

PARAGRAPH 1.30 (k)

- 7. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.**

We welcome and support paragraph 1.30 (k) due to its recognition of crime and the fear of crime, particularly in town centres, and the need to protect the community from harm.

This provides a strong linkage between the Local Plan and 'Warwick District's Sustainable Community Strategy 2009-2026' (SCS). This is because one of the key priorities of the SCS is 'Safer Communities'. This is defined as: -

'Protecting our communities from harm with an emphasis on the prevention of incidents, whilst focusing on the most vulnerable to make them feel safer.'

Page 13 of the SCS lists the priorities that need to be delivered in order to achieve the above. The inclusion of paragraph 1.30 (k) will assist in this achievement also, as it provides support for those policies and provisions of the Local Plan which concern this matter, such as: -

- Overarching Policy SC0: Sustainable Communities
- BE1 – Layout and Design
- Paragraph 5.9
- HS1 – Healthy, Safe and Inclusive Communities
- HS7 – Crime Prevention

Paragraph 1.30 (k) also provides reinforcement for the delivery of the emergency services element of the Council's 'Draft Infrastructure Delivery Plan – April 2014', as the funding of such infrastructure will be vital if this issue is to be fully addressed over the plan period.

PARAGRAPH 6.3

7. **Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.**

We are very concerned that paragraph 6.3 omits to reference the emergency services as one of the infrastructure types that new development puts pressure on. This has the potential to undermine support for the delivery of required emergency services infrastructure, where this is required to ensure sustainable development.

As explained at length elsewhere in our representations and as recognised in the Council's 'Draft Infrastructure Delivery Plan – April 2014', new development can place considerable pressure on the police and emergency services. This point is evidenced by the recent representations we have been submitting to major planning applications for housing development in the District, which are enclosed in **Appendices 1-5** of these representations. Further evidence is provided by the letter from our consultants WYG, enclosed in **Appendix 6**.

It has also been established at planning appeal that developer contributions are lawful in the context of Community Infrastructure Levy (CIL) Regulation 122. In one appeal decision, (APP/X2410/A/12/2173673), the Inspector noted that:

“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.”

The decision letter relating to this appeal was issued in May 2013 and relates to a proposal for 300 dwellings on land at Melton Road, Barrow upon Soar, Leicestershire. The decision letter and Inspector's report are included at **Appendix 7**. This appeal was recovered for determination by the Secretary of State who agreed with the Inspector's conclusions and recommendations, including those relating to Planning Obligations. Paragraphs 288-294 deal with contributions towards policing and paragraphs 291 and 292 are particularly relevant.

The conclusions of the above were tested again recently by the Secretary of State in April 2014 at appeal (APP/X2410/A/13/2196928 & APP/X2410/A/13/2196929) and upheld. He concluded at paragraph 16 of his decision that: -

“He also agrees with the Inspector (IR8.43-8.46) that the completed s106 Unilateral Undertaking, dated 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 material consideration.”

The decision letter, relating to a proposal for 250 dwellings on land off Mountsorrel Lane, Rothley, Leicestershire and Inspector's report are included at **Appendix 8**. Paragraphs 5.1 – 5.12 of the Inspector's report deal with contributions towards policing and paragraphs 5.5 and 5.7 are particularly relevant.

It is therefore clear that new development does place pressure on the emergency services, which needs to be provided for in appropriate instances by developer contributions.

8. **Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the test you have identified at 7. above where this relates to soundness (Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.**

To resolve all of our concerns detailed above, improve the effectiveness of paragraph 6.3 and ensure support is not undermined for the emergency services, we request the following amendment: -

*'New development places pressure on existing infrastructure whether it be schools, roads, open spaces, sports facilities, **emergency services**, health facilities or community halls.*

PARAGRAPHS 1.6 AND 1.7

7. **Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.**

Whilst we welcome and support paragraphs 1.6 and 1.7 of the Local Plan in so far as they are written, we are very concerned that no reference is made to paragraphs 58 and 69 of the National Planning Policy Framework (NPPF). These state 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 quality of life or community cohesion.'

Paragraphs 58 and 69 of the NPPF put in planning terms the following statutory duty of local authorities: -

'Without prejudice to any other obligation imposed upon it, it shall be the duty of each local authority to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can, to prevent crime and disorder in its area.' Section 17(1) of the Crime and Disorder Act 1998.

Notwithstanding the above, the omission is all the more surprising given that paragraph 1.30 (k) of the Local Plan confirms that crime and the fear of crime, and the need to protect the community from harm is a key issue for the District. The absence is also inconsistent with the following provisions of the Local Plan: -

- Overarching Policy SC0: Sustainable Communities
- BE1 – Layout and Design
- Paragraph 5.9
- HS1 – Healthy, Safe and Inclusive Communities
- HS7 – Crime Prevention

The omission also means that an opportunity to link the fourth bullet of paragraph 1.6, which references the need for security infrastructure, with a key issue for the District is missed.

The lack of reference to paragraphs 1.6 and 1.7 could consequently potentially undermine the achievement of the objective 'Safer Communities', set out in the 'A Shared Vision – Warwick District's Sustainable Community Strategy 2009-2026'. It also has the potential to undermine the linkages between the Local Plan and the 'South Warwickshire Community Safety Partnership – Partnership Plan (April 2014 – March 2017)'.

- 8. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the test you have identified at 7. above where this relates to soundness (Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.**

To resolve all of our concerns, we recommend that paragraph 1.7 includes the following additional bullet point: -

- *Promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.*

Overall the support elsewhere in the Local Plan for design measures and infrastructure to ensure safety and security is welcome, but without a clear statement on this issue at the outset, the Local Plan does not present an effective and sound message. This in turn undermines the promotion of safety, crime prevention and the provision of appropriate resources for the emergency services. We therefore encourage the inclusion of the proposed amendment to make the Local Plan sound.

PARAGRAPHS 1.40, 1.42 AND 1.52

- 7. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.**

We welcome and support paragraphs 1.40, 1.42 and 1.52 of the Local Plan as they are currently written. This is because they recognise that businesses and communities require safe and secure environments within which to grow and flourish. Therefore, the design of new developments and provision of infrastructure will be essential to control crime, anti-social behaviour and reduce the fear of crime. This in turn provides reinforcement for the following provisions of the Local Plan: -

- Overarching Policy SC0: Sustainable Communities
- BE1 – Layout and Design
- Paragraph 5.9
- HS1 – Healthy, Safe and Inclusive Communities
- HS7 – Crime Prevention

Paragraphs 1.40, 1.42 and 1.52 also provide support for the delivery of the emergency services element of the Council's '*Draft Infrastructure Delivery Plan – April 2014*'.

All of the above will therefore help achieve economic growth and the creation of strong, vibrant and healthy communities in the District, as per the targets contained within the following strategies: -

- A Shared Vision – Warwick District's Sustainable Community Strategy 2009-2026
- South Warwickshire Community Safety Partnership – Partnership Plan – April 2014 – March 2017
- Garden Town, Villages and Suburbs – A Prospectus for Warwick District Council – May 2012

PARAGRAPHS 1.55 – 1.59

7. **Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.**

We are very concerned that paragraphs 1.55 – 1.59 make no reference at all to enabling the emergency services to provide and maintain facilities and services people currently need, or to enabling them to improve their infrastructure and services so that they can meet people's future needs.

The omission is at odds with the Council's own '*Draft Infrastructure Delivery Plan – April 2014*', which includes the police and other emergency services. A number of infrastructure requirements are listed for the emergency services, which are deemed either strategically essential or strategically desirable by the Council.

We contend that as it stands paragraphs 1.55 – 1.59 of the Local Plan are not in accordance with following provisions of the National Planning Policy Framework (NPPF): -

- Securing sufficient facilities and services to meet local needs is a core planning principle (paragraph 17).
- Planning is to deliver facilities and services that communities need (paragraph 70).
- Local plan policies should deliver the provision of security infrastructure and other local facilities (paragraph 156).
- Local plan policy and decision making should be seamless (paragraph 186).
- Infrastructure planning should accompany development planning by LPAs (paragraph 177) who should work together with infrastructure providers (paragraph 162).
- The NPPF seeks environments where crime and disorder and the fear of crime do not undermine the quality of life and community cohesion (paragraph 69) and planning policies and decisions should deliver this (paragraph 58).

Should there be any remaining doubts regarding whether the Local Plan should support the delivery of emergency services infrastructure, please be aware that Ian Dove QC was instructed by the Association of Chief Police Officers (ACPO) to provide written advice in respect of developer contributions towards policing services. A copy of his advice is enclosed in **Appendix 1** to these representations. His advice concluded that there is no difficulty in the proposition of Section 106 agreements and CIL contributions towards police infrastructure in the context of the Planning Act 2008.

Ian Dove QC further confirmed that this is reinforced by the reference to security infrastructure in paragraph 156 of the NPPF. It should be noted that Ian Dove QC also confirmed that infrastructure is not limited to buildings and could include for example vehicles and

communications technology. He also asserted that as long as the infrastructure is required for the development of an area, it can be included within the relevant CIL schedule.

8. **Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the test you have identified at 7. above where this relates to soundness (Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.**

To resolve all our concerns, we recommend that the following amendment is made to paragraph 1.56 of the Local Plan (highlighted in bold): -

*Enable energy, communications, **the emergency services**, water and waste organisations to improve their infrastructure and services so that they can meet people's current and future needs, protect the environment, and contribute towards dealing with the causes and mitigating the effects of climate change.'*

As well as improving the effectiveness of the Local Plan in delivering emergency services infrastructure and its resulting consistency with the NPPF, it should not be forgotten that the emergency services are quite literally on the front line when it comes to dealing with the effects of climate change. The recent floods in January – March 2014 in Warwickshire and the actions taken by the emergency services to help local communities in the face of these bear witness to this fact. Therefore, support for the delivery of emergency services infrastructure in the Local Plan is absolutely vital.

OVERARCHING POLICY SC0: SUSTAINABLE COMMUNITIES

- 7. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.**

We welcome and support part (e) of Overarching Policy SC0: '*Sustainable Communities*', which states that development should take account of community safety including measures to prevent crime and road accidents. We also similarly welcome part (f) of the Policy.

However we are concerned that part (e) is inconsistent with national planning policy and not as effective as it might be, because it does not clarify what is precisely meant or intended by the term 'measures'. We are also concerned about part (f) of the policy, as it does not clearly and unequivocally reinforce the delivery of part (e) of the policy. This in turn undermines the achievement of sustainable communities and consistency with the following paragraphs in the National Planning Policy Framework (NPPF).

Paragraph 7 of the NPPF states that the economic role of sustainable development emphasises the importance of coordinating the delivery of growth and infrastructure, whilst the social role seeks to achieve accessible local services that support a community's health, social and cultural wellbeing.

The above is further confirmed at paragraphs 17 and 70 of the NPPF, which state that securing sufficient community facilities and services that communities need is a core planning principle.

With regard to promoting healthy communities, paragraphs 58 and 69 of the NPPF advise that planning policies, decisions and design should aim to achieve 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 of the NPPF confirms that plan policies should deliver the provision of security and other local facilities. Plan policy and decision making should be seamless according to paragraph 186. Further, infrastructure planning should accompany development planning by local planning authorities, as required by paragraph 177, who should in turn work with infrastructure providers (paragraph 162).

- 8. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the test you have identified at 7. above where this relates to soundness (Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.**

To resolve all of our concerns, improve the effectiveness of the policy and ensure its consistency with national planning policy, we suggest the following amendments: -

e) *take account of community safety including **design and infrastructure** measures to prevent crime and road accidents;*

f) *provide good access to community facilities including meeting places, local shops, transport services, health facilities, **emergency services** and open space.*

As well as resolving the aforementioned issues, including the proposed amendments would tie Overarching Policy SC0 more closely to the following policies of the Local Plan, thereby mutually increasing their material weight: -

- BE1 – Layout and Design
- Paragraph 5.9
- HS1 – Healthy, Safe and Inclusive Communities
- HS7 – Crime Prevention

The amendments, if accepted, would also reinforce the delivery of the following: -

- Safer Communities Priority – Warwick District's Sustainable Community Strategy 2009-2026
- Emergency Services Infrastructure – Draft Infrastructure Delivery Plan (April 2014)
- Targets of the South Warwickshire Community Safety Partnership – Partnership Plan – April 2014-March 2017

This is confirmed by the details about the police infrastructure required to support new development in the letter by our consultants WYG, enclosed in **Appendix 1**. More information about the effectiveness of design measures to reduce crime in new developments and communities can be found in our representations to Policy BE1: '*Layout and Design*'. Both of which, we consider, reinforce the need for the proposed amendments to the policy.



Warwickshire
POLICE



West Mercia
POLICE

14 April 2014

Our Ref: P/H Div/0012/14
Your Ref: W/14/0300

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Ms Emma Spandley, Planning Officer
Development Services
PO Box 2178
Warwick District Council
Riverside House
Milverton Hill
Royal Leamington Spa
CV32 5QH

Dear Ms Spandley

PLANNING APPLICATION W/14/0300 – THE ASPS, WARWICK POLICE SERVICE REPRESENTATIONS

As part of a Strategic Alliance, Warwickshire Police (WP) and West Mercia Police (WMP) now act as one on all infrastructure and town planning related matters across their combined geographical area. This includes making joint representations to all local planning authorities and other parties. For the avoidance of doubt however, the two forces retain their separate Police and Crime Commissioners (PCCs) and respective command teams.

