



CIL Compliance Statement - April 2026

APPEAL BY RICHBOROUGH

AT Land South East Of, Rugby Road, Clifton Upon Dunsmore

RBC REFERENCE: R25/0565

THE PLANNING INSPECTORATE REFERENCE: 6003106

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1. Introduction

- 1.1. This statement relates to the Public Inquiry following an appeal by Richborough against the non-determination of Outline application with some matters reserved for the demolition of all buildings and the residential development of up to 160 dwellings, and creation of associated vehicular access off Rugby Road, pedestrian/cycle access points, parking, landscaping, drainage features, open space, children's play area and associated infrastructure (all matters reserved except for vehicular access off Rugby Road).
- 1.2. This statement outlines how each of the obligations requested by the Local Planning Authority comply with the tests set down in Section 122 and 123 of the Community Infrastructure (CIL) Regulations 2010 (as amended) (the Regulations). The obligations requested were also contained within the Council's Statement of Case (CD.6.1).
- 1.3. Rugby Borough Council adopted a CIL Charging Schedule on 1 April 2024.
- 1.4. Warwickshire County Council's CIL Compliance Statement (CD.11.3) outlines the requirements for the obligations they have requested and their CIL compliance. As such the following obligations are not covered within this statement:
 - Public Transport
 - Cycling
 - Highways
 - Libraries
 - Education

- Road safety; and
- Public rights of way

1.5. The obligations requested from Rugby Borough Council are outlined below and will be discussed in Section 2 of this statement:

- Play and Open Space and Sports Provision
- Health Care Facilities
- Affordable Housing
- Monitoring Biodiversity Net Gain

2. Planning Obligations and CIL Compliance

2.1. Paragraphs 54, 56 and 57 of the Framework, policies D3 and D4 of the Local Plan and the Planning Obligations SPD set out the need to consider whether financial contributions and planning obligations could be sought to mitigate against the impacts of a development and make otherwise unacceptable development acceptable.

2.2. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) makes it clear that these obligations should only be sought where they are:(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. If a requested planning obligation does not comply with all of these tests, then it is not possible for the Inspector to take this into account when determining the appeal.

Play and Open Space and Sports Provision

2.3. Policy HS4(a) of the Local Plan states that residential development of 10 dwellings and above shall provide or contribution towards the attainment of the Council’s open space standards as set out within the policy. It also states that contributions through CIL/S106 will be sought from developments where the proposal would further increase an existing deficit in provision or where the proposal will result in the provision standards not being met within the ward or parish it is located within. Policy HS4(b) states that new open space should be accessible and of high quality, meeting a set of criteria.

2.4. The table below shows the requirement for open space (pitches assessed separately)

Type - Open Space	Requirement For the Development (ha)
Amenity Greenspace	0.4224
Natural and Semi-Natural Greenspaces	0.9600
Provision for Children and Young People	0.0768
Allotments	0.2496
Parks and Gardens	0.5760
Total	2.2848

2.5. The Clifton-upon-Dunsmore, Newton and Churchover ward does not have a deficit of any typology however based on the scale of development and the accessibility distances required to some typologies mean they are required on site.

2.6. Paragraph 4.4.7 of the Statement of Common Ground shows the appellant is providing more open space on site than required by the table above.

2.7. The table below shows the provision being provided on site and associated maintenance costs:

Type- Open Space	On-site provision (ha)	Cost of maintenance provision
Amenity Greenspace	0.51	£13,770.00
Natural and Semi- Natural Greenspaces	1.09	£31,065.00
Provision for Children and Young People	0.07	£20,370.00
Parks and Gardens	0.61	£57,950.00
TOTAL	2.28	£123,155

2.8. The obligations for off-site provision is as follows:

Type – Open Space	Local Plan provision requirement	Off-site cost of provision	Cost of maintenance provision
Allotments	0.2496	£14,776.32	£4,243.20

2.9. The appellant is proposing an extension to the existing facility which abuts the appeal site to enable the provision of additional sports pitches. The appeal scheme is also offering a car park for the sporting provision and recreation field.

