



Town and Country Planning Act 1990 (As Amended)

Planning Appeal

HM Prison Wymott Moss Lane Ulnes Walton Leyland PR26 8LW

Appeal Ref: APP/D2320/W/22/3295556

Community Infrastructure Levy Compliance Statement

March 2024

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1. Background

1.1 Paragraph 57 of the National Planning Policy Framework (the Framework) and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) set tests in respect of planning obligations. Obligations should only be sought where they are:

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

2. Policies

2.1 The development plan for Chorley Borough is the Central Lancashire Core Strategy adopted in July 2012 and the Chorley Local Plan 2012 – 2026 adopted July 2015.

2.2 The following policies within the Core Strategy and Chorley Local Plan are referred to in support of the case that the proposed planning obligations meet the CIL tests:

Core Strategy

Policy 1: Locating Growth

Policy 2: Infrastructure

Policy 22: Biodiversity and Geodiversity

Policy 24: Sport and Recreation

Local Plan

ST1 – ST1.7 Cycle link from Croston, Ulnes Walton to Leyland. This is set out in the June 2021 Infrastructure Funding Statement

although no further detail is provided.

BNE1: Design Criteria for New Development a) – h)

BNE9: Biodiversity and Nature Conservation

BNE10: Trees

BNE11: Species Protection

HW1: New Open Space, Sport and Recreational Facilities

HW2: Protection of Existing Open Space, Sport and Recreation Facilities

HW6: Community Facilities

3. Proposed Planning Obligations

3.1 The proposed planning obligations, included within the Section 106 Agreement, cover the following areas of infrastructure:

- **Biodiversity Net Gain Monitoring** – 20% biodiversity net gain is being aimed for at the site. Once this is delivered, annual monitoring will take place for 5 years, followed by monitoring at 5 year intervals for 30 years.

- **Replacement Bowling Green and Club House**

The proposed development requires the relocation of an existing bowling green and club house facilities, used by Wymott Bowling Club. The proposed bowling green and new club house approved as part of this application will be relocated to nearby land in the applicant's ownership. The new facility approved as part of this application shall be constructed and made available for use by Wymott Bowling Club before the existing facility is no longer available to use.

- **LCC Highways contribution**

The appellant has proposed the provision of on-site amenity greenspace including an on-site equipped play area and a financial contribution towards playing pitches in line with the requirement as set out below:

- £100,000 per annum for a period of 5 years to fund the enhancement of existing bus service provision as described above.
- £100,000 per annum for a period of 5 years paid to Lancashire County Council to fund the provision of a counter clockwise, two-way service between Preston and Croston
- £50,000 for improvement of the surface condition of Nixon Lane and provision of signage to facilitate cyclists access from School Lane to the proposed site. Further changes are required, not forming part of this contribution, as indicated earlier to ensure that a developer delivered route is delivered to enable the improved cycle route to be integrated within the site environment.
- £18,000 to enable LCC to provide the following services in relation to travel plan:
 - Appraise the Workplace Travel Plan submitted to the Council pursuant to the planning permission and provide constructive feedback.
 - Oversee the progression from Interim to Full Workplace Travel Plan in line with agreed timescales.
 - Monitor the development, implementation and review of the Workplace Travel Plan for a period of up to 5 years.

4. CIL Tests

4.1 The following table explains how the above planning obligations comply with the three tests set out in paragraph 57 of the Framework and Regulation 122 and Regulation 121 of the Community Infrastructure Levy Regulation 2010 (as amended) (“CIL Regulations”):

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
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<p>Biodiversity Net Gain Monitoring</p>	<p>The provision of 20% biodiversity net gain is being aimed for at the site in order to provide a benefit of the development in consideration of circumstances that would outweigh the harm to the Green Belt through inappropriate development.</p> <p>Biodiversity enhancements are required due to the impact of the development on habitats that are present on the site and are therefore required in line with policy 22 of the Core Strategy and policy BNE 9 and 11 of the Local Plan.</p> <p>Without securing the monitoring of habitat proposed to be created it would not be possible to ensure that the 20% net gain target has been achieved and established.</p>	<p>Biodiversity enhancements are required due to the adverse impact of the development on habitats that are present on the site. are therefore required in line with policy 22 of the Core Strategy and policy BNE 9 and 11 of the Local Plan.</p>	<p>The 20% improvement has been offered up by the appellant as a benefit of the development in seeking to outweigh the harm to the Green Belt. The net gain improvement has been informed by the Ecological Impact Assessment and Net Gain calculations and identified as being deliverable in the comprehensive landscaping masterplan. The proposed 20% improvement therefore has a reasonable prospect of being delivered. The Metric used by the appellant is in line with all the Government guidance and modelling that was emerging in relation to the impending requirement to demonstrate a 10% uplift at the time the application was submitted. This guidance required habitats to be secured for at least 30 years. The level of monitoring is therefore considered fair and reasonable in this context and reflects the requirements set out in schedule 14 of the Environment Act 2021.</p>	<p>The Council's Infrastructure Funding Statement June 2022 does not make provisions for Biodiversity Net Gains from development. The development is subject to a £0 per sqm charge under the Chorley Council Community Infrastructure Levy Charging Schedule for 2024.</p>
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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
Replacement Bowling Green and Club House	The existing bowling green and club house would be lost in order to develop the proposed prison. Sports facilities are protected by the Framework, policy 24 of the Core Strategy and policy HW2 of the Chorley Local Plan. It is therefore necessary to offset the loss of these facilities through the provision of new ones. These would need to be secured prior to any loss of facilities in order to sustain their continued availability.	The bowling green and club would be lost to the proposed development and therefore must be replaced in order to offset this loss. Furthermore the new facilities are advanced by the appellant as a benefit that would help outweigh the harm to the Green Belt through inappropriate development.	The standard of bowling green and extent of the facilities proposed are equivalent to those that would be lost. The necessity to provide these is entirely commensurate and therefore fair and reasonable in consideration of the complete loss of the existing facilities.	No direct financial contributions are required by this obligation.