We are aware that proposed development W/14/0300 is one of three proposals for this area of the District. The others are as follows:

1. W/13/0603 – Europa Way – 370 homes – Gallagher Estates Ltd - Withdrawn
2. W/13/1434 – Land South of Gallows Hill – 250 homes – Hallam Land Management and William Davis - Withdrawn

Although the above were withdrawn, we understand that new planning applications for both sites are due to be submitted imminently. The result is that the impacts arising from each one upon the police service cannot be considered in isolation from one another. By extension, mitigation is therefore not possible in an isolated fashion for each one.



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These representations have therefore been prepared on the basis that all three proposed schemes are being put forward for delivery. Further representations will be submitted when the new applications are submitted. Assuming this take place in the near future, the three submissions should be considered together as making a cumulative case, rather than each one being considered separately.

We would however like to stress to all parties that WP and WMP take an entirely neutral position on the question of whether the proposed developments should be granted planning consent. To ensure the resilience of the police service on a long-term basis in this area, we are obliged to assume that all three come forward and plan our service and infrastructure provision accordingly for the moment. As further information becomes available and/or the situation changes, further representations will be made as appropriate and necessary.

These representations accordingly provide our comments with respect to the following matters:

1. Traffic management implications;
2. Secured by Design;
3. Impacts arising from the proposed development upon our Greys Mallory Patrol Base (GMPB); and
4. The additional policing infrastructure required to serve the proposed development and a request for a developer contribution towards the cost of providing it.

Nature of the Developments

Outline planning application W/14/0300, proposed by Barwood Strategic Land II LLP ('Barwood'), is for the erection of up to 900 dwellings, a primary school (Use Class D1), a local centre (Use Class A1 to A5 and D1) and a Park and Ride facility for up to 500 spaces (Sui Generis) together with associated infrastructure, landscaping and open space (all matters reserved except access). This application makes up the majority of the development proposed for this area of Warwick District. The two others are as follows.

Firstly, withdrawn planning application W/13/0603 was proposed by Gallagher Estates Ltd. It was for 370 dwellings; provision of employment area up to a maximum of 7880sq.m for B1 uses; potential provision of a primary school; 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 footpath and cycleways; foul and surface water drainage infrastructure, including attenuation pond; ancillary infrastructure and ground remodelling. Secondly, withdrawn planning application W/13/1434 was proposed by Hallam Land Management and William Davis. It was for 250 dwellings together with associated infrastructure, landscaping and open space (all matters reserved except access).

As all three applications are being promoted in close proximity to each other, so we must consider them together in our assessment.

Traffic Management Implications

Planning Application W/14/0300

The supporting plans to planning application W/14/0300 propose the following highways works, which will have significant traffic management implications for the police service: -

- New signal controlled junction for the A452, Europa Way.
- New signal controlled junction for the A425, Banbury Road.

The Council should be aware that Warwickshire County Council (WCC) is already engaged in making improvements to the traffic island junction located to the south of the application site. These works include the installation of 'Wig-Wag' traffic signals at the junction of the GMPB's entrance/exit to the A452, Europa Way.

As proposed, the installation of the two new signal controlled junctions will impact on our response times from the GMPB, even with the 'Wig-Wag' signals in place.

To mitigate this, we request that measures are installed to link the hurry call button on the 'Wig-Wag' signals electronically to both of the new signalised junctions. This will ensure that traffic on either the A452 or the A425 has a maintained green signal and therefore avoiding delays to our response times from the GMPB.

Planning Application W/13/0603

Although this application has been withdrawn, we request that the following issues are addressed in any re-submission.

The Masterplan showed a road (Gallows Hill Link Road) linking the A452 with the A425 at Gallows Hill. This proposal would create a 'rat-run' because whilst it would enable traffic to avoid queuing to turn left at the Harbury Lane traffic island, it would create a potential for collisions at the new junction on Gallows Hill. This would arise from vehicles turning on and off the A425 where traffic is travelling at high speed.

In the current traffic configuration at the site, vehicles turning left onto Gallows Hill at the Harbury Lane traffic island do so at a lower rate, thus reducing the potential for collisions. If the new link road is proposed again as part of any resubmission, it should include physical speed reduction measures from the outset to avoid traffic problems being created, which would ultimately fall on WP to resolve on a continuing basis.

Planning Application W/13/1434

Although this application has been withdrawn, we request that the following issue is addressed in any re-submission.

The Masterplan for the site showed that at point 'G' a site access for 'emergency vehicles' would be created at the south eastern end of the boundary with Gallows Hill. There was no information provided as to how this would be managed or what measures would be installed to prevent it becoming an unofficial access to the site. Information resolving these questions should be provided in any resubmitted planning application.

We did however note that a new single point of access was proposed for the north-western end of the site boundary with Gallows Hill. The new junction to be signal controlled with access to Warwick Technology Park. This aspect of the proposals in any resubmission would enjoy the benefit of our support.

In respect of all of the above comments, our Traffic Management Advisor, Mr Mike Digger, would welcome the opportunity to discuss these matters directly with the Council and the applicants. Mr Digger can be contacted on: -

Tel: 01905 331258
Email: michael.digger@westmercia.pnn.police.uk

Secured by Design

As planning applications W/14/0300, W/13/0603 and W/13/1434 are in outline form, there is insufficient information contained within each one to enable us to comment on this matter. If the Council grants planning consent to them and they progress to the reserved matters stage, we make representations on this topic at that time. If the Council or the applicants would like to discuss this matter further in the meantime, please contact our Crime Prevention Design Advisor, Mr Ian King, on: -

Tel: 01926 684279
Email: ian.king@warwickshire.pnn.police.uk

Greys Mallory Patrol Base (GMPB)

The GMPB is one of the main vehicle centres for police patrols operating throughout Warwickshire's highways network. It is consequently critical that the proposed signalled junctions on the A452 and A425 are upgraded, as requested above, to ensure response times from the GMPB remain unchanged from currently.

However, the GMPB is wholly unsuitable for delivering the community policing services that will be required by proposed development W/14/0300 and the developments previously proposed by W/13/0603 and W/13/1434. It will therefore be necessary to provide an on-site Safer Neighbourhood Team (SNT) police office as part of the proposed development. This is discussed further later in these representations.

If the proposed development is approved by the Council, a new park and ride facility will adjoin the northern boundary of the GMPB on what are currently open fields. To protect continued operations at the GMPB following delivery of this facility, security measures will be required along the boundary. We request that direct discussions take place between the Council, applicants and ourselves to look at this issue further.

Police Infrastructure Requirements – Request for Section 106 Contribution

Regulatory Context

We have ensured that the request set out below is fully compliant with the tests set out in CIL Regulation 122 as follows:

- Necessary to make the proposed development acceptable in planning terms.
- Directly related to the proposed development.
- Fairly and reasonable related in scale and kind to the proposed development.

Contributions towards police infrastructure have been found to be lawful when tested at appeal in decisions by the Secretary of State. In one appeal decision, (APP/X2410/A/12/2173673), the Inspector noted that:

“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.”

The decision letter relating to this appeal was issued in May 2013 and relates to a proposal for 300 dwellings on land at Melton Road, Barrow upon Soar, Leicestershire. The decision letter and Inspector's report are included at **Appendix 1**. This appeal was recovered for determination by the Secretary of State who agreed with the Inspector's conclusions and recommendations, including those relating to Planning Obligations. Paragraphs 288-294 deal with contributions towards policing and paragraphs 291 and 292 are particularly relevant.

The conclusions of the above were tested again recently by the Secretary of State in April 2014 at appeal (APP/X2410/A/13/2196928 & APP/X2410/A/13/2196929) and upheld. He concluded at paragraph 16 of his decision that: -

“He also agrees with the Inspector (IR8.43-8.46) that the completed s106 Unilateral Undertaking, dated 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 material consideration.”

The decision letter, relating to a proposal for 250 dwellings on land off Mountsorrel Lane, Rothley, Leicestershire and Inspector's report are included at **Appendix 2**. Paragraphs 5.1 – 5.12 of the Inspector's report deal with contributions towards policing and paragraphs 5.5 and 5.7 are particularly relevant.

It is therefore clear that where the rationale is clear and supported by evidence, contributions towards policing are compatible with Regulation 122, as confirmed by the aforementioned appeal decisions. We consider that all items of infrastructure sought in relation to the proposed development meet the statutory tests.

National Policy Context

The national policy position to support our request exists in the National Planning Policy Framework (NPPF). Securing sufficient facilities and services to meet local needs is a core planning principle (paragraph 17). Planning is to deliver facilities and services that communities need (paragraph 70). Local plan policies should deliver the provision of security infrastructure and other local facilities (paragraph 156). Local plan policy and decision making should be seamless (paragraph 186). Infrastructure planning should accompany development planning by LPAs (paragraph 177) who should work together with infrastructure providers (paragraph 162). The NPPF seeks environments where crime and disorder and the fear of crime do not undermine the quality of life and community cohesion (paragraph 69) and planning policies and decisions should deliver this (paragraph 58).

Local Policy Context

The development plan comprises the Warwick District Local Plan 1996-2011 (adopted September 2007). There are two policies relevant to these representations.

Policy DP14 – ‘*Crime Prevention*’ states that the layout and design of development will be encouraged to minimise the potential for crime and anti-social behaviour and improve community safety. Paragraph 4.88 to Policy DP14 highlights the fact that the Council is required under Section 17 of the Crime and Disorder Act 1998 to take account of crime and disorder in all of its work. Paragraph 4.90 adds that applicants will be encouraged to secure a ‘Secured by Design’ certificate from our Crime Prevention Design Advisor.

Policy SC14 – ‘*Community Facilities*’ confirms that contributions will be sought towards community facilities in conjunction with new development where appropriate. Supporting paragraph 5.83 states that new development puts pressure on existing infrastructure and that

Government guidance is clear that planning authorities may seek contributions from applicants to offset the cost of this. Supporting paragraph 5.84 confirms that community facilities are included within the scope of Policy SC14.

WP's Role and Responsibility

In this instance, we are responsible for delivering services to address community safety, tackle the fear of crime and seek to achieve a reduction in crime. The delivery of growth and new development, such as W/14/0300, places additional pressure on our infrastructure base, which is critical to the delivery of effective policing and securing safe and sustainable communities.

The primary issue for us is to ensure that new development like W/14/0300 makes adequate provision for the future policing needs it will generate. Like some other public services, our primary funding is insufficient to add new infrastructure to support new development when and wherever this occurs. Further, there are no bespoke funding regimes e.g. like Building Schools for the Future or the Health LIFT, to provide capital investment for our facilities.

This situation has been recognised by the Association of Chief Police Officers (ACPO) nationally for some time and there are public statements which explain our particular funding difficulties.

In addition to the above, the money received by us is comparatively low relative to the size of population in our geographical area. Whilst revenue funding is provided by the Home Office and the Council Tax precept, capital projects are mostly financed through borrowing. Borrowing to provide infrastructure has an impact on delivery of safe and sustainable communities because loans have to be repaid from revenue budgets, the corollary of which is a reduction in the money available to deliver operational policing.

Current Levels of Policing Demand from the Locality

Policing is a 24/7 service resourced to respond and deploy on an "on demand" and "equal basis" and is wholly dependant on a range of facilities for staff to deliver this. Calls and deployments for this area, via our control room at Leek Wootton, are monitored and give an indication of the level of service demand in different areas

The application site is encompassed within the 'Warwick West' Safer Neighbourhood Team (SNT) area. During the period April 2013 – March 2014 we dealt with 3,160 incidents, 190 anti-social behaviour incidents and 375 crimes from this SNT area. It is worth noting that within the specific geographical area encompassed by the application site almost no crime and incidents were recorded, which reflects the current open field character of the site.

Current Levels of Deployment and Infrastructure

Regular patrolling of the locality and local community around the application site is maintained by the aforementioned SNT operating from Warwick Police Post on Cape Road. Though the SNT operates on the basis that there is no demand from the application site.

It should however be understood that the wider organisation and delivery of policing services is not on a town by town or even on a district by district basis. In this instance the TPU, led by Superintendent Debra Tedds, delivers all neighbourhood policing services to Warwick District and Stratford-on-Avon District. The TPU also provides some support functions as well. Other TPUs cover the remainder of WP's and WMP's combined geographical area. However, the majority of the support and specialist services necessary to support the 'front line' are currently provided in this instance from Leek Wootton and our Hindlip Hall campus.

A huge range of central policing services are delivered to the District, encompassing areas such as:

- Investigations
- Intelligence
- Response policing
- Criminal justice
- Operations planning
- Dogs and firearms
- Special branch
- Forensic services
- Road policing
- Tactical support group
- IT and communications
- Child abuse team
- Economic crime team

All of the above central support services and others will be called upon during the lifetime of the proposed development, should it be delivered, just as they currently are for the existing settlements. These services and others in turn require organisational support functions in order to operate, such as:

- Finance
- Human resources
- Training
- Top level management

Specific numbers of staff delivering policing are spread across the following functions:

- 225 police officers deliver neighbourhood policing and emergency responses to South Warwickshire. They are not disaggregated according to District and therefore operate across the combined area. This figure does not include the officers based at Leek Wootton and our Hindlip Hall campus who are part of numerous specialist teams who deploy according to need across the entire force area.
- 59 police staff deliver support functions to the South Warwickshire TPU. Like officers, they deliver services to the whole area and are not disaggregated according to District. However this does not include the staff based at Leek Wootton and our Hindlip Hall campus, who will provide support across the entire alliance geographical area as need arises.

