

**Statement of compliance with regulation 122 of
the Community Infrastructure Levy Regulations 2010**

- 1 This document sets out the Applicant's detailed account of how the Community Infrastructure Levy tests are met for the planning obligations contained in the proposed unilateral undertaking to Ashford Borough Council and Kent County Council (**the December UU**). For the avoidance of doubt, the December UU replaces and supersedes the prior unilateral undertaking the Applicant offered to Ashford Borough Council, as executed on 7 October 2025 and submitted to the Planning Inspectorate. Proposed planning obligations in favour of Ashford Borough Council are contained in Schedule 1 to the December UU; those in favour of Kent County Council are contained in Schedule 2.
- 2 The December UU expands on the obligations in the 7 October UU, following the Applicant's continued engagement with the Councils. The Applicant considers that the planning obligations contained in the December UU are required and do meet the tests set out in regulation 122 of The Community Infrastructure Levy Regulations 2010 and paragraph 58 of the National Planning Policy Framework.
- 3 The planning obligations in favour of Ashford Borough Council follow on from and 'honour' corresponding planning obligations in the section 106 agreement between the local planning authority and the prior site owner that was finalised on 13 September 2017, in relation to planning application 14/00906/AS. That application was the subject of a report to the planning committee dated 18 May 2016¹ which recommended approval (**the 2016 report**). As described in the local planning authority's written representations for the current application, (starting at paragraph 38), the Applicant worked with Ashford Borough Council between 2020 and 2023 to negotiate a section 106 agreement that 'honoured' the financial commitments in the 2017 agreement between the parties described above. While that section 106 agreement was not concluded, the 7 October 2025 UU was offered instead, containing substantially the same planning obligations.
- 4 Planning obligations 1, 2 and 3 in Schedule 1 to the December UU are therefore required for essentially the same reasons as set out for the corresponding obligations in Table 1 of the 2016 report. Planning obligation 4 is required to meet principles that also date back to the 2017 planning permission, albeit in updated ways that better reflect current thinking in the area.
- 5 Planning obligations 1, 2 and 3 in Schedule 2 to the December UU also meet the tests set out in regulation 122 of The Community Infrastructure Levy Regulations 2010 and paragraph 58 of the National Planning Policy Framework.
- 6 The further planning obligation proposed by the Councils, namely to reinstate the former public right of way through the application site, does not meet the tests in regulation 122.
- 7 Please see below for full details in tabular format:

¹ <https://abcportal.ashford.gov.uk/pr/sfc/servlet.shepherd/version/download/0688d000006TZidAAG>

Schedule 1

Planning obligation	UU detail	Regulation 122 assessment
1 – Junction 10A Works Contribution	<p>The Owner covenants to pay to the Borough Council so much of the Junction 10A Works Contribution as has not already been paid to the Borough Council under the Previous Planning Obligation, and release that sum which has already been paid by the Owner to the Council, within 14 days of the date of this Schedule taking effect.</p>	<p>Necessary: As noted in Ashford Borough Council's written representations, contributions toward the Junction 10A works are "<i>required to be collected from certain strategic development schemes and ultimately recycled back to a different part of Government as part of the funding arrangements for taking J10A forward</i>".</p> <p>Paragraph 14.1 of the draft 'honouring' section 106 agreement between the Council and the Applicant reflects the parties' intention that the Junction 10A Works Contribution would satisfy an obligation in the 2017 agreement, so it remains necessary now. Paragraphs 3.4 and 3.5 of the Council's CIL compliance statement confirm that the updates to the UU are intended to clarify the status of the Junction 10A Works Contribution payments over time.</p> <p>Directly related: The development has an impact on the strategic highway network. Occupiers and users of the development travel to and from the development using Junction 10A. The planning obligation is therefore directly related to the development.</p> <p>Fairly and reasonably related in scale and kind: The contribution amount of £4,973,012.83 is a "<i>proportionate contribution to the developer funding of Junction 10A of the M20 in accordance with Ashford Local Plan policy TRA1</i>", according to the UU definition. The amount represents only a slight uplift from the original 2017 agreement's indexed amount of £4,756,431.68, which was assessed in Table 1 of the 2016 planning report to be fairly and reasonably related in scale and kind "<i>considering the extent of the development and because the amount has been calculated based on the scale of the development and the estimated number of relevant trips and the need not to prejudice the J10A scheme in accordance with Policy U24 of the Urban Sites & Infrastructure DPD</i>". Paragraph 183 of the Council's written representations confirms that the corresponding UU obligation is policy compliant and is supported.</p>
2 – Pedestrian and Cycle Connection Improvements Contribution and the Additional Pedestrian and Cycle	<p>The Owner covenants to release to the Borough Council the Pedestrian and Cycle Connection Improvements Contribution, and pay to the Borough Council so much of the Additional Pedestrian and Cycle Connection</p>	<p>Necessary: The original index-linked £30,000 contribution from the 2017 agreement was necessary "<i>in order to assist a modal shift in travel patterns, as is required by Travel Plans for the site, by overcoming a known poor onward pedestrian and cycle connection to the west of the application site that in its current form would dissuade adoption of sustainable movement choice to and from the site by staff and visitors. Improving this poor connection is necessary pursuant to policies CS1, CS2, CS15 and CS18 of the Core Strategy, Policy U24 of the Urban Sites and Infrastructure</i></p>