<p>Enhanced Bus Service Provision (frequency and duration)</p>	<p>The existing bus service adjacent to the development is limited in frequency and lacks provision in the evenings and on Sundays. Therefore, in order to promote and encourage the use of sustainable modes of travel for employees and visitors' enhancements are required. This conforms with policy 2 and 3 of the Core Strategy, and Chapter 9 (Promoting Sustainable Transport) of the NPPF. Applications for development should facilitate access to high quality public transport (para 112).</p>	<p>Additional journeys to the site would not occur without the proposed development.</p>	<p>The required improvement would support increased frequency and duration of existing bus services for a period of 5 years, to a level which would encourage the use of buses as a sustainable transport option.</p> <p>This is considered to be a minimum amount of time required to establish the improved service after which point any revenue received from additional patronage could sustainably maintain the service levels beyond the contribution period.</p> <p>Lancashire County Council (LCC) Highways' Bus Service Contributions requests are determined on a case-by-case basis having regard to;</p> <p>a) LCC Public Transport comments, which consider recent tenders for similar services;</p> <p>b) Previous requests for contributions to ensure reasonableness and consistency.</p>	<p>The Council's Infrastructure Funding Statement June 2022 sets out that the use of S106 agreements will extend to strategic infrastructure such as highway and transportation improvements if they are needed as part of the development. The development is subject to a £0 per sqm charge under the Chorley Council Community Infrastructure Levy Charging Schedule for 2024.</p>
<p>Additional Bus Service Contribution (routing)</p>	<p>The existing bus service adjacent to the development does not currently provide a direct return journey to</p>	<p>Additional journeys to the site would not occur without the proposed development.</p>	<p>The required improvement would support a direct two way bus service between Preston and Croston via the</p>	<p>The Council's Infrastructure Funding Statement June 2022 sets out that the use of S106 agreements will extend</p>

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	<p>Croston, where a rail station is located. Therefore, in order to promote and encourage the use of sustainable modes of travel for employees and visitors' enhancements are required. This conforms with policy 2 and 3 of the Core Strategy, and Chapter 9 (Promoting Sustainable Transport) of the NPPF. Applications for development should facilitate access to high quality public transport (para 112).</p>		<p>development site for a period of 5 years, which would encourage the use of buses as a sustainable transport option.</p> <p>This is considered to be a minimum amount of time required to establish the improved service after which point any revenue received from additional patronage could sustainably maintain the service routing beyond the contribution period.</p>	<p>to strategic infrastructure such as highway and transportation improvements if they are needed as part of the development. The development is subject to a £0 per sqm charge under the Chorley Council Community Infrastructure Levy Charging Schedule for 2024.</p>

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Cycle Path Improvements	To support sustainable transport options in line with the county council's long term cycle strategy for the area, and in line with policy ST1 of the Chorley Local Plan and policy 3 of the Core Strategy.	Additional journeys to the site would not occur without the proposed development.	The cycle path improvements would link the site with the closest residential areas and rail provision. The proposed development is within the suggested 5km acceptable cycling distance of the Croston Railway Station and can be used by cyclists from the prison sites.	<p>The Council's Infrastructure Funding Statement June 2022 specifically references the Cycle Link from Croston to Ulmes Walton to Leyland. This would be funded partly by CIL but is identified as requiring external grant funding to deliver. In the absence of any external grant funding the developer would meet this gap so that the element if the cycle link connected to the application site can be delivered.</p> <p>The development is subject to a £0 per sqm charge under the Chorley Council Community Infrastructure Levy Charging Schedule for 2024.</p>

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Travel Plan development and monitoring	<p>To support and encourage sustainable transport options and to oversee amendments and monitoring to ensure that the most appropriate plan is agreed and implemented in order to encourage the widest range of travel choices and effective take up rate. In line with policy 3 of the Core Strategy.</p> <p>NPPF paragraph 113 states that all "developments that will generate significant amounts of movement should be required to provide a travel plan".</p>	<p>The travel plan is specifically required and designed to support the proposed development, which would attract a significant increase in journeys to the site.</p>	<p>The costs reflect the level of involvement that would be necessary from the Local Highway Authority to ensure that and appropriate travel plan is developed and delivered.</p>	<p>The Council's Infrastructure Funding Statement June 2022 sets out that the use of S106 agreements will extend to strategic infrastructure such as highway and transportation improvements if they are needed as part of the development.</p> <p>The development is subject to a £0 per sqm charge under the Chorley Council Community Infrastructure Levy Charging Schedule for 2024.</p>