Based on existing crime patterns, and policing demand and deployment from nearby areas, indicates the direct and additional impacts of the development on local policing that will be manifested in demand and responses in the following areas:

- Additional calls and responses per year via our control centre.
- Attendance to additional emergency events within the proposed development and locality each year.
- Additional non-emergency events to follow up with public contact each year.
- Additional recorded crimes in the developments and locality.
- Additional anti-social behaviour incidents each year within the new development and locality.
- Demand for increased patrol cover.

- Additional vehicle use.
- Additional calls on our Airwaves system.
- Additional use of our Police National Database (PND) systems to process and store crime records and intelligence.
- Additional demand for deployment of Mobile CCTV technologies.
- Additional demand for local access to beat staff from local neighbourhood teams.
- Additional policing cover and interventions in all the areas described when considering staffing and functions above and for additional accommodation from which to deliver these.

The Police Contribution Request

£338,045.79 financial contribution is requested to mitigate the additional impacts of this development. As stated previously, this is intended to be part of a single cumulative request made to the three development schemes (W/14/0300, W/13/0603 and W/13/1434) proposed for this area. Our existing infrastructures do not have the capacity to meet the impacts arising from these schemes and because, like some other services, we do not have the ability to respond to the growth proposed. We anticipate using rates and Home Office revenues to pay for staff salaries and our day to day routine additional costs (e.g. call charges on telephony and Airwaves and so on).

Contributions are only sought that are related in scale and kind to the development, hence why this request is intended to be one of three. This ensures that the infrastructure in question will be fully funded and delivered. If the contribution is not forthcoming from W/14/0300 there will be a serious impact upon our ability to deliver an effective and efficient service. This is because we will be required to pay the amount ourselves. This in turn means that funds will have to be diverted away from other areas of deployment in South Warwickshire.

Such contributions are consequently lawful in the context of CIL Regulation 122, as explained earlier in these representations and as they are related in scale and kind to the development. As further justification, we confirm that the contribution will be used wholly to meet the direct impacts of this development and wholly in delivering policing to it. Without the development in place it is reasonable to forecast the impacts it will generate using information about known policing demands of comparable local development. Other services use such comparables and we believe that the NPPF encourages this.

The proposed development should make provision to mitigate the direct and additional policing impacts it will generate and cannot depend on the police to just absorb these within existing facilities with limited capacities and where police have no flexibility in funding to do this. It is not forced by current spending reductions, although strictures across the public sector reinforce the need to ensure that developments mitigate the direct impacts they cause.

Due to the very serious implications for policing of new developments, police nationally have taken advice about the best way to proceed in the transition period to the CIL regime. As a result, we only make requests solely in relation to the development under consideration; its direct impacts on policing and the necessary mitigations that it should provide. What follows is a detailed explanation of the methodologies used to calculate the contribution and our application of the statutory tests to justify each part.

Setting-up and Equipping of Officers and Staff

The table enclosed in **Appendix 3** shows the estimated additional personnel that will be required to serve the developments proposed by W/14/0300, W/13/0603 and W/13/1434

combined. As stated previously, it is not appropriate to consider the application site in isolation given the proximity of the other schemes.

Setting-up and equipping police officers and staff entails providing IT, radios, protective equipment, uniforms and bespoke training in the use of these. However, additional staff will require additional equipment. There are practical limits to the extent to which existing equipment can be re-used e.g. with uniforms or where technology has moved on.

In this case, **Appendix 3** demonstrates that the three developments combined would fully occupy the equivalent of an additional 6 police officers and 5 police staff full-time. Staffing levels are under constant review to ensure that minimum acceptable numbers are deployed to meet existing levels of policing demand. This has the benefit of much needed savings in costs, but as a result there is no additional capacity to extend existing staffing to cover additional development.

Where additional development is proposed, as in this instance, we will seek to deploy additional staffing and additional infrastructures at the same level that is required to deliver policing to the locality. It would be complacent not to do this because without additional support unacceptable pressure will be put on existing staff and our capital infrastructures which will seriously undermine our ability to meet the policing needs of these developments, maintain the current level of policing to the rest of the SNT area and across the South Warwickshire TPU. The impacts of the three developments are so significant that they cannot be met without additional staff deployed at a level consistent with the current policing of the locality.

The additional staff needed to police the development will require additional equipment. For a police officer, the additional items are recruitment £1,060, training £4,400, uniform and personal equipment £940, workstation £1,642. For other staff the additional items are recruitment £1,060 and workstation £1,642. As the development is forecast to contribute to a need for the equivalent of 6 full time officers and 5 full time staff members over its lifetime (**Appendix 3**), the contribution for setting-up and equipment is calculated to be £36,569 (**Appendix 4**).

We could not have officers and staff attending and delivering services to this development with less than adequate equipment, training and facilities without unnecessary risks to themselves and occupiers served.

Is the contribution necessary to make the development acceptable in planning terms?

Crime and community safety are planning considerations and the Council's own Local Plan further demonstrates this. The NPPF identifies the need to achieve security in new development and makes provisions to deliver this through the planning system. Deployment of equipped staff is fundamental to delivering community safety and mitigating crime.

Is it directly related to the development?

The policing demands of this development are identified and police mitigation of these can only be delivered by adequately equipped staff. This has been calculated with reference to robust data sets and the specifications of the proposed development.

Is the contribution fairly and reasonably related in scale and kind to the development?

Appendices 3 and 4 set out the methodology for calculating the contribution that is fairly and reasonably related in scale and kind to the development. In addition, this is a residential development and the policing demands it will generate is known by comparison with local residential development. This is the only satisfactory way of determining the need from development that is not yet built.

It should also be noted that in our calculations we have only accounted for the dwelling houses, not the other developments also proposed, as we do not have the data to quantify the precise demands arising from such uses in policing terms. However, it would be reasonable to assume that there will be a demand for policing services on top of those expected for the residential dwellings. Therefore, level of demand and mitigations have been determined by the scale and kind of the development.

Police Vehicles

In managing and responding to crime a number of different vehicles can be deployed ranging from general response vehicles and patrol cars, unmarked general support vehicles, police service unit vans and minibuses, scientific (e.g. SOCO) vehicles, pursuit vehicles – 4x4 and high speed, motorcycles and so on. Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), this equates to a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

The average cost of a vehicle is £28,500. This includes the cost of the vehicle and the operational equipment required. The cost quoted does exclude fuel. We replace vehicles, on average, every 3 years and in the majority of cases there is no resale value. Based on this existing level of deployment to the locality we can forecast additional demands as a result of the developments.

The vehicle fleet also includes bicycles used for local neighbourhood policing.

In order to equip the additional officers (**Appendix 3**) required to police this development and the other proposed for the area, 2 additional vehicles and 1 additional bicycle will be required. The set-up costs for these are shown in **Appendix 5**.

The impact of the development without the contribution will be that we will be required to spend the money ourselves, which in turn will spread existing transport resources too thinly to the extent that service delivery is prejudiced. Residents of the new development and their representatives will expect the same degree of cover as elsewhere in the locality and existing residents will expect existing cover to be maintained and not reduced as a result of the new developments.

Is the contribution necessary to make the development acceptable in planning terms?

Vehicles are fundamental infrastructure and facility to deliver community safety and address crime especially at Neighbourhood level.

Is it directly related to the development?

Fleet deployment is related to the known policing demands of comparable development in the WP area. The direct demand from the new developments can be accurately forecast. Delivering policing direct to this development, without detriment to existing areas, will not be possible without additional vehicle funding to do so.

Is the contribution fairly and reasonably related in scale and kind to the development?

This is primarily a residential development and the police vehicle demands it will generate are known by comparison with deployment to other local residential development.

It should also be noted that in our calculations we have only accounted for the dwelling houses, not the other types of development proposed, as we do not have the data to quantify the precise demands arising from such uses in policing terms. However, it would be reasonable to assume

that there will be a demand for policing services on top of those expected for the residential dwellings. Therefore, level of demand and mitigations have been determined by the scale and kind of the development.

Safer Neighbourhood Team (SNT) Police Office

Day-to-day policing services to the application site are currently provided from the Warwick Police Post on Cape Road. It operates on the basis that there is no demand from the three application sites.

There is no reason to doubt that there will be a corresponding increase in crime and demand from new residents, occupiers and visitors to the application site and to the other proposed development site for policing services. These services cover a wide range spectrum of support and intervention.

It will consequently be necessary to accommodate the additional staff (as identified above), to deliver policing to the two proposed development sites. Whilst officers spend time away from base they are not independent and require a start and finish location, storage, briefing and report writing facilities. Our existing facilities cannot accommodate all the additional staff required (see **Appendix 3**) if planning applications W/14/0300, W/13/0603 and W/13/1434 are delivered.

However it is not appropriate, nor logical, to provide separate police offices at each of the proposed development sites.

We therefore contend that a single new Safer Neighbourhood Team (SNT) Police Office should be situated within the development proposed by W/14/0300. This will provide the accommodation necessary for the additional officers and staff to provide services to the proposed developments. The cost of providing it should therefore be shared proportionally by W/14/0300, W/13/0603 and W/13/1434

The Safer Neighbourhood Team (SNT) Police Office can either be freestanding within the local centre proposed by W/14/0300, or as part of a “community hub” within the same local centre. **Appendix 6** provides indicative specifications and costings of the Police Office, on the basis of a freestanding facility. This notwithstanding, the specification does provide an illustration of the type of accommodation required. It also demonstrates that there may be scope for police personnel to share some facilities, such as kitchen and toilet areas, with other users of the community hub if this approach is progressed.

As explained above, the three proposed developments will generate demand for the equivalent of an additional 6 Police Officers and 5 Police Staff. We propose that the office will be the base of 6 Police Officers and 1 member of Police Staff to deal with administrative tasks. The remaining members of staff would be based at the Warwickshire Justice Centre in Royal Leamington Spa and Warwick Police Station.

We contend that the costs of delivering the facility should be shared according to the number of dwellings proposed by each of the three proposed developments. Clearly, the specifications and cost of the new facility will need to be the subject of further detailed discussions in due course. Therefore, it is not possible to calculate a precise cost figure that can be attributed to each planning application at this stage. Instead, agreement is needed on the percentage of the final cost of the facility that each application should contribute. Please see **Appendix 7** for our suggested methodology in this respect.

The request for a contribution towards the provision of a Safer Neighbourhood Team (SNT) Police Office is compliant with the tests set out in CIL Regulation 122, as detailed below:

Is the infrastructure necessary to make the development acceptable in planning terms?

Crime and community safety are planning considerations and accommodating staff in the optimum location to serve the three developments is essential if this is to be achieved. The NPPF identifies the need to achieve security in new development and make provision to deliver this through the planning system. In order to meet our statutory obligations, we require the provision of a new Safer Neighbourhood Team (SNT) Police Office.

Is it directly related to the development?

The additional staffing needs the development will generate have been established by reference to existing local deployment reflecting the actual Policing demands and crime patterns of the locality. In a similar vein the premises requirements that result from the need to accommodate additional staff at these levels is known. A direct relationship between the development, additional staffing and accommodation is demonstrated and it is appropriate to mitigate this through the planning system.

Is the contribution fairly and reasonably related in scale and kind to the development?

This is primarily a residential development and the accommodation needs of staff delivering Policing to meet local demands of development of this nature are known.

It should also be noted that in our calculations we have only accounted for the dwelling houses, not the other types of development proposed, as we do not have the data to quantify the precise demands arising from such uses in policing terms. However, it would be reasonable to assume that there will be a demand for policing services on top of those expected for the residential dwellings.

Therefore, the contribution requested is based on the scale and kind of the development proposed by W/14/0300, W/13/0603 and W/13/1434.

Summary of Contribution Requested from W/14/0300

Recruitment and equipping of officers and staff	£36,569
Police vehicles	£35,398
Total (excluding premises)	£71,967
Premises (indicative contribution (59%) – see Appendix 7)	£266,078.79
Total (including premises)	£338,045.79

Without the contribution the development will be unacceptable in planning terms and permission should not be granted as indicated in the NPPF. The lack of capacity in existing infrastructure to accommodate the population growth and associated demands occasioned by the development means that it is necessary for the developers to provide a contribution so that the situation might be remedied. The request is directly related to the development and the direct policing impacts it will generate based on an examination of demand levels in the local SNT and TPU area in which it is situated, adjacent areas and existing policing demands and deployment in relation to this. The request is wholly related in scale and kind of the proposed development.

We have undertaken this approach to requesting contributions taking account of advice we have received and recent reductions in our deployment. We have been advised that the contents of this submission are sufficient to justify the contribution sought. This approach has also been considered in five recent appeals where all the Inspectors and in two cases the Secretary of State, have found police requests for contributions compliant with CIL Regulation 122. These are as follows:

- APP/X2410/A/13/2196938 & APP/X2410/A/13/2196929 (Secretary of State determination) – 8 April 2014
- APP/T2405/A/13/2193758 – 01 August 2013
- APP/G2435/A/13/2192131 – 30 May 2013
- APP/X2410/A/12/2173673 (Secretary of State determination) – 14 May 2013
- APP/X2410/A/12/2187470 – 15 April 2013
- APP/F2415/A/12/2179844 – 14 February 2013

We therefore consider that our request for contributions is robust, demonstrated by the evidence included in the Appendices to this letter and fully compliant with CIL Regulation 122.

Overall, we trust that these representations will be given due consideration and look forward to working with the Council and applicants to address all of the issues raised, namely highways and traffic management, the impacts upon our Greys Mallory Patrol Base, Secured by Design and our request for a contribution to mitigate the demands that delivery of the proposed scheme will have upon police services in this area of the District.

