



Sussex
Police & Crime
Commissioner

Andrew Taylor
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Sussex and Surrey Police

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Our Ref: 17.002
Your Ref: P/140/16/OUT

13^h August 2018

Claire Potts
Planning Department
Arun District Council
Maltravers Road
Littlehampton
West Sussex
BN17 5LF

Dear Mrs Potts,

Proposed outline application for access only - mixed use development comprising of up to 400 dwellings and other infrastructure on the land south of Summer Lane & west of Pagham Road, Pagham.

I write on behalf of the Office for the Police and Crime Commissioner (PCC) for Sussex concerning the outline planning application which seeks planning permission for 400 dwellings on the land south of Summer Lane & west of Pagham Road, Pagham. This application is part of a wider set of strategic allocations in Pagham.

Sussex & Surrey Police are an active member of the National Police Estates Group and now act as one on all infrastructure and town planning related matters across their combined geographical area. Our approach to Section 106 requests is in accordance with national best practice recommended by the National Police Chief's Council (NPCC). The approach now adopted has been tested at public inquiries nationally and found to be in accordance with the statutory CIL tests.

The large numbers of housing being developed across Sussex and more specifically Arun will place a significant additional demand upon our police service. These impacts will be demonstrated in this submission and the necessity of investment in additional policing services is a key planning consideration in determination of this planning application.

This development will place permanent, on-going demands on Sussex Police which cannot be fully shouldered by direct taxation. Like many other public services, policing is not fully funded via public taxation. This request outlines a number of the capital costs that will be incurred by Sussex Police to enable safe policing of this development. All of the infrastructure outlined in this funding request has been found compliant with regulation 122 of the Community Infrastructure Levy and are considered directly related to the development in scale and kind and necessary to make the development acceptable in planning terms.

The application site is currently a greenfield site and when built upon will create an additional demand upon the police service that does not currently exist. The police will need to recruit additional staff and officers and equip them. The development will also require the services of a police vehicle. Staff and officers will also need to be accommodated in a premises that will enable them to serve the development. This request is proportionate to the size of the development and is intended to pay for the initial, additional costs resulting directly from the development for those areas where the police do not have existing capacity. The request also explains how the police service is funded, outlines National Planning Policy support for policing contributions and references numerous appeal decisions where police requests for developer contributions have been upheld.

Police forces nationally, are not in a position to support major development of the scale now being proposed for many of the nation's town and cities without the support from the planning system. If we are obliged to do so using our own resources only, then it is reasonable to conclude that there will be a serious risk of service degradation as existing coverage is stretched to encompass the new development and associated population growth. This is already evident across Sussex due to the significant numbers of housing being developed and clearly shown by the increasing numbers of recorded crimes in Sussex over the last year. Our force must ensure that development growth is supported by the infrastructure necessary to guarantee the safety and security of the new communities.

It is the responsibility of the PCC to ensure our Chief Constable has sufficient financial support to deliver a high level of policing to the residents of Sussex. Our office continues to actively seek financial contributions via Section 106 agreements and Community Infrastructure Levy funds to support our capital program. This will enable Sussex Police to deliver the highest possible service to ensure the protection of the communities that we serve. In line with many other police forces Sussex & Surrey Police have updated our methodology for infrastructure requests to ensure our representations are transparent and provide an up to date, accurate reflection of our current capacity in the district.

Our new methodology has been developed through a joint partnership with Leicestershire, Thames Valley, West Mercia, Warwickshire and other active members of the National Police Estates Group. This methodology was considered Community Infrastructure Levy REG122 compliant by Mr Justice Green in the case of *Jelson v SoSCLG and Hinckley and Bosworth Council* [2016] CO/2673/2016 (**Appendix 1**). In addition, there are a significant number of recent appeal decisions and High Court judgments supporting both the principle of Police contributions and our methodology (see attached appendices). The principle of developer contributions towards Sussex Police has recently been upheld by the Secretary of State in the allowed appeal relating to new 400 homes on the land east of Fontwell Avenue, West Sussex (Appeal ref: APP/C3810/V/16/3143095 – **Appendix 2**).

The principle of developer contributions towards our partner force Surrey Police has recently been upheld by the Secretary of State in the called-in appeal decision concerning the development of 1800 homes at Dunsfold Park in Waverley (Appeal ref: APP/R3650/V/17/3171287 – **Appendix 2**).

I will go into further detail on the various items of infrastructure and provide evidence of their compliance with Regulation 122 tests.

1. Police Funding and Development Growth

A primary issue for Sussex Police is to ensure that new development, like that proposed by application P/140/16/OUT, makes adequate provision for the future policing needs that it will generate. Like other public services, Sussex Police's primary funding is insufficient to be able to add capital infrastructures to support new development when and wherever this occurs. Furthermore there are no bespoke capital funding regimes e.g. the Health Lift to provide capital either. The police therefore fund capital infrastructure by borrowing. However in a service where most of the budget is staffing related, the Sussex Police capital programme can only be used to overcome pressing issues with existing facilities, or to re-provide essential facilities like vehicles once these can no longer be used.

Sussex Police endeavour to use our existing funds as far as they stretch to meet the demands of an expanding population and overwhelmingly for revenue purposes. However, it is the limit of these funds which necessitates the need to seek additional contributions via Section 106 requests

and the Community Infrastructure Levy (CIL). This situation also prevails in other public services seeking contributions and there is nothing different here as far as policing is concerned. What is different is that the police do not enjoy capital income from the usual taxation sources. This evidences that the police do not make requests where other funds are available to meet their needs.

The reality of this financial situation is a major factor in our Forces planning and alignment with plans for growth in that whilst Sussex Police can plan using their revenue resources to meet their on-going, and to a limited extent, additional revenue costs these do not stretch to fund necessary additional investment in their infrastructures.

Sussex Police will continue to engage with Local Planning Authorities to ensure crime prevention is referenced within new local plan documents and provide crime prevention design advice to minimise the opportunities for crime within new development. Ensuring new development takes full consideration of crime prevention and the provision of adequate infrastructure to support policing is clearly outlined within the NPPF and within Paragraph 156 of the NPPF which states "*Local planning authorities should set out the strategic priorities for the area in the Local Plan. This should include strategic policies to deliver... the provision of health, security, community and cultural infrastructure and other local facilities*".

In the support of this request the following information is provided by Miranda Kadwell, Corporate Finance Manager at Sussex Police and is a detailed commentary on Sussex Police's budget, which underpins the above statements:

National funding

Sussex Police receives 61% of its funding from central government and 39% from local taxation. Central government funding comprises of the Home Office Core Funding Settlement, the Department for Communities and Local Government (DCLG) Formula Funding, (together these are referred to as central government grant or CGG for the purposes of this submission) and legacy Council Tax Grants (LCTG). LCTG are fixed and some elements of this are time limited, therefore, LCTG are not affected by variations in the funding formula.

The distribution of central government grant is calculated by the Police Relative Needs Formula. This Police Funding Formula divides up how much money each police force receives from the overall central government funds. It takes into account a number of factors to assess demand in each area.

The first stage of the formula is to divide funds between the different activities that the police undertake. These activities, or workloads, can be broken down into five key areas (Crime, Incidents, Traffic, Fear of Crime, and Special Events).

A portion of total funding is also distributed according to population sparsity, to address the specific pressure created by the need to police rural areas.

The second stage is to divide funding for each of these workloads between the 43 local policing bodies of England and Wales. In order to do this, "workload indicators" are calculated to estimate how much work each police force is expected to have in each of the key area compared to other forces. These estimates are calculated by socio-economic and demographic indicators that are correlated with each workload. Indicators of workload are used rather than data recorded crime levels to account for known variations in recording practices, and the funding model has been designed to avoid creating any incentives for forces to manipulate figures.

The formula consists of a basic amount per resident and a basic amount for special events, and top ups for the five key areas, sparsity and area costs (which takes account for regional differences in costs).

The top-ups etc. are weighted and use specific categories of population, rather than a straight forward population figure, to determine grant allocations, for examples specific categories includes the population of various benefits, long-term unemployed, over crowded households, hard pressed households, residents in terraced accommodation etc.

Whilst the funding formula is influenced through allocation of a basic amount per resident, this does not necessarily lead to an increase in Central Government Grant to Sussex Police. Putting aside the time delays between recognising population growth and this being fed in to the funding formula, the overall pot available to all forces the CGG is limited and in fact has declined over the last few years as part of the Government's fiscal policy. Therefore, changes in general population or the specific population do not increase the overall funding made available through CGG, rather they would affect the relative distribution of grant between forces.

For the 2018/19 year there was no change to the CGG despite the occurrence of development growth in the county area compared to previous years. However it can be stated with certainty that even if there was an increase in central funding as a result of development growth, this funding would be fully utilised in contributing to additional salary, revenue and maintenance costs (i.e. not capital items and not what is claimed here). This funding, therefore, would not be available to fund the infrastructure costs that are essential to support the proposed development growth.

During the last year, the Home Office and police partners engaged on potential changes to the police funding formula. However, in the context of changing demand, the Minister for Policing and the Fire Service Nick Hurd has said that providing funding certainty over the next two years to enable the police to plan in an efficient way is his priority. Therefore, proposed changes to the funding formula will be revisited at the next Spending Review. Due to the uncertainty and range of possible outcomes, we have made no assumptions regarding a change to the funding formula in our current financial forecasts. This adds to the level of uncertainty over future government funding.

Local funding

Sussex Police (precepting body) places a demand or precept on the district and borough councils in its area (billing authorities) for a sum of money to be raised through the council tax. The amount to be raised is divided by the Council Tax Base (CTB) or number of households to arrive at an average Band D council tax, from which all other bands of council tax are determined. The growth in the council tax or the amount each household pays is decided by the Police and Crime Commissioner (PCC), having regard to the DCLG rules concerning the need to hold a local referendum where the proposed spending increase in the precept is above a prescribed threshold, currently £12 per Band D property to maintain real terms funding. The cap on precept uplift was raised to £12 for all forces for the 2018/19 year. Following public consultation the Police and Crime Commissioner proposed an increase in the 2018/19 precept of £12.

During 2017/18 Sussex Police received the 5th lowest precept of any PCC in England and Wales. Sussex Police also had the 7th lowest net revenue cost per head of population in 2017/18 and the 7th lowest total funding per head of population according to the 2017/18 HMICFRS Value for Money Profiles.

There remains potential for the council tax yield to increase simply through a growth in the CTB. However, it should be noted that the CTB is reduced for discounts and exemptions provided under the Local Council Tax Benefit Scheme (LCTBS) and may also be affected by collection rates. Therefore, a growth in households might not lead to a growth in council tax yield where those households benefit under the LCTBS.

The additional funding generated by council tax in 2018/2019 will reduce the severity of the Forces previous savings target. The savings target represents a funding gap between our existing budget requirements and current funding sources. However the latest Medium Term Financial Strategy indicates the PCC will still require a further £17m to be drawn from our reserves to support revenue costs associated with our Local Policing Program over the period to April 2020.

Most importantly, the higher council tax precept will allow our PCC to retain and invest in our workforce and continue supporting our Local Policing Program (LPP). Key considerations driving the precept increase decision included:

- Public demand on police services is increasing exponentially;
- Criminal investigations are becoming increasingly complicated, with huge amounts of digital material to identify, secure and analyse, against an exacting threshold for prosecution;

- The public want to see investment in more visible, local policing, focusing on crimes like burglary and anti-social behaviour and they rightly want to feel safe on the roads, in public spaces and at night-time;
- The public also want to see improvements in the force's approach to public contact and more support to the 101 service;
- HMICFRS (Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services) has recently acknowledged the public's concerns about changes to neighbourhood policing, and stressed the importance of community intelligence;
- And, the PCC's consultations and correspondence with the public show that a majority of Sussex residents are prepared to support their police service through increased precept contributions.

Savings

Since 2010/11 we have seen reductions to the grant funding provided by the Government to Policing Bodies in England and Wales. Over the last eight years Sussex Police have worked hard to deliver savings and have made £88m of reductions and efficiencies to head towards balancing its books (source: Her Majesty's Inspectorate of Constabulary's (HMIC) Police Effectiveness, Efficiency and Legitimacy (PEEL) assessment and 2017/18 revenue budget).

Despite increases in the Council tax yield the 'Sussex Police Medium Term Financial Strategy' (MTFS) identifies a net savings requirement in the region of £3m over the next four years. This is the "budget gap" i.e. the difference between funding and the cost of policing which will need to be met by savings. Savings of £3m in addition to using £17m of reserves will be required to meet the total in-year gaps over the life of the MTFS and it is anticipated the budget will be balanced at the end of the 2021/22 year.

Capital Funding

Central Government funding for investment in capital infrastructure takes the form of a Home Office Grant. This grant makes up a small part of the overall funding for the Capital Programme and was reduced from £1.766m to 0.906m for the 2017/18 financial year and will remain at this level for the forthcoming 2018/19 year. Our capital and investment program is funded firstly by our capital grant and capital receipts (building sales) and is then supported by reserves or revenue contributions. The latest MTFS capital and investment programme funding sources are shown on the table below:

2017/18 £m	Funding	2018/19 £m	2019/20 £m	2020/21 £m	2021/22 £m	Total £m
0.906	Home Office Capital Grant	0.906	0.906	0.906	0.906	3.624
2.025	Revenue Contribution	2.059	3.213	3.699	3.507	12.478
4.264	Capital Receipts	7.250	3.350	2.050	5.500	18.150
20.126	Reserves	1.675	1.966	0	0	3.641
27.321	Total Capital and Investment Programme	11.89	9.435	6.655	9.913	37.893

(MTFS – 16.3 – Capital financing)

Home office capital grant is cash limited and has been reduced in recent years due to austerity measures and the requirement to fund national projects such as the new National Police Air Support (NPAS) service and Police Live Services for digital data and technology capabilities. The grant is not affected by movement in the local population of CTB, therefore, any local capital investment creates an additional financial burden on Sussex Police which will be funded through reserves or borrowing. With diminishing reserves and the implications of borrowing both situations both alternative funding mechanisms are inadvisable.

Conclusions on funding

Like many other public sector organisations, Sussex Police have seen a real terms reduction in grant funding in recent years, which has necessitated changes to the policing model. At the same time the demands placed on the police service increase, whilst the service has to deal with the changing nature of crime at both the national and local level, for example, cybercrime, child sexual exploitation and terrorism are areas of particular concern. Additional funding granted towards policing will support and sustain local policing services to Sussex residents.

In conclusion it remains necessary to secure Section 106 contributions or direct CIL funding for policing infrastructure, due to the direct link between the demand for policing services and the changes in the operational environment beyond Sussex Polices control i.e. housing growth and the subsequent and permanent impact it has upon policing.

Securing modest contributions means that the same level of service can be provided to residents of new development as it is to existing residents and without compromising frontline services. The consequence of no funding is that existing infrastructure will eventually become stretch to breaking point, and none of the communities we serve will received adequate policing.

Whilst national and local funding must continue to cover salary and maintenance costs, there would be insufficient funding to provide the infrastructure required for officers to carry out their jobs effectively, Sussex Police consider that these infrastructure costs arising directly as a result of the development proposed and that funding for the police under S106 or CIL is both necessary and justified.

2. Assessment and Request

Our office have undertaken an assessment of the implications of growth and the delivery of housing upon the policing of Arun and in particular the areas of these districts where new development is being directed towards. We have established that in order to maintain the current level of policing, developer contributions towards the provision of capital infrastructure will be required. This information is disclosed to secure essential developer contributions and is a fundamental requirement to the sound planning of the district. In the absence of developer contributions towards the provision of essential policing infrastructure the additional strain placed on our resources would have a negative impact on policing of both the development and forcewide policing implications within the district.

This submission will provide the most recent annual statistics for crime/incidents in Arun which will be compared to the number of existing households. This provides an incident per existing household (or person) within Arun which can then be used as the background to the various items of infrastructure outlined in this funding request.

Nationally, the Police Force ensure that we take regular legal advice and guidance from industry professionals on the applicability of NPPF tests relating to the application of Regulation 122 on our funding requests for S106 agreements and Infrastructure Development Plans. This included advice as to what is infrastructure which can be summarised as follows:

- The first point to note is that "*infrastructure*" is not a narrowly defined term. Section 216 of the Planning Act 2008 provides a list of "*infrastructure*" but is clear that that list is non-exhaustive. That fact is demonstrated by the use of the word "*includes*" prior to the list being set out.
- There is no difficulty in the proposition that contributions towards Police infrastructure can be within the definition of infrastructure for the purposes of the 2008 Act. In policy terms this is reinforced by the reference to security infrastructure in paragraph 156 of the National Planning Policy Framework.
- Infrastructure is not limited to buildings and could include equipment such as vehicles, communications technology, and surveillance infrastructure such as CCTV.

The submission set out below is based on the same methodology previously found sound by Planning Inspectors, the Secretary of State and the High Court and has been found sound. The costs included in this submission are sites specific costs which are envisaged to be secured via a

Section 106 agreement. The significant costs relating to revenue will be met by local and national taxation.

3. Current Policing requirements in the district of Arun

Sussex Police's existing estate

At present, Neighbourhood policing in Pagham is delivered from the Bognor Police station. As outlined in the Police Crime Commissioners Estate Strategy 2013-2018 Bognor Police Station is shown to be retained. This station currently supports a number of Forcewide and divisional support staff and officers who are required to deliver policing to the site and surrounding area of Pagham.

Our office have undertaken a full capacity analysis of our sites across Sussex and identified police stations where we have issues with existing capacity and would therefore be unable to support additional officers and staff required due to population growth. This study shows that Bognor Regis police station has very limited capacity and could not support additional staff or officers to mitigate against this development. This base supports front line policing and other neighbourhood policing roles which will be required to support this development. Neighbourhood policing in Arun is also delivered from Littlehampton police station. This station also has limited capacity and the limited space available has been allocated to provide partial mitigation towards the significant housing growth in the eastern area of the District.

Sussex Police's current policing requirements and projections

For the last year Sussex Police were able to attend 41,015 incidents in the District of Arun which accounted for 8.1% of the total number of incidents in the County (2016/17 incident records). There has also been a notable rise in recorded crimes from 9,209 crimes (2015/16) to 10,028 (2016/17) crimes.

Sussex Police received approximately 42,195 calls to the non-emergency switchboard from Arun, of which 52,660 were managed by the non-emergency contact centre. Sussex Police also received approximately 18,429 calls directly to the emergency assistance number (999) in the 2016/17 year. There has been a significant rise in the number of calls directly to the (999) emergency number with approximately 22,000 additional calls received countywide by Sussex Police between 2015/16 and 2016/17.

To determine the current policing requirements per household or individual person an approximate estimation of the number of households and population in the district is required. The 2011 census listed 66,700 households in the District of Arun and taking into account net completions since this has increased by 3,478 homes to the end of the 2016/17 financial year (Arun AMR 2013/14 & Arun 5YHLS - 31/03/17).

The 2011 census listed 66,700 households and 149,518 persons in the Arun District and taking into account net completions since this has increased by approximately 3,047 (AMR 2015/16). There have been an average of 609 net completions over the last 5 years recorded, which is the closest figure to estimating the number of completions in the 2016/17 financial year. This brings the total number of existing homes in the District to approximately 70,356 with an average household consisting of 2.24 persons (149,518/66,700).

Sussex Police have a duty to respond to all incidents and many of these incidents are not recorded as crimes. We deliver crime prevention and presence, attendance and service lead at emergencies eg RTA's or flooding, counter terrorism and community reassurance. We must also attend all incidents involving deaths, attend crowd and events policing, attend and input to community safety and crime partnerships, and provide referral responses when there are expressed concerns about the safety of children, the elderly and those with special needs.

Taking into account the number of recorded incidents and the recorded number of existing households this results in 0.583 incidents per household or 0.260 incidents per person that require a police response in Arun each year.

4. Breakdown of predicted incidents as a result of population increase in Arun

The proposed development of 400 homes would have a population of 896 persons (at 2.24 persons per household). Applying the current ratio of "incidents" to population then the development would generate an additional 233 incidents per year for Sussex Police to attend (0.583×400). These incidents are likely to result in 57 additional recorded crimes per year attributed to this neighbourhood.

5. Current breakdown of policing delivered in Arun

A full strategic review of staffing has been undertaken for the purposes of this representation and is considered accurate to date.

Current statistics show that Sussex Police employ 2622 officers in active duty delivering policing to the residents of Sussex. These roles can be categorized into dedicated policing teams delivering neighbourhood policing; divisional policing delivering specialist services such as response roles and investigations; and Forcewide policing teams delivering specialist policing services across the county such as Firearms, Major crime and counter terrorism. All of these functions are essential to the success of Sussex Police and will all be utilised in some capacity to deliver policing to this new neighbourhood in Pagham. Sussex Police also employ 2237 support staff in either dedicated, divisional or Forcewide roles.

In total the Local Authority of Arun is served by; (all figures = FTE)

Police officers

- 142 dedicated uniformed Officers
Neighbourhood Policing Team officers (NPT), Local Support Team, Response Policing Teams, Police Community Support Officers.
- 15 divisional officers

The West Sussex division has 105 officers not including the dedicated officers listed as dedicated uniformed officers. These roles include Investigation teams, Special Investigations Unit (SUI), CIT (Crisis Intervention Team, Operational support teams. Recorded incidents in Arun account for 17.6% of the recorded incidents in West Sussex over the last year therefore it is reasonable to allocate 15 divisional officers to the Arun District.

- 64 Forcewide officers

A large number of our officers deliver force wide policing in a variety of roles including Operations, Firearms, Major crime, Public protection, Specialist crime, Custody, Communications, Professional standards and Training roles. There are 821 officers Forcewide officers which deliver policing to the whole of Sussex and are vital to the operation of all types of policing including the functioning of neighbourhood policing. Taking into account into account that 8.1% of all incidents managed by Sussex Police occur in Arun 64 (64.5) officers are required for the policing of this District.

