

[REDACTED]

From: Amanda Scholes on behalf of Planning.Responses
Sent: 25 September 2018 08:40
To: Planning Scanning
Subject: FW: Land to the Foreground Orchard Business Pk, North End Road, Yapton Y/49/18/PL

From: Simon Davis
Sent: 24 September 2018 09:55
To: Planning.Responses
Subject: FW: Land to the Foreground Orchard Business Pk, North End Road, Yapton Y/49/18/PL

[REDACTED]

Kind Regards

Simon J Davis MRTPI | Principal Planning Officer, Planning Department, Directorate of Place, [Arun District Council](#) |
Location: Planning, First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF
[REDACTED]

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From: Elaine Munns [REDACTED]
Sent: 24 September 2018 09:27
To: Bernard Ralph
Cc: Eloise Short; Simon Davis
Subject: RE: Land to the Foreground Orchard Business Pk, North End Road, Yapton Y/49/18/PL

Dear Bernard

Guidance has been in place since 2014 stating that tariff style contributions should not be sought from developments of 10 dwellings or less. Since then every planning appeal on residential applications has had scrutiny over the S106 matters, whether or not the reason for refusal relates to a lack of infrastructure. So planning inspectors will examine our calculation methodology every time and we have always won our Education contributions, they are considered CIL compliant and non-tariff.

So you can look at any appeal that's taken place since 2014, for residential contributions, and find one that relates to applications for 6-10 units. I am confident that should the need arise we would be able to defend the contributions again in Appeal, and if you disagree then you need to produce evidence as to your reasons for this that we can consider further – simply disagreeing with us over the definition of a tariff is not going to be sufficient. We have been successfully using this methodology consistently since the restrictions imposed by the CIL Regulations.

Our calculation produces actual residency rates, and a child yield, all based on Census data, which is considered the most reliable source of population rates in this country. An argument could be that we should utilise localised occupancy rates based on populations into new build developments but this argument wouldn't help you: the evidence is that new builds locally produce higher occupancy rates, particularly into the type of housing stock your client is

building, as they will attract families, and using those rates would simply increase the pupil numbers arising and increase the contribution to Education you client will need to pay.

I have spoken to the LPA and they support our requirements. If permission is refused and an Appeal applied for then we will produce the defence required at the time for the inspector as we have previously done.

Best Regards

[REDACTED]

Elaine Munns BSc, MSc AGI | Team Manager, Planning Services, Economy, Planning and Place
Directorate, West Sussex County Council
Location: Ground Floor Northleigh, County Hall, Chichester PO19 1QT
[REDACTED]

From: Bernard Ralph [REDACTED]
Sent: 20 September 2018 12:00
To: Elaine Munns
Cc: Eloise Short; simon.davis@arun.gov.uk
Subject: RE: Land to the Foreground Orchard Business Pk, North End Road, Yapton Y/49/18/PL

Dear Elaine

Many thanks for your email. I have discussed it with my client and we are not satisfied by the reasoning and explanation. Would you be able to send us the appeal decisions that you refer to? We would need to examine the facts within those appeals and see if there might be distinguishing features.

Our argument remains that the Education Contribution is still a tariff (i.e. based on calculations with reference to a yield that results from a per dwelling base multiplied by a published rate, which should not be applied on such a small scheme especially one that does not attract other tariff based contributions) and that the EC (on your reasoning) fails regulation 122 and possibly 123 of the CIL Regs. On that basis, the LPA should not require my client to pay the EC to WSCC.

My client would effectively have little to lose if it submitted an appeal. Understandably the LPA may not want the inconvenience and expense of defending WSCC's position which may (in an Inspector's view) be indefensible and if unsuccessfully defended, result in costs.

I am happy to discuss further if necessary.

I look forward to hearing from you.

Kind regards,

Bernard

Bernard Ralph
Partner
Head of Planning

Address: Gateway House, Tollgate, Chandlers Ford, Eastleigh SO53 3TG
[REDACTED]

From: Elaine Munns [REDACTED]
Sent: 17 September 2018 14:01
To: Bernard Ralph
Cc: Eloise Short; [REDACTED]
Subject: RE: Land to the Foreground Orchard Business Pk, North End Road, Yapton Y/49/18/PL

Dear Bernard

Eloise has referred your email to me for a response in order to provide an explanation of how our contributions meet all the CIL tests in relation to our education requirements.