Yours sincerely

Andrew Morgan
Strategic Planner

“Without prejudice to any other obligation imposed upon it, it shall be the duty of each local authority to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can, to prevent crime and disorder in its area: Section 17(1) of the Crime and Disorder Act 1998.”

Decision letter – Land at Melton Road, Barrow-upon-Soar

Decision letter – Land off Mountsorrel Lane, Rothley

Staffing Levels – Existing and Proposed

In the context of the uncertainty about the future organisation and staffing numbers for WP, the table uses current planned staffing levels as a basis for calculating the additional staffing requirement to serve the sites. The staffing levels below (identified as budgeted posts) are for the whole WP area and include the various support staff, many of whom are responsible for providing services across the WP area and not just within South Warwickshire. The population of WP's geographical area is currently about 545,500 and the area accommodates about 231,000 dwellings (Census 2011). The total levels of staffing across the whole of the WP area have been used to calculate pro-rata requirements for additional personnel required to serve the proposed developments.

The table below therefore shows the current budgeted posts and estimated additional personnel numbers required to serve 1,520 dwellings. This represents the cumulative total of planning applications W/14/0300, W/13/0603 and W/13/1434.

Command Area	Total Posts in Warks	Approx Population in Warks per Post	Approx Dwellings in Warks per Post	Pro Rata Post Requirement (1,520 dw)
Local Policing				
Police Officers	566	964	408	4
Police Staff	400	1,364	578	3
Protective Services				
Police Officers	232	2,351	996	2
Police Staff	163	3,347	1,417	1
Enabling Services				
Police Officers	8	68,188	28,875	0
Police Staff	103	5,296	2,243	1
Finance				
Police Officers	1	545,500	231,000	0
Police Staff	44	12,398	5,250	0
Total	1,517			11 (6 police officers and 5 police staff)

The personnel requirements include both officers and support staff; broadly the Protective Services and Local Policing Units comprise mainly officers – the visible police presence – and the remaining units provide support functions. For the purposes of this assessment we consider that the 11 personnel will comprise 6 police officers and 5 police staff members.

These figures have also been discussed and verified with the Command Team for South Warwickshire TPU, led by Superintendent Debra Tedds. The Command Team have confirmed that the level of demand for policing services expected from the new developments, both during construction and once delivered, warrant the personnel numbers being proposed. If required funding for the personnel (see **Appendix 4**) is not provided, this will detrimentally impact on the TPU's ability to deliver sufficient coverage and protection to the developments both during construction and after delivery. This in turn would have 'knock-on' effects for the policing of South Warwickshire as a whole.

Appendix 4

Officers and Staff Set-up Costs

Contribution Requested From W/14/0300

Additional Officers	Approx Set-up Cost per Officer	Pro Rata Requirement for 6 officers
Recruitment	£1,060	£6,360
Training	£4,400	£26,400
Uniform & Personal equipment	£940	£5,640
Standard equipment (ICT and furniture)	£1,642	£9,852
Total costs	£8,042	£48,252
Pro rata total - 900 homes of 1,520 total	-	£28,570

Additional Central Support Services	Approx Set-up Cost per Member of Staff	Pro Rata Requirement for 5 Staff
Recruitment	£1,060	£5,300
Standard equipment (ICT and furniture)	£1,642	£8,210
Total costs	£2,702	£13,510
Pro rata total - 900 homes of 1,520 total	-	£7,999

Appendix 5

Vehicle and Bicycle Costs

Contribution Requested From W/14/0300

Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), there is a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

It is essential that the current ratio of personnel to vehicles and personnel to bicycles applies to the additional personnel required as a result of development growth.

Vehicles costs have been capitalised on 5 year lifetime average costs for a low/medium size equipped vehicles (excluding fuel). Bicycle costs are established at £1,299 per cycle, with an additional maintenance charge of £297 per bicycle per annum, or £1,485 per 5 years, capitalised. The total cost of providing each new cycle and maintaining it for 5 years is therefore £2,784.

These costs do not include any costs for specialist operational equipment, and the cost estimates below are therefore moderated very conservatively.

On the basis of an additional 6 police officers in the territorial and protective services (**Appendix 3**), it is calculated that there will be a requirement for an additional 2 vehicles and 1 bicycle.

The cost of vehicles (both motorised and bicycles) based on 6 additional officers required as a result of the two proposed developments are shown below:

Additional vehicles and bicycles	Cost per item	Current cost for planned growth (1,520 dw)
2 vehicles	£28,500	£57,000
1 bicycle	£2,784	£2,784
Total costs	£31,284	£59,784
Pro rata total - 900 homes of 1,520 total	-	£35,398

Indicative Specifications and Cost of Freestanding SNT Police Office

Methodology for Calculating Contributions Towards SNT Police Office

Overall, a total of 1,520 dwellings are proposed by planning applications W/14/0300, W/13/0603 and W/13/1434.

Using the indicative £450,981 total cost given in **Appendix 6** for the SNT Police Office, the methodology for attributing requested contributions to each application towards this total is as follows:

Planning Application	Number of Dwellings	% of total dwellings	Contribution Requested
W/14/0300	900	59	£266,078.79
W/13/0603	370	24	£108,235.44
W/13/1434	250	17	£76,666.77
Total	1,520	100	£450,981

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PLANNING OBLIGATIONS AND POLICE CONTRIBUTIONS

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PLANNING OBLIGATIONS AND POLICE CONTRIBUTIONS

ADVICE

1. In this matter I am instructed on behalf of the Association of Chief Police Officers (“ACPO”) in relation to issues arising in respect of securing contributions towards Police services as part of the development control and Community Infrastructure Levy regime. I previously provided advice on the 20th October 2009. In many respects that advice has now been overtaken by events and a principal purpose of the present advice is to bring matters up to date.
2. Since my previous Advice there have been some important developments. In terms of the law the Community Infrastructure Levy Regulations 2010 have now come into force. Of particular importance in relation to the issues to be addressed are Regulations 122 and 123. These Regulations provide as follows:

“122(2): A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is –

- (a) Necessary to make the development acceptable in planning terms;*
- (b) Directly related to the development; and*
- (c) Fairly and reasonably related in scale and kind to the development.*

...

123(2) A planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure.

(3) A planning obligation (“obligation A”) may not constitute a reason for granting planning permission to the extent that –

- (a) Obligation A provides for the funding or provision of an infrastructure project or type of infrastructure; and*
- (b) Five or more separate planning obligations that –*

- i. relate to planning permissions granted for development within the area of the charging authority; and*
- ii. which provide for the funding or provision of that project, or type of infrastructure,*

have been entered into before the date that Obligation was entered into.

(4) In this Regulation... "Relevant determination" means –

- a. In relation to paragraph (2), a determination made on or after the date when the charging authority's first charging schedule takes effect; and*
- b. In relation to paragraph (3), a determination made on or after the 6th April 2014 or the date when the charging authority's first charging schedule takes effect, whichever is the earlier; and*

"relevant infrastructure" means

- (a) Where a charging authority has published on its website a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL, those infrastructure projects of types of infrastructure, or*

(b) When no such list has been published, any infrastructure.”

3. In relation to policy since my previous Advice Circular 05/2005, which contained in particular provisions in relation to pooled contributions for infrastructure, has been superseded by the National Planning Policy Framework. The Framework provides the following simplified advice in relation to planning obligations:

“203. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

204. Planning obligations should only be sought where they meet all of the following tests:

- 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.*

205. *Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.*”

4. Whilst the previous advice in relation to pooling contributions has not been repeated it is a clear inference from the provisions of the Regulations that pooled contributions towards infrastructure can continue to occur. The drafting of Regulation 123 is complex, but its effect is that under Regulation 123(2) obligations cannot be taken into account after the date of the introduction of an authority’s first CIL schedule if they relate to contributions to infrastructure which are included on a list published by the authority of infrastructure to be funded by CIL (or if there is no such list all infrastructure). Under Regulation 123(3) obligations cannot be taken into account after the date of the introduction of an authority’s first CIL schedule takes effect or 6th April 2014 (whichever is the earlier) if there are already five s106 obligations in place funding the infrastructure which is the subject of the obligation in question. Against this background it is clear that there will remain circumstances (albeit far more limited than at present) where pooled contributions may occur.

5. Having noted these changes to the regime in which contributions can be sought it is necessary to engage with a number of issues which arise in the context of the alternative sources of contribution.
6. Dealing firstly with CIL. 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. In my view 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.
7. Furthermore infrastructure is of course not limited to buildings. In the context of the police’s infrastructure the kind of items which could be included have been provided in my instructions and includes equipment such as vehicles and bicycles, communications technology and surveillance infrastructure such as CCTV equipment.
8. In settling the level of the CIL schedule, Regulation 14 of the 2010 Regulations requires the planning authority to strike a

balance between viability of development and the desirability of funding the “*total cost of infrastructure required to support the development of its area*” taking account of other sources of funding. Cross-boundary issues will be included through the discharge of the duty to co-operate.

9. It follows from this and what has been set out above that the test which is posed in relation to the inclusion of items within the CIL schedule posed by Regulation 14 is very different to the test under Regulation 122. Regulation 122 relates to planning obligations and requires the three tests to be passed in relation to site specific planning obligations. In setting the CIL schedule the test is different. What is required in setting the level of the levy is an understanding of the costs of infrastructure “*required to support the development of its area*”.
10. Thus there will be a relationship between the infrastructure on the schedule and the development which is anticipated across the local authority’s area but because it is an overarching calculation questions of necessity and direct relationships do not arise. Provided that the infrastructure is required for the development in the area, it qualifies for inclusion on the Schedule. The two factors which will then potentially reduce the level of the levy are other sources of funding for the same infrastructure and issues related to development viability.

11. The other important feature of the 2010 Regulations is that in setting the Schedule the local planning authority need to produce “*relevant evidence*” as the basis on which they have prepared the Schedule. Beyond being relevant to demonstrating that the infrastructure is required to support the development of its area no further strictures are required by the Regulations.

12. Clearly, given the long timescales of Development Plan Documents (usually looking at 15-20 years ahead) it is necessary for the relevant evidence to address the infrastructure that will be required to support development during that period. To this extent therefore the evidence will need to reflect the timescales of the forward planning process. Relevant evidence will undoubtedly include forward plans and strategies and the planned provision of infrastructure over that lengthy time period. It will be necessary to show firstly the relationship between the development anticipated and the infrastructure requirements to which it gives rise. Secondly it will be necessary to demonstrate that there are real plans for investment which have been settled into which the requirement fits. This requires therefore a fully formed future infrastructure plan with a commitment to delivery in relation to infrastructure generally and (perhaps coincidentally) the delivery of infrastructure associated with growth occurring. The plans must be realistic and costed. This is the relevant evidence

which will be necessary in order to establish that they should be included within the CIL schedule.

13. In this connection it is material to note that the provisions of the Town and Country Planning (Local Planning) (England) Regulations 2012. Regulation 2 (1), provides that "relevant authority" includes a local policing body for the purpose of consultation as to the contents of Local Plans. Clearly the Government expects that police concerns and interests should be accounted for within the planning system. Police are a legitimate stakeholder in this system.

14. Once collected Regulation 59 of the 2010 Regulations requires that the authority must spend the funds on infrastructure within its own area and further provides for a discretion for it to be spent on infrastructure outside its area. I see no reason for concluding that any different approach should be taken to the charging authority holding funds which have been levied against the costs of infrastructure to be provided by others that applies in relation presently to planning obligations. It will be therefore necessary for the charging authority to pass on to a relevant infrastructure provider the cost of infrastructure which has been levied by the CIL in order to enable that

infrastructure provider to deliver the infrastructure required to support the development which has been granted permission.

15. Regulation 61 enlarges the powers of the charging authority to include for the reimbursement of expenditure which has already been incurred. Obviously the detailed administration of funds raised through CIL may vary from authority to authority but plainly it would be perverse for a charging authority having levied monies against a CIL schedule in which Police contributions featured to then fail to pass that element of the levy on which was intended to support the provision of further Police infrastructure.

16. I turn now to consider the situation in relation to individual site contributions. It is important to appreciate that many of the adopted CIL schedules proceed on the basis of a Regulation 123 List of projects which are to be funded from CIL leaving other elements of infrastructure to be delivered on a site by site basis. This can happen in particular in respect of development plans which contain large allocations of development which can be expected to provide a comprehensive package of infrastructure solutions based on their own individual development.

17. Whilst these contributions are raised on the basis of the specific impact of an individual site two further points should

be observed. Firstly, whilst the impact is related to the site, it is not limited to on-site impacts. It may, for instance, relate to the need to address off-site junction improvements caused by increased traffic from the development. Secondly, as set out above pooled contributions may be sought but subject to the limitations already rehearsed.

