

4. What is the logic for requiring developers to provide 2.4 hectares of recreational space per 1000 projected population in developments of 10 or more homes to comply with Policy DM13? Which parts of the county have a quantitative deficiency in open space? How should the term “qualitative deficiency” be interpreted?

We raised concerns through the Deposit consultation on the lack of evidence to prove that deficiencies in open space actually exist in the various areas of the local authority, to the extent that the requirements Policy DM13 are soundly based. Currently, the evidence for the policy is based solely on the FiT standards, which is a generic standard that bears no relationship to Blaenau Gwent, and does not take account of the actual level deficiency (if any such deficiency indeed exists) in the various wards and localities within the authority.

In terms of this policy and its relationship to national guidance, we believe there are some significant issues that arise with respect to the tests of soundness. For example, on the 6th April 2010 the CIL regulations were enshrined within law and Regulation 122 limits the use of planning obligations in order to ensure such regulations are fair and reasonable and to increase the scrutiny of financial requirements within section 106 obligations.

In this context, Regulation 122 states that “a planning obligation may only constitute a reason for granting planning permission if the obligation is:

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

Therefore, Local Authorities must ensure that planning obligations are directly related to the development and are absolutely necessary, otherwise the such obligations will fall foul of the legal requirements as set out above.

In this context, given that the evidence to support Policy DM13 does not demonstrate whether or not the FiT standards are applicable in the various areas of Blaenau Gwent, it would be impossible to tell whether or not there are any specific deficiencies in open space across the authority. Therefore, given that the policy attempts to secure planning obligations from all development, regardless of whether or not a deficiency has been proven to exist, we believe the policy contravenes the legal tests described above and therefore is contrary to national guidance.

In light of this, we do not believe Policy DM13 should be adopted in its current form, as it is not supported by robust evidence and is contrary to national guidance. Policy DM13 therefore contravenes Soundness Tests CE2 and CE4.

End.

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