2.10. The PP&OSS identifies Clifton-upon-Dunsmore as in the Urban area. The evidence base identifies the following need for the urban area:

Type	Pitch/facility type	Future demand (match equivalent sessions)
Grass Pitch	Adult	0.5
	Youth 11v11	2

	Youth 9v9	0
	Mini 7v7	2
	Mini 5v5	1
Football- 3G Pitch	Full size	1.5
Rugby Union	Senior	30
Hockey	Full size	0
Cricket (Saturday)	Senior	79

- 2.11. Table 1.2 of the PP&OSS identifies need for non-pitch sports. This includes tennis and states that club demand is adequately being met.
- 2.12. It is considered that all open space can be accommodated on site apart from Allotments which would be provided at North Road in Clifton-upon-Dunsmore.
- 2.13. The Planning Obligations SPD states that where on site open space is not provided an off-site contribution is required towards Play and Open Space, subject to negotiation with the Council. However, the application provides on-site open space and green infrastructure to cater for the recreational needs of the existing and new community on site.
- 2.14. The section 106 secures these contributions and sets out that if the Borough Council or its nominee does not accept the transfer of this public open space then details of a Management Company should be submitted along with it and a maintenance schedule to maintain the public open space in perpetuity.

Sports Provision

- 2.15. The obligations related to the sports provision of tennis courts secure a construction scheme, a community use agreement and a management and maintenance scheme.
- 2.16. A community use agreement is considered to be necessary to ensure the proposed benefits are realised.
- 2.17. The provision of these obligations are required for compliance with policies D3 and D4 of the Local Plan (2019).
- 2.18. The planning obligation is necessary to make the development acceptable in planning terms; is directly related to the development; and is fairly and reasonably related in scale and kind to the development. The formula used to calculate the cost for maintenance are provided by up to date costings for these types of open space and the obligations are based on the proposed dwelling number and related population growth in the area. The contribution meets the tests laid out in paragraph 58 of the National Planning Policy Framework and guidance on Planning Obligations in the Planning Practise Guidance. The contribution sought also fulfils the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended by the 2011 and 2019 Regulations).

Health Care Facilities

- 2.19. Paragraph 96 of the NPPF states that planning decisions should aim to achieve healthy, inclusive and safe places and enable and support healthy lifestyles, especially where this would address identified local health and wellbeing needs.

NHS Trust - University Hospitals Coventry and Warwickshire (UHCW)

2.20. UHCW NHS Trust have assessed the impact caused by the proposed development on local acute healthcare provision and have requested a contribution to address 'cost of additional capacity' for the local healthcare infrastructure. This is by way of a monetary contribution of £259,778 towards:

- Accident and Emergency attendances
- Unplanned admissions (including maternity)
- Planned admissions
- Planned day cases
- Outpatient attendances
- GP referred diagnostic examinations

2.21. The request focuses on "infrastructure capacity" or "facilities" and the argument made for such contributions is as follows:

- An increase in the number of A&E attendances resulting from the proposed development. The current A&E is said to be working at full capacity and so contributions are required to support "increasing A&E infrastructure capacity".
- The number of unplanned hospital admissions resulting from the proposed development. This is said to give rise to the need for additional capacity which may include increased use of equipment such as "scanners, laboratory equipment, beds and theatres".
- The number of planned admissions and day cases. The same argument as for unplanned admissions is put forward.
- Outpatient attendances are also said to be running at full capacity and additional capacity is needed to meet additional demand in terms of

clinics, equipment (scanners, monitors and surgical equipment) and clinic infrastructure.

- GP referred diagnostic attendances. The same capacity arguments are run in respect of “ultrasound, X-rays, CT scans and MRI scans”.

2.22. UHCW NHS Trust states that safe hospital care is provided when the hospital is operating at or below 92% of full bed capacity (standard set by NHS England) however the Trust’s hospitals are on average operating well above 92% capacity. The Trust’s infrastructure and equipment is stated to be over-used due to this and additional infrastructure and related staff are brought in, adding premium costs. It is argued that the residents of the proposed development will cause detrimental further pressure to hospital infrastructure and the increased attendance from the development has been monetised by reference to the “average cost of activity across the NHS” (appendix A of UHCW consultation response).

2.23. Under the CIL regulations 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.

2.24. In *R(Worcestershire Acute Hospitals NHS Trust) v Malvern Hills District Council & ors* [2023] EWHC 1995 (Admin) Holgate J. held that it was for the Trust to show/make good with sufficient evidence that its request met the requirements of regulation 122. If it could/did not, then a Local Planning Authority is entitled to

draw the conclusion that the request was not 'necessary' for the purposes of regulation 122(2)(a).