18. The extent to which individual site contributions can be sought depends upon the scope of the definition of “*necessary*”. This question was considered recently by the Court of Appeal in the case of Derwent Holdings v. Trafford Borough Council & others [2011] EWCA Civ 832. The case concerned the validity of a planning permission granted in respect of a proposed development in two parts, firstly a large superstore and secondly the redevelopment of the Old Trafford Cricket Ground. If permission was granted then the proceeds of sale of the Council’s land on which the superstore was to be sited were to be passed on to Lancashire County Cricket Club to subsidise the redevelopment of their cricket ground. The challenge was brought on the basis of a failure to take account of relevant guidance in relation to the planning agreement. In concluding in relation to the submissions made by the Claimant Carnwath LJ (as he then was) stated as follows:

“15. Like the Judge, I am unable to accept this argument. We are entitled to start from the presumption that those members

who voted for the proposal were guided by the officer's advice. If so, they would have understood that they should consider the merits of the two parts of the proposal separately. They would have found in the officer's report sufficient reasons to conclude that, so viewed, they were acceptable in planning terms. At the same time they would have been aware that the proposal that was being put forward is not merely acceptable, but is carrying with it significant regeneration benefits, including the improvement to the cricket ground. The offer of a legal agreement to secure those benefits would no doubt have added to the attractions of the proposal. That does not mean that it was regarded as necessary to offset some perceived planning objections. Nor is there anything in the officer's report to suggest that it was. There is nothing objectionable in principle in a Council and a developer entering into an agreement to secure objectives which are regarded as desirable for the area, whether or not they are necessary to strengthen the planning case for a particular development."

19. Thus in that case it can be seen that the Court of Appeal did not take a strict approach to the requirement of the Regulations in respect of the necessity of the obligation to make the development acceptable in planning terms. It may be that further clarification is required by the Courts of the test of necessity. There is no reason, however, in principle to suggest that contributions towards Police infrastructure cannot

be sought from a Section 106 obligation from an individual site. It will however be necessary to demonstrate that either on-site or off-site infrastructure is necessary and directly related to the impact of the development which is being granted consent. Furthermore it will obviously be necessary to demonstrate that any contribution will in fact be used in order to pay for infrastructure which will actually be delivered.

IAN DOVE QC

26th December 2012

PLANNING OBLIGATIONS AND
POLICE CONTRIBUTIONS

ADVICE

Simon Dackombe

Strategic Planner

Thames Valley Police



Ref:

Date: 26th June 2014

Development Policy Manager
Development Services
Warwick District Council
Riverside House
Milverton Hill
Leamington Spa
CV32 5QH

Dear Sir/Madam

**Warwick District Local Plan Publication Draft
Representation on behalf of Warwickshire Police and West Mercia Police**

I write on behalf of Warwickshire Police and West Mercia Police (WP and WMP) in response to the Publication Draft Local Plan consultation, specifically in respect of the Draft Infrastructure Delivery Plan that forms part of the Local Plan evidence base. Separate representations are submitted in relation to the policies and proposals of the Local Plan by Mr Andrew Morgan, Estate Strategic Planner, Warwickshire Police and West Mercia Police.

The Draft Infrastructure Delivery Plan is an important component of the evidence base that underpins the Local Plan. WP and WMP are pleased to note that the Draft Infrastructure Delivery Plan takes account of the information provided to you in the letter dated 8th April 2014 from Andrew Morgan. A copy of this letter is attached for ease of reference. It provides the most up-to-date information available on police infrastructure requirements that are directly attributable to the levels of growth proposed in the Local Plan.

We note that, within the draft IDP, each item of infrastructure is prioritised as either Category 1: strategically essential, Category 2: strategically desirable or locally essential or Category 3: desirable. In terms of police infrastructure, we wish to point out that all the items listed in the IDP are critical to the delivery of operational policing to serve the growth proposed within the Local Plan and should therefore be prioritised as strategically essential.

As indicated in Andrew Morgan's letter, WYG is working with WP and WMP to prepare a detailed Strategic Infrastructure Assessment (SIA) that will cover all the elements of police infrastructure necessary to serve the proposed growth. This can be used to inform future reviews of the IDP, which we understand is a 'live' document that will be updated as infrastructure requirements are refined and costed. The SIA will provide the background to, and full justification for, the police's infrastructure requirements as set out in the IDP and will be CIL Regulation 122 compliant. It is intended that the SIA will be updated annually to take account of any changes in local or operational circumstances.



It is proposed that the SIA will cover both Warwick District and Stratford-on-Avon District. These two districts together form the South Warwickshire Territorial Policing Unit (TPU), which provides all neighbourhood policing services across both local authority areas, with most services being delivered and/or co-ordinated from Warwick Police Station and the Warwickshire Justice Centre in Royal Leamington Spa.

Whilst the SIA will cover growth related police infrastructure requirements for both districts, it will deal separately with requirements for each district in order that the costs of policing are calculated separately and apportioned according to the levels of growth proposed in each.

The methodology will be based on a SIA recently undertaken by WYG for Rugby Borough. In that case, the costs attributable to the Rugby Radio Station development were calculated separately and used to inform the s106 agreement that accompanied the planning permission.

The methodology has been accepted by a number of local authorities and we consider it provides robust evidence to underpin requests for funding of police infrastructure. We would hope to discuss the methodology with you and your colleagues in due course.

We look forward to working with the Council to provide input and evidence to the IDP as it progresses through the Local Plan process.

Yours faithfully,

A handwritten signature in purple ink that reads 'Ros Woodhall'.

Ros Woodhall
Associate
For and on behalf of WYG

cc Andrew Morgan



Warwickshire
POLICE



West Mercia
POLICE

08 April 2014

Our Ref: P/H Div/0009/14

Estate Services HQ
Hindlip Hall
PO Box 55
Worcester WR3 8SP
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Ms Sally Jones, Planning Policy Officer
Planning Policy
Warwick District Council

By Email Only

Dear Ms Jones

Warwick District – Development Growth – Police Infrastructure Requirements

As part of a Strategic Alliance, Warwickshire Police (WP) and West Mercia Police (WMP) now act as one on all infrastructure and town planning related matters across their combined geographical area. This includes making joint representations to all local planning authorities and other parties. For the avoidance of doubt however, the two forces retain their separate Police and Crime Commissioners (PCCs) and respective command teams.

These representations have been made in response to the invitation of Warwick District Council to provide details of anticipated police infrastructure requirements in the District, in order to inform the preparation of the following documents: -

1. Warwick District Local Plan
2. Infrastructure Delivery Plan
3. Preliminary Community Infrastructure Levy (CIL) Charging Schedule

At this juncture we would like to stress that WP and WMP take an entirely neutral position on the question of whether some or all of the proposed development sites should be included in the Local Plan.

We are aware, for example, that some of the proposed sites may be promoted in parallel through the planning application process, or that some promoters may make representations against other development options. None of these types of issues are our concern. To ensure the resilience of the police service on a long-term basis in the District, we are obliged to assume that all will come forward and plan our infrastructure and service provision accordingly for the moment. As further information becomes available and/or the situation changes, further representations to the Council's planning policy team and/or development control team will be made by us as appropriate and necessary.

Before continuing, we emphasise that the high level findings presented below are based on the information available currently. We intend to prepare later this year, in conjunction with our consultants WYG, a detailed Strategic Infrastructure Assessment (SIA) of our predicted requirements based on the Council's Submission Local Plan when it is published. The following is therefore necessarily an indicative 'snapshot in time' that will require updating in due course by the SIA.

WP's role and responsibility

In Warwick District WP is responsible for delivering services to address community safety, tackle the fear of crime and seek to achieve a reduction in crime. The delivery of growth and new development places additional pressure on our infrastructure base, which is critical to the delivery of effective policing and securing safe and sustainable communities.

The primary issue for us is to ensure that new development makes adequate provision for the future policing needs it will generate. Like some other public services, our primary funding is insufficient to add new infrastructure to support new development when and wherever this occurs. Further, there are no bespoke funding regimes e.g. like Building Schools for the Future or the Health LIFT, to provide capital investment for our facilities.

This situation has been recognised by the Association of Chief Police Officers (ACPO) nationally for some time and there are public statements which explain our particular funding difficulties.

In addition to the above, the money received by us is comparatively low relative to the size of population in our geographical area. Whilst revenue funding is provided by the Home Office and the Council Tax precept, capital projects are mostly financed through borrowing. Borrowing to provide infrastructure has an impact on the delivery of safe and sustainable communities because loans have to be repaid from revenue budgets, the corollary of which is a reduction in the money available to deliver operational policing.

Current Levels of Deployment and Infrastructure

Regular patrolling of the District is maintained by the South Warwickshire Territorial Policing Unit (TPU), with most services for the area being delivered and/or coordinated from Warwick Police Station and the Warwickshire Justice Centre in Royal Leamington Spa.

It should however be understood that the wider organisation and delivery of policing services is not on a town by town or even on a district by district basis. In this instance the TPU, led by Superintendent Debra Tedds, delivers all neighbourhood policing services to Warwick District and Stratford-on-Avon District. The TPU also provides some support functions as well. Other TPUs cover the remainder of WP's and WMP's combined geographical area. However, the majority of the support and specialist services necessary to support the 'front line' are currently provided in this instance from Leek Wootton and our Hindlip Hall campus.

It should be noted that the above operational arrangement may change by the end of 2014. If this should be the case, further information will be submitted to the Council.

Notwithstanding the above, a huge range of central policing services are delivered to the District, encompassing areas such as:

- Investigations
- Intelligence
- Response policing
- Criminal justice
- Operations planning
- Dogs and firearms
- Special branch
- Forensic services
- Road policing
- Tactical support group
- IT and communications
- Child abuse team
- Economic crime team

All of the above central support services and others will be called upon during the lifetime of the proposed developments, should they be delivered, just as they currently are for the existing settlements. These services and others in turn require organisational support functions in order to operate, such as:

- Finance
- Human resources
- Training
- Top level management

Specific numbers of staff delivering policing are spread across the following functions:

- 225 police officers deliver neighbourhood policing and emergency responses to South Warwickshire. They are not disaggregated according to District and therefore operate across the combined area. This figure does not include the officers based at Leek Wootton and our Hindlip Hall campus who are part of numerous specialist teams who deploy according to need across the entire force area.
- 59 police staff deliver support functions to the South Warwickshire TPU. Like officers, they deliver services to the whole area and are not disaggregated according to District. However this does not include the staff based at Leek Wootton and our Hindlip Hall campus, who will provide support across the entire alliance geographical area as need arises.

Based on existing crime patterns, and policing demand and deployment from nearby areas, indicates the direct and additional impacts of new development in the District on local policing, which will be manifested in demand and responses in the following areas:

- Additional calls and responses per year via our control centre.
- Attendance to additional emergency events within the proposed development and locality each year.
- Additional non-emergency events to follow up with public contact each year.
- Additional recorded crimes in the developments and locality.
- Additional anti-social behaviour incidents each year within the new development and locality.
- Demand for increased patrol cover.

- Additional vehicle use.
- Additional calls on our Airwaves system.
- Additional use of our Police National Database (PND) systems to process and store crime records and intelligence.
- Additional demand for deployment of Mobile CCTV technologies.
- Additional demand for local access to beat staff from local neighbourhood teams.
- Additional policing cover and interventions in all the areas described when considering staffing and functions above and for additional accommodation from which to deliver these.

On the basis of the above, the following police infrastructure will be required to serve the District:

Setting-up and Equipping of Officers and Staff

The table enclosed in **Appendix 1** shows the estimated additional personnel that will be required to serve all the proposed developments in the District.

Setting-up and equipping police officers and staff entails providing IT, radios, protective equipment, uniforms and bespoke training in the use of these. However, additional staff will require additional equipment. There are practical limits to the extent to which existing equipment can be re-used e.g. with uniforms or where technology has moved on.

In this case, **Appendix 1** demonstrates that delivering services to the additional development proposed by the emerging Local Plan would fully occupy the equivalent of an additional 32 police officers and 29 police staff full-time. These totals are broken down as follows: -

- Small SHLAA (Urban) – 1 Police Officer and 1 Police Staff
- Allocated Brownfield Sites – 4 Police Officers and 4 Police Staff
- Canalside & Employment Regeneration Areas – 1 Police Officer and 1 Police Staff
- Allocated Greenfield Sites – 14 Police Officers and 13 Police Staff
- Villages – 3 Police Officers and 2 Police Staff
- Windfall – 9 Police Officers and 8 Police Staff

Staffing levels are under constant review to ensure that minimum acceptable numbers are deployed to meet existing levels of policing demand. This has the benefit of much needed savings in costs, but as a result there is no additional capacity to extend existing staffing to cover additional development.

Where additional development is proposed we would seek to deploy additional staffing and additional infrastructures at the same level that is required to deliver policing to the District. It would be complacent not to do this because without additional support unacceptable pressure will be put on existing staff and our capital infrastructures, which will in turn seriously undermine our ability to meet the policing needs of these developments and maintain the current level of policing to the South Warwickshire TPU as a whole. The impacts of the proposed developments

would be so significant that they could not be met without additional staff deployed at a level consistent with the current level of policing.

The additional officers and staff needed to police the developments proposed by the emerging Local Plan will require additional equipment. For a police officer, the additional items are recruitment £1,060, training £4,400, uniform and personal equipment £940, workstation £1,642. For other staff the additional items are recruitment £1,060 and workstation £1,642. The costs for this arising from the different proposed developments are set out in **Appendix 2**. In summary, the total costs are as follows: -

- Small SHLAA (Urban) – £10,744
- Allocated Brownfield Sites – £42,976
- Canalside & Employment Regeneration Areas – £10,744
- Allocated Greenfield Sites – £147,714
- Villages – £29,530
- Windfall – £93,994

We could not have officers and staff attending and delivering services to the developments with less than adequate equipment, training and facilities without unnecessary risks to themselves and occupiers served.