Police staff

Sussex Police currently employs 2237 support staff delivering policing to the residents of Sussex. These roles can be categorized into dedicated support staff such as police enquiry officers and facilities assistants; Divisional staff teams (ie: East Sussex, West Sussex, and Brighton & Hove) delivering services such as crime prevention, operations, investigations, strategic support, corners office and other essential roles. Forcewide support staff roles such as public protection, joint transport services, crime justice & custody, communications departments and specialist crime command. Some specialist department roles have not been included, however all the above forcewide departments consist of 10 employees or larger. This precludes specialist support staff roles such as the office of the Police and Crime Commissioner which are not directly linked to population growth.

- 11 dedicated support staff

Police Enquiry officers, Facilities officers, Facilities Assistants

- 14 divisional support Staff

As with police officers roles divisional support staff is essential to support front line policing and drawn upon when required. Divisional support staff roles include Investigations teams, Crime Prevention, Licensing, Prosecution case workers, Coroners Office and other essential roles. There are 99 divisional support staff within these departments. Again utilising the ratio of incidents in West Sussex (21%), 14 support staff are required to support the existing population of Arun.

- 89 forcewide support staff

The majority of our support staff functions are delivered in a forcewide capacity. Only departments with over 10 or more support staff members have been included within this field which removes specialist roles within Sussex Police which capacity is not directly related to population increase. There are 1202 support staff within these various major support staff departments including Specialist crime command, Public protection, Operations, Human Resources, Communications departments and Joint Transport Service. Taking into account into account that 8.1% of all incidents managed by Sussex Police occur in Arun, 89 support staff are currently required to support policing in Arun.

Dedicated officers	142
Divisional officers	15
Forcewide officers	64
Total number of officers	221
Dedicated support Staff	11
Divisional support staff	14
Forcewide support Staff	89
Total number of staff	114

Currently 41,015 incidents are attended by 221 officers per year in Arun which is a ratio of 185.6 incidents per officer, per year. To retain this current ratio of 185.8 incidents per officer per year, an additional 233 incidents per year would require 1.25 additional officers (125% of an officers workload).

In addition to the significant impacts this development would place on our policing teams this development would also require significant investment in our support staff capacity. As we have shown, approximately 114 police staff are required to support policing to the 70,356 households in Arun. This is a ratio of 617 households per staff member. Therefore an additional 400 households would require 0.65 additional support staff to retain this existing ratio.

Additional officers/staff required as a result of 400 additional houses

Total Additional Officers Required	1.25	233 (expected No. incidents arising from development) / 185.8 (No. incidents attended per year by an officer)
Total Additional Support Staff (Local/Central)	0.65	(400 / 617) (no. of new households / Existing no of support staff per household)

6. COSTS

In order to mitigate against the impact of growth our office have calculated that the capital "cost" of policing new growth as a result of this major planning application equates to **£59,030.97**. These funds would be used for the future purchase of infrastructure to serve the proposed development. This cost will now be broken down clearly to show the capital infrastructure required to support these new officers.

The contribution represents a pooled contribution towards the provision of new infrastructure to serve the site and surrounding area. The pooling of contributions towards infrastructure remains appropriate under the CIL Regulations, provided this does not exceed five separate contributions and subject to other regulatory tests.

The contribution requested will fund, in part, the following items of essential infrastructure and is broken down as follows;

OFFICER SET UP

The basic set up costs of equipping staff are listed below. Following the start of the 2017/18 tax year we have reviewed and updated the start-up costs per officer which are now as follows:

OFFICER			
Start-up equipment (radio, workstation, body worn camera, IT equipment)	£4,307.33	1.25	£5,384.16
Start-up recruitment and training cost	£5,460	1.25	£6,825
TOTAL COST	£9767.33	1.25	£12,209.16

SUPPORT STAFF			
Start-up equipment (workstation, IT equipment)	£2,086	0.65	£1,355.90

Start-up recruitment cost	£1,060	0.65	£689
TOTAL COST	£3,146	0.65	£2,044.90

Sussex Police would utilise the contribution in the following manner;

- **£9,767.33** towards the full costs of two additional officers. These costs will partially cover the initial start up cost of one additional dedicated officer to work in the Pagham and Rose Green Neighbourhood Policing Team to deliver policing to the site and surrounding area.
- **£2,441.83** as a maximum of 1 of 5 pooled payments towards the cost of 1 additional officer in the Pagham and Rose Green NPT to deliver policing to the site and surrounding area.
- **£2,044.90** as a maximum of 1 of 5 pooled payments towards the cost of one additional support staff member to be based at Bognor Regis police station.

The costs of training officers have been included in this request and have been found sound (and compliant with Regulation 122) in numerous appeal decisions included as **Appendix 2**. In the respect of training in particular, the Sketcheley house decision (page 19 of Appendix 2) makes specific reference to "protective clothing, uniforms and bespoke training" and were endorsed by the Inspector in his report at paragraph 11.57 and by the Secretary of State at paragraph DL22.

We could not have officers attending this development with less than adequate equipment with unnecessary risk to themselves and occupiers served.

PREMISES

Bognor Regis is a large police building which accommodates the NPT team which would service this development. Like many of our larger stations this operates at maximum capacity and any additional members of staff/officers would need to be supported by adaption/alteration/extension of the existing building. As outlined in the current Sussex Police estates strategy Bognor Regis Police station will be retained to accommodate the majority of growth in the District. Sussex Police have investigated the possibility of extending or adapting the existing premises to provide much needed floor space for new officers to manage growth in Arun. A financial contribution equivalent to the scale of the development is therefore sought from this development.

Sussex Police are required to maintain a high capacity of accommodation for staff and officers, with any additional capacity delivered via new works to provide floor space. Taking an average of the floor space provision over our sites in Sussex which deliver neighbourhood policing we have determined that each new officer/member of staff should be allocated approximately 7.93sqm of office floor space. We are also required to provide a minimum of 1sqm for officers/staff for storage (locker room etc). This bring the total space requirement to 8.93sqm.

Sussex Police have previously used Saxon House in Newhaven as an example to estimate costings for a new build or extension/adaption of existing building. This facility is a new facility shared with East Sussex Fire and Rescue and Lewes District Council which replaced the old police station. For new buildings such as Saxon House [the cost was estimated to be between £2500-3000/sqm].

For all future S106 requests Sussex Police will use the up to date BCIS costings index. The 17/03/18 issue of the RICS BICS costs (**Appendix 5**) which lists the median cost for adaption/conversion of police station at £1,561 (Median) which would be considered the minimum cost appropriate for the required works to Bognor police station.

The cost of accommodating a minimum of 1.9 additional officers/staff (which are required to police this development) would be $8.93 \times £1,561 \times 1.9 = \mathbf{£26,485.49}$

VEHICLES

A vital part of providing effective policing to the residents of Arun is maintaining the large fleet of vehicles. These vehicles range from General Response Vehicle (GRVs or patrol cars), unmarked general support vehicles, Public Service Unit vans and minibuses, scientific (e.g Scene of Crime Officers) vehicles, pursuit vehicles – 4 x 4 and high speed, motorcycles. Current fleet deployment in Arun administrative area (serving 70,356 households) currently consists of 28 active divisional vehicles and 43 forcewide vehicles. Maintaining our forcewide fleet is essential to the success of Sussex Police and important to enable the force to efficiently combat cross border crime. There is currently no capacity to meet the additional policing needs this development will present, therefore investment towards increasing fleet capacity is sought from this development.

In total there are 28 divisional vehicles and 43 forcewide vehicles delivering policing to the District of Arun.

	Department	Number of vehicles
Divisional	Crime management, Local command, Local investigations, Neighbourhood Policing Teams, Neighbourhood Response Teams, Response investigations	28
Forcewide	Crime support command, Dogs section, Firearms, Intel, Licensing, Major investigations, Public protection, Traffic, Training.	43

The average capital cost of a new vehicle is £17,000 (not including fuel and maintenance). Our guideline for the majority of marked vehicles is to replace every four years or £125,000 miles. The condition of vehicles at the end of their police life varies however Sussex Police forecast that they will redeem, on average 5% of a vehicles value on disposal.

The development will require fleet investment far exceeding 4 years therefore Sussex Police would require at least an 8 year life of provision. This contribution is justified because there is insufficient funding within the police's revenue income to take on the capital cost after just four years, without diverting money from elsewhere. Sussex Police estimate that the 4 year lifetime cost per vehicle is approximately £42,240 including running costs and capital charges.

71 vehicles at net value of £1,207,000

Existing number of households in Arun (70,356) = £17.15 per Household (1,207,000 / 70,356) x 400 Households x 2 = **£13,720** to give 8-year life of provision.

The same methodology has been used to calculate our fleet requirement as the Warwickshire police representation which has been supported in the most recent appeal decision concerning contributions towards policing (**Appendix 6** - APP/R1845/W/17/3173741) issued on the 18th March 2018. Sussex Police consider this would be the most appropriate methodology to use in this and all future section 106 requests.

It is vital to ensure fleet deployment is maintained in line with the existing population of Arun and therefore a financial contribution towards fleet capacity is essential to make this development acceptable in planning terms.

Vehicles are fundamental capital policing infrastructure to deliver community safety and address crime especially at neighbourhood level. Fleet deployment is related to the known policing demands of comparable developments in the locality.

The direct demand from the new development can be accurately forecast and delivering policing direct to this development will not be possible without additional vehicles to do so. Levels of demand and mitigations have been determined by the scale of the development and demonstrate only a proportion of a vehicle's time will be spent policing this development.

ANPR CAMERAS

Sussex Police are currently promoting a roll out of Automatic Number Plate Recognition (ANPR) Cameras across Sussex. There is a limited budget for this at present but a requirement to roll out more cameras to ensure criminals can be identified quickly and efficiently. The number and location of cameras is driven by the scale and location of the proposed development and the road network in the area. An assessment of this application has been undertaken and it has been assessed that there is a requirement for an additional fixed ANPR camera to mitigate the impact of this major development.

Cross border crime is a growing issue in Sussex with criminals travelling from London and the surrounding Home Counties into Surrey to commit offences. Additional ANPR coverage will be required to ensure criminals are quickly identified entering and exiting this new neighbourhood. At present there is limited ANPR capacity covering the site and surrounding area. Due to the increased volume of traffic that will be travelling along the Pagham Road running north to south adjacent to the site, an additional camera south of the site entrance would assist our safer neighbourhood team officers in identifying vehicles suspected of criminal offences upon leaving this new neighbourhood.

There are many benefits of ANPR cameras which can be used overtly or covertly and are regulated by the Regulation of Investigatory Powers Act 2000 (RIPA). Using cameras at either fixed locations or portable locations, images are captured and recorded along with the vehicle registration mark (VRM) or number plate, time and location of the vehicle, which can then be instantly checked against database recorded of vehicle of interest. The instant search of database records of vehicles of interest can confirm whether a vehicle associates with a known criminal has been in the area at the time of a crime. Importantly, ANPR can be used in real time. This means that police officers can intercept and stop the vehicle, check it for evidence and make arrests if necessary. The use of ANPR in this way has proved important in the detection and prosecution of many cases of major crime.

Three principal benefits of using ANPR are: 1) Increase the information and intelligence available to identify criminals; 2) Enable the police to deploy resources to respond to criminals of interest in real time; 3) Improve investigations after crimes have been committed.

In addition to the benefits of ANPR coverage for the residents of this development the camera would also serve to identify any crimes occurring on the development site during the build process such as the theft of machinery or building materials. ANPR also serves as an effective preventative security measure for the development. The cost of an ANPR camera is shown below:

Fixed Site ANPR camera (£8,000), intelligent dual lane reading Vector camera with infrastructure in place for single carriageway road. - Vector camera x 1 £5,000. Installation, setup cost - £2,000. Maintenance over 5 years would be £1,000.

This camera could be funded jointly between the two major housing allocations located off the Pagham road.

Cost of camera = £8,000; Site 1 (Y/91/17/OUT – 400 homes); Site 2 (P/6/17/OUT – 300 homes).

Cost per allocation:

Allocation 1: **£4,571.42**

Allocation 2: £3,428.57

The amount sought from this planning application is therefore £4,571.42 which would be pooled towards an additional fixed ANPR (with infrastructure in place on the Pagham Road – location tbc).

7. Compliance with National Policy and CIL Regulations

Firstly, the pooling of S106 contributions is acceptable under CIL regulation 123 subject to each infrastructure item not exceeding 5 separate developer contributions. Within Arun the majority of policing is carried out by the NRT/NPT teams, therefore our office would recommend funds received from Section 106 agreements should be spent directly on supporting these teams. Therefore, when contributions from new housing development are pooled it is sensible to do this based on NRT areas which in the case of this development is the Pagham and Rose Green NPT. At present there are no S106 planning contributions secured to support the Pagham and Rose Green NPT, therefore complying with the pooling restrictions under CIL regulation 123. There is only one other S106 contribution secured towards the expansion of Bognor Regis police station.

The assessment for these infrastructure contributions is outlined in CIL Regulation 122, which requires each item to meet the following three tests. From the numerous appeal / Secretary of State decisions and High Court judgements there is significant evidence that all the items listed in this request comply with CIL Regulation 122.

The costs of training officers have been included in this request and have been found sound (and compliant with Regulation 122) in numerous appeal decisions included as **Appendix 2**. In the respect of training in particular, the Sketcheley house decision (page 19 of Appendix 2) makes specific reference to "protective clothing, uniforms and bespoke training" and were endorsed by the Inspector in his report at paragraph 11.57 and by the Secretary of State at paragraph DL22.

It is therefore plain that the Secretary of State and numerous Planning Inspectors consider that National Planning Policy and legislation is capable of encompassing these types of infrastructures.

1. Necessary to make the proposed development acceptable in planning terms

The creation of safe and accessible environments where crime and disorder, and the fear of crime do not undermine the quality of life or community cohesion is fundamental to planning for sustainable development as confirmed in the National Planning Policy Framework.

Arun's publication version of the emerging Local Plan (2011-31) states that "In general, Arun is a relatively safe place with low incidence of crime, although fear of crime remains a significant issue which is highlighted in the Sustainable Community Strategy. Crime rates are relatively high in parts of Bognor Regis and Littlehampton, with part of River Ward, Littlehampton ranked within the worst 10% areas in England, and a number of other areas within Littlehampton and Bognor Regis falling within the worst 20%".

Policy DM1 (Aspects of form and design quality) lists 'Crime prevention' as the 6th consideration for new development proposals. When considering any application for development the Council will have regard to the following aspects:

6. Crime prevention

Provide security measures that make places feel safer. This shall be achieved through natural surveillance and human presence by locating building and play areas along public routes and spaces, and making a clear division between private and public land to foster a mutual protection for the territorial belonging. With respect to crime prevention, regard shall be had in particular to the document 'New Homes 2010 – Secured by Design' and the 'Safer Places – The Planning System and Crime Prevention'.

The importance of policing contributions are recognised in recent court judgements and are an essential core principle of the NPPF.

The Secretary of State has recognised that it is not a rigid requirement to have express reference to policing within local planning policy because the overarching principle of ensuring safe communities is recognised in the NPPF. The Planning Inspector in the case of North-west Leicester District Council vs Money Hill Consortium (**Appendix 4**) stated:

62. The obligations of the Undertaking, other than that to support Police operations, are all related to requirement of development plan policies and are all necessary to make the development

acceptable in planning terms. They are all furthermore, directly related to the development, are fairly and reasonably related in scale and kind to the development, and are in place to mitigate the effects of the development. The Legal Agreement, setting aside the Police contributions, therefore complies with Regulation 122 of the CIL Regulations 2010. Furthermore, taking into account the submissions of NWLDP, LCC and LP, the Agreement complies with Regulation 123 of the CIL Regulations 2010.

63. The contributions of £219,029 towards Police infrastructure is not related to requirement of development plan policies. The figure has been arrived at following a close and careful analysis of the current levels of policing demand and deployment in Ashby. The proposed development, in terms of population increase, would have a quantifiable and demonstrable effect on the ability of the Police to carry out their statutory duties in the town. LP has not sought any contribution to some aspects of policing, such as firearms and forensics, but only for those where there is no additional capacity. The contribution is necessary because the new housing that would be created would place a demonstrable additional demand on Police resources in Ashby. The financial contributions to Police operations thus satisfies Regulation 122 of the Community Infrastructure Levy Regulations 2010 and a provision of the Undertaking would ensure that the contribution also satisfies Regulation 123 of the Community Infrastructure Levy Regulations 2010.

The importance of policing contributions is importantly recognised in recent court judgments and considered an essential core principle of the NPPF. The judgment of Mr Justice Green 01/11/2016 (**Appendix 1**) with regard to the High Court challenge of Jelso Limited vs Secretary of State for Community and Local Government (1) Hinkley and Bosworth District Council stated:

"The gist of the Inspectors reasons are adequately set out in paragraphs [44]-[47] (see above). She records that LP has adequately demonstrated that the sums would be spent on equipment and services which arose "... *Directly from the new households occupying the proposed development*". Accordingly she concluded, in terms of causality, that there was a proper nexus between the expenditure and the new development. She also records that the proposed spending was properly attributed between individual projects and procurement such as property adaption and contributions towards a vehicle in order to prevent a need for pooling contributions".

"Mr Lambert cited empirical data based upon existing crime patterns and policing demand and deployment from nearby residential areas which established the direct and additional impacts of the development upon local policing. That data established that there would be an incremental demand in relation to such matters as calls and responses per year via the police control centre; an increase in annual emergency events within the proposed development; additional local non-emergency events which trigger follow-up with the public; additional recorded crimes in the locality based upon beat crime and household data and a proportionate increase in anti-social behaviour incidents an increase in demand of patrol cover; and, an increase in the use of vehicles equating to 12% of an additional vehicle over a six year period."

Moreover, the wider principles of sustainable development within the NPPF also require consideration of all necessary infrastructure requirements, as observed by Foskett J in R. (Police and Crime Commissioner for Leicestershire) v Blaby DC and others. This judgment stated:

11. *It is obvious that a development of the nature described would place additional burdens on local health, education and other services including the police force. The focus in this case is upon the effect upon the local police force. If it sought to shoulder those additional and increased burdens without necessary equipment (including vehicles and radio transmitters/receivers for emergency communications) and premises, it would plainly not be in the public interest and would not be consistent with a policy that encourages "sustainable development": see for example, paragraphs 17 of 79 of the National Planning Policy Framework (NPPF). It is that that leads to the Claimants interest in the matters*".

As shown in section 1, there is no dedicated Government funding to comprehensively cover the capital costs associated with policing new housing development. Unless contributions from new developments are secured then Sussex Police would be unable to maintain the current levels of policing with resources diverted and stretched, inevitably leading to increased incidents of crime and disorder within the local area. Sussex Police strive to reduce the level of crime in the County however due to the significant numbers of new housing being brought forward the need for more front line staff and associated infrastructure has never been more relevant as a fundamental planning policy consideration.

Appeal decision APP/C3240/W/16/314445 (**Appendix 2**) issued on the 21st March 2017 provides further support for developer contributions towards the capital costs of additional policing infrastructure arising from new development. The Planning Inspector stated:

165: There is no doubt that the proposed development would generate a need for policing and that need would require additional resources which have been calculated on a pro-rata dwelling basis. The Framework identifies a need for safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. In addition, an extensive array of appeal decision supports the principle of police contributions. Overall, the balance of the evidence before me points to the obligation (based on the underlying pro-rata calculation) being necessary and proportionate mitigation for the development.

We would also bring to attention dicta from the High Court judgment by Mr Justice Foskett in *Police and Crime Commissioner for Leicestershire vs Blaby Council*. Paragraph 61 and 62 of the judgment state:

61. I do not, with respect, agree that the challenge mounted by the Claimant in this case can be characterised as a quibble of a minor factor. Those who, in due course, purchase properties on this development, who bring up children there and who wish to go about their daily life in a safe environment, will want to know that the police service can operate efficiently and effectively in the area. That would want to know that the police service can operate efficiently and effectively in the area. That would plainly be "consumer view" of the issue. The providers of the service (namely, the Claimant) have statutory responsibilities to carry out and, as the witness statement of the Chief Constable makes clear, that itself can be a difficult objective to achieve in these financially difficult times. Although the sums at stake for the police contributions will be small in comparison to the huge sums that will be required to complete the development, the sums are large from the point of view of the police.

62. I am inclined to the view that if a survey of local opinion was taken, concerns would be expressed if it were thought that the developers were not going to provide police with sufficient contribution to its funding requirements to meet the demands of policing the new area: lawlessness in one area can have effects in another nearby area. Miss Wigley, in my judgment, makes some entirely fair points about the actual terms of the section 106 Agreement so far as they affect the Claimant.

Appeal decision APP/K2420/W/15/3004910 provides further evidence for developer contributions towards necessary policing infrastructure required to enable effective policing of new housing development. The Planning Inspector supported the methodology used for this calculation and compliance with the specific capital infrastructure items detailed in our request.

44. Leicestershire Police (LP) have demonstrated adequately that the sums request would be spent on a variety of essential equipment and services, the need for which would arise directly from the new households occupying the proposed development. It would be necessary, there, in order to provide on-site and off-site infrastructure and facilities to serve the development commensurate with its scale and nature consistent with LP Policy IMP1. The planning contribution would also enable the proposed development to comply with the Framework's core planning principle of supporting local strategies to improve health, social and cultural wellbeing and delivering sufficient community facilities to meet local needs".

In respect of the methodology used for this request the same Planning Inspector stated "47 – I consider this to be a no less realistic and robust method of demonstrating the criminal incidents likely to arise in a specific area than the analysis of population data which is normally used to calculate the future demand for school places. The evidence gives credence to the additional calls and demands on the police service predicted by LP".