- 2.25. It is not considered that adequate information has been given in Appendix A as the background data for the "activity 2018/19" is not given. In addition, 'relevant adjustments' are stated to be made to the methodology however no detail is given and information around what the 'average tariff' for each activity type has not been given – no assurance has been given that the tariff relates to infrastructure only (essentially equipment) claimed to be impacted.
- 2.26. The request relating to this application is stated by the NHS Trust to be different from the previous 'temporary funding gap' requests (footnote 1 of Appendix B). However, the explanation set out in paragraphs 3 and 4 of appendix B includes all of the previous same concerns about there being no consideration of in-year population growth, although recast in terms of population growth and its effect on infrastructure.
- 2.27. As set out within paragraphs 16, 20, 26, 27, 29 and in particular 35 of the NPPF, this matter should be dealt with during plan-making. Therefore, the Council has not engaged in ad hoc discussions with the Trust on individual planning applications.
- 2.28. Based on the above assessment it is not considered that the requested contribution meets the test of the CIL Regulations. The legal requirements of reg. 122(2) of the CIL Regulations 2010 (as amended) are also not satisfied due to the quality of information submitted by UHCW to date as sufficient robust information has not been provided to enable an evaluative judgement to be

made that the regulation 122 tests have been met. The evidence given is questionable and no transparent background justification is given.

- 2.29. Therefore, it would be unlawful to require the payment of the contribution sought by the Trust. This request is therefore not considered to meet the test of the CIL Regulations.

NHS Coventry and Warwickshire Integrated Care Board (the ICB)

- 2.30. The ICB has requested a contribution of £241,149 in order to support the additional growth anticipated from the proposed housing development requests contributions for improvement works which will be for the primary care and healthcare estate within the area of the planned development.

- 2.31. The total cost of this additional capacity would equate to £241,149. The detailed calculation for this contribution is set out in CD.4.26. The contribution would be used for improvements to off-site primary medical care and healthcare facilities at one of the 5 practices specified within CD.4.26.

- 2.32. The provision of a health care contribution for the ICB is required for compliance with policies D3 and D4 of the Local Plan (2019). The requirement of funding for Health Care provision at an identified local GP surgery or healthcare facility addresses the impacts of the development on existing and future needs of this vital infrastructure provision, helping to meet the overarching social objectives contained within the NPPF in achieving sustainable development, thus making the obligation necessary. The identified increase in patients would have a direct impact on the local health care facilities identified, as set out in CD.4.26, arising from the additional demand on services directly related to the population generated from the development.

2.33. The extent of the ICB contribution is directly related in scale and kind to the development, the obligation is calculated using population projections applied to all developments of this typology. The obligation sets out current capacity of local services and how this proposal leads to direct impact, the developer is not obligated to provide contributions to address need in excess of that generated directly from the development, therefore, the contribution fairly relates in scale and kind to the development proposal.

Affordable Housing

2.34. Policy H2 of the Local Plan (2019) states that affordable homes should be provided on all sites of at least 0.36 hectares or capable of accommodating 11 dwellings or more. This policy further states that on previously developed land 20% affordable housing would be required and 30% for greenfield sites.

2.35. The provision of affordable housing on this site as a proportion of the housing proposed ensures this requirement is directly related to the proposed development. The appellant has stated that provision of 30% policy compliant affordable housing will be provided.

2.36. The s106 will secure the delivery of this provision which is necessary to meet identified affordable housing needs and to be policy compliant and so complies with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) as it is directly related to the appeal scheme and fairly and reasonably related in scale and kind to the appeal development.

Monitoring Biodiversity Net Gain

2.37. Policy NE1 of the Local Plan states that development will be expected to deliver a net gain in biodiversity and be in accordance with the mitigation hierarchy.