Police Vehicles

In managing and responding to crime a number of different vehicles can be deployed ranging from general response vehicles and patrol cars, unmarked general support vehicles, police service unit vans and minibuses, scientific (e.g. SOCO) vehicles, pursuit vehicles – 4x4 and high speed, motorcycles and so on. Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), this equates to a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

The average cost of a vehicle is £28,500. This includes the cost of the vehicle and the operational equipment required. The cost quoted does exclude fuel. We replace vehicles, on average, every 3 years and in the majority of cases there is no resale value. Based on this existing level of deployment to the locality we can forecast additional demands as a result of the developments.

In order to equip the additional officers (**Appendix 1**) required to police the development proposed the following vehicles and bicycles will be needed (**Appendix 3**):

- Small SHLAA (Urban) – No vehicular requirement
- Allocated Brownfield Sites – 1 vehicle - £28,500
- Canalside & Employment Regeneration Areas – No vehicular requirement
- Allocated Greenfield Sites – 4 vehicles and 1 bicycle - £116,784

- Villages – 1 vehicle – £28,500
- Windfall – 2 vehicles - £57,000

The costs quoted do exclude fuel. We replace vehicles, on average, every 3 years and in the majority of cases there is no resale value.

On-site Capital Infrastructure Requirements

The proposed sites which we consider would warrant the permanent presence of an on-site Safer Neighbourhood Team (SNT) Police Office are as follows: -

- Europa Way
- Lower Heathcote Farm
- Thickthorn

At present the sites do not place any significant demands upon the police service. However, following delivery, there is no reason to doubt that there will be a corresponding increase in crime and demand from new residents, occupiers and visitors from the above sites for policing. This will cover a wide range spectrum of support and intervention.

It will consequently be necessary to accommodate the additional staff required to deliver policing to the development sites. Whilst officers spend time away from base they are not independent and require a start and finish location, storage, briefing and report writing facilities. Our existing facilities cannot accommodate the additional staff required for these sites.

The Safer Neighbourhood Team (SNT) Police Office can either be freestanding within a local centre, or as part of a “community hub” building. **Appendix 4** provides indicative specifications and costings of the Police Office, on the basis of a freestanding facility.

Cumulative Infrastructure Requirements

The custody requirements of the District are currently met from the custody suite in the Warwickshire Justice Centre at Royal Leamington Spa. However, the delivery of 13,085 additional homes in the District between 2011 and 2029 will trigger a need for additional custody provision.

The custody suite at Warwick Police Station has been closed for a long time and the cost of refurbishing and extending it now would be prohibitive. This is because the standards required by the Home Office and Her Majesty’s Inspectorate of Constabulary (HMIC) for custody facilities have moved on considerably in the intervening years. We therefore consider that it would be more sensible to extend or refurbish one or more of the existing custody suites that are in use in Warwickshire. Based on the level of growth proposed for the District, we consider that in total 12 additional cells will be needed. Based on proxy figures we have for providing new build custody suites elsewhere in the alliance area, the build cost in this instance would be circa £42,000 per cell i.e. £504,000 for 12no. cells.

It is suggested that the costs of delivering the facility should be shared according to the number of dwellings proposed e.g. through the CIL mechanism. Clearly, the specifications and cost of

the new custody facility will need to be the subject of further detailed discussions in due course. Therefore, it is not possible to calculate a precise cost figure that can be attributed to each development site at this stage.

Summary of Police Infrastructure Required for Development Growth Options

Small SHLAA (Urban)

Recruitment and equipping of officers and staff	£10,744
---	---------

Allocated Brownfield Sites

Recruitment and equipping of officers and staff	£42,976
---	---------

Police vehicles	£28,500
-----------------	---------

Canalside & Employment Regeneration Areas

Recruitment and equipping of officers and staff	£10,744
---	---------

Allocated Greenfield Sites

Recruitment and equipping of officers and staff	£147,714
---	----------

Police vehicles	£116,784
-----------------	----------

Villages

Recruitment and equipping of officers and staff	£29,530
---	---------

Police vehicles	£28,500
-----------------	---------

Windfall

Recruitment and equipping of officers and staff	£93,994
---	---------

Summary of On-site Capital Infrastructure Requirements

Europa Way

Premises (SNT Police Office – assuming freestanding)	£450,981
--	----------

Lower Heathcote Farm

Premises (SNT Police Office – assuming freestanding)	£450,981
--	----------

Thickthorn

Premises (SNT Police Office – assuming freestanding)	£450,981
--	----------

Cumulative Capital Infrastructure Requirement

Custody – 12 additional cells £504,000

Overall Police Infrastructure Cost £2,366,429

Without the above infrastructure, we consider that the proposed development growth will be unacceptable in planning terms as indicated in the National Planning Policy Framework (NPPF). We further consider that the lack of capacity in our existing infrastructure to accommodate the population growth and associated demands occasioned by the delivery of development means that it will prove necessary for promoters to provide contributions, either financially or in-kind, so that the situation might be remedied.

Should there be any queries with any of the evidence presented, we would be pleased to discuss them further.

Yours sincerely

**Andrew Morgan
Strategic Planner**

“Without prejudice to any other obligation imposed upon it, it shall be the duty of each local authority to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can, to prevent crime and disorder in its area: Section 17(1) of the Crime and Disorder Act 1998.”

Appendix 1
Staffing Levels – Existing and Proposed

In the context of the uncertainty about the future organisation and staffing numbers for WP, the table uses current planned staffing levels as a basis for calculating the additional staffing requirement to serve the sites. The staffing levels below (identified as budgeted posts) are for the whole WP area and include the various support staff, many of whom are responsible for providing services across the WP area and not just within South Warwickshire. The population of WP's geographical area is currently about 545,500 and the area accommodates about 231,000 dwellings (Census 2011). The total levels of staffing across the whole of the WP area have been used to calculate pro-rata requirements for additional personnel required to serve the proposed developments.

Command Area	Total Posts in Warks	Approx Population in Warks per Post	Approx Dwellings in Warks per Post	Pro Rata Post Requirement Small SHLAA (Urban) (393 dw)	Pro Rata Post Requirement Allocated Brownfield Sites (1,330 dw)	Pro Rata Post Requirement Canalside & Employment Regeneration Areas (269 dw)	Pro Rata Post Requirement Allocated Greenfield Sites (4,165 dw)	Pro Rata Post Requirement Villages (814 dw)	Pro Rata Post Requirement Windfall Allowance (2,485 dw)
Local Policing									
Police Officers	566	964	408	1	3	1	10	2	6
Police Staff	400	1,364	578	1	2	1	7	1	4
Protective Services									
Police Officers	232	2,351	996	0	1	0	4	1	3
Police Staff	163	3,347	1,417	0	1	0	3	1	2
Enabling Services									
Police Officers	8	68,188	28,875	0	0	0	0	0	0
Police Staff	103	5,296	2,243	0	1	0	2	0	1
Finance									
Police Officers	1	545,500	231,000	0	0	0	0	0	0
Police Staff	44	12,398	5,250	0	0	0	1	0	1
Total	1,517			2 (1 police officer and 1 police staff)	8 (4 police officers and 4 police staff)	2 (1 police officer and 1 police staff)	27 (14 police officers and 13 police staff)	5 (3 police officers and 2 police staff)	17 (9 police officers and 8 police staff)

Appendix 2
Officers and Staff Set-up Costs

Police Officers

Additional Officers	Approx Set-up Cost per Officer	Small SHLAA (Urban)	Allocated Brownfield Sites	Canalside & Employment Regeneration Areas	Allocated Greenfield Sites	Villages	Windfall
		1 Police Officer	4 Police Officers	1 Police Officer	14 Police Officers	3 Police Officers	9 Police Officers
Recruitment	£1,106	£1,106	£4,424	£1,106	£15,484	£3,318	£9,954
Training	£4,400	£4,400	£17,600	£4,400	£61,600	£13,200	£39,600
Uniform & Personal Equipment	£940	£940	£3,760	£940	£13,160	£2,820	£8,460
Standard Equipment (ICT and Furniture)	£1,642	£1,642	£6,568	£1,642	£22,988	£4,926	£14,778
Total Costs	£8,042	£8,042	£32,168	£8,042	£112,588	£24,126	£72,378

Police Staff

Additional Officers	Approx Set-up Cost per Officer	Small SHLAA (Urban)	Allocated Brownfield Sites	Canalside & Employment Regeneration Areas	Allocated Greenfield Sites	Villages	Windfall
		1 Police Staff	4 Police Staff	1 Police Staff	13 Police Staff	2 Police Staff	8 Police Staff
Recruitment	£1,106	£1,106	£4,424	£1,106	£14,378	£2,212	£8,848
Standard Equipment (ICT and Furniture)	£1,642	£1,642	£6,568	£1,642	£21,346	£3,284	£13,136
Total Costs	£2,702	£2,702	£10,808	£2,702	£35,126	£5,404	£21,616

Appendix 3
Vehicle and Bicycle Costs

Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), there is a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

It is essential that the current ratio of personnel to vehicles and personnel to bicycles applies to the additional personnel required as a result of development growth.

Vehicles costs have been capitalised on 5 year lifetime average costs for a low/medium size equipped vehicles (excluding fuel). Bicycle costs are established at £1,299 per cycle, with an additional maintenance charge of £297 per bicycle per annum, or £1,485 per 5 years, capitalised. The total cost of providing each new cycle and maintaining it for 5 years is therefore £2,784.

These costs do not include any costs for specialist operational equipment, and the cost estimates below are therefore moderated very conservatively.

Development Growth	Additional Vehicles and Bicycles	Cost per Item	Total Cost
Small SHLAA (Urban)	0 vehicles 0 bicycle	£28,500 £2,784	-
Allocated Brownfield Sites	1 vehicle 0 bicycle	£28,500 £2,784	£28,500 -
Canalside & Employment Regeneration Areas	0 vehicles 0 bicycle	£28,500 £2,784	-
Allocated Greenfield Sites	4 vehicles 1 bicycle	£28,500 £2,784	£114,000 £2,784
Villages	1 vehicles 0 bicycle	£28,500 £2,784	£28,500 -
Windfall	2 vehicles 0 bicycle	£28,500 £2,784	£57,000 -

Appendix 4
Indicative Specifications and Cost of Freestanding SNT Police Office



Contract: Safer Neighbourhood Team Police Office
Client: Police Service
Report: Feasibility Study (New Build Estimate) Rev.C
Date: 2013

Author: J. Tylee





Contract: Safer Neighbourhood Team Police Office
Client: Police Service
Report: Feasibility Study (New Build Estimate) Rev.C
Date: 2013

Author: J. Tylee

Executive Summary

Estimate of construction costs of new build Police Office (Approx. 178m2)

Budget Range: **£420,000 - £490,000**

Basis of Feasibility Estimate:

Drawing: Refer to Layout page
Spec: Refer to Layout page

Assumptions

New Build Construction, approx. 178m2 GFA
 Single Storey, standalone, office accommodation to house approx. 10nr. Staff
 Traditional methods of construction (Elemental Basis)
 Level, cleared site, with 'normal' ground conditions
 Services / Utilities & drainage all provided to site
 Provisional Sum of £17,000 allowed for Statutory Authority Fees
To be used for indicative purposes only

Exclusions

Location Index - To be Rebased
 Date Index - To be Rebased
 No demolition required
 No allowance for contamination, removal of asbestos, or environmental protection
 No allowance for diversion and/or protection of existing services
 No allowance for VAT
 No allowance for Archaeology and/or Environmental Surveys (& mitigation/outcomes)

Elemental Basis

Element Nr. Element / Spec.

- 1 Substructure: Insitu Concrete, Strip Foundation, Insitu Slab
- 2A Frame: Concrete frame/blockwork and slab
- 2C Roof: Timber trussed roof, insulation, covering, Rainwater goods, Clay tiles
- 2E External Walls: Cavity Walls, Dense Block, Rendered
- 2F External Windows & Doors: Steel frame, purpose made, powder coated, shutters
- 2G Internal Walls and Partitions: Blockwork partitions
- 2H Internal Doors: Solid timber doors with vision panels
- 3A Wall Finishes: Plasterboard lining & Skim / Ceramic wall tiles
- 3B Floor Finishes: 75 Screed, Insulation, Vinyl sheet / carpet
- 3C Ceiling Finishes: Suspended ceiling, medium quality, concealed grid
- 4 Fittings & Furnishings: Kitchen Unit, Reception Desk, Workstations
- 5A Sanitary Appliances: General sanitaryware
- 5D Water Installations: Hot and Cold water services
- 5F Space Heating: Gas LTHW general heating
- 5H Electrical Installations: Electric light and power installations
- 5L Communications & Security: Fire & Intruder alarms, CCTV, etc.
- 5N Builders Work in connection: Connection with services
- 6A Site Works: Site Prep, Generally
- 6B Drainage: General Building and site drainage, connect to existing

Contract: Safer Neighbourhood Team Police Office
Client: Police Service
Report: Feasibility Study (New Build Estimate) Rev.C
Date: 2013

Author: J. Tylee

Police Office Layout - Utilised for Measure

Drawing: As per Sketch below (Indicative - *size and layout only*)
Spec: As per General Police Movement Plan - Accomodation Requirements

GIA taken as 178m2





Contract: Safer Neighbourhood Team Police Office
Client: Police Service
Report: Feasibility Study (New Build Estimate) Rev.C
Date: 2013