The recent appeal decision issued by the Secretary of State concerning the major development at Dunsfold Park provides further justification for contributions towards policing infrastructure. The appeal decision stated:

263. The development would place undue pressure on existing infrastructure. This includes schools, health facilities and sewerage. The Fire Service has been known to 'run out' of appliances and there are plans to close existing stations. In addition the service has lost

many firefighter posts since 2010. Waverley is one of the worst areas for ambulance services and beds in hospitals are scarce. This proposal would also add to the burden upon the police.

312. A number of contributions are included in the Obligation. These are for such matters as the Cranleigh Leisure Centre replacement, provision for Surrey Police premises on site, and police equipment, as well as contributions to the improvements in public rights of way nearby, education facilities, and transport improvements. Given the increase in local population which would result from the development all of these facilities and services would be put under increased pressure and would need to provide extra and improved services. The development is directly related to them, and the contributions are reasonable in scale and kind and where necessary would provide mitigation for the impacts of the development. There are no contributions which would fall foul of pooling restrictions and they therefore meet the tests of the CIL regulations.

317. Taken overall I am satisfied that the S106 Agreement meets the tests of the CIL regulations and PPG and can be taken into account in determining this application.

A financial contribution towards essential policing infrastructure is clearly essential to make new housing development acceptable in planning terms. The policing infrastructure items outlined in this request are essential to help support new officers required due to population growth and most importantly keep existing and future residents of Arun safe.

2. Directly related to the proposed development

There is a functional link between new development and the contributions requested. Put simply without new development taking place and the subsequent population growth there would be no requirement for the additional infrastructure. The additional population growth will lead to an increase in incidents, which will require a Police response. The infrastructure outlined in this request has been specifically identified by the NPT/NRT teams policing the areas of Arun as necessary to deal with the likely form, scale and intensity of incidents this new housing development will generate.

3. Fairly and reasonably related in scale and kind to the proposed development.

Securing proportionate developer contributions towards necessary capital expenditure is essential to help meet a proportionate increase in police infrastructure costs and to enable Sussex Police to maintain its current level of service in the District. This infrastructure has been identified by Sussex Police as necessary to provide an appropriate level of policing to serve the proposed development and maintain the existing high level of community safety.

A clear numerical, evidence based approach has been demonstrated which is supported by case law and recent appeal decisions by the Planning Inspectorate. The various items of capital expenditure and infrastructure requested are considered CIL compliant and are necessary to enable new officers to undertake their role to meet the policing needs of the development and mitigate impacts to existing resources. A reasonable and proportionate approach has been adopted.

We would also highlight two recent appeal decisions in Leicestershire (APP/F2415/A/12/2179844 & APP/X2410/A12/2173673, **Appendix 2**). In assessing the request from Leicestershire police for developer contributions towards infrastructure the Inspector commented at **para 29** of decision 2179844;

The written evidence submitted by Leicestershire Police detailed the impact the proposed development would have on policing, forecasting the number of potential incidents and the anticipated effect this would have on staffing, accommodation, vehicles and equipment. In view of the requirement of national planning policy to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life, it is considered that, on the evidence before me, a contribution towards policing is necessary to make the development acceptable in planning terms.

Furthermore with regard to appeal decision 2173673, the Inspector is unequivocal in highlighting the acceptability of police contributions being recipients of developer's contributions;

Adequate policing is so fundamental to the concept of sustainable communities that I can see no reason, in principle, why it should be excluded from the purview of S106 financial contributions, subject to the relevant tests applicable to other public services. There is no reason, it seems to me why police equipment and other items of capital expenditure necessitated by additional development should not be so funded, alongside, for example, additional classrooms and stock and equipment for libraries.

Para 292

These appeal decisions confirm that the approach of Sussex Police in assessing the impact of development, having regard to an assessment of the potential number of incidents generated by growth is appropriate, and fundamentally it confirms that police infrastructure should be subject to developer contributions as the provision of adequate policing is fundamental to the provision of sustainable development.

Furthermore the requirement to ensure that crime and the fear of crime is addressed through the planning process runs through the NPPF;

Paragraph 17 sets out the core planning principles and states that planning should, inter alia:

"...take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs"

Paragraph 58 states that local and neighbourhood plans policies should aim to ensure that developments, inter alia;

"create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion"

Paragraph 69 sets out the role of the planning system in facilitating social interaction and creating healthy, inclusive communities and states that planning policies and decisions should aim to achieve places which promote;

"safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion"

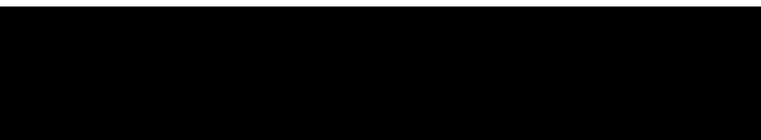
Paragraph 156 states that local planning authorities should set out strategic priorities in the Local Plan to deliver;

"...the provision of health, security, community and cultural infrastructure and other local facilities..."

I trust this sets out sufficiently our office's request for S106 developer contributions towards this major planning application on the land south of Summer Lane & west of Pagham Road, Pagham.

I am more than happy to discuss the content of this submission with yourselves and support with any further evidence if considered necessary.

Yours sincerely



Andrew Taylor
BA (Hons), MSc, MRTPI
Joint Commercial Planning Manager
Sussex and Surrey Police

Part A

'What', 'where' and 'when' of infrastructure requirements relevant to application reference to P/140/16/OUT

TOPIC	INFRASTRUCTURE REQUIREMENT	AREA	COST PER ITEM	QTY	TOTAL COST	TIMING OF DELIVERY (Occupations)
Policing	Officer start-up equipment cost	Pagham and Rose Green NPT	£4,307.33		£5,384.16	TBC
Policing	Officer start-up recruitment and training	Pagham and Rose Green NPT	£5,460		£6,825	TBC
Policing	Staff start-up equipment cost	Bognor Regis	£2,086		£1,355.90	TBC
Policing	Staff start-up recruitment and training	Bognor Regis	£1,060		£689	TBC
Policing	Premises	Bognor Regis			£26,485.49	TBC
Policing	Fleet	Pagham and Rose Green NPT			£13,720	TBC
Policing	ANPR	Pagham Road (with existing infrastructure)	£7,000		£4,571.42	On commencement
Total					£59,030.97	

Enc.

Appendix 1 – Jelson Ltd vs Secretary of State and Local Government (1) Hinkley and Bowsorth District Council (2) – 22/11/2016 (paragraphs 71-81)

Appendix 2 – Examples of appeal decisions supporting police contributions

- APP/R3650/V/17/3171287 – Dunsfold Park, Stovolds Hill, Cranleigh, Surrey, GU6 8TB
- APP/C3810/V/16/3143095 – Land east of Fontwell Avenue, Fontwell, West Sussex, BN18 0SB
- APP/E3715/W/16/3147448 – Land at Ashlawn Road West, Rugby, Warwickshire
- APP/C3240/W/16/314445 – Land east of Kestrel Close / Beechfields Way, Newport, Shropshire
- APP/K2420/W/15/30004910 – Land off Sherbourne Road, Burbage, Leicestershire
- APP/G2435/A/14/2228806 – Money Hill, Land North of Wood Street, Ashby-de-la-Zouch, Leicestershire
- APP/X241-/W/15/3007980 – Land rear of 62 Iveshead Road, Shepshed, LE12 9ER
- APP/T3725/A/14/2221613 – Land at the Asps, bound by Europa Way (A452) to the east and Banbury Road (A425) to the west
- APP/T3725/A/14/2229398 – Land South of Gallows Hill / West of Europa Way, Heathcote, Warwick
- APP/G2435/W/15/3005052 – Land South of Greenhill Road, Coalville, Leicestershire
- APP/Q3115/A/14/2222595 – Land north of Littleworth Road, Benson
- APP/A2470/A/14/2222210 – Greetham Garden Centre, Oakham Road, Greetham, Oakham
- APP/A2470/A/14/2227672 – Land to the rear of North Brrok Close, Greetham, Rutland
- APP/L2440/A/14/2216085 – Land at Cootage Farm, Glen Road, Oadby, Leicestershire
- APP/Y2430/A/14/2224790 - Land to the east of Nottingham Road, Melton Mowbray, Leicestershire
- APP/2460/A/14/2213689 – Land rear of 44-78 Ashby Road, Hinkley, Leicestershire
- APP/K2420/A/13/2208318 – Land surrounding Sketchley House, Watling Street, Burbage, Leicestershire
- APP/F2415/A/14/2217536 – Land off Fairway Meadows, Ullesthorpe, Leicestershire
- APP/K2420/A/13/2202658 & APP/A/13/2210904 – Land off (to the south of Spinney Drive and land off (to the east of) Brookside, Barlestone, Leicestershire
- APP/H1840/A/13/2199085 & APP/H1840/A/13/2199426 – Land off Pulley Lane, Newland Road and Primsland Way, Droitwich Spa
- APP/F2415/A/12/2183653 – Land South of Hallbrook Primary School, Crowfoot Way, Broughton Astley, Leicestershire
- APP/X2410/A/13/2196928 & APP/X/2410/A/13/2196929 – Land of Mountsorrel Lane, Rothley, Leicestershire
- APP/T2405/A/13/2200867 – Land at Seine Lane/Forest Road, Enderby, Leicestershire
- APP/T2405/A/13/2193758 & APP/T2405/A/13/2193761 – Land east of Springwell Lane, Whetstone, Leicestershire
- APP/G2435/A/13/2192131 – Land south of Moira Road, Ashby-de-la-Zouch

Appendix 3 – The Queen (on the application of The Police and Crime Commissioner for Leicestershire) vs Blaby Council and Hallam Land (and other developers).

Appendix 4 - North-west Leicester District Council vs Money Hill Consortium – Money Hill, Land North of Wood Street, Ashby-De-La-Zouch (paragraphs 61-63)

Appendix 5 - BCIS Index AveragePricesResults_21360986

Appendix 6 - APR1845W173173741 - LAND OF LAKES ROAD - Worcestershire

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/C3810/V/16/3143095

Secretary of State Decision - 13 July 2017

Land east of Fontwell Avenue, Fontwell, West Sussex, BN18 0SB

The development proposed is up to 400 new dwellings, up to 500sq.m of non-residential floor space (A1, A2, A3, D1 and/or D2), 5,000sq.m of light industrial floorspace (B1 (b)/(c) and associated works including access, an internal road network, highway works, landscaping, selected tree removal, informal and formal open space and play areas, pedestrian and cyclist infrastructure, utilities, drainage infrastructure, car and cycle parking and waste storage.

Application: WA/22/15/OUT – Arun District Council

42. *Having had regard to the Inspector's analysis at IR10.8-10.15 and IR11.61, the planning obligation dated 2 December 2016, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR11.61 that all the obligations, bar the NHS contribution which has not been substantiated and fails the CIL tests, comply with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and 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.*
43. *The Secretary of State has taken into account the number of planning obligations which have been entered into on or after 6 April 2010 which provide for the funding or provision of a project or type of infrastructure for which an obligation has been proposed in relation to the application (IR10.8-10.15 and IR11.61). The Secretary of State concludes that the obligations are compliant with Regulations 123(3), as amended.*
- 1.4 *The local planning authority (lpa) considered the application on the 25 November 2015 and resolved to grant planning permission subject to conditions and a S106 Agreement (CD 24). The applicants submit an engrossed S106 Agreement dealing with the provision of financial contributions relating to education; libraries; the fire service; highways and transport; police infrastructure; primary healthcare facilities; leisure facilities and the provision of affordable housing and public open space (CD 37). The applicants, the lpa and West Sussex County Council (WSCC) submitted notes on CIL R122 compliance (CDs 49, 55 & 52).*
- 9.23 *...Other responses included... Sussex Police – sought financial contribution towards the provision, maintenance and operation of Police infrastructure.*
- 10.15 *The payment of:*
- *£70,000 towards the provision of mobile IT kit, speed awareness kits and towards the re-provision of Littlehampton Police Station. CD 55 Appendix A1.7 provides a detailed justification by Sussex Police for the principal of the contribution. Whilst the Sussex Police request was originally for £109,714 the sum subsequently agreed is £70,000 (LPA 3);*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

11.61 All the obligations, bar the NHS contribution which has not been substantiated and fails the CIL tests, are necessary to make the development acceptable in planning terms, directly related to the development and fair and reasonably related in scale and kind to the development. Accordingly, the S106 Agreement is consistent with the guidance at Framework paragraph 204 and Regulations 122/123 of the CIL Regulations and where appropriate, I have attached weight to it in coming to my conclusion.

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/E3715/W/16/3147448

Secretary of State Decision - 10 July 2017

Land at Ashlawn Road West, Rugby, Warwickshire, CV22 5RZ

The development proposed is the demolition of existing buildings, erection of up to 860 dwellings, land for potential primary school, two vehicular accesses from Ashlawn Road and the provision of a bus link control feature to Norton Leys, open space, green infrastructure, landscaping and associated infrastructure, including sustainable urban drainage works.

Application: R13/2102 - Rugby Borough Council

30. *Having had regard to the Inspector's analysis at IR158-166, the planning obligation dated 17 February 2017, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010 as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR166 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and 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.*
156. *Warwickshire Police (WP) requested a sum of £185,278 towards police infrastructure that would mitigate the impact of the proposed development. This contribution has not been disputed and should be secured in a S106 planning obligation. It reflects the precise need that would arise from the development of up to 860 new homes on the appeal site based on WP's experience policing development in the area. The contribution would be used to mitigate the impact on infrastructure where there is no spare capacity and would accord with Core Strategy Policy CS10. Appendix 3 of the Core Strategy includes police as one of the critical infrastructure requirements to ensure delivery and mitigation, which are expected to be included in a S106 Agreement.*
157. *WP objects to the development proceeding without the necessary contributions as the resulting development could not be adequately policed, contrary to Core Strategy Policy CS13 and policies within the Framework. There is extensive evidence in WP's written representations which cover how the contribution request was calculated and compliance with Community Infrastructure Levy Regulations (CIL) Regulation 122 and 123(3). Each element of the contribution would be spent on an individual 'project' to meet the needs of the development alone, without the need for any pooling of contributions.*
160. *The Council, WCC and WP have provided documents to demonstrate CIL compliance. I have not received any evidence to demonstrate that the planning obligations would contravene any of the above Regulations.*
165. *...The obligations to secure a Police contribution would ensure that the money would be spent on police equipment, premises and vehicles that would be necessary to police the new development.*
166. *Based on the above, I have found that the planning obligations in the S106 Agreement meet the tests in CIL Regulation 122 and 123(3) and paragraph 204 of the Framework. I have therefore taken them into account in my conclusions and recommendations.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/C3240/W/16/3144445

Appeal Decision - 21 March 2017

Land east of Kestrel Close/Beechfields Way, Newport, Shropshire, TF10 8QE

The development proposed is an outline application to include access for residential development for up to 170 dwellings with open space following demolition of 14 and 15 Kestrel Close, Newport, Shropshire, TF10 8QE

Application: TWC/2015/1003 - Telford & Wrekin Council

157. *The planning obligation concluded after the close of the inquiry provides for... a contribution towards police premises, recruiting and equipping new officers and staff to serve the development and vehicles.*
163. *The current development plan is silent on police contributions although it is matter addressed in the emerging Telford and Wrekin Local Plan and the related Infrastructure Delivery Plan. The premises contribution is not controversial.*
164. *The legitimacy of contributions towards training new officers and the provision of equipment and vehicles is less clear cut in so far as it would, in effect, amount to a tariff payment with no exclusivity for the proposed development. Nonetheless, the sums sought are fully quantified against the policing requirement, which existing resources cannot meet, for the proposed development.*
165. *There is no doubt that the proposed development would generate a need for policing and that need would require additional resources which have been calculated on a pro-rata dwelling basis. The Framework identifies a need for safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. In addition, an extensive array of appeal decisions supports the principle of police contributions. Overall, the balance of the evidence before me points to the obligation (based on the underlying pro-rata calculation) being necessary and proportionate mitigation for the development.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/K2420/W/15/3004910

Appeal Decision - 04 May 2016

Land off Sherborne Road, Burbage, Leicestershire, LE10 2BE

The development proposed is residential development and associated infrastructure (73 dwellings).

Application: 14/00475/OUT - Hinckley and Bosworth Borough Council

44. *Leicestershire Police (LP) has demonstrated adequately that the sums requested would be spent on a variety of essential equipment and services, the need for which would arise directly from the new households occupying the proposed development. It would be necessary, therefore, in order to provide on-site and off-site infrastructure and facilities to serve the development commensurate with its scale and nature consistent with LP Policy IMP1. The planning contribution would also enable the proposed development to comply with the Framework's core planning principle of supporting local strategies to improve health, social and cultural wellbeing and delivering sufficient community facilities and services to meet local needs.*
45. *In respect of compliance with CIL Regulation 123(3) the proposed spending has been apportioned to individual projects and procurement, such as property adaptation and a contribution towards a vehicle, in order to ensure no need for the pooling of contributions. In addition a clause of the undertaking which, in requiring written confirmation prior to payment that it would only be spent where there were no more than four other contributions, would provide a legal mechanism for ensuring full compliance with Reg. 123(3).*
46. *Evidence was submitted in the form of two maps with types of criminal incidents plotted on them. The first of these shows that there were several burglaries and thefts in the housing area adjacent to the appeal site during the year up to July 2014. The second map covers a larger area, this time in Blaby, and indicates a steady rate of incidents, mainly forms of stealing, in all types of residential area. I have no reason to believe that levels of crime differ significantly between Hinckley/Burbage and Blaby.*
47. *I consider this to be a no less realistic and robust method of demonstrating the criminal incidents likely to arise in a specific area than the analysis of population data which is normally used to calculate the future demand for school places. The evidence gives credence to the additional calls and demands on the police service predicted by LP.*
51. *My overall conclusion on planning contributions is that those requested by LP and by LCC for the civic amenity site would be necessary to make the development acceptable in planning terms and would meet the other tests set out in the Framework. In those respects the submitted planning obligation carries significant weight. The contribution sought for Burbage library would not.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/G2435/A/14/2228806

Secretary of State Decision - 15 February 2016

Money Hill, Land North of Wood Street, Ashby-de-la-Zouch, Leicestershire

The development proposed is 605 residential dwellings including a 60 unit extra care centre (C2), a new primary school (D1), a new health centre (D1), a new nursery school (D1), a new community hall (D1), new neighbourhood retail use (A1), new public open space and vehicular access from the A511 and Woodcock Way.

Application: 13/00335/OUTM - North West Leicestershire District Council

17. *The Secretary of State has also considered the executed and signed Unilateral Undertaking; the Inspector's comments on this at IR61-63; paragraphs 203 and 205 of the Framework, and the Guidance. He considers that the provisions offered by the Unilateral Undertaking would accord with the tests set out at paragraph 204 of the Framework and agrees with the Inspector that they would also comply with Regulations 122 and 123 of the CIL Regulations.*
63. *The contribution of £219,029 towards Police infrastructure is not related to requirements of development plan policies. The figure has been arrived at following a close and careful analysis of the current levels of policing demand and deployment in Ashby. The proposed development, in terms of population increase, would have a quantifiable and demonstrable effect on the ability of the Police to carry out their statutory duties in the town. LP has not sought any contribution to some aspects of policing, such as firearms and forensics, but only for those aspects where there is no additional capacity. The contribution is thus fairly and reasonably related in scale and kind to the development and is directly related to that development. The contribution is necessary because the new housing that would be created would place a demonstrable additional demand on Police resources in Ashby. The financial contribution to Police operations thus satisfies Regulation 122 of the Community Infrastructure Levy Regulations 2010 and a provision of the Undertaking would ensure that the contribution also satisfies Regulation 123 of the Community Infrastructure Levy Regulations 2010.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/X2410/W/15/3007980

Appeal Decision - 08 February 2016

Land rear of 62 Iveshead Road, Shepshed, LE12 9ER

The development proposed is the erection of up to 77 dwellings following demolition of 62 Iveshead Road (access only to be determined)

Application: P/14/0777/2 - Charnwood Borough Council

19. *Planning obligation. The necessity for contributions towards affordable housing, on site open space, policing, healthcare, travel plan, transport, education and civic amenity have been justified by comprehensive evidence from the local and County Council, and the Police Authority. There is no dispute that the provisions of the legal agreement would meet the Council's policy requirements, the tests set out in paragraph 204 of the National Planning Policy Framework (NPPF) and the CIL Regulations 122 and 123 relating to pooled contributions. I am satisfied that this is the case and am taking them into account.*

Appeal Ref: APP/T3725/A/14/2221613

Secretary of State Decision - 14 January 2016

Land at The Asps, bound by Europa Way (A452) to the east and Banbury Road (A425) to the west

The development proposed is described on the application form as residential development (use class C3) for up to 900 dwellings, a primary school (use class D1), a local centre (use classes A1 to A5) and D1) and a Park and Ride facility for up to 500 spaces (sui generis) with access from Europa Way and Banbury Road, areas of public open space, landscaping enhancements and archaeological mitigation.

Application: W/14/0300 - Warwick District Council

32. *The Secretary of State has had regard to the matters raised by the Inspector at IR13.1 – 13.5 and agrees with the Inspector's reasoning and conclusions on the two Unilateral Undertakings at IR14.137-14.161. In making his decision on this case, the Secretary of State has taken into account the provisions in the Unilateral Undertakings that do accord with Paragraph 204 of the Framework and do meet the tests in the CIL Regulations 2010 as amended.*

Condition 7 - An area of land measuring no less than 0.5 hectare shall be reserved for a local centre. This area of land should broadly be in the location identified on drawing No EDP 1871/116C. Any reserved matters proposal for development on this land must provide a mix of A1 and A2 and A3 and A4 and D1 floorspace, and a police post and associated off-street servicing and parking facilities, all of which shall be delivered in accordance with the phasing plan.