- 2.38. Financial contributions towards the monitoring of Biodiversity Net Gain (BNG) are a necessary part of the delivery of the statutory BNG requirement (Environment Act, 2021) for development that is not exempt of BNG.
- 2.39. The tariff applies to all significant on-site enhancement. Significant enhancements are areas of habitat enhancement which contribute significantly to the proposed development's BNG, relative to the biodiversity value before development. Habitats to be monitored will be those identified within the Habitat Management and Monitoring Plan submitted and approved by the local planning authority.
- 2.40. The tariff is payable to the determining local planning authority in which the development occurs and will cover the time and expense to undertake the following activities:
- Preparatory reading
 - Desk based assessment
 - Review of any information submitted as evidence of management
 - Communication between parties
 - Site visit in the years detailed in approved documentation (e.g. Habitat Management and Monitoring Plan), which will also include:
 - Mileage and time to and from site
 - Site monitoring evaluation report detailing findings
 - Any advisory notes relating to compliance
 - Sign off procedure
 - Administration
- 2.41. The tariff is calculated by a formula as outlined below:

Tariff

Very Small Site (<0.5ha)	=£12,146
Small Site (≥0.5ha and <1ha)	=£19,843
Medium Site (≥1ha and <5ha)	=£27,541
Large Site (≥5ha and <10ha)	=£35,238
Very Large Site (≥10ha)	=£42,935

Formula

$$\text{Monitoring Tariff} = \sum(\text{MDs}^{\text{yr}} \times \text{Day Rate} \times (1+\text{Inflation})^{\text{yr}-1}) \times \text{BNG Years}$$

Where:

Monitoring Days per year (MDs^{yr}) = Monitoring programme being site visits in years 1,2,3,4,5,10,15,20 and 30, self-assessments will occur in any intermediate years. The total time for monitoring used in to calculate the MDs^{yr} is detailed below.

Size Category	Size thresholds	Monitoring times Site Visit (days)	Monitoring times Intermediate (days)	Planning Officer and Administration
Very small	Less than 5ha	0.5	0.25	0.18
Small	≥0.5ha and <1ha	1	0.5	0.18
Medium	≥1ha and <5ha	1.5	0.75	0.18
Large	5ha or over but less than 10ha	2	1	0.18
Very Large	10ha or over	2.5	1.25	0.18

Day Rate = £437.79

Inflation = 4.04% (10-year averages: Average Salary^j)

BNG Years = 30

2.42. The tariff for monitoring biodiversity net gain is directly related in scale to the development and obligation calculated using the tariff applied to all developments of this typology, therefore the contribution fairly relates in scale and kind to the development proposal.

Warwickshire Police

2.43. The Warwickshire Police and Crime Commissioner (WP) has requested a total contribution of £45,957.63 to mitigate the additional impacts of the development upon Warwickshire Police. It is stated that ‘the existing infrastructure does not have capacity to meet this need, and because, like some other services, WP do not have the funding ability to respond to growth whenever and wherever proposed.’ It is further stated that the proposed allocation of up to 160 new homes will result in a further increase in the demand placed on local policing services by increasing emergency and non-emergency calls for service, creating

a greater need for visible neighbourhood policing and rising pressure on safeguarding, investigative and public protection teams.

2.44. The contribution request has been split out as follows:

- Recruitment and equipping of officers and staff - £10,426.97
- Police Vehicles - £3,577,18
- Office Accommodation - £31,953.63

2.45. Within the request submitted the police have set out the sources of funding available to them. Any request for funding has to demonstrate that it serves a planning purpose.

2.46. The request does not include a detailed assessment of the area and even refers to 'experience from similar areas' rather than quantifiable data from the site e.g. the request does not even quantify the population increase from the development or how the requested amounts for the three points above have been derived.

2.47. It is considered that points 1 and 2 are revenue funding requests and would serve no clear planning purpose but instead seek to subsidise national funding mechanisms which WP have in fact alluded to within their response as quoted in paragraph 2.44 of this report. No further detail on funding has been given within the request including evidence around the assertion that central funding will not fund the staffing/costs/equipment/vehicles.

2.48. In relation to the provision for office accommodation this could be considered to comply with Regulation 122 however limited details have been provided in relation to this request (e.g. the floorspace required, which Warwickshire facility requires the additional floorspace or would it in fact be a new facility, how the

accommodation would relate directly to the development and what provision would be gained). Therefore, it has not been demonstrated that the request relates directly to the development or fairly and reasonably relates in scale and kind.

- 2.49. Therefore, it is not considered that WP have adequately demonstrated that the contributions requested are necessary to make the development acceptable in planning terms, directly related to the development or fairly and reasonably related in scale and kind to the development.