Author: J. Tylee

Police Office - Elemental Estimate

Total GFA (m2): 178.00

Element Nr.	Element	Package Cost	Rate (£/m2)	Percentage (%)	
1	Substructure	23,400.00	131.46	5.39%	
2	Superstructure	106,090.00	596.01	24.45%	
2A	Frame	25,200.00	141.57	5.81%	
2B	Upper Floors	-	-	0.00%	
2C	Roof	28,800.00	161.80	6.64%	
2D	Stairs	-	-	0.00%	
2E	External Walls	16,400.00	92.13	3.78%	
2F	External Windows and Doors	18,400.00	103.37	4.24%	
2G	Internal Walls and Partitions	11,790.00	66.24	2.72%	
2H	Internal Doors	5,500.00	30.90	1.27%	
3	Finishes	21,975.00	123.46	5.06%	
3A	Wall Finishes	6,675.00	37.50	1.54%	
3B	Floor Finishes	7,740.00	43.48	1.78%	
3C	Ceiling Finishes	7,560.00	42.47	1.74%	
4	Fittings and furnishings	18,000.00	101.12	4.15%	
5	Services	86,940.00	488.43	20.03%	
5A	Sanitary Appliances	5,000.00	28.09	1.15%	
5B	Services Equipment	-	-	0.00%	
5C	Disposal Installations	-	-	0.00%	
5D	Water Installations	6,300.00	35.39	1.45%	
5E	Heat Source	-	-	0.00%	
5F	Space Heating and Air Conditioning	18,000.00	101.12	4.15%	
5G	Ventilating Systems	-	-	0.00%	
5H	Electrical Installations	23,580.00	132.47	5.43%	
5I	Fuel Installations	-	-	0.00%	
5J	Lift and Conveyor Installations	-	-	0.00%	
5K	Fire and Lightning Protection	-	-	0.00%	
5L	Communications and Security Installations	31,000.00	174.16	7.14%	
5M	Special Installations	-	-	0.00%	
5N	Builders Work in Connection	3,060.00	17.19	0.71%	
5O	Management of Commissioning	-	-	0.00%	
6	External Works	60,000.00	337.08	13.83%	
6A	Site Works	50,000.00	280.90	11.52%	
6B	Drainage	10,000.00	56.18	2.30%	
6C	External Services	-	-	0.00%	
6D	Minor Building Works	-	-	0.00%	
6E	Demolition and Work outside site	-	-	0.00%	
SUB-TOTAL		316,405.00	1,777.56	72.91%	
Preliminaries		15%	47,460.75	266.63	10.94%
Design Fees		12%	37,968.60	213.31	8.75%
			401,834.35	2,257.50	92.59%
Contingencies		8%	32,146.75	180.60	7.41%
CONTRACT SUM (£)		433,981.10	2,438.10	100.00%	
Statutory Authority Charges (Allowance)		17,000.00			
CONTRACT SUM inc. Stat.Charges (£)		450,981.10			



Warwickshire
POLICE



West Mercia
POLICE

11 June 2014

Our Ref: P/H Div/0018/14
Your Ref: W/14/0661

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Ms Penny Butler, Planning Officer
Development Services
PO Box 2178
Warwick District Council
Riverside House
Milverton Hill
Royal Leamington Spa
CV32 5QH

Dear Ms Butler

PLANNING APPLICATION W/14/0661 – LAND AT LOWER HEATHCOTE FARM POLICE SERVICE REPRESENTATIONS

As part of a Strategic Alliance, Warwickshire Police (WP) and West Mercia Police (WMP) now act as one on all infrastructure and town planning related matters across their combined geographical area. This includes making joint representations to all local planning authorities and other parties. For the avoidance of doubt however, the two forces retain their separate Police and Crime Commissioners (PCCs) and respective command teams.

From the perspective of the police service, planning application W/14/0661 is one of four proposed for this area of Warwick District: -

- W/14/0661 - Land at Lower Heathcote Farm – 785 dwellings – Gallagher Estates
- W/14/0681 – Land South of Gallows Hills – 450 dwellings – Gallagher Estates
- W/14/0689 – Land off Oakley Wood Road – 150 dwellings – Bloor Homes
- W/14/0763 – Land off Seven Acre Close – 25 dwellings – A.C. Lloyd Homes Ltd



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warwickshire police
west mercia police

1,410 new dwellings are consequently proposed for this area of the District. The result is that the impacts arising from each of the proposed developments directly upon the police service cannot be considered in isolation from one another. By extension, mitigation is therefore not possible in an isolated fashion for each one. Representations have consequently been submitted in relation to each of the above applications. We request that the four representations are considered as one suite of documents making a cumulative case, rather than each one being considered separately.

It should be understood at the outset by all parties that WP and WMP take an entirely neutral position on the question of whether the proposed developments should be granted planning consent. We are aware also that not all the schemes may be granted planning consent. That is not our concern either. To ensure the resilience of the police service on a long-term basis in this area of the District, we are obliged to assume that all four will come forward and plan our infrastructure and service provision accordingly for the moment. As further information becomes available and/or the situation changes, further representations will be made as appropriate and necessary.

These representations to planning application W/14/0661 provide our comments with respect to the following matters: -

1. Traffic management implications;
2. Secured by Design; and
3. Police infrastructure requirements.

Description of the Proposed Development

Outline planning application W/14/0661, proposed by Gallagher Estates, is for the erection of up to 785 dwellings; Provision of three points of access - one from Europa Way and two access points onto Harbury Lane; A mixed use community hub/local centre to include retail development (Class A1 to A5 inclusive) and community buildings (Class D1); Potential provision of a primary school; Comprehensive green infrastructure, continuous open space network and multi functional open space, including children's play space, potential open space for sport, informal open space and SUDS; Potential provision of allotments; Potential footpaths and cycle ways; Foul and surface water drainage infrastructure, including attenuation ponds; Ancillary infrastructure and ground remodelling.

Traffic Management Implications

Planning application W/14/0661, as proposed, has the potential to create a 'rat-run' for two reasons. Firstly, it will create a through route from Harbury Lane to Europa Way; thus avoiding traffic congestion at the Earl Rivers Avenue and Harbury Lane traffic islands. Secondly, planning applications W/14/0661 and W/14/0681, if they are both approved, will create a new cross-roads junction on Europa Way prior to the Harbury Lane traffic island. This consequently has the potential to create a 'rat-run' from Harbury Lane to Gallows Hill through both developments, as traffic seeks to avoid congestion at the Earl Rivers Avenue and Harbury Lane traffic islands.

Traffic calming measures will therefore need to be included as part of the new road throughout both developments. In view of this we request involvement in any Road Safety Audit as the proposals progress, in order to ensure that the highway design maximises road safety (without the need for police intervention) and minimises the potential for disruptive problems arising.

In respect of all of the above comments, our Traffic Management Advisor, Mr Mike Digger, would welcome the opportunity to discuss these matters directly with the Council and the applicants. Mr Digger can be contacted on: -

Tel: 01905 331258
Email: michael.digger@westmercia.pnn.police.uk

Secured by Design

As planning application W/14/0661 is in outline form, there is insufficient information contained within it to enable us to comment on this matter. If the Council grants planning consent and the proposal progresses to the reserved matters stage, we will make detailed representations on this topic at that time. If the Council or the applicants would like to discuss this matter further in the meantime, please contact our Crime Prevention Design Advisor, Mr Ian King, on: -

Tel: 01926 684279
Email: ian.king@warwickshire.pnn.police.uk

Police Infrastructure Requirements – Request for Section 106 Contribution

What does 'Infrastructure' mean in the Police Context?

Developer contributions are not being sought towards revenue/salary costs by the Police. Only infrastructure that is necessary to facilitate the delivery of policing services to development growth is detailed in these representations.

'Infrastructure' is not however a narrow term referring only to buildings. The Association of Chief Police Officers (ACPO) has taken legal advice from Ian Dove QC and this supports this contention (**Appendix 1** – see paragraph 7). Infrastructure can include equipment, which for example, includes vehicles, communications technology and surveillance equipment. It is also legitimate to include set up costs for new officers and staff covering equipment, training, uniform and personal equipment. As confirmed in this advice, this also pertains under the CIL regime. This is elaborated on further below.

Regulatory Context

We have ensured that the request set out below is fully compliant with the tests set out in CIL Regulation 122 as follows:

- Necessary to make the proposed development acceptable in planning terms.
- Directly related to the proposed development.
- Fairly and reasonable related in scale and kind to the proposed development.

Contributions towards police infrastructure have been found to be lawful when tested at appeal in decisions by the Secretary of State. In one appeal decision, (APP/X2410/A/12/2173673), the Inspector noted that:

“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.”

The decision letter relating to this appeal was issued in May 2013 and relates to a proposal for 300 dwellings on land at Melton Road, Barrow upon Soar, Leicestershire. The decision letter and Inspector's report are included at **Appendix 2**. This appeal was recovered for determination

by the Secretary of State who agreed with the Inspector's conclusions and recommendations, including those relating to Planning Obligations. Paragraphs 288-294 deal with contributions towards policing and paragraphs 291 and 292 are particularly relevant.

The conclusions of the above were tested again recently by the Secretary of State in April 2014 at appeal (APP/X2410/A/13/2196928 & APP/X2410/A/13/2196929) and upheld. He concluded at paragraph 16 of his decision that: -

"He also agrees with the Inspector (IR8.43-8.46) that the completed s106 Unilateral Undertaking, dated 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 material consideration."

The decision letter, relating to a proposal for 250 dwellings on land off Mountsorrel Lane, Rothley, Leicestershire and Inspector's report are included at **Appendix 3**. Paragraphs 5.1 – 5.12 of the Inspector's report deal with contributions towards policing and paragraphs 5.5 and 5.7 are particularly relevant.

It is therefore clear that where the rationale is clear and supported by evidence, contributions towards policing are compatible with Regulation 122, as confirmed by the aforementioned appeal decisions. We consider that all items of infrastructure sought in relation to the proposed development meet the statutory tests.

National Policy Context

The national policy position to support our request exists in the National Planning Policy Framework (NPPF). Securing sufficient facilities and services to meet local needs is a core planning principle (paragraph 17). Planning is to deliver facilities and services that communities need (paragraph 70). Local plan policies should deliver the provision of security infrastructure and other local facilities (paragraph 156). Local plan policy and decision making should be seamless (paragraph 186). Infrastructure planning should accompany development planning by LPAs (paragraph 177) who should work together with infrastructure providers (paragraph 162). The NPPF seeks environments where crime and disorder and the fear of crime do not undermine the quality of life and community cohesion (paragraph 69) and planning policies and decisions should deliver this (paragraph 58).

Local Policy Context

The development plan comprises of the 'Warwick District Local Plan 1996-2011' (adopted September 2007). There are two policies relevant to these representations.

Policy DP14 – 'Crime Prevention' states that the layout and design of development will be encouraged to minimise the potential for crime and anti-social behaviour and improve community safety. Paragraph 4.88 to Policy DP14 highlights the fact that the Council is required under Section 17 of the Crime and Disorder Act 1998 to take account of crime and disorder in all of its work. Paragraph 4.90 adds that applicants will be encouraged to obtain a 'Secured by Design' certificate from our Crime Prevention Design Advisor.

Policy SC14 – 'Community Facilities' confirms that contributions will be sought towards community facilities in conjunction with new development where appropriate. Supporting paragraph 5.83 states that new development puts pressure on existing infrastructure and that Government guidance is clear that planning authorities may seek contributions from applicants to offset the cost of this. Supporting paragraph 5.84 confirms that community facilities are included within the scope of Policy SC14.

The emerging development plan comprises of the '*Warwick District Local Plan 2011-2029 – Publication Draft*' (May 2014). Although this document can only be ascribed limited material weight in view of its draft status, we consider that two policies should be noted by all parties.

Policy HS7 – '*Crime Prevention*' states that development proposals should make provision for appropriate design and security measures to ensure crime prevention. This is elaborated on by the supporting '*Draft Infrastructure Delivery Plan – April 2014*', which states in relation to police infrastructure on page 20 that provision needs to be made for: -

'3 additional offices (Safer Neighbourhood Team Police Offices) at Europa Way, Lower Heathcote Farm and Thickthorn...'

'A range of other CIL compliant costs including vehicles, communications technology and surveillance technology, training, uniform and personal equipment.'

Policy DM1 – '*Infrastructure Contributions*' states that development will be expected to provide, or contribute towards, the provision of physical and social infrastructure required to make it acceptable in planning terms. Furthermore the policy states that the Council will seek to secure site-specific infrastructure investments and/contributions, as well as off-site contributions and/or investments.

The policy concludes by stating that the Council will work with infrastructure providers to ensure the supporting Infrastructure Delivery Plan is up to date. As noted above, the '*Draft Infrastructure Delivery Plan – April 2014*' confirms that the police and the emergency services are 'infrastructure'; thereby the Council recognises that they are legitimate recipients of planning obligations.

WP's Role and Responsibility

In this instance, we are responsible for delivering services to address community safety, tackle the fear of crime and seek to achieve a reduction in crime. The delivery of growth and new development, such as W/14/0661, places additional pressure on our infrastructure base, which is critical to the delivery of effective policing and securing safe and sustainable communities.

The primary issue for us is to ensure that new development like W/14/0661 makes adequate provision for the future policing needs it will generate. Like some other public services, our primary funding is insufficient to add new infrastructure to support new development when and wherever this occurs. Further, there are no bespoke funding regimes e.g. like Building Schools for the Future or the Health LIFT, to provide capital investment for our facilities.

This situation has been recognised by the Association of Chief Police Officers (ACPO) nationally for some time and there are public statements which explain our particular funding difficulties.

In addition to the above, the money received by us is comparatively low relative to the size of population in our geographical area. Whilst revenue funding is provided by the Home Office and the Council Tax precept, capital projects are mostly financed through borrowing. Borrowing to provide infrastructure has an impact on delivery of safe and sustainable communities because loans have to be repaid from revenue budgets, the corollary of which is a reduction in the money available to deliver operational policing.