- 11.5 *Warwickshire Police and West Mercia Police: They requested a S106 contribution to provide police infrastructure necessary to enable the direct delivery of policing services to the site. No objections were received from either the Council or the appellant and so it was assumed that HE request met the relevant statutory tests. It was a surprise, therefore, to see on the Statement of CIL compliance, that the request was considered not to be compliant, notwithstanding that the Obligation did include the requested provision. The correspondence sets out why, in their view, the contribution is CIL compliant and is supported by four Appendices.*
- 13.18 *Police: the obligation secures the provision of a building for use as a police office, of at least 200 square metres gross internal floor area (together with service connections and external parking) to be located within the local centre that forms part of the development scheme. In addition, a contribution of £187,991 is secured, payable to the Council to fund the provision, fitting out and equipping of the police office.*
- 14.154 *Police: As set out in the CIL Compliance Schedule, the appellant is not satisfied that the arrangement is CIL compliant, with the Council being of the view that insufficient evidence was available to come to an informed view on the matter. However, no evidence was before the Inquiry to support those concerns.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

- 14.155 *Having had sight of the Schedule, Warwickshire Police and West Mercia Police submitted further correspondence on the matter, dated 10 April 2015. They demonstrate that the arrangement has been arrived at after careful analysis of the current and planned levels of policing in the area. With reference to existing local deployment reflecting actual policing demands and local crime patterns, it is confirmed that five additional staff would be required to serve the development proposed. Policing of the area is delivered currently from three separate premises (in Warwick, Leamington and Leek Wooton) all of which are already maintained to capacity. I am in no doubt therefore, that a new police office would need to be provided on the site, and fitted out, in order to accommodate the additional staff. I consider the arrangement to be necessary to make the development acceptable, it is directly related to the development proposed and to mitigating the impacts that it would generate, and it is fairly and reasonably related in scale and kind to the development. The arrangement therefore meets the relevant tests. Moreover, as a discrete project to which no more than five developments would contribute, I have no reason to suppose, on the basis of the information before me, that there would be any conflict with CIL Regulation 123.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/T3725/A/14/2229398

Secretary of State Decision - 14 January 2016

Land South of Gallows Hill / West of Europa Way, Heathcote, Warwick

The development proposed is a residential development up to a maximum of 450 dwellings; provision of two points of access (one from Europa Way and one from Gallows Hill); comprehensive green infrastructure and open spaces including potential children's play space; potential footpaths and cycleways; foul and surface water drainage infrastructure and ground modelling.

Application: W/14/0681 - Warwick District Council

33. *Having examined the completed and signed S106 Planning Agreement and considered the commentary and views at IR349 - 356 and the Inspector's assessment at IR462 - 467, the Secretary of State concludes that the obligations in the Agreement accord with Paragraph 204 of the Framework and meet the tests in the CIL Regulations 2010 as amended.*
353. *The Council has submitted a summary table of S106 contributions (Document AD13) to demonstrate that the Regulation 123 limit of a maximum of 5 contributions to infrastructure would not be exceeded. The Council has also submitted a CIL Regulations Compliance Statement (Document AD14) which sets out the justification for each obligation, matters of agreement and matters of dispute. Appendix D explains that the monitoring fee is necessary as the large scale housing site with multiple contributions requires additional monitoring work. It sets out how the sum has been calculated including the activities to be carried out and the hourly rate of the officer.*
354. *Mr T Jones represents Warks and West Mercia Police Authority. He appeared at the Inquiry in a round table session to further provide evidence in support of the need for the financial contribution for police services that is included in the submitted S106 planning obligation agreement. There is supporting written evidence at OIP7, OIP22, and OIP23. The contribution is sought to support police services for the local area to accommodate the rising need generated by this new development. Appeal decisions by the Secretary of State have been submitted in support of such contributions APP/X2410/A/12/2173673 (Document OIP22) and APP/X2410/A/13/2196928/APP/X2410/A/13/ 2196929 (Document OIP23). In each case the Secretary of State agreed with the Inspector that the contributions were compliant with Regulation 122 of the CIL Regulations. The Inspector's Report for the first case noted that contributions had previously been supported in some appeals and not in others.*
462. *The S106 planning obligation agreement between the LPA and the Appellant and landowners covers all the matters referred to as reasons for refusal [349-352]]. However the Appellant has queried whether all of the obligations satisfy the requirements of the Community Infrastructure Levy Regulations 2010 (as amended) and the Obligation Agreement itself provides that if the 'Planning Inspector or Secretary of State in the Decision Letter' concludes that any of the planning obligations or the monitoring fee or any part of the obligation are incompatible with Regulations 122 or 123 of the Community Infrastructure Levy Regulations 2010 (as amended) then that shall cease to have effect. In particular the Appellant queries the legality of the monitoring fee and*

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the contributions to police and health services. The LPA has provided a CIL compliance statement [353].

464. *The contributions for police services are similar to those which the Secretary of State has previously endorsed as compliant with Regulation 122 [354]. I consider that the CIL compliance statement shows that they are also compliant with Regulation 123 [353].*

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Appeal Ref: APP/G2435/W/15/3005052

Appeal Decision - 05 January 2016

Land South of Greenhill Road, Coalville, Leicestershire

The development proposed is described as development of up to 180 dwellings, including a retail unit, access and associated infrastructure (outline-all matters reserved apart from part access).

Application: 14/00614/OUTM - North West Leicestershire District Council

69. *The contribution to Leicestershire Police (LP) has been justified following a close and careful analysis of the current levels of policing demand and deployment in the beat area. The financial contribution would be spent on start-up equipment, vehicles, additional radio call capacity, PND additions, additional call handling, ANPR, Mobile CCTV, additional premises and hub equipment. No part of the LP contribution provides for funding towards any infrastructure project that would offend the restriction on pooling. In my view, the LP contribution is fully compliant with Regulations 122 and 123 of the CIL Regulations.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/Q3115/A/14/2222595

Appeal Decision - 02 June 2015

Land North of Littleworth Road, Benson

The development proposed is described as (1) the erection of 125 dwellings with associated access, open space and landscaping and (2) 41 retirement flats and 11 retirement bungalows with associated parking and car share facilities.

Application: P14/S0673/FUL - South Oxfordshire District Council

51. *The necessity, relevance and proportionality of these and the other elements of the planning agreement are set out in three documents submitted to the Inquiry. They (include)... a letter from Simon Dackombe Strategic Planner, Thames Valley Police. With one exception they provide convincing (and undisputed) evidence that the obligations comply with regulation 122 of the CIL Regulations.*
52. *The exception is that part of the contribution sought for policing which relates to the training of officers and staff. Whereas all the other specified items of expenditure relate to capital items which would ensure for the benefit of the development, staff training would provide qualifications to the staff concerned and would benefit them but these would be lost if they were to leave the employ of the police and so are not an item related to the development. I therefore take no account of this particular item in coming to a decision on the appeal. This does not, however, invalidate the signed agreement.*

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Appeal Ref: APP/A2470/A/14/2222210

Appeal Decision - 26 May 2015

Greetham Garden Centre, Oakham Road, Greetham, Oakham LE15 7NN

The development proposed is the redevelopment of the former Greetham Garden Centre for residential development for up to 35 dwellings, and provision of access.

Application: 2013/0956/OUT - Rutland County Council

2. *Refusal Reason 2 related to the failure in the appeal application to make any commitment to developer contributions. As part of the appeal submissions two unilateral undertakings have been submitted. I consider that these two undertakings are compliant with paragraph 204 of the National Planning Policy Framework (the Framework) and Regulation 122 of the CIL Regulations 2010. In arriving at this view I have taken account of the replies from the Council and the Police Authority to the Planning Inspectorate's letter of 5 May 2015 relating to 'pooled' contributions. The first unilateral undertaking, dated 22 January 2015, makes provision for various contributions towards health services, indoor activity services, libraries, museums, outdoor sports, open space, children's services and policing. As the contribution to policing is in line with the amount per dwelling specified in the adopted Developer Contributions Calculation increasing this amount would not be justified. The second unilateral undertaking, dated 12 March 2015, will ensure that at reserved matters stage a Section 106 agreement is drawn up to secure 35% affordable housing. Consequently I believe that Refusal Reason 2 has now been addressed.*

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Appeal Ref: APP/A2470/A/14/2227672

Appeal Decision - 19 May 2015

Land to the rear of North Brook Close, Greetham, Rutland LE15 7SD

The development proposed is construction of 19 residential dwellings, including garages and associated infrastructure.

Application: 2013/1042/FUL - Rutland County Council

16. *The proposed development would increase demands on the Market Overton Doctor's Practice. The building is not large enough to cater for the additional patients that it has been calculated would live in the area as a result of planned new housing development including the appeal site. Similarly, the police service delivers its service locally from premises at Oakham. This facility is at capacity and the new development would generate a need for additional space, equipment, information handling and communications. A financial contribution is therefore necessary to mitigate the effect of the development by expanding the Doctor's Surgery and police service provision.*

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Appeal Ref: APP/L2440/A/14/2216085

Appeal Decision - 10 February 2015

Land at Cottage Farm, Glen Road, Oadby, Leicestershire LE2 4RL

The development proposed is development of land for up to 150 dwellings (Use Class C3) and associated infrastructure, including pedestrian and vehicular access, open space and structural landscaping.

Application: 13/00478/OUT - Oadby & Wigston Borough Council

82. *A completed planning obligation, in the form of an agreement made under Section 106 of the Town and Country, was submitted at the inquiry (Document OW15). I have considered the submitted planning obligation against the tests set out at paragraph 204 of NPPF.*
83. *In general terms, the agreement establishes a commitment to provide 30% affordable dwellings, support for sustainable transport, the provision of open space for public use, and financial contributions for education, the county council library service and police infrastructure. The terms of the offered agreement were discussed, and whether the contributions put forward were directly related to the development being proposed. Nothing was said at the inquiry to indicate that what is being offered is unreasonable, disproportionate, or likely to be covered by other sources of financial support or revenue.*
84. *I am satisfied that, in the light of the matters discussed at the inquiry, and taking into account the written submissions relating particularly to the police contribution (document LP1), all the offered contributions and undertakings are necessary to make the development acceptable in planning terms, are directly related to the development and reasonably related in scale and kind to the development.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/Y2430/A/14/2224790

Appeal Decision - 06 January 2015

Land to the east of Nottingham Road, Melton Mowbray, Leicestershire

The development proposed is residential development for up to 85 dwellings with associated infrastructure, access and areas of open space.

Application: 14/00078 - Melton Borough Council

28. *In the completed Agreement there are covenants relating to affordable housing, police service requirements, open space and maintenance, bus stop and bus shelter provision, bus travel, a travel plan co-ordinator and travel packs, off-site traffic signal works, civic amenity, leisure facilities, library facilities, Melton Country Park facilities, and training opportunities. Support for infrastructure requirements is provided in saved LP Policy OS3 and within the County Council's SPG11. In addition, at the Hearing Mr Tyrer, the County Council's Developer Contributions Officer, and Mr Lambert, the Growth and Design Officer for Leicestershire Police, provided detailed information and justification of the infrastructure requirements and how financial contributions would be spent.*
30. *I am satisfied that the proposed planning obligations are necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/M2460/A/14/2213689

Appeal Decision - 04 December 2014

Land rear of 44-78 Ashby Road, Hinckley, Leicestershire, LE10 1SL

The development proposed is described as 'residential development'.

Application: 2013/0862/04 - Leicestershire County Council

39. *A police contribution of £13,756 is included in the planning obligation. Detailed evidence in support of this level of contribution has been submitted by the Police and Crime Commissioner. It is clear that the increase in the local population from up to 60 dwellings on the appeal site would place additional demands on the police. Contributions are not sought across the board. The representations identify those areas where there is spare capacity and they have not been taken into account in calculating the overall level of contribution. A need has been identified in the following areas: start-up equipment, vehicles, radio call capacity, database capacity, call-handling, automatic number plate recognition cameras, mobile CCTV, premises, and hub equipment. Details are provided of the purpose to which the funding would be put, and, in the case of each area where a need has been identified, the level of contribution has been calculated in relation to the size of the appeal proposal, even if this means that some expenditure is required from the police budget. The policing contribution is necessary to make the development acceptable in planning terms, and it also complies with the other statutory tests.*

Appeal Ref: APP/K2420/A/13/2208318

Secretary of State Decision - 18 November 2014

Land surrounding Sketchley House, Watling Street, Burbage, Leicestershire

The development proposed is described as an outline application for the ‘demolition of Nos.11 and 13 Welbeck Avenue to create vehicular and pedestrian access and redevelopment of the site to provide up to 135 dwellings, public and private open space together with landscaping and associated infrastructure (all matters reserved except for the point of access).’

Application: 13/00529/OUT - Hinckley and Bosworth Borough Council

- 22 *The Secretary of State has considered the terms of the planning obligation submitted at the inquiry and considered by the Inspector at IR11.54-11.57; and he agrees with him at IR11.57 that these contributions meet the Framework test and comply with CIL regulations.*
- 8.1 *Policing is a service that is always available and responds to demand on an ‘equal access’ basis; the level and efficiency of that response depends on the facilities available. Calls and deployments are monitored and give an indication of the level of services delivered to the 45,400 households in the Borough or the 6393 houses in Burbage. In 2011 there were 83,315 calls from the Borough, 9,386 of which required emergency attendance and 5,314 entailing some ‘follow up’. In Burbage there were 11,664 calls, 314 emergencies and 744 attendances; last year there were 419 recorded incidents. Those incidents largely entail burglary, car related crime and theft and there are geographical concentrations at the commercial units around Hinckley Island and the town centre. Some 372 incidents of anti-social behaviour are recorded in Burbage and regular patrolling and local community contact maintained by the Neighbourhood Policing team, located at Hinckley Local Policing Unit.*
- 8.2 *The integrated nature of policing means that many different operational units are involved in responding to recorded incidents. Staff at the Local Police Unit, the hub at Braunston, the Basic Command Unit at Loughborough, the Force HQ at Enderby, tactical support, road safety, communications and regional crime can all be involved. Some 270 staff are employed to deliver policing in the Borough and about 80% of their time is devoted to such activities. The minimum number of staff is deployed to meet existing levels of demand, which means that there is little additional capacity to extend staffing to cover additional development. The aim is to deploy additional staffing and additional infrastructure to cover the demand from new development at the same level as the policing delivered to existing households. Hence, additional development would generate a requirement for additional staff and additional personal equipment (workstations, radios, protective clothing, uniforms and bespoke training), police vehicles of varying types and functions, radio cover (additional base stations and investment in hardware, signal strengthening and re direction), national database availability and interrogation, control room telephony, CCTV technologies, mobile units, ‘beat drop in hubs’, premises and the like. Yet, the prognosis is that ‘It is sensible to assume that most of the capital requirements incurred by growth will not be covered by existing mainstream central and local funding’. Hence, the necessity to seek developer contributions to ensure that existing levels of service can be maintained as growth continues.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

- 8.3 *The proposed development is expected to increase the overnight population of this settlement by at least 307 people and a net addition of 133 new houses must bring additional policing demands. Extrapolating from existing empirical data indicates that the scheme would generate annual additions of some 239 calls and responses, 28 emergency events, 16 non-emergency events, 9 additional recorded crimes and 8 recorded anti-social behaviour incidents. In turn those events would require additional vehicle use, more radio calls, greater use of the PND systems to process and store crime records and intelligence, further deployment of mobile CCTV technologies and additional access for beat staff in a local Hub, not to mention consequences for support and HQ staff.*
- 8.4 *The Framework supports the provision of the facilities and services needed in a community. This is one of the 'core principles' and SPDs are indicated to be an appropriate means to assist applicants in understanding the obligations that proposals might generate. The Framework advocates the creation of healthy and inclusive environments where crime and disorder and the fear of crime do not undermine the quality of life. Policy IMP1 of the Local Plan reflects that advice and provides an over-arching justification for the contributions sought. And, the Leicestershire County Council Statement of Requirements sets out the provisions that should be made towards the need for additional policing that might be due to new development.*
- 8.5 *The contribution requested amounts to £44,711 to mitigate the additional impacts estimated to accrue directly from the proposed development. These contributions are required to upgrade the capacity of existing infrastructure, which would not otherwise be sufficient to meet the likely demand from the scheme. It is anticipated that staff salaries and day to day routine additional costs would be met by rate revenues. A programme to procure the additional facilities required would be agreed as a clause in a legal agreement. The contributions sought would be directly related in scale and kind to the development, so that the completion of some infrastructures would require funding from elsewhere. But, the contribution would be used wholly to meet the direct impacts of this development and wholly in delivering the policing to it. On the basis of advice, the level of contributions sought are not based on a formula but derived solely from the direct impact of the scheme on policing. This has elicited support at appeal. A detailed explanation of the methods used to calculate each element of the total contribution is offered together with the justification for it derived from the advice in the Framework. It is shown that the contributions sought are directly related to the development, fairly and reasonably related in scale and kind to the scheme and necessary to make the development acceptable in planning terms. There would thus be CIL compliant.*
- 11.57 *The Contributions towards... additional policing... are directly related to the development, proportionate to the scheme and necessary to make the proposal acceptable in planning terms. Hence, I consider that the contributions sought can be considered to be CIL compliant.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/F2415/A/14/2217536

Appeal Decision - 21 August 2014

Land off Fairway Meadows, Ullesthorpe, Leicestershire

The development proposed is new housing development (61 dwellings).

Application: 13/01228/OUT - Harborough District Council

31. *Returning to the unilateral undertaking, I have already mentioned obligations relating to measures to promote more sustainable modes of transport, which are necessary to make the development acceptable. The undertaking also includes provision for contributions towards library facilities and police services and, given the justifications provided, I find that these are also necessary to make the development acceptable.*
32. *Taking account also of the information provided to explain how the various contributions are calculated and how they would be used, I find that all the obligations would be directly related to the development and fairly and reasonably related to it in scale and kind. The tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and in the Framework are therefore satisfied and thus I have had regard to all the obligations.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Refs: APP/K2420/A/13/2202658 and APP/K2420/A/13/2210904

Appeal Decision - 18 August 2014

Land off (to the south of) Spinney Drive and land off (to the east of) Brookside, Barlestone, Leicestershire

Appeal A - The development proposed is the erection of 49 new dwellings, landscaped public open space and creation of a formal wetland habitat with boardwalk access.

Application: 12/01029/FUL – Hinckley and Bosworth Borough Council

Appeal B – The development proposed is erection of 49 dwellings with landscaped open space.

Application: 13/00735/FUL - Hinckley and Bosworth Borough Council

34. *The contribution to Leicestershire Police has been justified based on crime statistics within the area and demands that would arise from the development. It would fund equipment and infrastructure to support additional personnel within the beat area, not the staffing itself. In terms of civic amenity contributions, the nearest household waste and recycling disposal site is at Barwell. Figures were provided indicating that the site is at or above capacity at peak periods such as Bank Holiday weekends. The contributions would assist in the acquisition of an additional storage container to cater for the waste from this and other new housing developments in the area.*
35. *The Council considers that the police and civic amenity contributions do not meet the tests within Regulation 122 of the Community Infrastructure Regulations (CIL) but does not provide much evidence to support its position. In contrast Leicestershire Police and the County Council have provided significant justification for the contributions, including reference to a number of recent appeal decisions where such contributions have been supported by Inspectors and the Secretary of State.*
36. *The contributions would accord with Policies IMP1, REC2 and REC3 of the LP and the Council's Play and Open Space Guide SPD. In addition the contributions to the County Council are supported by the Statement of Requirements for Developer Contributions in Leicestershire.*
37. *The obligations within the S106 agreements 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. Therefore, they meet the tests within CIL Regulation 122 and should be taken into account in the decision. I consider that the conditions set out in Paragraph 2.9 of the agreement are satisfied and that the obligations should become effective.*

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Appeal Refs: APP/H1840/A/13/2199085 and APP/H1840/A/13/2199426

Secretary of State Decision - 02 July 2014

Site at Land at Pulley Lane, Newland Road and Primsland Way, Droitwich Spa

Appeal A - The development proposed is an outline planning application for the development of land for up to 500 dwellings (Class C3); up to 200 unit care facility (Class C2); provision of mixed use local centre to include shop (Class A1); financial & professional services (Class A2); restaurants & café (Class A3); drinking establishment (Class A4); hot food takeaway (Class A5); offices (Class B1a) and police post; indoor bowls facility; means of access and estate roads; public open space; landscaping and infrastructure.

Application: W/11/01073/OU – Wychavon District Council

Appeal B - The development proposed is an outline application for the construction of a maximum of 265 dwellings with associated car parking, access, infrastructure provision and open space.

Application: W/12/02336/OU - Wychavon District Council

- 19 *The Secretary of State has also considered the S106 Planning Agreement in respect of Appeal A submitted by the main parties at the inquiry (IR8.88) and, like the Inspector, he is satisfied that the provisions can be considered to be compliant with CIL Regulation 122 and paragraph 204 of the Framework and that full weight in support of the appeal proposal can therefore be given to the obligations.*
- 1.15 *With regard to **Appeal A** the planning application was submitted in outline form with all matters reserved except for access. A schedule of the application documents and plans on which the SoS is requested to determine the proposal is at BDL 13. The reader should note that the most helpful plan in this schedule is the Indicative Masterplan. The proposed development is described as including the following components...*
- *A police post*
- 6.25 *...With other development already underway there is over a 12% increase in the town's population which amounts to a massive effect on local services such as doctors, dentists, schools and the police...*
- 8.88 *A S106 obligation (BDL5) was submitted at the inquiry and is agreed by the main parties... From all the evidence that is before me I consider that the provisions of the S106 Agreement complies with paragraph 204 of the NPPF and meets the 3 tests of Regulation 122 of the CIL Regulations 2010. I accord the S106 Agreement significant weight and I have had regard to it as a material consideration in my conclusions...*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/F2415/A/12/2183653

Secretary of State Decision - 17 April 2014

Land South Of Hallbrook Primary School, Crowfoot Way, Broughton Astley, Leicestershire

The proposal is a development of 111 dwellings including a new community hall, sports pitches and associated parking, open space, access and landscaping.