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Improvements Contribution	Improvements Contribution as has not been paid under the Previous Planning Obligation, within 14 days of the date of this Schedule taking effect.	<p><i>DPD, the provisions of the Kent Local Transport Plan and guidance in the NPPF</i>". Because the corresponding planning obligation in the UU is intended to satisfy that obligation at the site, and the original contribution was index-linked so an uplift is required, both the contributions within this planning obligation are also necessary now. Paragraph 184 of the Council's written representations supports the approach.</p> <p>Directly related: Because the contributions in this planning obligation are intended to satisfy an existing 2017 obligation at the site, they are directly related to the site now as they were when the 2016 report noted that "<i>employees and visitors will travel to the site and how they will travel is appropriate to plan for and resolve any connection problems that currently exist and which left unresolved would be likely to impact on meeting Travel Plan objectives</i>".</p> <p>Fairly and reasonably related in scale and kind: The obligation in the 2017 agreement was assessed in Table 1 of the 2016 report to be fairly and reasonably related "<i>taking into account the scale of the development and the need to ensure that appropriate enhancements are put in place to minimise the environmental impact of travel to and from the development</i>". As elsewhere, because these UU obligations are intended to satisfy the older obligations, this applies now as well.</p>
3 – Church Works Contribution (Remainder) and the Additional Church Works Contribution (Remainder)	The Owner covenants to release to the Borough Council the Church Works Contribution (Remainder), and pay to the Borough Council so much of the Additional Church Works Contribution (Remainder) as has not been paid under the Previous Planning Obligation, within 14 days of the date of this Schedule taking effect.	<p>Necessary: The 2017 section 106 agreement made provision for an index-linked Church Works Contribution that were evaluated in Table 1 of the 2016 report as being necessary "<i>in order to enable the impacts of development on the Church to be mitigated through the provision of funding enabling the Diocese to upgrade and adapt St. Mary's to both enhance its viability and meet the needs of the community that will be created through the development of the application site thereby ensuring that the Church is integrated with that community rather than being isolated from it. The proposal is in accordance with Policies CS1, CS9 and CS18 of the Core Strategy 2008 and Policy U24 of the Urban Sites & Infrastructure DPD</i>". As the related contributions under this planning obligation in the draft UU represent remaining balances corresponding to sums under the 2017 agreement, they are necessary for the same reasons.</p> <p>Directly related: As above, these contributions are directly related to the current application for the same reasons as the corresponding contributions under the 2017 agreement, which were directly related to the temporary planning permission for the reasons summarised in Table 1 of the 2016 report: "<i>as the development site is located on both adjoining land and land close to St. Mary's church and the</i></p>