I have numbered my responses in line with your questions:

- 1 The calculation for the education requirement is not based on a tariff approach. We use Census data which gives us accurate occupancy rates of houses (and flats) to establish the actual number of children who will be moving into the development in question. I've provided a spreadsheet here which demonstrates how the sums we've requested are arrived at, using your housing mix. The calculator method of this approach provides us with actual occupancy of the new development. This then is multiplied by the actual cost of schooling a child, the base multiplier being taken from Department for Education statistics on this factor. So we have an accurate picture of the cost of schooling the children who will arise from any specific development and it is therefore not a tariff approach.
- 2 I haven't seen Simon Davis's email so I can't comment on that. However I note you refer to capacity levels at the nearest schools and there are two things to explain here. Firstly we look at all the local schools, not just the nearest one, in order to account for parental preference and changing local circumstances, and these areas are known as our "localities". The locality approach to considering education in a local area has been supported in appeal as reasonable in order to take a holistic approach to education in any given area. The locality as a whole will be over-capacity although the money will be spent on the schools you have listed, in line with the CIL regulations.

However, that's a side note. The main consideration here is that the local schools have capacity now, but not once all known and committed development has taken place across the area (locality). Yapton has other developments which have either been given planning permission or are identified in Arun District Council's Local Plan (and therefore are considered committed housing) and once the child numbers are added together from all of these then the schools will be heavily over-capacity. So all developments will need to contribute to the cost of schooling the additional children.

The above explanation then demonstrates that the contributions meet the three CIL tests.

Consequently, our education requirements are sound and the methodology has been thoroughly tested in Appeal. The Education requirements will need to remain

Best Regards

Elaine Munns BSc, MSc AGI | Team Manager, Planning Services, Economy, Planning and Place
Directorate, West Sussex County Council
Location: Ground Floor Northleigh, County Hall, Chichester PO19 1QT

From: Bernard Ralph [REDACTED]
Sent: 05 September 2018 09:54
To: Eloise Short
Cc: 'Kevin Wawman'; Daniel Clark; Stephen Ball
Subject: FW: Land to the Foreground Orchard Business Pk, North End Road, Yapton Y/49/18/PL

Dear Ms Short

We act for Crayfern Homes Limited, the developer in relation to the above and have reviewed correspondence in relation to a requested contribution from it for education which is addressed in the email below.

We have identified at least two issues with the justification that has been provided to support the contribution.

1. The tariff approach. In your email below you have accepted in line with the relevant planning guidance/policy that tariff based contributions should not be sought on developments similar to our client's that are 10 units or less and total less than 1000sqm. Calculating the number of children that may be produced as a result of a residential development and multiplying that number by a fixed sum is a tariff by any definition. On that basis alone the education contribution should not be required as requiring one tariff but not others is illogical.
2. Compliance with regulation 122 (and possibly regulation 123 as it does not seem plausible that there are not other related s106 planning obligations from between 6 April 2010 and 2017 that have not been mentioned in Simon Davis's email to our client's planning consultant of 20 August) of the CIL Regulations 2010. We suggest that the contribution requirement fails the test for lawfulness within regulation 122 as it is clearly not necessary and consequently not related to the development or fairly related in scale.

The three schools identified in the email below reveal via <https://get-information-schools.service.gov.uk/> that there is more than sufficient capacity to absorb the impact of child production from our client's development (such as it might be). Specifically:

- a. Yapton CE Primary School has 268 students currently enrolled. It has capacity for 315. Our client's development will not produce more than 47 primary school aged children.
- b. Ormiston Six Villages Academy has 549 students currently enrolled. It has capacity for 816. Our client's development will not produce more than 267 school aged children.
- c. St Philip Howard Catholic High School Sixth Form has 200 students currently enrolled and is not beyond capacity.

Given 1 and 2 above, the WSCC requirement for an education contribution is not justifiable in planning terms as there is no impact on education in the vicinity of the development and would therefore not be acceptable to a Planning Inspector on appeal.

As you may know, the LPA will make the final decision in relation to what contributions should be sought and we will insist that no education contribution be sought for our client's development due to it i) offending the relevant regulation/s within the CIL Regulations and ii) because relevant policy and guidance precludes the payment of tariff based contributions on developments that are 10 units or less and total less than 1000sqm.

I appreciate that you may not be the appropriate officer to deal with this and withdraw the requirement for an education contribution. In the event that you are not, can you please pass this email on to the appropriate officer?

Please contact me if you have any queries.

Kind regards,

Bernard

Bernard Ralph
Partner
Head of Planning

MOORE BLATCH

Address: Gateway House, Tollgate, Chandlers Ford, Eastleigh SO53 3TG
[REDACTED]



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From: Eloise Short

Sent: Monday 20 August 2018 10:23

To: Simon Davis

Subject: RE: Y/49/18 Land east of, North End Road, Yapton, Arundel - Section 106

Hi Simon

I can confirm that we have only asked for Education contributions for this site because they are not a tariff contribution. Ordinarily we would have also requested Library, Fire and TAD contributions but these are based on a tariff and we agree with the assertion that you can't request tariff contributions for a development of 10 units.

