appeal at Haddenham identifies the contribution for an identified primary care estates project including the commissioning of a pre-project study and an identified project which can be funded in one of two ways depending on the pre-project study; either a reconfiguration of the internal layout or an expansion to provide an additional clinical space at the centre to increase capacity.

Summary and Conclusion

Please contact me if you have any questions related to this letter.

Yours sincerely,

Jeffrey Ng

Jeffrey Ng MRTPI

Primary Care Lead – Estates

NHS Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board



RTPI
Chartered Town Planner



¹ Appeal Ref.: APP/X0360/W/24/3350170

² Appeal Ref.: APP/X0360/W/24/3354667

³ Appeal Ref.: APP/J0405/W/24/3339126

Appendix 2

West Berkshire Council Community Infrastructure Levy

Regulation 123 List

1. Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended) restricts the use of planning obligations for infrastructure that will be funded in whole or in part by the Community Infrastructure Levy ("CIL"), to ensure no duplication between the two types of developer contributions.
2. West Berkshire Council's Regulation 123 list is a supporting document for the Charging Schedule being adopted on 4th March 2014, and will take effect on the same date that the Charging Schedule will take effect.
3. Prior to adoption of a CIL, this Council has operated a Developer Contributions SPG and a Developer Contributions SPD seeking contributions on a formulaic basis, making use of standard S106 agreement and obligations. The Developer Contributions SPD has been revised in order that it applies only to specific on site infrastructure or direct mitigation measures required as a result of large scale development. The revised Developer Contributions SPD also takes effect on the same date as the CIL Charging Schedule being adopted on 4th March 2014.
4. The Regulation 123 list contains generic types of infrastructure that may be funded using CIL receipts, with the exception of specific on-site infrastructure or direct mitigation measures required as a direct result of any large scale development, and specifically of the strategic development site known as Sandford Park, in South Newbury.
5. Future updates of the list will take place on an annual basis, and will have regard to (a) updates to the Infrastructure Delivery Plan, (b) the progress of the Council's Site Allocations and Delivery DPD ("the DPD") and (c) changes to the CIL Regulations. In particular, the completion of the DPD will provide information to infrastructure providers regarding site specific infrastructure requirements, and will result in an additional update to this list.
6. The inclusion of a project or type of infrastructure in this list does not signify a commitment from the Council to fund (either in whole or in part) the listed project or type of infrastructure through CIL. The order of the list does not imply any preference or priority.
7. It is anticipated that CIL receipts will be limited in the first year after the Charging Schedule takes effect, given that (a) contributions are not payable until commencement and (b) an instalment policy has been adopted. On this basis it is unlikely that CIL receipts will be spent, they will therefore be banked for future allocation and spend.
8. In accordance with CIL Regulation 59A, this Council will pass 15% of relevant CIL receipts to the Parish or Town Council for that area, capped at £100 per dwelling (plus index linking). If any Parish or Town Council within West Berkshire adopts a neighbourhood development plan, this percentage will be increased to 25%. This will be passed onto the Parish and Town Councils on a 6 monthly basis in accordance with Regulations.

<u>Project or Type of Infrastructure to be funded from CIL Receipts</u>	<u>Exclusions – to be sought through S106 agreements, or alternative statutory provisions</u>
	The delivery of on-site facilities or infrastructure required directly as a result of any large scale development
	The delivery of facilities or infrastructure required off-site but required solely as a result of any large scale development
	The delivery of enabling works such as site access for a development
Highways and Transport, including:	
<ul style="list-style-type: none"> Bus network 	<ul style="list-style-type: none"> Bus infrastructure improvements in the vicinity of the Sandleford site (RTPI, Kassel kerbs, shelters etc) Improved / new service linking Sandleford and Newbury Town Centre Bus access from Sandleford to Andover Road through Warren Road
<ul style="list-style-type: none"> Cycling and walking infrastructure 	<ul style="list-style-type: none"> Improved pedestrian / cycle crossing links at Monks Lane, Newtown Road and Andover Road
<ul style="list-style-type: none"> Rail network 	
<ul style="list-style-type: none"> Road network 	<ul style="list-style-type: none"> Accesses from the Sandleford development onto adjacent roads Junction Improvements along the A339 in Newbury at Pinchington Lane Junction Improvements at Monks Lane / Newtown Road Junction Improvements at Monks Lane / A343 Andover Road (including pedestrian and cycle improvements) Junction Improvements at A34 / A343 south
<ul style="list-style-type: none"> Other public transport 	<ul style="list-style-type: none"> Car Club at Sandleford Park
Education, including:	
<ul style="list-style-type: none"> Nursery Schools 	
<ul style="list-style-type: none"> Primary and Secondary Education 	<ul style="list-style-type: none"> Increase in Early Years Provision to meet the requirements of the Sandleford development Additional Primary Provision to meet the requirements of the Sandleford development Extensive alterations to Secondary catchment school (Park House School) to meet the requirements of the Sandleford development
<ul style="list-style-type: none"> Further and Higher Education 	
Health, including:	
<ul style="list-style-type: none"> Health centres /Doctors Surgeries 	<ul style="list-style-type: none"> Extension to current premises at Falkland Practice
<ul style="list-style-type: none"> Mental Healthcare 	

<u>Project or Type of Infrastructure to be funded from CIL Receipts</u>	<u>Exclusions – to be sought through S106 agreements, or alternative statutory provisions</u>
Social Infrastructure, including:	
• Culture and Heritage	
• Social and Community Facilities	
• Sports Centres	
• Supported Accommodation	
Green Infrastructure, including:	
• Allotments and community gardens	
• Amenity greenspace including play areas	• Provision of open space and play facilities for the Sandleford development
• Biodiversity	
• Cemeteries and Churchyards	
• Green corridors	
• Outdoor sports facilities	
• Parks and Gardens	
• River and canal corridors	
Public Services, including:	
• Emergency Services	
• Libraries	
• Waste Management and Disposal	
Utility Services	<ul style="list-style-type: none"> • (Electric) Offsite 11kv infrastructure in the form of 1 or 2 cable circuits from the St John's Primary Substation to Sandleford site • (Water) Upgrade to waste water infrastructure
Flood Defences	