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		<p><i>community needs generated by the development can therefore be addressed through the upgrading and adaptation works discussed with the Diocese."</i></p> <p>Fairly and reasonably related in scale and kind: The original Church Works Contribution was noted as "to be agreed with the diocese" in the 2016 report, and it was intended to be index-linked in the 2017 section 106 agreement. These contributions simply pay the remaining balances and provide a suitable uplift given the passage of time.</p>
4 – Off Site Habitat Enhancement Works	<p>"To carry out the Habitat Enhancement Works to the Off Site BNG Land within 36 months of the date of the grant of the Planning Permission and to maintain the Off Site BNG Land for a period of 30 years from the date of completion of the Habitat Enhancement Works"</p>	<p>Necessary: Although the site is exempt from the statutory deemed condition for 10% biodiversity net gain (BNG) and BNG requirements were not in place when the 2017 permission was granted, a LEMP covering the land east of Highfield Lane was required under condition 11 of Relevant Approval 4, granted under the SDO on 28 April 2022. This LEMP was intended to provide biodiversity enhancements in a previously arable field. The ongoing implementation of this LEMP remains necessary now.</p> <p>Directly related: The Off Site BNG Land is directly adjacent to the IBF site and owned by the Applicant, and the Statement of Matters included several queries showing clear concern about how the Applicants will ensure the IBF site does not coalesce with nearby villages. Paragraph 185 of the Council's written representations notes the Applicant's approach to BNG "<i>is supported, the enhancement works are welcome and securing the maintenance of the land at Sevington East will ensure that an appropriate buffer is created preventing coalescence as per ALP 2030 Policy SP7</i>". For these reasons, the Off Site Habitat Enhancement Works planning obligation does relate directly to the site.</p> <p>Fairly and reasonably related in scale and kind: The Off Site Habitat Enhancement Works are intended to be implemented pursuant to the existing 2023 LEMP that was previously approved by the Secretary of State under condition 11 of Relevant Approval 4. Since the Council supports the Applicants' approach to BNG, as noted just above, and paragraphs 7.33 to 7.38 of the planning statement explain that the Applicant's past and planned future works (including on the Off Site BNG Land) align with prior plans, statute and local policy.</p>

Schedule 2

Planning obligation	UU detail	Regulation 122 assessment
1 – Supplementary Junction 10A Works Contribution	<p>Subject to the County Council proposing to the Owner within [6 months] of the date of this Schedule having effect a scheme for the implementation of the Supplementary Junction 10A Works, the Owner shall make arrangements for the carrying out of the Supplementary Junction 10 Works in accordance with that scheme together with any modifications to that scheme that may be submitted by the Owner and approved by the County Council.</p>	<p>Necessary: Paragraph 8.27 of the Applicant's Statement of Case acknowledges the existing capacity constraints at J10A and identifies the potential to mitigate the development's impact on traffic in the area with a scheme to widen the A20 eastbound approach and signalise the westbound approach, including the corresponding circulatory carriageway at that junction. The Applicant considers that such mitigations are required to ensure the development does not adversely impact the safety and capacity of the highway network in the area – particularly over time, as the Transport Assessment² discusses from paragraph 7.90 onward how the constraints will only increase during the modelling period.</p> <p>Paragraph 8.29 of the Applicant's Statement of Case suggests that appropriate mitigation of traffic impacts is critical to the development not being refused on transport grounds. KCC states in paragraph 2.16 of its Statement of Case that "Initial discussions have taken place with the applicant regarding delivery of the mitigation scheme, and KCC have stated that the authority is able to deliver the works on behalf of the applicant", therefore it will be necessary for the Applicant to provide funding for the mitigations that have been agreed between the parties.</p> <p>Directly related: As stated in paragraph 7.88 of the Transport Assessment, J10A "is the junction by which Goods Vehicle traffic accessing Sevington is directed to travel to and from the M20". It is therefore directly related to the development, as are the mitigations proposed to be implemented there.</p> <p>Fairly and reasonably related in scale and kind: KCC notes in paragraph 2.16 of its Statement of Case that "The scheme has been costed by KCC's cost consultants based on the current information supplied by the applicant. The cost of the scheme is £1,436,122.68 based on delivery in 2026." The Applicants are content that these costs are reasonably related in scale to the development overall, subject to confirmation of detailed design.</p>
2 – Upgrading of the Blind Lane to Mersham PRoW Contribution	<p>If at any time within [3 months] of the date of the grant of the</p>	<p>Necessary: Taking measures to comply with national and local policies is necessary for planning purposes. ABC's Statement of Case³ sets out in its response to Statement of Matters queries 18 and 74, and KCC notes at paragraph</p>

² [01LFF32MKUJC3E3UDXAVD3GR2CQBYC7QTU](#)

³ [01LFF32MMPSTVJSABNH5EJCIAQMXJBWXRH](#)