Application: 12/00494/OUT - Harborough District Council

22. *The Secretary of State agrees with the Inspector's assessment of the Section 106 agreement dated 23 May 2013 at IR62-76. He agrees that all of the contributions would be necessary to make the proposal acceptable in planning terms and would accord with the CIL Regulations 2010 and the tests in paragraph 204 of the Framework (IR77).*
70. *The contribution towards policing has been requested by the Police and Crime Commissioner for Leicestershire [PCCL/ML/1]. The proposal would increase the workload of the Leicestershire Constabulary in terms of additional calls, non-emergency follow ups and additional vehicle miles amongst other things. The contribution would enable the force to respond to this increased workload. It would therefore accord with CS Policy CS12 and the Local Infrastructure Schedule in the CS [HDC13].*
77. *All of the above contributions would therefore be necessary to make the proposal acceptable in planning terms and be directly and reasonably related to it in scale and kind. They would therefore also accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Refs: APP/X2410/A/13/2196928 and APP/X2410/A/13/2196929

Secretary of State Decision - 08 April 2014

Land off Mountsorrel Lane, Rothley, Leicestershire

Appeal A: construction of a maximum of 250 dwellings, replacement primary school, change of use from dwelling to medical facility, change of use from agricultural land to domestic curtilages, green infrastructure, potential garden extensions, construction of a relief road, and demolition of barns in accordance with application ref: P/12/2005/2, dated 20 September 2012; and

Application: P/12/2005/2 – Charnwood Borough Council

Appeal B: an area of public open space including water balancing ponds and green infrastructure in accordance with application ref: P/12/2456/2 dated 21 November 2012.

Application: P/12/2456/2 - Charnwood Borough Council

- 16 *The Secretary of State has also considered the Planning Obligations as described by the Inspector at IR8.42-8.47. He agrees with the Inspector (IR8.42) that all the provisions included in the executed Section 106 Agreement dated 13 December 2013 are necessary and comply with the Framework and Regulation 122 of the CIL Regulations. He also agrees with the Inspector (IR8.43-8.46) that the completed s106 Unilateral Undertaking, dated 13 December 2013, between the Appellant, the Council and the Police and Crime Commissioner for Leicestershire (APP10) meets the tests of Regulation 122 and the Framework and should be regarded as a material consideration.*
- 5.1 *The sum of £106,978 is sought by The Police and Crime Commissioner for Leicestershire (LP) towards Police infrastructure that would mitigate the impact of the proposed development. That figure has been arrived at following a close and careful analysis of the current levels of policing demand and deployment in Charnwood, so that the impact of the development could be properly assessed and a contribution sought that accurately reflects the precise need that would arise from the development of 250 new homes on the appeal site. LP3 page 17 contains an itemised breakdown of the anticipated expenditure on Police services/items dedicated towards the appeal development.*
- 5.2 *It is noted that the Landowner in this matter does not accept that any part of the Police Contribution meets the CIL tests as recited in the Unilateral Undertaking at clause 1.2.10. However, there appears to be no criticism by the Appellant of the approach taken by LP to the contribution requested, and no evidence has been produced to undermine the conclusions LP arrive at as to the nature and level of contribution required to mitigate the impact of the proposed development on LP resources.*
- 5.3 *The sum requested equates to approximately £427.91 per dwelling. That sum can only be arrived at by working backwards - it is not a roof tax applied to all proposed residential developments in the force area because that would not reflect the individual circumstances and needs of each development. For example, in the Land south of Moira Road appeal APP/G2435/A/13/2192131, the contribution per dwelling amounted to approximately £300*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

whereas in the Land at Melton Road appeal APP/X2410/A/12/2173673, the contribution worked out to be £590.85 per dwelling. In both instances, the requests were found to be CIL compliant.

- 5.4 *Mr Lambert explains through the documentation submitted in respect of the initial application and for this appeal why the Police seek contributions, including the planning policy justification at both national and district level, and the difficulties associated with funding new infrastructure items in response to growth in residential development which places additional demand on police resources. The Inspector considering the Land at Melton Road Appeal at paragraph 291 accepted that "the introduction of additional population and property to an area must have an impact on policing, in the same way as it must on education and library services for example," and went on to conclude:*

"Moreover, it also seems to me that the twelfth core planning principle of the Framework, that planning should... "take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs", can only be served if policing is adequate to the additional burdens imposed on it in the same way as any other local public service. The logic of this is inescapable. Section 8 of the Framework concerns the promotion of healthy communities and planning decisions, according to paragraph 69, should aim to achieve places which promote, inter alia, "safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion."

- 5.5 *Those conclusions were endorsed in the SoS's decision letter at paragraph 20.*
- 5.6 *Mr Lambert also explains why current revenue sources e.g. Council tax receipts, are insufficient to respond to growth in residential development, and are unable to fund much needed infrastructure to mitigate the additional demand placed on police resources by that growth. That position was examined and verified by external consultants employed by Local Councils in the Leicestershire Growth Impact Assessment of 2009; the Executive Summary is reproduced at Mr Lambert's Appendix 4.*
- 5.7 *There is no spare capacity in the existing infrastructure to accommodate new growth and any additional demand, in circumstances where additional infrastructure is not provided, would impact on the ability of police to provide a safe and appropriate level of service and to respond to the needs of the local community in an effective way. That outcome would be contrary to policy and without the contribution the development would be unacceptable in planning terms. It is right, as the Inspector accepted in the Melton Road decision (paragraph 292), that adequate policing is fundamental to the concept of sustainable communities. It is therefore necessary for the developer to provide a contribution so that adequate infrastructure and effective policing can be delivered; that is provided for through the Unilateral Undertaking APP10.*
- 5.8 *Mr Lambert has addressed each and every item of infrastructure required in his evidence and has sought to justify each request by reference to the 3 tests of Regulation 122 of the 2010 Regulations and also paragraph 204 of the NPPF. Those tests provide the framework in which LP work to assess the appropriate level of contribution necessary to mitigate the impact of residential development - a process which is under constant review to keep requests up-to-date and accurate as demonstrated by the recent letter dated 14 November 2013 amending*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

the total sum sought in respect of Police vehicles downwards to reflect the fact that an average of 10% of the original value of a vehicle will be redeemed upon disposal.

- 5.9 *Furthermore, LP confirms that the contribution can be, and would be spent on infrastructure to serve the appeal development because the sum requested is not required to meet with a funding deficit elsewhere or to service existing development. The contribution sought is therefore directly related to the development.*
- 5.10 *In conclusion, the request for a contribution towards additional Police infrastructure to mitigate the impact of the appeal proposal is a necessary, carefully considered and lawful request. The request is directly related to the development and to mitigating the impacts it would generate based on an examination of present demand levels and existing deployment in the District.*
- 5.11 *The request is wholly related to the scale and kind to the appeal development and the Inspector, and SoS are respectfully asked to conclude the same.*
- 5.12 *The Appellant does not accept that any part of the LP requested contribution meets the tests of Regulation 122 of the CIL Regulations 2010. The LPA has indicated that it is neutral in relation to the request.*
- 8.42 *APP9 is a signed and completed s106 Planning Obligation Agreement, dated 13 December 2013, between the Appellant, the LPA and LCC. The Agreement covers the following matters...*
- 8.43 *The Appellant has also submitted two s106 Unilateral Undertakings in respect of financial contributions requested by the Police and Crime Commissioner for Leicestershire Police... The Appellant is not satisfied that these contributions are CIL compliant. The LPA has indicated that it is a neutral in relation to both requests.*
- 8.44 *APP10 is a signed and completed s106 Unilateral Undertaking, dated 13 December 2013, between the Appellant, the LPA and the LP. The sum of £106,978 is sought by LP towards Police infrastructure to mitigate the impact of the development. Schedule 1 of the Undertaking provides details of the contribution and how it would be used to deliver adequate infrastructure and effective policing. Document LP2, prepared by LP, provides a statement of compliance with the CIL Regulations 2010.*
- 8.45 *In my view the sum of £106,978 has been arrived at following a close and careful analysis of the current levels of policing demand and deployment in Charnwood, so that the impact of the development could be properly assessed and a contribution sought that accurately reflects the precise need that would arise from the development of 250 new homes on the appeal site. The LP has confirmed that the contribution would be spent on infrastructure to serve the appeal development and is not required to meet a funding deficit elsewhere or to service existing development.*
- 8.46 *I consider that the contribution is necessary to make the development acceptable, it is directly related to the development and to mitigating the impacts that it would generate and it is fairly and reasonably related in scale and kind to the development. The Undertaking therefore meets the 3 tests of Regulation 122 of the CIL Regulation 2010 and the criteria in paragraph 204 of the NPPF. I accord the Undertaking significant weight and I have had regard to it as a material consideration in my conclusions.*

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Appeal Ref: APP/T2405/A/13/2200867

Appeal Decision - 02 January 2014

Land at Seine Lane/Forest Road, Enderby, Leicestershire

The development proposed is the erection of up to 244 dwellings, public open space, landscaping and vehicular access.

Application: 12/0823/1/OX - Blaby District Council

41. *At the inquiry, the appellants submitted an engrossed Section 106 Agreement. The planning obligations would secure 30% affordable housing, contributions towards a bus service, bus passes, travel packs, highway improvements, healthcare, libraries, police and the maintenance of the proposed footbridge and public open space that would form part of the scheme. I have considered the evidence provided in writing and at the inquiry, including that from Leicestershire County Council regarding contributions towards libraries and from Leicestershire Police regarding contributions towards policing services and facilities, to demonstrate that the obligations meet the tests in Community Infrastructure Levy Regulation 122.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Refs: APP/T2405/A/13/2193758 and APP/T2405/A/13/2193761

Appeal Decision - 01 August 2013

Land east of Springwell Lane, Whetstone, Leicestershire LE8 6LT

Appeal A: The development proposed is residential development of up to 150 dwellings and parkland with associated access, infrastructure and landscaping.

Application: 12/0952/1/OX – Blaby District Council

Land off Countesthorpe Road and Springwell Lane, Whetstone, Leicestershire

Appeal B: The development proposed is formation of access for use by construction traffic in conjunction with proposed residential development.

Application: 12/0951/1/PY - Blaby District Council

28. *The appellant has submitted an engrossed Section 106 Agreement for Appeal A after the close of the hearing. The planning obligations would secure 25% affordable housing, contributions towards public transport, cycling, a travel pack, highway improvements, healthcare, libraries, police and the maintenance of the public open space that would form part of the scheme. I have considered the evidence provided in writing and at the hearing in support of the contributions to satisfy myself that the obligations meet the tests in Community Infrastructure Levy (CIL) Regulation 122. These tests are that the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonable related in scale and kind to the development.*
33. *Leicestershire Police (LP) has supported the need for contributions towards policing services and facilities in its statement and at the hearing. The required contributions are significantly less than those considered by the previous Inspector, and LP have suggested that it has used a different method of calculation, based on the impact of the development itself. Therefore, I am satisfied that the sum provided for in the obligation is necessary to make the development acceptable in planning terms, having regard to the requirements in paragraph 58 of the Framework to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.*
35. *Having regard to the above, I conclude on the Section 106 Agreement that all the planning obligations meet the tests in CIL Regulation 122 and paragraph 204 of the Framework. Without the obligations, the proposal would fail to accord with the relevant development plan policies and would have unacceptable impacts on local facilities and services and affordable housing in the District.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/G2435/A/13/2192131

Appeal Decision - 30 May 2013

Land south of Moira Road, Ashby-de-la-Zouch LE65 2NJ

The development proposed in 2009 was described as the erection of 83 no. dwellings with associated garaging and formation of new access road to Moira Road.

Application: 09/00620/FUL - North West Leicestershire District Council

36. *...The additional population would also bring additional policing requirements, which would need to be addressed.*
37. *The s106 Agreement would effectively bind the appellant to providing 18 affordable dwellings as part of the development. It would also require the appellant to make, and the District Council and County Council to disburse, contributions of...*
- *£24,903 towards the capital costs of policing the development*
39. *Evidence submitted to the inquiry showed that, without these contributions, the development would not be acceptable in planning terms because of its harmful impact on local infrastructure. These measures are therefore necessary to mitigate that impact. The need for additional facilities arises directly from the development of the site so the contributions are directly related to it. The extent of additional provision in each case has been carefully considered and is proportionate, appropriate and no more than is necessary to meet the additional demands, so the provisions of the Agreement are fairly and reasonably related in scale and kind to the development. The provisions of the Agreement therefore comply with 203 of the Framework and meet the tests of Regulation 122 of the CIL Regulations 2010. I therefore consider that the harmful impact of the proposal on local infrastructure would be satisfactorily overcome by the binding planning obligations.*

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Appeal Ref: APP/X2410/A/12/2173673

Secretary of State Decision - 14 May 2013

Land at Melton Road, Barrow Upon Soar, Leicestershire, LE12 8NN

The development proposed is residential development (300 dwellings).

Application: P/10/1518/2 - Charnwood Borough Council

20. *With regard to the Planning Obligation (IR4, IR216-218, and IR283-301), the Secretary of State is satisfied that the provisions set out in the signed and sealed Planning Agreement dated 14 October 2012, as varied by the Deed of Variation dated 15 January 2013 (to make its provisions conditional upon their items being determined by the Secretary of State to meet the statutory tests) can be considered to be compliant with CIL Regulation 122...*
288. *The 'Police Authority Contribution' is for £177,255. The manner in which the authority would seek to spend it is set out in the Third Schedule to the Planning Obligation. By letter to the Planning Inspectorate of 6 August 2012, the Leicestershire Constabulary explained in some detail its approach to the use of S106 monies for police infrastructure throughout the county, supported by a number of appeal decisions in which it was concluded that the contributions in each case passed the relevant tests and could therefore be accorded weight. The letter appends (Appendix 2) a useful note from the Association of Chief Police Officers which draws the distinction between capital expenditure on equipment and premises, the basic infrastructure of policing, and revenue expenditure which might reasonably be expected to be supported by the increased number of households. A January 2012 policy statement from the Leicestershire Police Authority 'Policing Contributions from Development Schemes' is also included. This sets out its approach to the increased pressure on policing from additional housing development. The document includes at Section 7 the principles whereby financial contributions will be deployed, including provision for repayment if the police authority fails to spend the contributions, linkage to the development in question and use for additional needs arising from it and a "clear audit trail demonstrating that financial contributions have been used in a manner that meets the tests" (in the subsequently cancelled Circular 05/2005 Planning Obligations.)*
289. *Those tests are essentially the same as those of the extant CIL Regulations and hence there is a clear recognition by the Leicestershire Police Authority that development is not simply a source of additional finance to be spent in an unspecified or unrelated way. Moreover, the appellant in this case has "signed up" to the Policing Contribution, albeit under, it seems, protest. The evidence of Mr Thorley addresses this matter at Section 12 and his Appendix 10 is a paper on the topic that refers to a number of appeal decisions where a contribution to policing has not been supported, for example the appeal in Sapcote (Ref APP/T2405/A/11/2164413) in which the Inspector comments, in paragraph 41 of his decision, that... "it has not been shown, in the light of the statutory tests, that the contribution would be directly linked to the impacts arising from the appeal proposal."*
290. *Equally, the material submitted by the Police Authority under cover of its letter of 6 August 2012 includes a number of appeal decisions pointing in the opposite direction, for example the appeal in Bottesford (Ref APP/Y2430/A/11/2161786) where the Inspector comments, in paragraph 68, that "there was also specific justification of the individual elements within this global sum directly*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

related to the circumstances of the appeal proposal. Therefore the contribution does meet all three tests for CIL compliance."

291. *The Inspectors will have reached their own conclusions on the particular evidence and submissions put to them at appeal and I shall approach the evidence in this case in the same way, i.e. on its merits. It seems to me that the introduction of additional population and property to an area must have an impact on policing, in the same way as it must on education and library services, for example. Moreover, it also seems to me that the twelfth core planning principle of the Framework, that planning should... "take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs", can only be served if policing is adequate to the additional burdens imposed on it in the same way as any other local public service. The logic of this is inescapable. Section 8 of the Framework concerns the promotion of healthy communities and planning decisions, according to paragraph 69, should aim to achieve places which promote, inter alia, "safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion."*
292. *Adequate policing is so fundamental to the concept of sustainable communities that I can see no reason, in principle, why it should be excluded from the purview of S106 financial contributions, subject to the relevant tests applicable to other public services. There is no reason, it seems to me why police equipment and other items of capital expenditure necessitated by additional development should not be so funded, alongside, for example, additional classrooms and stock and equipment for libraries.*
293. *In this case, the planning obligation clearly sets out in its third schedule the items anticipated to be needed as a consequence of policing the proposed development alongside the existing settlement and apportioned accordingly. It seems to me to be sufficiently transparent to be auditable and at a cost equivalent to, perhaps (if 300 dwellings are constructed) £590.85 per dwelling, it does not equate to an arbitrary "roof tax" of the type complained of, whatever previous practice may have been.*
294. *For these reasons I am of the view that the 'Police Authority Contribution' is compliant with the CIL Regulations and that weight should therefore be accorded to it as a means of mitigating the predicted impact of the development.*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Appeal Ref: APP/X2410/A/12/2187470

Appeal Decision - 15 April 2013

Land at (the former) Rearsby Roses Ltd, Melton Road, East Goscote LE7 4YP

The development proposed is “erection of 60 dwellings following demolition of nursery buildings and formation of site access (revised scheme)”.

Application: P/12/1709/2 - Charnwood Borough Council

3. *Likewise, the main parties agree that the provision of some 18 dwellings as affordable housing (30% of 60, in accordance with the Council’s policy), together with various financial contributions towards local infrastructure - including payments to the Council, Leicestershire County Council and Leicestershire Police - would be met by the terms of a unilateral planning obligation [Doc 4], submitted at the hearing.*
35. *At the hearing the appellants tabled a signed and executed S106 unilateral planning obligation containing various clauses including: (in schedule 1) those relating to the provision of 18 units of affordable housing; (in schedule 2) the payment of monies to the Council comprising a health facilities contribution (approx. £14,000), a police contribution (approx. £25,000), and an open space contribution (approx. £42,000); and (in schedule 3) payments to Leicestershire County Council towards education (approx. £110,000) and transport (approx. £17,000); together with miscellaneous matters.*
36. *There was some discussion at the hearing as to the justification for some of the financial contributions sought. However, having regard to all the evidence to the hearing, and the criteria in para. 204 of the Framework, I am satisfied that all these provisions for infrastructure payments 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. They also meet the 3 statutory tests set out in regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).*

Appeal Ref: APP/F2415/A/12/2179844

Appeal Decision - 14 February 2013

Land north of Bill Crane Way, Lutterworth, Leicestershire.

The application sought outline planning permission for residential development with associated infrastructure, public open space and provision of vehicular and pedestrian access without complying with a condition attached to planning permission Ref 11/00117/OUT, dated 23 January 2012.

Application: P/12/00613/VAC - Harborough District Council

26. *The UU covenants in favour of the Council contributions in respect of the provision and maintenance of open space as part of the development and towards allotments, cemetery provision, policing services, medical facilities, recycling, community facilities and the provision of 30% of the units of affordable housing. The UU also covenants in favour of the Leicestershire County Council financial contributions towards education, public transport measures including bus stops, travel packs and bus passes, and library provision.*
27. *Whilst the Council and the County Council confirmed that the terms of the submitted UU were acceptable, the appellant questioned whether the contribution in respect of policing was compliant with the tests set out in the CIL Regulations. The appellant suggests that there is no evidence that the proposed development would result in a need for increased police resources. It is also argued that there should be no automatic assumption that the development should bear the cost of the provision of additional policing since the anticipated growth of such costs in this area could have been budgeted for and the new residents will generate Council Tax revenue.*
28. *However, it is recognised by both the County Council and the Council's guidance that a contribution towards policing could be triggered if there is a need arising from the development. The guidance therefore establishes the principle of a contribution although there needs to be clear evidence that the level of contribution would be justified having regard to the tests set out in the CIL Regulations.*
29. *The written evidence submitted by Leicestershire Police detailed the impact the proposed development would have on policing, forecasting the number of potential incidents and the anticipated effect this would have on staffing, accommodation, vehicles and equipment. In view of the requirement of national planning policy to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life, it is considered that, on the evidence before me, a contribution towards policing is necessary to make the development acceptable in planning terms.*
30. *Whilst the additional staff, accommodation, vehicles and equipment detailed by the Police could not be regarded as being for the exclusive use of the development, they would be necessary to provide for the effective policing of and to attend incidents on the site. In addition the number of staff and level of resources required to police the development has been based on the number of incidents estimated to be generated by the site. In respect of policing services the UU makes provision for the payment of £426 per dwelling and this is the figure sought by Leicestershire*

EXAMPLES OF APPEAL DECISIONS SUPPORTING THE POLICE

Police. The level and range of the mitigation would therefore appear to be directly related to the development and also to be fairly and reasonably related in scale and kind to it.