The education contributions are not tariff in style because they are based on the actual number of pupils per school year that their development will produce. This figure is then multiplied by the cost of educating schoolchildren and primary/secondary and sixth form level. This method produces the true figure to educating the children moving into the development in question and is therefore not a tariff contribution.

The contributions we have requested are also CIL Regulation 122 compliant;

- 1) Necessary to make the development acceptable in planning terms – an increase in child population as a result of the development will increase the pressure on existing schools within the locality of the development. Therefore monetary contributions are required to accommodate the additional children moving into the development that will be attending local schools.
- 2) Is directly related to the development - the contributions generated from this development will be spent on additional equipment at Yapton Primary School, additional equipment at Ormiston Six Villages Academy, and classroom infrastructure at St Philip Howard Catholic High School Sixth Form. These schemes will be located at the catchment schools for the development and will accommodate the additional children attending the schools as a result of the development, and is therefore site specific to the development.
- 3) Fairly and reasonably related in scale and kind – the contribution is calculated based on the additional child population that would arise as a result of the development,

based on Census data, and the DFE costs of educating these children from primary through to sixth form.

Therefore, the contribution is CIL compliant. I would also add that our approach is routinely accepted by Inspectors in appeals as sound.

I hope this provides enough information for the developer, if you need anything else please get back to me.

Kind regards
Eloise

Eloise Short | Technician | Monitoring and Records | Planning Services | Economy, Planning and Place
West Sussex County Council
Location: Ground Floor, Northleigh, Chichester, PO19 1RH

From: Simon Davis [REDACTED]
Sent: 15 August 2018 16:57
To: Eloise Short
Subject: FW: Y/49/18 Land east of, North End Road, Yapton, Arundel - Section 106

Dear Eloise,

Please see the agents submissions below in response to your S.106 response. Please can you provide comment to me.

Kind Regards

Simon J Davis MRTPI | Principal Planning Officer, Planning Department, Directorate of Place, Arun District Council |
Location: Planning, First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF
[REDACTED]

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From: Ellie White [REDACTED]
Sent: 15 August 2018 15:38
To: Simon Davis
Cc: Alastair Dineen [REDACTED]
Subject: RE: Y/49/18 Land east of, North End Road, Yapton, Arundel - Section 106

Hi Simon,

Thank you for forwarding over the response.
I have spoken with the applicant and we would like to query the request for education contributions.

The application is for 10 dwellings and an increase of less than 1000sqm of C3 floorspace.
National Planning Policy Guidance (NPPG) Paragraph: 031 Reference ID: 23b-031-20161116 notes that tariff style planning obligations should not be sought from small scale development; *'contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area)'*.

If WSCC are going down the specific contribution route then please can we be provided with further information in relation to NPPG Paragraph: 009 Reference ID: 23b-009-20160519. We would question whether the contributions meet the three tests as set out in the CIL Regulations 2010 and NPPF. We would also query the fact that obligations should not be sought to contribute to pooled funding pots intended to fund the provision of general infrastructure; we do not believe that this is site specific infrastructure that is needed to make an application of 10 units acceptable in planning terms.

I look forward to hearing from you.

With Kind Regards,
Ellie

Ellie White MRTPI CHCM
Planning Director



The McLaren Clark Consultancy
4 Park Farm, Chichester Road, Arundel, West Sussex BN18 0AG



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From: Simon Davis <[REDACTED]>
Sent: 15 August 2018 12:07
To: Ellie White <[REDACTED]>
Subject: FW: Y/49/18 Land east of, North End Road, Yapton, Arundel - Section 106

Dear Ellie,

Please see attached advice from WSCC re infrastructure contributions. Can you advise whether these will be agreeable in principle to your client?

Kind Regards

Simon J. Davis MRTPI | Principal Planning Officer, Planning Department, Directorate of Place, Arun District Council |
Location: Planning, First Floor, Arun Civic Centre, Malttravers Road, Littlehampton, BN17 5LE

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From: Alison Meeus [REDACTED]
Sent: 15 August 2018 11:31
To: Simon Davis
Cc: Jacky Pendleton
Subject: FW: Y/49/18 Land east of, North End Road, Yapton, Arundel - Section 106

Dear Simon – please find attached the S106 response from WSCC for the above development, apologies for the delay. Kind rgds Alison

From: Eloise Short
Sent: 23 July 2018 10:53
To: Alison Meeus
Cc: Tracey Dunn
Subject: Y/49/18 Land east of, North End Road, Yapton, Arundel

Hi Ali

Please find attached the S106 consultation response for the above site.

Eloise

Eloise Short | Technician | Monitoring and Records | Planning Services | Economy, Planning and Place
West Sussex County Council
Location: Ground Floor, Northleigh, Chichester, PO19 1RH

[REDACTED]

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