Planning obligation	UU detail	Regulation 122 assessment
	<p>Planning Permission, the County Council</p> <p>(i) notifies the Owner that all of the owners of the land comprised in footpath AE363 between Blind Lane and Mersham corner have given the County Council written confirmation that they agree to the upgrade of footpath AE363 to public bridleway status, and</p> <p>(ii) proposes to the Owner a scheme for the implementation of the PRoW Extension and Upgrading Works,</p> <p>the Owner shall make arrangements for the carrying out of the PRoW Extension and Upgrading Works in accordance with that scheme together any modifications to that scheme that may be submitted by the Owner and approved by the County Council.</p>	<p>3.5 of its Statement of Case⁴, how PRoW enhancement would align with national and local policy. The Council's Officer report to Planning Committee⁵ also notes at paragraph 173 that the lack of upgrades to this section of PRoW represents a missed opportunity and runs contrary to the Officer's pre-application suggestion that the Applicant should fund same. Accordingly, if the landowners are willing to have upgraded rights of way on their property, the Applicant should fund this.</p> <p>Directly related: The section of PRoW to be upgraded is directly related to the development site because it sits directly between the sections that have already been upgraded (from the site through 'Sevington East'), and the village of Mersham. Providing continuity and connection for active travel modes in this area should "help connect people with places", as paragraph 173 of the Officer report to Planning Committee states, without risking 'coalescence' issues. Employees could travel directly to the site on foot or bicycle without using the existing road network.</p> <p>Fairly and reasonably related in scale and kind: ABC's Statement of Case notes at its response to Statement of Matters query 74 that the PRoW remaining to be upgraded is fairly short, therefore the costs to upgrade it are relatively small in order to achieve multiple planning objectives.</p> <p>While the existing right of way is not in the Applicant's ownership, the proposed obligation is conditional on the landowners' agreement, which is reasonable.</p>
3 – Resurfacing of the Existing PRoW Contribution	<p>Subject to the County Council proposing to the Owner within [6 months] of the date of this Schedule having effect a scheme for the implementation of the Resurfacing Works, the Owners shall make arrangements for the carrying out of the Resurfacing Works in accordance with that</p>	<p>Necessary: Resurfacing areas of existing PRoW, and installation of surface water drainage on Church Road to reduce issues of pooling around the PRoW, will mitigate the impacts currently experienced by those using the PRoW.</p> <p>Directly related: The existing PRoW and Church Road are both located adjacent to the entrance to the site, therefore mitigations proposed for the area are intended to improve use of the PRoW directly by mitigating the development's impacts on the quality of the land in the area.</p>

⁴ [01LFF32MNP6R64RBQJS5CYYJ3W7UIARWPY](#)

⁵ [01LFF32MJDZK2EAXAP5FDJCULMDUXS5K7G](#)

Planning obligation	UU detail	Regulation 122 assessment
	scheme together with any modifications to the scheme that may be submitted by the owner and approved by the County Council.”	<p>Fairly and reasonably related in scale and kind: The Applicant's position is as stated in paragraph 8.28 of its Statement of Case: a small area of PRoW resurfacing and provision of surface water drainage near the staff car park entrance are sufficient to mitigate the development's remaining impacts on the PRoW network in the area of the development.</p> <p>The Applicants and Kent County Council have agreed the likely costs of carrying out this works subject to detailed design.</p>

Rejected obligations

Funding re-establishment of PRoW through viewing corridor in the event that the operation of the Site as an Inland Border Facility, or its requirement to be secure, whether in whole or part clear of that corridor, ceases in the future so as to remove an operational impediment to PRoW reinstatement	N/A	<p>Necessary: The current application is for permanent use of the site as a secure facility. By definition, an obligation to do something once the site no longer needs to be secure cannot be implemented while the site is being used in accordance with the permission as applied for. The obligation therefore cannot be necessary to make the application acceptable.</p> <p>Should HMG no longer require to use the site as a secure IBF/BCP in the way currently proposed, then the re-establishment of the former PRoW could be considered at that point. It is expected this would form part of pre-application discussions related to any proposed new development or change of use at the site.</p> <p>Directly related: The Applicant does not consider this condition to be directly related to the proposed development. The PRoW has been legally stopped up (as approved by PINS), and the Applicant has made significant investment in establishment of a new PRoW around the site, so the proposed obligation is not related to the site as it exists now. Nor can it be implemented while the site is being used in accordance with the proposed development.</p> <p>Fairly and reasonably related in scale and kind: Requiring the Applicant to provide funding for something unrelated to, and unnecessary for, the development is not fairly and reasonably related in scale or in kind.</p>
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