- 31. I have had regard to the fact that the s106 Agreement, dated 18 January 2012, in respect of the existing outline planning permission makes provision for a contribution of £606 per dwelling for policing. The appellant has indicated that this agreement was concluded under time pressure and the police have had a change in policy since, under which only major developments would be targeted for contributions. However, the report also states that contributions would be pursued where a significant impact on policing is foreseen and can be quantified. It would appear that the most relevant implication of the change in policy is that the contribution required by the police in respect of this appeal was reduced following quantification of the anticipated effect of the development. This affirms my view that the UU before me meets the CIL tests.*
- 32. Reference has been made to a number of appeal decisions where it has been concluded that the police contributions failed to meet the tests and others where a contrary conclusion has been reached. However, I am not aware of the scope of the evidence provided in these cases and a comparison with the appeal cannot therefore be made.*
- 33. On the basis of the evidence before me, therefore, I am satisfied that the contribution towards policing set out in the UU is necessary, directly related to the development and fairly and reasonably related to it in scale and kind – as required by the tests set out in the CIL Regulations. I conclude the same with regard to the elements of the UU which are not in dispute and I have taken the UU into consideration in reaching my decision.*

£/m2 study

Description: Rate per m2 gross internal floor area for the building Cost including prelims.

Last updated: 17-Mar-2018 12:20

› Rebased to South East Region (excluding Greater London) (111; sample 1994)

Maximum age of results: Default period

Building function (Maximum age of projects)	£/m² gross internal floor area						Sample
	Mean	Lowest	Lower quartiles	Median	Upper quartiles	Highest	
Rehabilitation/Conversion							
374. Police stations (20)	2,045	1,235	1,419	1,561	1,958	4,050	5
374.1 Police admin/control buildings (15)	1,332	886	1,044	1,406	1,624	1,698	5

Appeal Decision

Inquiry opened 24 October 2017

Accompanied site visit made on 3 November 2017

by M C J Nunn BA BPL LLB LLM BCL MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 14 March 2018

Ref: APP/R1845/W/17/3173741

Land off The Lakes Road, Bewdley, Worcestershire, DY12 2BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Gladman Developments Ltd against Wyre Forest District Council.
 - The application Ref: 16/0550/OUTL is dated 9 September 2016.
 - The development is described as "outline planning permission for up to 195 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal public open space, and children's play area, surface water flood mitigation and attenuation, vehicular access point from The Lakes Road and associated ancillary works. All matters to be reserved with the exception of the main site access off The Lakes Road".
-

Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The Inquiry opened on 24 October 2017, and sat on 25, 26, 27 & 31 October, and 1 & 2 November 2017. In addition to my accompanied site visit on 3 November 2017, I made unaccompanied visits to the site and its surroundings on other occasions, before, during and after the Inquiry. Housing Land Supply issues were discussed as part of a 'Round Table Session'.
3. The application is made in outline with all matters except access reserved for subsequent determination. An illustrative Development Framework Plan (Ref 7166-L-02 Rev P) has been provided showing how the development might be accommodated.
4. Two planning obligations, both dated 8 November 2017, have been submitted. I deal with these in the body of my decision.
5. The Council failed to determine the application within the prescribed period. The Council's Committee Report of 20 June 2017 advises that, had it determined the application, it would have refused permission for six reasons¹.

¹ Committee Report [CD 5.1] and Minutes [CD 5.2]

6. One of the Council's putative refusal grounds related to air quality, and specifically the effect on the Welch Gate Air Quality Management Area (AQMA). Following further negotiations, the Council has confirmed that it is satisfied with the measures proposed in one of the planning obligations and has withdrawn its objections in terms of the effect on air quality².

Main Issues

7. The main issues are:
- i. the effect of the proposal on the character and appearance of the area, including the landscape;
 - ii. the effect on the significance of heritage assets, including the Bewdley Conservation Area and statutorily listed buildings; and
 - iii. whether the Council can demonstrate a five year supply of deliverable housing sites; if it cannot, whether the adverse impacts would significantly and demonstrably outweigh the benefits of the scheme; or whether specific policies indicate development should be restricted.

Reasons

Planning Policy Context

8. The relevant legislation³ requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The statutory development plan comprises the Core Strategy (CS), adopted 2010, which plans for the period between 2006-2026; and the Site Allocations and Policies Local Plan (SAPLP), adopted 2013, which contains development management policies for the district and allocates sites for particular uses. The Council refers, in its putative refusal grounds, to Policies DS01, DS03 and CP12 of the CS, and Policies SAL.DPL1, SAL.UP6 of the SAPLP.
9. The National Planning Policy Framework ('the Framework') sets out the Government's up-to-date planning policies and is a material consideration in planning decisions. The Framework does not change the statutory status of the development plan for decision making. Importantly, however, the Framework advises at Paragraph 215 that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Paragraph 14 of the Framework is also clear that where the development plan is absent, silent or out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Paragraph 14 also notes that specific policies of the Framework may indicate development should be restricted.
10. Policy DS01 (Development Locations) of the CS sets a housing requirement of 4000 dwellings over the plan period, and identifies Bewdley as a 'Market Town' within the settlement hierarchy. It states that limited opportunities for development to meet local needs will be identified on brownfield sites. DS03 (Market Towns) of the CS states, amongst other things, that Bewdley's

² Council's Closing Submissions, Paragraph 2 [Inquiry Document (ID) 38]

³ Section 38(6) of the 2004 Act

contribution towards the District's housing needs will be limited primarily to the provision of affordable housing to meet local needs on allocated sites. A mixed use scheme is identified in the town centre. Policy SAL.DPL1 (Sites for Residential Development) of the SAPLP is concerned with delivering the housing requirement of Policy DS01 of the CS and restricts development to identified locations, and within Bewdley, to small windfall sites for 5 or less dwellings on previously developed land within areas allocated primarily for residential development. The appellant acknowledges that the appeal proposal does not fall within these policy criteria.

11. The CS was adopted against a housing evidence base derived from the now revoked West Midlands Regional Spatial Strategy that does not reflect the up-to-date full objectively assessed need that Paragraph 47 of the Framework requires. The SAPLP was also adopted on the basis of the housing requirement figure within the CS. The Council accepts that the housing policies are not up-to-date. This diminishes the weight that can be attached to any conflict with Policies DS01 and DS03 of the CS and SAL.DPL1 of the SAPLP insofar as they relate to housing land supply. It is also sufficient, in itself, to engage the so called 'tilted balance' of Paragraph 14 in favour of granting permission. However, the Council contends there are specific policies in this instance which indicate that development should be restricted: namely Paragraph 134 of the Framework, dealing with heritage assets, and Paragraph 109, concerned with valued landscapes. I shall return to these matters in due course.
12. Policy CP12 (Landscape Character) of the CS requires new development to protect and where possible enhance the unique character of the landscape. Where appropriate to landscape character, small scale development meeting the needs of the rural economy, outdoor recreation, or to support the delivery of services for the local community will be supported, subject to meeting all other relevant criteria with the development plan. The appellant's view is that Policy CP12 of the CS is inconsistent with the Framework for various reasons: it is not criteria based, it lacks a hierarchical approach requiring that protection is commensurate with landscape status, and it arbitrarily restricts proposals to 'small scale development' that meet certain criteria. I accept that the thrust of the Framework has moved away from a 'blanket protection' of the countryside, to a more hierarchical approach of consideration of landscape value, and that it places no restriction on the size of development.
13. That said, the Framework refers to the planning system performing various roles, including an environmental one. This involves contributing to protecting and enhancing the natural, built and historic environment⁴, as well as amongst other things, taking account of the different roles and character of different areas, and recognising the intrinsic character and beauty of the countryside⁵. The Framework specifically states planning should contribute to conserving and enhancing the natural environment⁶. So whilst certain aspects of Policy CP12 do not reflect up to date guidance, the requirement 'to protect and where possible enhance the unique character of the landscape' is not in fundamental conflict with the underlying aims of the Framework, and so it can be afforded some weight.

⁴ Paragraph 7

⁵ Paragraph 17

⁶ Paragraph 17

14. Policy SAL.UP6 (Safeguarding the Historic Environment) of the SAPLP requires that proposals affecting heritage assets, including their setting, should demonstrate how these assets will be protected, conserved and, where appropriate, enhanced. It sets out criteria to be considered for development proposals affecting heritage assets. The policy does not accurately reflect the approach to heritage assets in the Framework⁷ in terms of distinguishing between designated and non-designated heritage assets, or in terms of assessing harm or assessing public benefits. Furthermore, the approach in respect of conservation areas in the second part of the policy does not reflect either the relevant tests in the Framework or the relevant planning legislation⁸. This diminishes the weight that can be attached to any conflict with this policy.

Emerging Policy

15. A new plan is currently being prepared. A *Local Plan Review: Preferred Options Document (2016-2034)*⁹ was published in June 2017 for consultation to enable residents, local businesses and other stakeholders to express their views. It explains that two options of the spatial strategy have been put forward for consultation because of 'the difficult choices that will have to be made'¹⁰. The Council has not relied on any emerging policies in its putative reasons for refusal, although the Statement of Common Ground lists a number of emerging policies relevant to the appeal¹¹. The emerging plan is scheduled for adoption in February 2019. However, it is still subject to various outstanding objections, and its policies may be subject to change. It is still a considerable way from adoption. In these circumstances, I cannot give its policies significant weight in this appeal.
16. Bewdley has been designated as a Neighbourhood Area and work is underway by the Town Council to produce a Neighbourhood Plan. Although consultation events have taken place, a formal plan has not yet been produced for consultation. As things stand, there is no draft Neighbourhood Plan to take into account at this stage.

Character and Appearance - Landscape

17. The irregularly shaped appeal site forms an expansive group of sloping fields abutting the urban edge of the settlement of Bewdley. The fields are defined by hedgerows and the undulating topography generally falls towards the base of the valley. The site's south western boundary is defined by Dry Mill Lane and its south eastern boundary by The Lakes Road. To the south is residential development. Further to the west lies the Wyre Forest Nature Reserve and Site of Special Scientific Interest. A public footpath (BW518) runs across the site from Dry Mill Lane to Dowles Road. Further to the east at the bottom of the valley, outside the site, flows the River Severn. There is a play area, accessed from the junction of Tudor Road and Lyttleton Road on the south eastern boundary.
18. The appeal site lies within the 'Wyre Forest Plateau Regional Character Area', and at a more local level, the 'Forest Smallholdings and Dwellings' Character

⁷ Section 12

⁸ Planning (Listed Buildings and Conservation Areas) Act 1990

⁹ CD 8.1

¹⁰ Paragraph 1.7 [CD 8.1]

¹¹ Paragraph 3.1.3

Type, which occurs solely around the fringes of Wyre Forest. It is described as characterised by a small scale pattern of hedged pastures and orchards assarted¹² from woodland with an intimate spatial character¹³. The description also refers to an intricate network of narrow, interlocking lanes and wayside dwellings. Advice on management is given in an Advice Sheet¹⁴ which mentions that the area's 'rustic charm' can be easily destroyed and the aim should be to conserve through appropriate planning controls and design guidance.

19. The appellant's assessment is that the site is considered to be of 'medium/high' landscape value¹⁵, although it is noted that it is not protected by any specific national or local landscape designation, nor has it ever been¹⁶. Nor is it subject to any ecological or other environmental designation. The appellant acknowledges that the site is in good condition, but says there are no rare features within the site and it is typical of the area. Whilst there is a public footpath across the site, with attractive long distance views across the valley, it is an area of farmland on the edge of the settlement. It cannot be regarded as an intrinsically sensitive site, being influenced by the existing edge of Bewdley along its boundary to the south east and south west. It does not contain any demonstrable physical characteristics that would elevate the site above that of general countryside.
20. Applying the principles of the *Guidelines for Landscape and Visual Impact Assessment, Third Edition* (GLVIA3)¹⁷ the appellant concludes that in terms of the site itself, there would be a 'major/moderate adverse' effect on the landscape on completion of the scheme, reducing to 'moderate/adverse' once the associated planting and green infrastructure has matured¹⁸. In wider views, it is concluded that landscape effects would be quite localised with the development ultimately forming an extension to the existing residential edge of Bewdley. Effects for the wider landscape area are said to be 'moderate/minor adverse' on completion, reducing to 'minor adverse' once planting and landscaping has matured¹⁹.
21. Whatever character 'label' is attached, the character of the site and surroundings is clear from site inspection. From my own observations, I consider that the site and its wider surroundings form part of a very attractive valley landscape, with a gently rolling topography. Composed of fields, and punctuated and peppered by intermittent deciduous tree cover and hedgerows, a pleasing, intimate yet open character results. The local landscape remains intact and unspoilt, and its elements are in good condition. Indeed, the predominant impression when walking along Footpath BW518, away from Dry Mill Lane, is of entering an attractive, open and rural landscape, with excellent long range views across the River Severn Valley, to the Wyre Forest, and in the far distance, the Clent Hills. The urban edge of Bewdley, and specifically the properties in Dry Mill Lane and The Lakes Road, play a minimal role and do not

¹² i.e. cleared from the forest

¹³ Landscape Character Assessment, pp 58-59 [CD 7.1]

¹⁴ Advice Sheet – Smallholdings & Dwellings [CD 9.19]

¹⁵ Mr Nye's Proof, Paragraphs 3.24 & 6.2

¹⁶ For example, an Area of Great Landscape Value, designated in the Worcestershire County Structure Plan

¹⁷ ID 20

¹⁸ Mr Nye's Proof, Paragraph 5.10

¹⁹ Mr Nye's Proof, Paragraph 5.6

dominate the site to any great extent. Nor does the existing residential development undermine the site's tranquillity to any degree. Indeed, the impression I formed on my site inspections was of being in a peaceful and tranquil rural location.

22. Whilst the fields themselves comprising the site have no formal recreational use, they nonetheless provide an important setting and context for the footpath, which is well used and popular with local people. The footpath is promoted by the Tourist Information Centre as part of two circular walks²⁰. It is also mentioned in an historic 1926 'Official Guide to Bewdley' which notes that 'from its very elevated position, you have indeed a lovely view of the wooded and magnificent valley of the Severn beneath'²¹. I acknowledge that this guide was written many years ago, and there has been significant new development in Bewdley that has inevitably changed the experience. However, the panoramic views of the landscape from the footpath still remain intact.
23. The proposed coverage of the fields with new housing either side of the footpath means views from it would be compromised. The intrusion of urban built form would fundamentally alter users' experiences of this important section of the footpath. Rather than walking through a series of open fields that form part of a much wider rural landscape, and from which there are panoramic views, it would in effect become a walk through a housing estate. Most users are likely to find their experience and enjoyment of the footpath seriously impaired by such changes to the landscape. I acknowledge the illustrative plans show a 'green corridor' either side of the footpath. New pathways are also proposed through and around the site, linking into the existing public footpath, along with an extensive area of public open space²². Whilst these features would create some degree of permeability across the site, they do not alter my fundamental concerns regarding the harmful effect of the development.
24. Turning to views in the wider landscape, I observed the site from various points, in longer range views from the opposite side of the valley, including from the public bridleway (KF525) south of Hall's Farm and the public footpath at Crundalls Farm. From these vantage points, although seen at a distance and within the context of a larger panorama, there are nonetheless clear views towards the site. In fact, the site is conspicuous, covering a wide expanse of gently sloping land that contributes to the wider rural landscape and setting of Bewdley. The development would be seen as significantly expanding the urban edge of Bewdley. The visual intrusion of built development over this significant swathe of rural land, sloping down the valley side, would harm this attractive landscape.
25. The appeal site is promoted on the basis that it should be regarded as essentially an area adjacent to, and read in the context of, the built development of Bewdley. However, the site is not well-contained, and there are extensive views of it from the wider landscape, including from the other side of the valley. The proposal would not mark a natural rounding off of the settlement, nor would it be adequately assimilated with it. Rather, it would

²⁰ CD 12.7, Appendix 1

²¹ CD 12.7 Appendix 2

²² Mr Nye's Proof, Appendix 4 & 5

project significantly into the open countryside, destroying its existing open, rural character. The appeal site forms an important part of a series of undulating fields that merge with the wider sweep of rural land beyond the built-up confines of Bewdley.

26. The scheme proposes additional structural planting along the boundaries, and within the site to supplement the existing vegetation, hedgerows and trees to minimise the impact of new housing. However, I am not convinced that these measures, even once established over time, would be fully effective in altering the perception of urban development behind the vegetative screening. In the winter months when deciduous trees lose their leaves and vegetation dies down, the houses would inevitably be more obvious. Moreover, because of the site's sloping topography and position on the side of the valley, any landscaping, no matter how extensive, would not be particularly effective in screening or mitigating the impact of the development in longer range views from the opposite side of the valley. And whilst it is proposed to retain as much of the existing hedgerow as possible, sections of it will be removed to facilitate access within the site²³.
27. There was disagreement as to whether the site should be classified as a 'valued landscape' in terms of the Framework²⁴. The appellant mentions that valued landscapes should show some demonstrable physical attribute that takes them beyond mere countryside²⁵, and that the site does not demonstrate the characteristics identified in Box 5.1 of GLVIA3²⁶ that can assist in the identification of such areas. The appellant also notes this is a relatively recent contention of the Council, and highlights that the putative reason for refusal refers to the permanent urbanisation and irrevocable change to an '*important*' landscape rather than a '*valued*' one. I am not convinced that much turns on the difference in terminology because, according to the Oxford English Dictionary's definition, '*important*' can mean '*of great significance or value*'.
28. There is no definition within the Framework as to what a 'valued landscape' actually means. GLVIA3 is clear that the fact that an area of landscape is not designated nationally or locally does not mean it does not have any value²⁷. In my judgement, this site forms an intrinsic part of a landscape which is of significant value in the locality and wider area. As noted, a well used footpath runs across the site from which there are panoramic views and the landscape's attractive characteristics can be readily observed. The footpath's importance in terms of how the area is appreciated is acknowledged in published documents, including by the Tourist Information Centre, and in an historic guide book for Bewdley. There are also sweeping vistas of the site from the other side of the valley. The historic hedgerows remain largely intact and the site displays the character of 'assarted enclosure', a historic resource comprising less than 2% of the district²⁸. Whilst the area is not formally designated in landscape terms, it does not follow that the site is without merit or value. Nor does the absence of a formal designation prevent the scheme having a harmful effect. I consider

²³ Statement of Common Ground, Paragraph 4.4.4

²⁴ Paragraph 109

²⁵ CD 11.7

²⁶ ID 20

²⁷ Paragraph 5.26

²⁸ CD 12.5. page 82

that this site has significant local value, and is capable of being defined as a valued landscape.

29. A question then arises as to whether a 'valued landscape' is a restrictive policy in terms of Footnote 9 of Paragraph 14 of the Framework, which in turn has implications as to whether the 'tilted balance' should apply. I have been provided with various appeal decisions concluding that valued landscapes should be considered a restrictive policy²⁹ and those taking a contrary view³⁰. Paragraph 109 does not indicate any particular approach or methodology as to how 'valued landscape' status should be weighed in the planning balance.
30. Footnote 9 does not provide an exhaustive list but merely provides examples³¹. However, the examples given include sites protected under the Birds and Habitats Directive, those designated as Sites of Special Scientific Interest, Green Belts, Local Green Space, Areas of Outstanding Natural Beauty, Heritage Coasts, National Parks (or the Broads Authority), designated heritage assets, and locations at risk from flooding or coastal erosion. It is notable that these examples all relate to statutorily protected or formally or specifically designated sites, assets or interests. This is not the case for this landscape.
31. In the absence of any substantive legal judgement on the point, and taking account of the above, I do not consider that a valued landscape, of itself, necessarily to be an example of a policy which cuts across the underlying presumption in favour of development. Rather, I am of the view it requires me to consider any harm as part of the normal planning balance. Therefore, I do not consider the tilted balance of Paragraph 14 should be displaced on this basis.
32. I am aware that the County Council's acting Landscape Officer did not raise an 'outright' objection to the scheme, but was not able to support the application 'in its current form'³². However, assessments in respect of impacts on the character and appearance of landscapes inevitably involve qualitative matters of judgement, and are rarely clear cut. From my own observations, and the evidence at the Inquiry, I am satisfied that the Council's objections on landscape grounds are justified. I take the view that the appellant's evidence has underestimated the impact of the proposal, as well as undervaluing the overall sensitivity and value of this site.
33. The site was assessed for the purposes of a Housing and Economic Land Availability Assessment (HELAA)³³. Although the appellant states that the site was considered by the panel to be suitable for the delivery of housing, the HELAA commented that only a small amount of development may be possible on the southern part of the land, closest to the urban area, subject to land being allocated through the Local Plan³⁴. Importantly, the HELAA does not identify as suitable for development the much larger expanse of land proposed in this scheme. The fact that it identified a much smaller area as a candidate for further comparative assessment during the plan-making process is not a reason to justify the appeal development.

²⁹ ID 1

³⁰ ID 2

³¹ The footnote is prefaced by the words 'for example'

³² CD 4.1, pages 3-5

³³ CD 9.6

³⁴ CD 9.6, page 20

34. To sum up, I conclude that the encroachment of new development on to this large undeveloped swathe of open land would have very significant and adverse effects for the rural landscape. The site is close to various sensitive recreational 'receptors', particularly the Footpath BW518 that crosses the site, and it is visible in longer range views from viewpoints across the valley. The development would cause a significant incursion into the open countryside and seriously harm the rural character of the locality. As such, the proposal would conflict with Policy CP12 of the CS. It would also conflict with the Framework which requires the planning system to contribute to protecting and enhancing the natural environment³⁵, as well as recognising the intrinsic character of the countryside³⁶. It would not protect and enhance a valued landscape³⁷. All these factors weigh very heavily against the proposals.

