

**Town and Country Planning Act 1990  
Planning and Compulsory Purchase Act 2004**

**Planning Inspectorate reference: APP/D1265/W/24/3337301**

**Local Planning Authority reference: P/FUL/2023/05051**

**Section 78(2) Appeal by Churchill Retirement Living.**

**Land East of Lidl E 386789 N 123117, Christys Lane, Shaftesbury.**

**Erect 41 No. retirement apartments including communal facilities & access, car  
parking and landscaping.**

**CIL Compliance Statement**

**Dorset Council**

**April 2024**

Page Number

1	Introduction	3
2	Relevant North Dorset Local Plan Part 1 (2016) policy	3
3	Assessment of Compliance	5

## **1 Introduction**

1.1 This statement has been prepared by Dorset Council in response to the Inspector's request for a CIL Compliance Statement. This statement outlines how the proposed planning obligation in the Schedule of the Section 106 Agreement would comply with the tests set out in Section 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) ("the Regulations").

1.2 The Regulations place a limitation on the use of planning obligation at Regulation 122 and states that a planning obligation may only constitute a reason for granting planning permission for the 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.

1.3 These tests are repeated in the National Planning Policy Framework ("NPPF") at paragraph 57.

1.4 Paragraph 58 of the NPPF also adds that:

*"Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force..."*

## **2 Relevant North Dorset Local Plan Part 1 (2016) policy**

2.1 As set out in the Council's Statement of Case, Policy 8 of the Local Plan sets out the Council's approach to the provision of affordable housing. It states that:

*“Development that delivers eleven or more net additional dwellings and which has a maximum combined gross floorspace of more than 1,000 square metres, including housing on mixed-use sites, will contribute to the provision of affordable housing.”*

2.2 Policy 8 adds that:

*“Such development will contribute to the provision of affordable housing in the following proportions:...*

*b within the settlement boundaries of Shaftesbury... and within any urban extensions to these towns, 30% of the total number of dwellings will be affordable...”*

2.3 In instances where the policy compliant on site provision cannot be met, Policy 8 of the Local Plan sets out that:

*“In cases where a level of affordable housing provision below the target percentages is being proposed, the developer may be offered an opportunity (subject to certain requirements) to involve the District Valuer or other mutually agreed independent assessor with a view to securing a mutually agreed level of affordable housing provision. In any case where viability is an issue, an ‘open book’ approach will be sought on any viability assessment.*

*If it can be demonstrated that a level of affordable housing provision below the percentages set out above can be justified on grounds of viability (taking account of grant funding or any other subsidy) an obligation will be required:*

*d to secure the maximum level of provision achievable at the time of the assessment.”*

2.4 In terms of how the affordable housing would be provided the policy also clarifies that:

*“The presumption is that affordable housing will be provided on site. Where the size of a site means that the full required percentage of affordable housing could not be provided on site, the amount of affordable housing that can be accommodated on site will be maximised. Any shortfall in onsite provision will be met either by off-site provision or, where alternative off-site provision is not considered feasible or viable,*

*by a financial contribution. Where a developer contribution in lieu of actual affordable housing provision is considered appropriate, contributions will be sought based on realistic assessments of the cost of delivering affordable homes.”*

- 2.5 The supporting text for Policy 8 highlights the requirement for provision of off-site affordable housing and financial contributions in North Dorset as a former district area and applicable local plan area.

### **3 Assessment of Compliance**

- 3.1 The first CIL and policy test is that all obligations must be “Necessary to make the development acceptable in planning terms”. This test requires all obligations to be evidenced through the development plan; in this case the adopted Shaftesbury Neighbourhood Plan (2021) and North Dorset Local Plan Part 1 (2016).
- 3.2 The second CIL and policy test is that the obligation must be “Directly related to the development”. This means to say that there should be a functional or geographical link between the development and the obligation.
- 3.3 The third CIL and policy test requires that the value of the contribution must be “Fairly and reasonably related in scale and kind to the development” i.e. developers may reasonably be expected to pay for/contribute to the cost of all, or that part of, additional infrastructure provision which would not have been necessary but for their development. The table below evidences how the level of contribution has been arrived at and how it does not seek to secure any betterment over and above that which is appropriate and reasonable.
- 3.4 As detailed in the Council’s Statement of Case, it is accepted that it would not be viable to secure all of the policy compliant obligations. The Council also considers that it would not be appropriate to proportionally carve up the mutually agreed financial contribution of £214,370 for affordable housing and infrastructure obligations, as this would not fully mitigate each obligation. Instead, with a pressing district-wide need for affordable housing, it would be more appropriate in this instance to allocate the available contribution towards off-site affordable housing.
- 3.5 Explanation of how the planning obligation sought complies with the three tests is detailed below:

## **Planning obligation: Provision of off-site affordable housing**

### Test (a) – Necessity

- 3.6 The provision of affordable housing is a requirement of the proposal to comply with Policy 8 of the Local Plan. Dorset Council uses affordable housing contributions to fill funding gaps to ensure affordable housing schemes come forward. The schemes supported will normally be for all affordable housing sites or rural exception sites.
- 3.7 At the time of writing this Statement there is currently £121,625 in affordable housing funds held against the North Dorset area. These funds are committed to an all-affordable Extra Care Scheme being developed in Gillingham. There are additional costs associated with this development requiring funding from the Council to ensure this scheme is viable. Homes England support such an approach, and this makes it more likely that they will support affordable housing developments. The Council has a track record of delivering off-site affordable housing through a variety of mechanisms.
- 3.8 The appellant has demonstrated that a level of affordable housing provision below the percentages can be justified on grounds of viability. In accordance with Policy 8, an obligation to secure the maximum level of provision achievable at the time of the assessment is required. Any shortfall in onsite provision will be met either by off-site provision or, where alternative off-site provision is not considered feasible or viable, by a financial contribution.

### Test (b) – Directly related to the proposed development

- 3.9 The provision of affordable housing as a proportion of the housing proposed means the obligation is directly related to the proposed development. The off-site provision in the form of a financial contribution would be spent in the former North Dorset district area, with a presumption that this would be prioritised in the local area, to meet the requirements of Policy 8 of the Local Plan. The contribution would need to be spent by a Registered Provider on affordable homes that meet the NPPF definition. Due to the need for affordable housing in the local plan area, the Council are confident that, once payment is received, the financial contribution would be

spent on the purposes of providing affordable housing to meet the policy requirements of Policy 8 of the Local Plan.

Test (c) – Fair and reasonable in terms of scale and kind

- 3.10 The appellant has demonstrated that an on-site policy compliant figure for Shaftesbury (30%) would not be viable. Both parties have agreed the maximum level of provision that can be achieved at the time of the assessment and that this provision would be met by an off-site financial contribution amounting to £214,370. This provision is therefore considered fair and reasonable as a viable proportion required under Policy 8 of the Local Plan.