

**COMMUNITY INFRASTRUCTURE LEVY (CIL) REGULATIONS 2010  
(AS AMENDED)**

**SECTION 106 AGREEMENT**

**STATEMENT OF COMPLIANCE WITH CIL REGULATIONS**

AGREED BETWEEN  
THE LOCAL PLANNING AUTHORITY  
(NORTHUMBERLAND COUNTY COUNCIL)  
AND  
THE APPELLANT

**CONSTRUCTION OF A PUBLICLY ACCESSIBLE LANDMARK, COMMISSIONED  
TO COMMEMORATE QUEEN ELIZABETH II AND THE COMMONWEALTH (THE  
PROPOSED DEVELOPMENT)**

**LAND AT COLD LAW, STIDDLEHILL COMMON, NEAR RIDSDALE,  
RAY ESTATE, NORTHUMBERLAND**

**PLANNING INSPECTORATE REF: APP/P2935/W/20/3244389**

**LOCAL PLANNING AUTHORITY REF: 19/00247/FUL**

## **1. Introduction**

- 1.1. The Local Planning Authority (“the Council”) and the Appellant entered into a legal agreement prepared in accordance with s106 of the Town and County Planning Act 1990 (as amended) on 1 April 2020 in relation to the Proposed Development (“the Section 106 Agreement”). The Section 106 Agreement sets out the latter’s planning obligations to the Council should the Inspector allow the appeal and grant planning permission for the Proposed Development. The obligations as set out in the Section 106 Agreement relate to the provision of a Conservation Management Plan to secure measures for off-site ecology mitigation. Unless otherwise defined, defined terms in this Statement are as set out in the Section 106 Agreement.
- 1.2. This Statement has been agreed between the Council and the Appellant and outlines the manner in which each of the proposed obligations comprising the Section 106 Agreement would comply with the tests set down in Section 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) (“the Regulations”).
- 1.3. Section 122 of the Regulations 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.
- 1.4. The Council does not currently have an adopted CIL Charging Schedule.
- 1.5. The requirements of the Regulations and further policy in respect of planning obligations are set out in paragraphs 54 to 57 of the National Planning Policy Framework (NPPF) (February 2019).
- 1.6. This Statement therefore considers compliance in respect of each of the obligations to the Council proposed in the Section 106 Agreement agreed between the Appellant and the Council.

## 2. Relevant Planning Policies

- 2.1. The Development Plan for the appeal site comprises the Tynedale Local Development Framework Core Strategy (TLDFCS) (2007) and the saved policies of the Tynedale District Local Plan (TDLP) (2000).
- 2.2. Emerging Development Plan policy is the Northumberland Local Plan Submission Draft Plan (NLP) February 2019 and Schedule of Proposed Minor Modifications (May 2019). The NLP was submitted to the Secretary of State in May 2019 and has been the subject of Examination in Public. A number of examination hearings were held in 2019, in February 2020 and finally in October and November 2020. The Inspector's Report is currently awaited.
- 2.3. The NLP will eventually replace the TLDFCS and the TDLP as the development plan for the Site.
- 2.4. The National Planning Policy Framework (February 2019) ("the NPPF") is also a material consideration.
- 2.5. Policy GD6 of the TLDFCS states as follows. *'Planning obligations will be sought where necessary to:*
- *prescribe the nature of development; or*
  - *secure compensation from the developer for loss or damage caused by the development; or*
  - *mitigate the impact of a development.*
- Planning obligations will only be sought where they are necessary to make acceptable development that would otherwise be unacceptable in planning terms. They will be directly, fairly and reasonably related in scale and kind to the proposed development. In some cases the obligation may take the form of a financial contribution'.*
- 2.6. Policy NE1 of the TLDFCS states as follows. *'The principles for the natural environment are to: (a) protect and enhance ...the biodiversity...of the District.... (c) Protect and enhance the extent and quality of other important natural habitats...and encourage creation of new habitats and restoration of those that are damaged or fragmented....'*

2.7. Policy INF6 of the emerging NLP relating to planning obligations states:

*'1. Where it is not possible to address any unacceptable impacts of development through the use of planning conditions, planning obligations will be secured to ensure that otherwise unacceptable development can be made acceptable.*

*2. Planning obligations will be used, as necessary, to ensure that development meets relevant planning policy requirements set out in the Local Plan and any made neighbourhood plans.*

*3. Planning obligations may be used to secure the timely provision, and/or improvement and maintenance of any physical, social, community and green infrastructure and/or any mitigation and/or compensatory measures reasonably necessary to make a development acceptable in planning terms. This may include all or any of the following and any other reasonable measures that meet statutory requirements...*

*k. Environmental improvement and mitigation schemes'*

2.8. Policy ENV2 of the emerging NLP relating to biodiversity and geodiversity states as follows.

*'1. Development proposals affecting biodiversity and geodiversity will minimise their impact and net gains for biodiversity will be secured by:*

*...b. Securing net biodiversity gains and / or wider ecological enhancements through new development.'*

2.9. Paragraph 8 of the NPPF recognises that improvements to biodiversity contribute to the protection and enhancement of our natural environment and contribute to the environmental objective of sustainable development.

2.10. Paragraph 170 states that planning decisions should contribute to and enhance the natural environment by providing net gains for biodiversity and paragraph 175 further states that developments should avoid, mitigate or compensate for significant harm to biodiversity.

### 3. Planning Obligations Compliance Schedule

#### ***Opening Date (Schedule 4, Paragraph 1)***

- 3.1. The first obligation is to provide the Council with no less than 14 days' prior written notification of the Opening Date (i.e. the first date that the Car Park is completed and available for use by members of the public).
- 3.2. It is considered that the notice required satisfies the requirements of Regulation 122 of the Regulations as follows:
  - a) **Necessary** – the obligation is necessary so as to allow the Council time to check that all the relevant conditions and obligations have been complied with prior to the Development opening to the public;
  - b) **Directly related** – the notification of the Opening Date to allow for the Council to assess whether the relevant conditions and obligations have been complied with is directly related to the Development; and
  - c) **Fairly/reasonably related in scale/kind** – providing 14 days' notice is fair and reasonable in the circumstances.

#### ***Conservation Management Plan (Schedule 4, Paragraph 2)***

- 3.3. The second obligation relates to the provision, approval and implementation of a Conservation Management Plan (CMP).
- 3.4. The CMP obligations set out in the Section 106 Agreement satisfy Regulation 122 of the Regulations as follows:
  - a) **Necessary** – an ecological appraisal submitted with the Planning Application identified a number of key measures for the Development, including the management of an area of 60 hectares (which includes the Site) to re-wet degraded bog habitat and reduce grazing in order to increase the naturalness of the setting of the Development. These measures are supported by the Council's ecologist. This planning obligation is necessary to secure these measures.
  - b) **Directly related** – the CMP is directly related to the Development. It would secure improvements in biodiversity by enhancing the area surrounding the Development; and

- c) **Fairly/reasonably related in scale/kind** – the obligation ensures that the CMP is secured for the lifetime of the Development and the Development must not be opened/kept open unless the approved CMP is in place. This is proportionate and fairly ensures that the obligation is related to the Development.