Effect on the significance of heritage assets

35. The Bewdley Conservation Area³⁸, comprising a large proportion of the town centre, is of considerable significance in terms of its architectural and historic interest. It contains many statutorily listed buildings, including the River Bridge (Grade I) and St Annes Church (Grade II*) and various buildings in the High Street and in Wribbenhall facing the River. The town sits largely within the valley bottom, and is split into two parts either side of the central Severn River, connected by the bridge. There are many building types, including timber framed buildings from the late medieval period to the 17th Century, and properties from the Georgian, Victorian and Edwardian periods. The Conservation Area Character Appraisal notes that the rural setting of the town is an important component of its character. It states that it is important to conserve the rural setting of the town and Conservation Area, and to recognise the interrelationship between the Conservation Area and overall setting³⁹.

36. The appeal site neither falls within the Conservation Area nor directly abuts it. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced and its extent is not fixed⁴⁰. The Council has suggested two main aspects to assessing effect of development on the significance of the Conservation Area⁴¹. First, how the development of the appeal site would affect the relationship between the Conservation Area and its wider context, as perceived from various points outside it; and second, how the development would affect existing views from within the conservation area towards the site.

37. In terms of the first aspect, I acknowledge that the appeal site makes some contribution to the setting and significance of the Conservation Area because it forms part of the rural hinterland surrounding the town. This relationship can be seen from various points outside the conservation area where the appeal site and conservation area are visible together. For example, the site is prominent in views from the Bridleway KF525 to the south of Halls Farm, and from Crundalls Farm. However, in many of these longer range views where both the town and appeal site are visible together, the viewer is simply

³⁵ Paragraph 7

³⁶ Paragraph 17

³⁷ Paragraph 109

³⁸ CD 9.18

³⁹ CD 9.17

⁴⁰ Glossary

⁴¹ Mr Bassett's Proof, paragraph 3.18

- observing Bewdley (and its associated Conservation Area) as an urban settlement within the wider countryside, along with more recent residential development on its outskirts.
38. I have already found that the proposed expansion of development into open countryside would have a seriously harmful effect on the rural landscape. However, whilst the appeal scheme would enlarge the expanse of more recent development on the edge of the town, I am not convinced the overall perception of the Conservation Area itself within the wider landscape would be fundamentally altered by the appeal development. Hence, in terms of the degree of direct harm to the significance of the Conservation Area itself, and its relationship with the wider landscape context, the effect would be limited.
39. In terms of the second aspect, the appeal site is visible from certain points within the Conservation Area, including from the Severn Valley Railway Station (from the footbridge and viaduct), and from the River Bridge and Quayside in Wribbenhall. I acknowledge that the appeal site makes some contribution to the setting and significance of the Conservation Area because it forms part of the rural hinterland that is visible in views from these points within the Conservation Area. However, the appeal site represents a very small component in the overall vistas from these viewpoints. I consider that the development would have a limited effect on existing views from within the Conservation Area towards the site.
40. The Council has raised concerns regarding light spillage from the development, arguing that it would erode the ability to appreciate the Conservation Area in its setting. However, there is already a significant swathe of residential development between the Conservation Area and the appeal site, including the 20th Century housing in Woodthorpe Drive. Any additional lighting must be viewed in this context and I do not consider the effect on the Conservation Area would be especially marked in this respect.
41. In terms of statutorily listed buildings affected by the development, the Council has identified only Severn Heights on Dowles Road (Grade II). The listing description identifies this as a timber framed building with rendered infill walls and a tiled roof. It dates from the 17th Century with early 19th Century additions, and some late 20th Century alterations. The appeal site forms part of the wider setting of this listed building, and its undeveloped rural character reinforces the building's sense of isolation in the countryside. To that extent, it contributes to its significance.
42. The appeal scheme would result in residential development moving closer to this listed building. However, the setting of this building would not be affected to a significant degree by the scheme because of the steeply sloping topography towards the valley bottom, the heavily wooded enclosure the house experiences, and the very limited inter-visibility between the appeal site and listed building. Furthermore, the lower field closest to Severn Heights is proposed to be retained undeveloped as an amenity area, thereby minimising the impact on the listed building's setting.
43. Both the appellant and the Council agree that the overall degree of harm to heritage assets would be less than substantial in terms of the Framework, and I share that view. But there is a clear difference of opinion between the parties

as to how the harm should be categorised. The appellant argues that the proposal would have only a negligible degree of harm to the significance of the Conservation Area itself and the statutorily listed Severn Heights⁴². Thus the appellant contends the harm to heritage assets should be at the bottom end of the 'less than substantial harm' spectrum. The Council, by contrast, argues the harm lies on a significantly higher point on the spectrum.

44. To my mind, the proposal would result in some very limited harm to the setting of the Conservation Area. In respect of the listed building, the relevant legislation requires that where considering whether to grant permission for development that affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting⁴³. I have found the proposal would result in some impact to the setting of Severn Heights and, to that extent, would therefore fail to preserve its setting, contrary to the relevant legislation. However, the effect on its setting would be very marginal.
45. Overall, for the reasons above, I consider that the level of harm to heritage assets should be placed at the lower end of the spectrum. In accordance with the Framework, the harm to heritage assets, albeit less than substantial, needs to be weighed against the public benefits of the proposal.

Housing Land Supply

46. The Council maintains it has a 5.69 year supply of housing⁴⁴, whereas the appellant says it is only 1.24 years⁴⁵. This difference arises because of various areas of disagreement: first, the housing requirement figure that should be used. The Council contends 300 dwellings per annum (dpa), whereas the appellant prefers 332 dpa; second, the appropriate 'buffer' - whether 5% or 20%, depending on the extent of any shortfall; and third, the extent of the supply, including whether the sites relied on by the Council are deliverable, and whether certain types of 'C2' units (residential institutions) are to be included in the calculations in terms of past completions and future supply.

Requirement figure

47. Policy DS01 (Development Locations) requires 4,000 dwellings to be provided over the plan period. The Council acknowledges that this requirement figure no longer represents the Objectively Assessed Housing Needs for the district (OAHN)⁴⁶, and is therefore out of date. However, there is disagreement as to what the OAHN should be for the purposes of this appeal. Amion Consultants were appointed by the Council to produce an OAHN for the Council as part of the evidence base for the emerging Local Plan.
48. The Amion Report⁴⁷ (April 2017) identifies a range between 199-332 dpa. The appellant favours the figure of 332 dpa at the top of the range based on, amongst other things, the significant need for affordable housing, the worsening affordability of housing in the area, and household formation suppression that has resulted from a lack of supply against need over the past

⁴² Mr Clemons Proof, Paragraphs 7.12 & 7.14

⁴³ S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

⁴⁴ Council's Closing Submissions [ID 38] & HLS Update Note [ID 34]

⁴⁵ Appellant's Closing Submissions, Paragraph 6.8

⁴⁶ Mr Round's Proof, Paragraph 14

⁴⁷ CD 9.1

- 10 years⁴⁸. The higher figure would also help 'boost significantly' the supply of housing in accordance with the Framework.
49. The requirement range identified in the Report results primarily because of different assumptions concerning a number of key variables: migration, unattributed population change, household formation rates, and economic activity. The Report, having regard to various factors, recommends a figure of 300 dpa⁴⁹ and rejects the higher figure of 332 dpa. Importantly, this judgement was entirely Amion's rather than the Council's. The Council explained at the Inquiry⁵⁰ that the recommended figure was based on a careful analysis of the data and the most appropriate scenarios with regard to migration, and other judgements, including in terms of headship rates, market signals such as house prices, relative affordability and vacancy rates, and economic forecasts. For example, in respect of migration, the Report favours a long term trend approach based on the actual results of the 2011 census as a 'reality check' (PG-Long-term), rather than one based wholly on projections (PG-Long-term- X)⁵¹. Thus it was explained that the 332 dpa scenario (PG-Long-term-X) is based on forecasts that are not wholly reliable.
50. Establishing the future need for housing is not an exact science and no single approach will provide a definitive answer⁵². Professional judgements have to be made on technical evidence which may permit a range of possible outcomes. Moreover, and importantly, it is my firm view that any future housing requirement figure will need to be discussed, fully analysed and tested through the local plan examination process, with the opportunity for a full range of stakeholders and participants to comment. It is established case law that it is not part of my remit, in determining a planning appeal, to conduct an examination into the housing land requirements of the emerging local plan. Indeed, to do so may prejudice the findings of the Local Plan Inspector. In these circumstances, and for this specific appeal only, I have no good reason to discount the recommendations of the Amion Report, which appears to be based on thorough, robust and sound analysis. Therefore, I consider the 300 dpa figure to be appropriate, which equates to a dwelling requirement of 5,400 for the period 2016 to 2034.

Appropriate buffer

51. The next stage is to consider the appropriate buffer. Policy DS05 of the CS is concerned with the phasing and implementation of the 4,000 dwellings for the period covering 2006-2026, derived from Policy DS01. Although this figure is accepted as out of date, it does nonetheless provide a yardstick by which to measure past performance. Policy DS05 identifies an explicit stepped delivery over the five year phasing periods to ensure delivery over the plan period, as follows: 2006/07 to 2010/11 – 240 dwellings per annum; 2011/12 to 2015/16 – 326 dwellings per annum; 2016/17 to 2020/21 – 196 dwellings per annum; and 2021/22 to 2025/26 – 94 dwellings per annum. The Council has met its

⁴⁸ As per the evidence of Mr Venning and Mr Donagh

⁴⁹ Paragraph 5.3

⁵⁰ Evidence of Mr Bullock

⁵¹ Council's Closing Submissions, Paragraph 35

⁵² Paragraph: 014 Reference ID: 2a-014-20140306

stepped trajectory in only 3 years in the period from 2006 to 2016 resulting in a deficit of 301 units⁵³.

52. The Council's view is that, whilst Policy DS05 seeks to 'front load' delivery of sites, it does not constitute a formal 'requirement' for each five year period. Rather, according to the Council, the phased figures of the Policy are merely 'aspirational'. It mentions that the target for annual monitoring purposes has always been 200 dpa and, using this figure, the Council has exceeded its target in the period 2006-2016⁵⁴. It also draws attention to Paragraph 4.2 of the SAPLP which states that in order to meet the housing target of the CS, "*an indicative annual average of 200 net additional dwellings will be required during the plan period*". The Council's most recent Housing Land Supply Report of September 2017 (HLS Report) notes that, although for four of the years in this period completions were below the requirement of 200 dwellings, the cumulative difference in delivery was always positive and the average annual delivery over this period was 254 dwellings against a requirement of 200⁵⁵.
53. In my view, on any ordinary reading of Policy DS05, the completions should be measured against the clearly expressed stepped trajectory. The Policy unequivocally states that the Plan "*will deliver the following average annual net additions of dwellings within the District across the five year phasing periods*". This seems to be more than mere aspiration. Moreover, the reasoned justification to the Policy notes that "*the trajectory demonstrates that a higher build rate will be required for the first ten year period up until 2016*"⁵⁶. The Monitoring and Implementation Framework tables⁵⁷ within the CS also confirm the stepped trajectory of Policy DS05.
54. The Council is already behind in the revised OAHN requirement since 2016 against the higher 300 dwelling target, recording an under-delivery of 34 units for 2016-17 and 78 dwellings for the first five months of 2017/18⁵⁸. This, together with the failure to meet the stepped trajectory requirement of Policy DS05 leads me to conclude that there has been persistent under-delivery, and that a 20% buffer is appropriate in order to provide a realistic prospect of achieving the planned housing supply.

Supply

55. This raises the issue of the inclusion of C2 within the completion figures. The HLS report expressly notes that C2 uses (such as nursing and care homes) have been excluded from the housing requirement figure, as it is catered for separately, and therefore should not be counted as part of the housing completions⁵⁹. However, the Council has sought to distinguish between two types of 'care' accommodation: first, institutions with bed spaces, which are always accepted to be C2 use; and second, self contained dwellings in which older people live independently with or without the need for care, and where there is debate as to whether they should be regarded as C2.

⁵³ Mr Tait's Proof, Table at page 15

⁵⁴ Core Strategy requirement of 4,000 divided by the 20 year plan period (2006-2016)

⁵⁵ CD 9.4, Paragraph 3.3

⁵⁶ Paragraph 5.64

⁵⁷ Pages 97 onwards

⁵⁸ CD 9.4, Paragraph 3.3

⁵⁹ CD 9.4, paragraph 2.4

56. The Council argues the key question is whether a particular scheme is for institutional bed spaces or for self-contained dwellings and not to 'fixate' on whether it is described as C2 or not in an application or permission. In other words, if a scheme comprises self contained dwellings, that should be counted within the five year supply. On this basis, the Council argues that the former British Sugar Site, Kidderminster⁶⁰ (112 units) should be included in their completions and Land at Tan Lane, Stourport⁶¹ (60 units) in future supply.
57. Much time could be spent debating different approaches to definitions, and how individual schemes should be classified. In terms of the British Sugar Site, although the plans appear to show independent units, the permission clearly describes '*Residential units of extra care (Class C2)*' and '*Residential Units for Adults with Learning Difficulties Extra Care (Class C2)*'. In respect of Tan Lane, although the Council says the units are Class C3 and the plans appear to show individual apartments, a condition of the permission clearly states that '*at no time shall any unit be occupied as a single dwelling (C3) independent of the extra care facility*'⁶². Taking a straightforward approach, it seems to me that these schemes cannot properly be classified as ordinary dwellinghouses falling within Class C3. For the purposes of this appeal, I find these units should therefore be excluded from the calculations.
58. There was considerable disagreement as to whether there was a realistic prospect of sites being deliverable within the five year period. A schedule of disputed sites was produced setting out the parties' respective cases⁶³. In essence, the appellant seeks to remove sites altogether or shift them beyond the five year period for delivery on the basis that many have a history of non-delivery, with various constraints requiring resolution before development can proceed. This results in a supply figure of 570 units. The Council's more optimistic view results in a supply figure of 1927 units⁶⁴. Given the contradictory evidence supplied on these sites, and my limited knowledge of them, it is difficult to reach a definitive view. However, I set out the consequences for overall housing supply for each side's position below.

Overall conclusions on housing land supply

59. I have found that the Amion Report's recommended figure of 300 units should be used as the annual requirement, and that a 20% buffer is appropriate. In terms of supply, I have removed the disputed 'C2' units from the calculations. However, the exact supply figure is more difficult to discern because of the contradictory evidence of the parties concerning individual sites. Even on the most optimistic basis, and accepting the Council's preferred supply figure of 1927 units, it can only show a 4.69 year supply. Using the appellant's heavily discounted supply figure of 570 units (and also assuming an annual requirement of 300 units and a 20% buffer) a supply of just 1.39 years exists⁶⁵. If the appellant's preferred annual figure of 332 units is used against this lower supply figure (and again adopting the 20% buffer) it reduces further

⁶⁰ ID35

⁶¹ ID36

⁶² Condition 4 of 2015/0173

⁶³ ID22

⁶⁴ ID34

⁶⁵ ID 34

to 1.24 years. It is clear that, on any of these scenarios, the Council cannot demonstrate a five year supply of housing.

Planning Obligations

60. The appellant has completed two planning obligations, one by agreement and one by unilateral undertaking (UU), both dated 8 November 2017⁶⁶. The UU secures the provision of affordable housing at a rate of 30%, in accordance with the Council's policy requirement. Based on 195 dwellings, this would equate to up to 59 affordable units. It also secures provision of open space, by requiring an open space scheme to be submitted to the Council, and the open space to be transferred to a management company. It secures provision of a sustainable urban drainage system (SUDS). It secures financial contributions towards primary school education at St Annes CE Primary School and Bewdley Primary School (based on different rates depending on dwelling size). It also secures a sum towards policing (£11,058) and towards improving public transport by providing a new bus stop on The Lakes Road (£10,000), and solar powered real time bus information (£2,000).
61. The other obligation by agreement relates to air quality mitigation and comprises a financial contribution of £950,000 for the provision of six Euro VI buses to serve routes through Welch Gate. These new lower emission buses would replace the existing higher emitting buses. Such measures would mitigate the impact of the development on the Welch Gate AQMA. Indeed, the appellant's evidence is that these measures would actually result in beneficial air quality effects in the AQMA.
62. The obligation also includes £66,000 for a 'PEMS'⁶⁷ monitoring fee to test nitrogen emissions from the new buses. The appellant has presented cogent evidence that the PEMS monitoring fee is unnecessary⁶⁸. I accept that there is nothing to suggest that the buses will not perform as predicted, and that the buses themselves are equipped with appropriate diagnostics to indicate the performance of the emissions control system. I therefore conclude that, were I minded to allow the appeal, this element of the agreement should be struck out.
63. I have no reason to believe that the formulae and charges used by the Council to calculate the various contributions are other than soundly based. In this regard, the Council has produced a detailed Compliance Statement⁶⁹ which demonstrates how the obligations meet the relevant tests in the Framework⁷⁰ and the Community Infrastructure Levy Regulations⁷¹. The level of provision of affordable housing would comply with the Council's policy requirement. The Compliance Statement also sets out how the primary school education contribution has been calculated, and confirms it would be spent in schools close to the development. It also explains the necessity for the police contribution and how monies would be spent, and that the contributions for the bus shelter and information is necessary to maximise sustainable modes of transport.

⁶⁶ ID 23

⁶⁷ Portable Emissions Measurement System

⁶⁸ Evidence of Professor Laxen

⁶⁹ ID 40

⁷⁰ Paragraph 204

⁷¹ Regulation 122 & 123

64. The development would enlarge the local population with a consequent effect on local services and facilities. I am satisfied that the provisions of both the obligations, excluding the PEMS contribution, are necessary to make the development acceptable in planning terms, that they directly relate to the development, and fairly and reasonably relate in scale and kind to the development, thereby meeting the relevant tests in the Framework and the Community Infrastructure Levy Regulations. In terms of the air quality measures, these would not only mitigate adverse impacts, but result in beneficial impacts within the AQMA, conveying benefits to the wider population. Overall, I am satisfied that the planning obligations (minus the PEMS contribution) accord with the Framework and relevant regulations, and I have taken them into account in my deliberations.

Overall Conclusions and Planning Balance

65. The relevant legislation requires that the appeal be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework states that proposals should be considered in the context of the presumption in favour of sustainable development, which is defined by the economic, social and environmental dimensions and the interrelated roles they perform. The Council accepts that the housing policies are not up-to-date and that this is sufficient, of itself, to engage Paragraph 14 of the Framework.

66. Paragraph 14 of the Framework explains how the presumption in favour of sustainable development applies. Where the development plan is absent, silent, or the relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Alternatively, specific policies in the Framework may indicate development should be restricted. Although I have found that valued landscapes do not fall within that latter category, the Framework is clear those relating to heritage assets do. Hence the 'public benefits' test of Paragraph 134 relating to heritage assets is engaged in this case.

67. There is no doubt that additional housing arising from this scheme would be a weighty public benefit for the area. It would introduce much needed private and affordable housing for local people. It would boost the supply of housing in accordance with the Framework, contributing up to 195 dwellings, of which up to 59 would be affordable. It would bring about additional housing choice and competition in the housing market. The contribution of the site to both market and affordable housing requirements of the district is a matter of considerable importance. As such, I accord these benefits substantial weight in the planning balance.

68. The scheme would generate other economic and social benefits⁷². It would create investment in the locality and increase spending in shops and services⁷³. It would result in jobs during the construction phase and, according to the appellant, result in construction spending of around £19.03 million. The new homes bonus would bring additional resources to the Council⁷⁴. I acknowledge that the site is in a reasonably sustainable location, within range of the shops,

⁷² As detailed in CD 1.16

⁷³ Household expenditure from the development is estimated by the appellant to be around £6.84 million per year

⁷⁴ Estimated to be around £1.8 million over the 6 years following completion of development

services, schools and the other facilities of Bewdley. There is a convenience store adjacent to the site, on the corner of The Lakes Road and Dry Mill Lane. There are bus services available in the locality and, at a greater distance, a railway station at Kidderminster. A range of employment opportunities exist in Bewdley and Kidderminster. I agree that, in all these respects, the scheme would comply with the economic and social dimensions of sustainability.

69. Some environmental benefits would also occur. There is the potential for biodiversity enhancement through additional planting and provision of green infrastructure⁷⁵ as well as the provision of a large SUDS. A substantial area of public open space is also proposed⁷⁶. Of particular significance is the mitigation scheme for the Welch Gate AQMA to be secured by the UU. This involves replacing the existing high emitting buses that currently pass through the AQMA with new buses that emit substantially less pollution. The evidence suggests that the mitigation will more than offset the increase in emissions associated with the scheme, and will result in beneficial impacts within the AQMA, as well as the wider area. This should assist the achievement of the annual mean nitrogen dioxide objective and contribute to the Council's Air Quality Action Plan. I accord the potential improvements to air quality significant and positive weight in the planning balance.
70. As noted above, Paragraph 134 of the Framework requires the harm to the significance of heritage assets to be balanced against the public benefits of the scheme. In addition, Paragraph 132 requires that, when considering the impact of a proposed development on the significance of heritage assets, great weight should be given to their conservation. However, for the reasons explained, I consider that the level of harm to heritage assets would be limited and should be placed at the lower end of the 'less than substantial' spectrum. In this case, I find that any harm to heritage assets would be outweighed by the scheme's public benefits. As a consequence, I find that the so called 'tilted balance' of Paragraph 14 of the Framework is not displaced in this instance.
71. Importantly, the Council cannot demonstrate a five year supply of housing. At best, the Council can only demonstrate a 4.69 year supply. Adopting the appellant's discounted supply schedule, based on the same assumptions, the five year supply reduces to 1.39 years. On the appellant's preferred basis, it is only 1.24 years⁷⁷. That latter figure is a very serious shortfall and attracts substantial weight in favour of granting permission for the proposals. However, the absence of a five year supply cannot override all other considerations. Moreover, there is no compelling reason why the additional development required to assist in making up the 5 year deficit has to be sited at this particular location.
72. In this case, I have serious concerns in respect of the very significant and adverse effects for the rural landscape. I have found the scheme would cause very serious material harm to the character and appearance of the area, and specifically to this valued landscape. This would conflict with Policy CP12 of the CS. It would also be contrary to the requirements of the Framework to contribute to protecting and enhancing the natural environment⁷⁸, recognising

⁷⁵ Ecology Statement of Common Ground

⁷⁶ Approximately 38% of the site, Proof of Evidence of Mr Lane, page 65

⁷⁷ Based on 332 units per annum

⁷⁸ Paragraph 7

the intrinsic character and beauty of the countryside⁷⁹ and protecting and enhancing valued landscapes⁸⁰. Consequently, I consider that the proposal would have very serious and harmful consequences in terms of the environmental dimension of sustainability with regards to the impact on landscape character. As such, I do not consider the scheme as a whole can be regarded as a sustainable form of development.

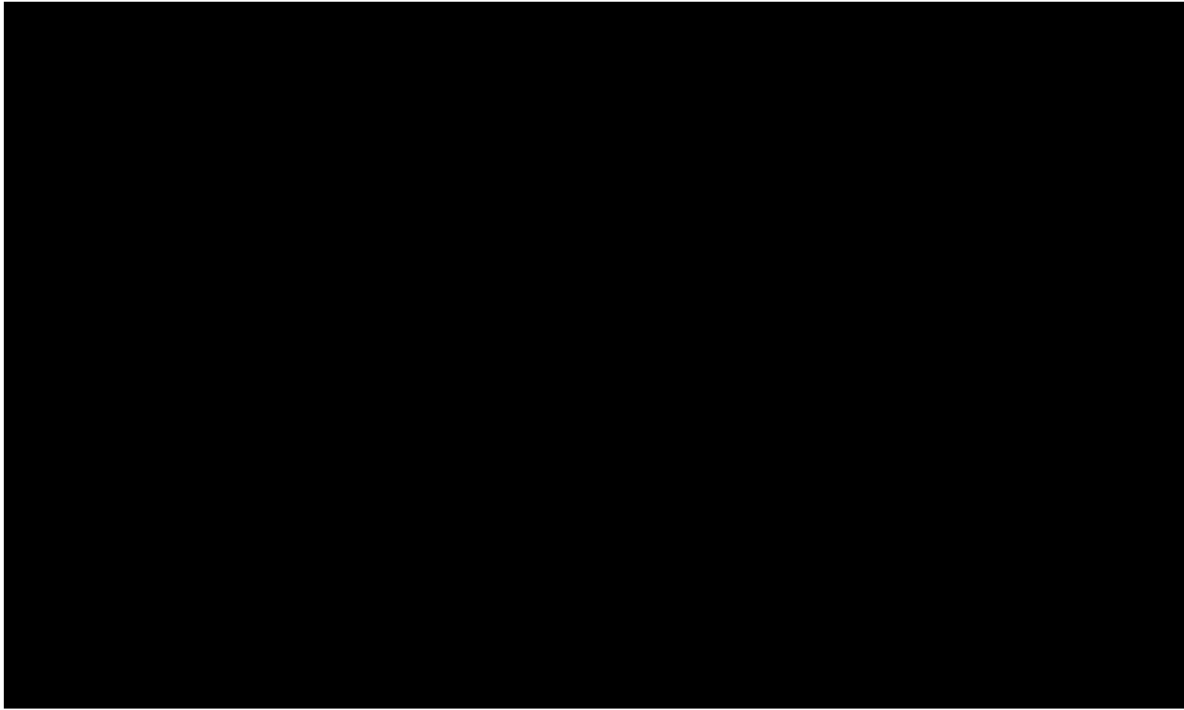
73. I have carefully weighed the significant shortage in housing supply in the balance as well as other benefits that would arise from the scheme. I have considered the contribution of the proposals towards addressing the undersupply of housing, both market and affordable. However, in this case, I consider that the adverse impacts of granting permission, specifically the very serious material harm to the rural character of the locality and incursion of development into the countryside would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies in the Framework taken as a whole. I reach this view even on the basis of the appellant's preferred housing supply figure. For the reasons given above, I conclude that the appeal should be dismissed.

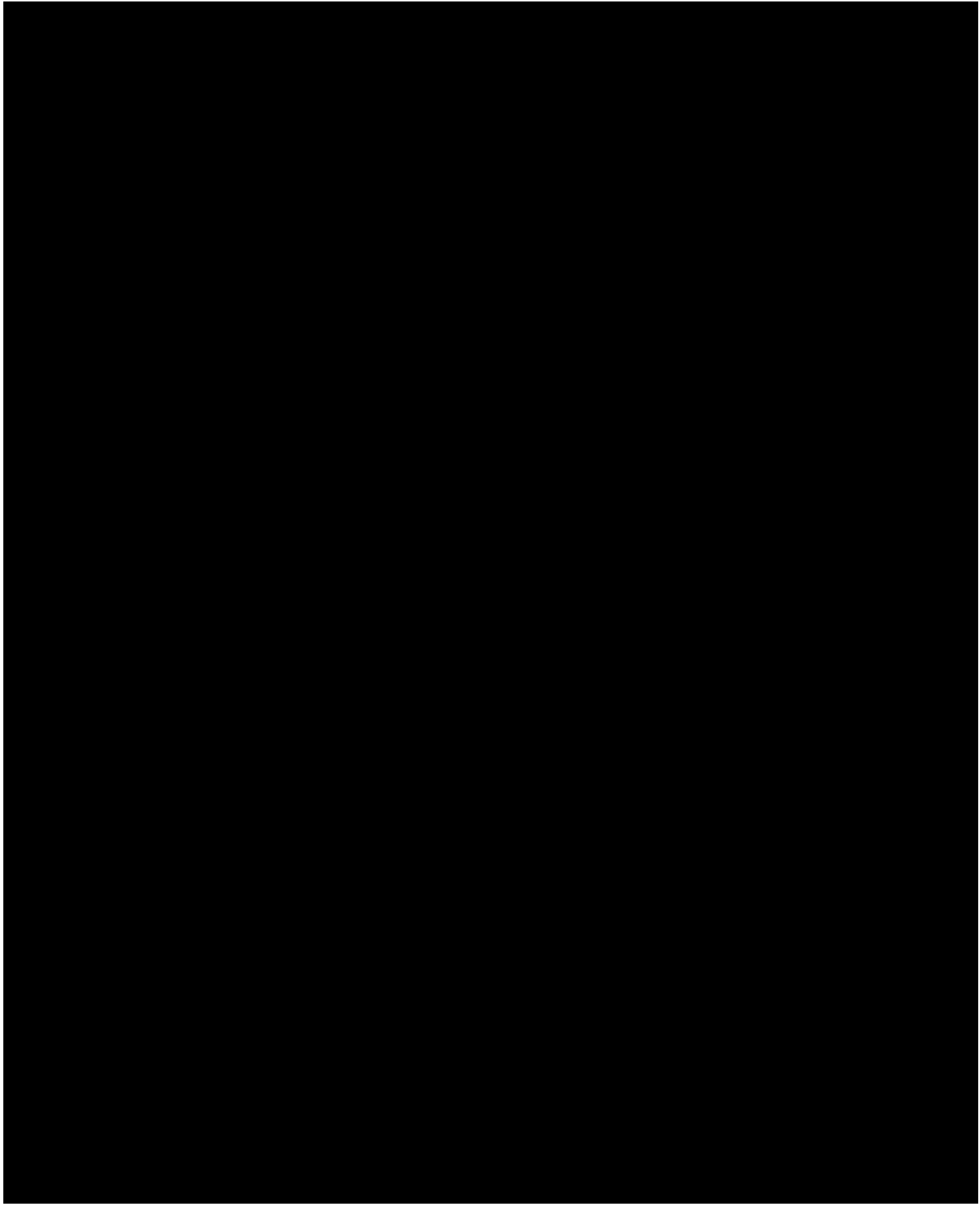

INSPECTOR

⁷⁹ Paragraph 17

⁸⁰ Paragraph 109

APPEARANCES







Core Documents List

CD1 Planning Application Documents

- 1.1 Application Covering Letter and Application Form
- 1.2 Location Plan (including Application Red Line) (Drawing No. 7166-L-01 Rev C)
- 1.3 Development Framework Plan (Drawing No. 7166-L-02 Rev P)
- 1.4 Design & Access Statement
- 1.5 Landscape and Visual Assessment
- 1.6 Transport Assessment
- 1.7 Travel Plan
- 1.8 Ecological Appraisal
- 1.8a Great Crested Newt Survey Report
- 1.8b Reptile Survey
- 1.8c Confidential Badger Survey
- 1.9 Arboricultural Report
- 1.10 Flood Risk Assessment
- 1.11 Air Quality Assessment
- 1.12 Noise Assessment
- 1.13 Heritage Assessment
- 1.14 Archaeological Assessment
- 1.15 Statement of Community Involvement
- 1.16 Socio-Economic Impact Assessment
- 1.17 Planning Statement
- 1.18 Site Access (Drawing No. P16016-003-C)
- 1.19 Foul Drainage Analysis
- 1.20 Draft S106 Heads of Terms

CD2 Additional & Amended Reports submitted after validation

- 2.1 Breeding Bird Survey Report
- 2.2 Bat Survey Report
- 2.3 Flood Risk Assessment Rev A (December 2016)
- 2.4 Flood Risk Assessment Rev B (January 2017)
- 2.5 Supplementary Ecology Report (February 2017)
- 2.6 Visitor Survey Results Table
- 2.7 Air Quality Assessment Addendum (February 2017)
- 2.8 Highways Technical Note 01 (17 February 2017)
- 2.9 Wyre Forest: Housing Need Statement (October 2016)
- 2.10 Traffic Modelling Outputs (mini-roundabout junction)
- 2.11 Potential Junction Improvements Plan (mini-roundabout) (Welch Gate/Dog Lane/Load Street Junction) (drawing No. P16016-004)
- 2.12 Potential Junction Improvements Plan (priority arrangement) (Welch Gate/Dog Lane/Load Street Junction) (drawing No. P16016-005)
- 2.13 Traffic Modelling Outputs (priority junction)

CD3 Correspondence

- 3.0 Local Planning Authority
- 3.1 Highways Authority

CD4 Consultation Responses

- 4.1 WCC Policy (20 October 2016)
- 4.2 WCC Highways (25 October 2016)
- 4.3 WFDC Policy (2 November 2016)
- 4.4 WFDC Policy RLA Appendix 2 (2 November 2016)
- 4.5 WFDC Conservation (19 October 2016)
- 4.6 WCC Air Quality
- 4.7 WCC Environmental Health (21 September 2016)

- 4.8 Historic England (26 September 2016)
- 4.9 CPRE (27 September 2016)
- 4.10 WFDC Disability Action (28 September 2016)
- 4.11 LLFA North Worcestershire Water Management
- 4.12 Bewdley Town Council
- 4.13 Ramblers Association
- 4.14 Adrian Scruby - Historic
- 4.15 Alison Barnes - Education
- 4.16 Alvan Kingston - Arboricultural Comment
- 4.17 Andrew Morgan - Police
- 4.18 Bewdley Civic Society
- 4.19 Gillian Driver - Natural England
- 4.20 Kate Bailey - Affordable
- 4.21 Michelle Lowe - Noise
- 4.22 Paul Allen - Countryside Officer
- 4.23 Peter Aston - Designing out Crime
- 4.24 Severn Trent Water
- 4.25 Steve Bloomfield - Wildlife Trust Conservation officer
- 4.26 LLFA - observations Highfield House
- 4.27 LLFA - Objection removed email
- 4.28 AQMA - Neil Kirby - Following SH request
- 4.29 AQMA - Neil Kirby
- 4.30 Gillian Driver - NE Response
- 4.31 Paul Allen - Countryside Officer
- 4.32 Steve Hawley - County Highways comments
- 4.33 CH2M Bewdley Welch Gate Junction Assessment TN (FINAL)
- 4.34 Steve Bloomfield - Wildlife Trust - Updated comments
- 4.35 Bewdley Housing Survey Report v1
- 4.36 Confirmation from Bewdley that they accept the survey Dec 2016
- 4.37 Bewdley TP - Consultation AQMA Report

CD5 Committee Report

- 5.1 Committee Report
- 5.2 Committee Meeting Minutes

CD6 The Development Plan

- 6.1 WFDC Core Strategy (2006-2026) adopted December 2010
- 6.2 WFDC Proposals Map (Bewdley extract)
- 6.3 WFDC Site Allocations and Policies Local Plan (2006 – 2026) adopted July 2013
- 6.4 Inspector's Report WFDC Core Strategy (dated 19 October 2010) (extracts)
- 6.5 Regional Spatial Strategy Panel Report (extracts)

CD7 Supplementary Planning Documents

- 7.1 Worcestershire County Council Landscape Character Assessment Supplementary Guidance (October 2011)
- 7.2 Affordable Housing SPD (July 2014)
- 7.3 Design Guidance SPD (June 2015)
- 7.4 Planning Obligations SPD (September 2016)

CD8 Emerging Development Plan

- 8.1 Local Plan Review – Preferred Options document (June 2017)
- 8.2 Wyre Forest District Council Preferred Option Document, June 2017: Gladman Development's Representations
- 8.3 Local Plan Issues and Options Paper (September 2015) (extracts)

CD9 Evidence Base for Emerging Development Plan

- 9.1 WFDC Local Plan Review: Amion Consulting OAHN Report (April 2017)
- 9.2 WFDC Bewdley Housing Survey Report (June 2016)
- 9.3 Bewdley Town Council Letter (Housing Needs)
- 9.4 5YHLS report – Wyre Forest District Council Five Year Housing Land Supply Report at 1st September 2017
- 9.5 WFDC Appendices to 5 Year Housing Land Supply Report - September 2017
- 9.6 Housing and Economic Land Availability Assessment and Appendices (HELAA) October 2016 (extracts)
- 9.7 Settlement Hierarchy Technical Paper (October 2009)
- 9.8 Core Strategy Final Sustainability Appraisal Report (January 2010) (extracts)
- 9.9 Housing and Economic Land Availability Assessment (2016) (Bewdley extracts)
- 9.10 Green Belt Strategic Analysis (September 2016) (extracts)
- 9.11 Worcestershire's Local Transport Plan 2006 / 2011 (LTP 2) (extracts)
- 9.12 Worcestershire Local Transport Plan 3: Transport Strategy (extracts)
- 9.13 Worcestershire Local Transport Plan 3: Transport and Air Quality Policy (extracts)
- 9.14 Air Quality Action Plan (June 2013) (extracts)
- 9.15 Air Quality Action Plan Progress Report for Worcestershire April 2015 – March 2016 (September 2016) (extracts)
- 9.16 Historic Environment Technical Paper (2012) (extracts)
- 9.17 Conservation Area Character Appraisal (Jan 2015)
- 9.18 Conservation Area Boundary Plan, WFDC
- 9.19 Landscape Type Advice Sheet: Forest small holdings and dwellings
- 9.20 Landscape Type Advice Sheet: Principal timbered farmlands

CD10 Appeal Decisions

- 10.1 Site at Land off Barford Road, Bloxham APP/C3105/A/13/2189896
- 10.2 Land at Rosery Cottage and 171 Evendons Lane, Wokingham APP/X0360/A/13/2198994
- 10.3 Little Tarnbrick Farm, Blackpool Road, Kirkham, Preston APP/M2325/A/13/2196027
- 10.4 Land off Bath Road, Leonard Stanley APP/C1625/A/13/2207324
- 10.5 Land adjoining Hay House, Tibberton, Newport, Shropshire APP/C3240/W/15/3003907
- 10.6 Land and Buildings Off Watery Lane, Curborough, Lichfield APP/K3415/A/14/2224354
- 10.8 Land off Milltown Way, Leek, Staffordshire APP/B3438/W/15/3005261
- 10.9 Enabling works to allow implementation of full runway alternation during easterly operations at Heathrow Airport APP/R5510/A/14/2225774
- 10.10 Land at Land West of Horcott Road, Fairford APP/F1610/W/16/3157854
- 10.11 Land north of Gloucester Road, Tutshill, Chepstow APP/P1615/W/15/3003662

CD11 Court of Appeal and High Court Judgments

- 11.1 Bedford Borough Council v SSCLG and Nuon UK Ltd [2013] EWHC 2847 (Admin), 26 July 2013
- 11.2 St Albans City and District Council v Hunston Properties Limited and SSCLG [2013] EWCA Civ 1610, 12 December 2013
- 11.3 Hunston properties Ltd v SSCLG and St Albans City and District Council [2013] EWHC 2678 (Admin), 05 September 2013
- 11.4 Gallagher Homes Limited and Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin), 30 April 2014
- 11.5 Crane v SSCLG and Harborough District Council [2015] EWHC 425 (Admin), 23 February 2015

- 11.6 Phides Estates V SSCLG and Shepway DC and David Plumstead [2015] EWHC 827 (Admin), 26 March 2015
- 11.7 Stroud District Council v SSCLG and Gladman Developments Limited [2015] EWHC 488 (Admin), 6 February 2015
- 11.8 Colman V SSCLG and North Devon DC and REW Npower [2012] EWHC 1138 (Admin)
- 11.9 Forest of Dean District Council v SSCLG and Gladman Developments Limited [2016] EWHC 2429 (Admin), 4 October 2016
- 11.10 R(on the application of Graham Williams) v Powys County Council [2017] EWCA Civ 427, 9 June 2017
- 11.11 Steer v SSCLG and Catesby Estates Ltd and Amber Valley Borough Council [2017] EWHC 1456 (Admin), 22 June 2017
- 11.12 Suffolk Coastal District Council v Hopkins Homes Ltd and Richborough Estates; Partnership LLP and Cheshire East Borough Council [2017] UKSC 37 (Admin), 10 May 2017
- 11.13 Barwood Strategic Land v East Staffordshire Borough Council and SSCLG [2017] EWCA Civ 893, 30 June 2017
- 11.15 Gladman Developments Ltd v Daventry District Council and SSCLG [2016] EWCA Civ 1146, 23 November 2016
- 11.16 The Queen (on the application of) Emily Shirley And Michael Rundell v SSCLG [2017] EWHC 2306 (Admin), 15 September 2017
- 11.17 Daventry District Council v SSCLG and Gladman Developments Ltd [2015] EWHC 3459 (Admin), 2 December 2015
- 11.18 R(Leckhampton Green Land Action Group Ltd) v Tewkesbury Borough Council [2017] EWHC 198 (Admin), 9 February 2017
- 11.19 Oadby & Wigston Borough Council v SSCLG and Bloor Homes Limited [2016] EWCA Civ 1040, 27 October 2016

CD12 Landscape Documents

- 12.1 Worcestershire County Structure Plan (1996 - 2011) Areas of Great Landscape Value – chapter 5
- 12.2 Photography and photomontage in Landscape and Visual Impact Assessment. Advice note 01/11 (The Landscape Institute, 2011)
- 12.3 An Approach to Landscape Character Assessment (Christine Tudor, Natural England) 2014
- 12.4 Worcestershire County Landscape Character Assessment Technical Handbook (2013)
- 12.5 Worcestershire Historic Landscape Characterisation (2012)
- 12.6 Hedgerow Regulations – a guide to the law and good practice (1997)
- 12.7 BSNTG Landscape Review Statement (Pleydell Smithyman 2017)
- 12.8 Mid Severn Sandstone Plateau National Character Area (NCAP66)

CD13 Heritage Documents

- 13.1 HEGPA. Note 3 – Setting of Heritage Assets, Historic England, 2015
- 13.2 National Heritage List for England ref: 1166700
- 13.3 Worcestershire Revised Edition (Buildings of England) (Pevsner Architectural Guides: Buildings of England) 2007 by Alan Brooks (Author), Nikolaus Pevsner (Author)
- 13.4 Historic England: Seeing the History in the View: A Method for Assessing Heritage Significance in Views (2011)
- 13.5 Wyre Forest District Council Local Heritage List for Bewdley

CD14 Air Quality Documents

- 14.1 Air Quality Consultants report referenced J2943A/3/F3 "Air quality note: Bus emissions in Bewdley AQMA" (August 2017)
- 14.2 Ricardo Energy and Environment Independent Review (August 2017)

- 14.3 Air Quality Consultants report referenced J2943B/4/F2 "Response to Comments from Ricardo Energy and Environment" (September 2017)
- 14.4 Air Quality Consultants report referenced J2943B/6/F1 "Brief Note on Bus Emissions at Varying Speeds" (September 2017)
- 14.5 Air Quality Consultants report "Emissions of Nitrogen Oxides from Modern Diesel Vehicles" (January 2016)
- 14.6 AQ section of the PPG
- 14.7 International Council on Clean Transportation, "NOx emissions from heavy duty and light-duty diesel vehicles in the EU: Comparison of real-world performance and current type-approval requirements," (December 2016)

CD15 Other General Planning Documents

- 15.1 The Lakes Road Development Assessment –Wyre Forest Transport Model (CH2M) (July 2016)
- 15.3 DCLG consultation document "Planning for the right homes in the right places" (September 2017)
- 15.5 Planning Advisory Service website – 5YHLS FAQs
- 15.6 SWDP, Inspector's Report, Annex A (February 2016)
- 15.7 LPEG Appendix 6 'Housing and Economic Development Needs Assessment' Revised NPPG Text' March 2016
- 15.8 White Paper: Fixing our broken housing market (February 2017)
- 15.9 Housing Delivery in Wyre Forest 2015/16

CD16 Relevant Post Appeal Correspondence

- 16.1 3rd Party Final Comments
- 16.3 WCC to Prime Email – Development Proposals
- 16.4 Email from Adam Mindykowski regarding Landscape Viewpoints
- 16.5 Email from Peter Bassett regarding Landscape Viewpoints
- 16.6 Correspondence from Dr Suzanne Mansfield to NE