Current Levels of Policing Demand from the Locality

Policing is a 24/7 service resourced to respond and deploy on an “on demand” and “equal basis” and is wholly dependant on a range of facilities for staff to deliver this. Calls and deployments for this area, via our control room at Leek Wootton, are monitored and give an indication of the level of service demand in different areas

The application site is encompassed within the ‘Warwick Central’ Safer Neighbourhood Team (SNT) area, which is led by Sergeant David Kettle. During the period April 2013 – April 2014 we dealt with 1,675 offences, 8,220 incidents and 1,302 anti-social behaviour incidents from this SNT area. It is worth noting that within the specific geographical area encompassed by the application site almost no crime and incidents were recorded, which reflects the current open field character of the site.

Current Levels of Deployment and Infrastructure

Regular patrolling of the locality and local community around the application site is maintained by the aforementioned SNT operating from Warwick Police Station. Though the SNT operates on the basis that there is no demand from the application site.

It should however be understood that the wider organisation and delivery of policing services is not on a town by town or even on a district by district basis. In this instance the TPU, led by Superintendent Debra Tedds, delivers all neighbourhood policing services to Warwick District and Stratford-on-Avon District. The TPU also provides some support functions as well. Other TPUs cover the remainder of WP’s and WMP’s combined geographical area. However, the majority of the support and specialist services necessary to support the ‘front line’ are currently provided in this instance from Leek Wootton and our Hindlip Hall campus.

A huge range of central policing services are delivered to the District, encompassing areas such as:

- Investigations
- Intelligence
- Response policing
- Criminal justice
- Operations planning
- Dogs and firearms
- Special branch
- Forensic services
- Road policing
- Tactical support group
- IT and communications
- Child abuse team
- Economic crime team

All of the above central support services and others will be called upon during the lifetime of the proposed development, should it be delivered, just as they currently are for the existing settlements. These services and others in turn require organisational support functions in order to operate, such as:

- Finance
- Human resources
- Training

- Top level management

Specific numbers of staff delivering policing are spread across the following functions:

- 225 police officers deliver neighbourhood policing and emergency responses to South Warwickshire. They are not disaggregated according to District and therefore operate across the combined area. This figure does not include the officers based at Leek Wootton and our Hindlip Hall campus who are part of numerous specialist teams who deploy according to need across the entire force area.
- 59 police staff deliver support functions to the South Warwickshire TPU. Like officers, they deliver services to the whole area and are not disaggregated according to District. However this does not include the staff based at Leek Wootton and our Hindlip Hall campus, who will provide support across the entire alliance geographical area as need arises.

Based on existing crime patterns, and policing demand and deployment from nearby areas, indicates the direct and additional impacts of the development on local policing that will be manifested in demand and responses in the following areas:

- Additional calls and responses per year via our control centre.
- Attendance to additional emergency events within the proposed development and locality each year.
- Additional non-emergency events to follow up with public contact each year.
- Additional recorded crimes in the developments and locality.
- Additional anti-social behaviour incidents each year within the new development and locality.
- Demand for increased patrol cover.
- Additional vehicle use.
- Additional calls on our Airwaves system.
- Additional use of our Police National Database (PND) systems to process and store crime records and intelligence.
- Additional demand for deployment of Mobile CCTV technologies.
- Additional demand for local access to beat staff from local neighbourhood teams.
- Additional policing cover and interventions in all the areas described when considering staffing and functions above and for additional accommodation from which to deliver these.

The Police Contribution Request

A Section 106 contribution is requested to mitigate the additional impacts of this development. As stated previously, this is intended to be part of a single cumulative request made to the four development schemes (W/14/0661, W/14/0681, W/14/0689 and W/14/0763) proposed for this area. Our existing infrastructures do not have the capacity to meet the impacts arising from these schemes and because, like some other services, we do not have the ability to respond to the growth proposed. We anticipate using rates and Home Office revenues to pay for staff salaries and our day to day routine additional costs (e.g. call charges on telephony and Airwaves and so on).

Contributions are only sought that are related in scale and kind to the development, hence why this request is intended to be one of four. This ensures that the infrastructure in question will be fully funded and delivered. If the contribution is not forthcoming from W/14/0661 there will be a serious impact upon our ability to deliver an effective and efficient service. This is because we

will be required to pay the amount ourselves. This in turn means that funds will have to be diverted away from other areas of deployment in South Warwickshire.

Such contributions are consequently lawful in the context of CIL Regulation 122, as explained earlier in these representations and as they are related in scale and kind to the development. As further justification, we confirm that the contribution will be used wholly to meet the direct impacts of this development and wholly in delivering policing to it. Without the development in place it is reasonable to forecast the impacts it will generate using information about known policing demands of comparable local development. Other services use such comparables and we believe that the NPPF encourages this.

The proposed development should make provision to mitigate the direct and additional policing impacts it will generate and cannot depend on the police to just absorb these within existing facilities with limited capacities and where police have no flexibility in funding to do this. It is not forced by current spending reductions, although strictures across the public sector reinforce the need to ensure that developments mitigate the direct impacts they cause.

Due to the very serious implications for policing of new developments, police nationally have taken advice about the best way to proceed in the transition period to the CIL regime. As a result, we only make requests solely in relation to the development under consideration; its direct impacts on policing and the necessary mitigations that it should provide. What follows is a detailed explanation of the methodologies used to calculate the contribution and our application of the statutory tests to justify each part.

Setting-up and Equipping of Officers and Staff

The table enclosed in **Appendix 4** shows the estimated additional personnel that will be required to serve the developments proposed by W/14/0661, W/14/0681, W/14/0689 and W/14/0763 combined. As stated previously, it is not appropriate to consider the application site in isolation given the relatively close proximity of the other schemes.

Setting-up and equipping police officers and staff entails providing IT, radios, protective equipment, uniforms and bespoke training in the use of these. However, additional staff will require additional equipment. There are practical limits to the extent to which existing equipment can be re-used e.g. with uniforms or where technology has moved on.

In this case, **Appendix 4** demonstrates that the four developments combined would fully occupy the equivalent of an additional 5 police officers and 4 police staff full-time. Staffing levels are under constant review to ensure that minimum acceptable numbers are deployed to meet existing levels of policing demand. This has the benefit of much needed savings in costs, but as a result there is no additional capacity to extend existing staffing to cover additional development.

Where additional development is proposed, as in this instance, we will seek to deploy additional staffing and additional infrastructures at the same level that is required to deliver policing to the locality. It would be complacent not to do this because without additional support unacceptable pressure will be put on existing staff and our capital infrastructures which will seriously undermine our ability to meet the policing needs of these developments, maintain the current level of policing to the rest of the SNT area and across the South Warwickshire TPU. The impacts of the four developments are so significant that they cannot be met without additional staff deployed at a level consistent with the current policing of the locality.

The additional staff needed to police the development will require additional equipment. For a police officer, the additional items are recruitment £1,060, training £4,400, uniform and personal

equipment £940, workstation £1,642. For other staff the additional items are recruitment £1,060 and workstation £1,642. As the development is forecast to contribute to a need for the equivalent of 5 full time officers and 4 full time staff members over its lifetime (**Appendix 4**), the contribution for setting-up and equipment is calculated to be £28,403 (**Appendix 5**).

We could not have officers and staff attending and delivering services to this development with less than adequate equipment, training and facilities without unnecessary risks to themselves and occupiers served.

Is the contribution necessary to make the development acceptable in planning terms?

Crime and community safety are planning considerations. The Council's own adopted and emerging Local Plans further demonstrate this. The NPPF identifies the need to achieve security in new development and makes provisions to deliver this through the planning system. Deployment of equipped staff is fundamental to delivering community safety and mitigating crime.

Is it directly related to the development?

The policing demands of this development are identified and police mitigation of these can only be delivered by adequately equipped staff. This has been calculated with reference to robust data sets and the specifications of the proposed development.

Is the contribution fairly and reasonably related in scale and kind to the development?

Appendices 4 and 5 set out the methodology for calculating the contribution that is fairly and reasonably related in scale and kind to the development. In addition, this is primarily a residential development and the policing demands it will generate is known by comparison with local residential development. This is the only satisfactory way of determining the need from development that is not yet built. Therefore, level of demand and mitigations have been determined by the scale and kind of the development.

Police Vehicles

In managing and responding to crime a number of different vehicles can be deployed ranging from general response vehicles and patrol cars, unmarked general support vehicles, police service unit vans and minibuses, scientific (e.g. SOCO) vehicles, pursuit vehicles – 4x4 and high speed, motorcycles and so on. Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), this equates to a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

The average cost of a vehicle is £28,500. This includes the cost of the vehicle and the operational equipment required. The cost quoted does exclude fuel. We replace vehicles, on average, every 3 years and in the majority of cases there is no resale value. Based on this existing level of deployment to the locality we can forecast additional demands as a result of the developments.

The vehicle fleet also includes bicycles used for local neighbourhood policing.

In order to equip the additional officers (**Appendix 4**) required for policing this development and the others proposed for the area, 1 additional vehicle and 1 additional bicycle will be required. The set-up costs for these are shown in **Appendix 6**.

The impact of the development without the contribution will be that we will be required to spend the money ourselves, which in turn will spread existing transport resources too thinly to the extent that service delivery is prejudiced. Residents of the new development and their representatives will expect the same degree of cover as elsewhere in the locality and existing residents will expect existing cover to be maintained and not reduced as a result of the new developments.

Is the contribution necessary to make the development acceptable in planning terms?

Vehicles are fundamental infrastructure and facility to deliver community safety and address crime especially at Neighbourhood level.

Is it directly related to the development?

Fleet deployment is related to the known policing demands of comparable development in the WP area. The direct demand from the new developments can be accurately forecast. Delivering policing direct to this development, without detriment to existing areas, will not be possible without additional vehicle funding to do so.

Is the contribution fairly and reasonably related in scale and kind to the development?

This is primarily a residential development and the police vehicle demands it will generate are known by comparison with deployment to other local residential developments. Therefore, level of demand and mitigations have been determined by the scale and kind of the development.

Automatic Number Plate Recognition (ANPR) Cameras

ANPR is a proven crime fighting tool which is used across the alliance area. Police-monitored ANPR has led to thousands of arrests and been involved in the detection of countless crimes. New development should benefit from the same technology as elsewhere in the alliance area. Indeed, crime levels are mitigated with this technology in place. Without ANPR, crime levels will rise and detection will become much more resource consuming.

Crime levels in the area immediately around the four proposed development sites are relatively low in comparison with other parts of the alliance area. However, once delivered they will unfortunately cumulatively be a draw for travelling criminals locally and nationally. Police monitored ANPR is an effective tool in preventing and combating this type of crime. The use of these technologies also has a beneficial impact in terms of minimising staff attendance.

We therefore currently carrying out an assessment as to how many ANPR cameras will be needed, where they should be located and the precise financial contributions that can be attributable in CIL Regulation 122 terms to the developments proposed by W/14/0661, W/14/0681, W/14/0689 and W/14/0763 respectively.

Unfortunately, it is not possible to complete this detailed ANPR assessment in time for the 21-day public consultation deadlines for W/14/0661, W/14/0681 and W/14/0689. We will however endeavour to submit this as soon as possible. The forthcoming ANPR submission should consequently be considered, once submitted, an addendum to these representations and to those submitted to the other three planning applications.

Safer Neighbourhood Team (SNT) Police Office

Day-to-day policing services to the application site are currently provided from Warwick Police Station. These services operate on the basis that there is no demand from the four application sites.

Services are not provided from our Greys Mallory Patrol Base (GMPB) located by Europa Way. The GMPB is one of the main vehicle centres for police patrols operating throughout Warwickshire's highways network. The site and building are designed exclusively for this purpose. It is therefore wholly unsuitable for delivering the community policing services that will be required by proposed developments W/14/0661, W/14/0681, W/14/0689 and W/14/0763.

There is however no reason to doubt that there will be a corresponding increase in crime and demand from new residents, occupiers and visitors to the application site and to the other proposed development site for policing services. These services cover a wide range spectrum of support and intervention.

It will consequently be necessary to accommodate the additional staff (as identified above), to deliver policing to the two proposed development sites. Whilst officers spend time away from base they are not independent and require a start and finish location, storage, briefing and report writing facilities. Our existing facilities cannot accommodate all the additional staff required (see **Appendix 4**) if the developments proposed by planning applications W/14/0661, W/14/0681, W/14/0689 and W/14/0763 are delivered.

However it is not appropriate, or logical, to provide separate police offices at each of the proposed development sites.

We therefore contend that a single new Safer Neighbourhood Team (SNT) Police Office should be situated within the local centre proposed by W/14/0661. This will provide the accommodation necessary for the additional officers and staff (**Appendices 4 and 5**) to provide services to the four proposed developments. The cost of providing it should therefore be shared proportionally by applications W/14/0661, W/14/0681, W/14/0689 and W/14/0763.

The Safer Neighbourhood Team (SNT) Police Office can either be freestanding within the local centre proposed by W/14/0661, or as part of a "community hub" within the same local centre. **Appendix 7** provides indicative specifications and costings of the Police Office, on the basis of a freestanding facility. This notwithstanding, the specification does provide an illustration of the type of accommodation required. It also demonstrates that there may be scope for police personnel to share some facilities, such as kitchen and toilet areas, with other users of the community hub if this approach is progressed.

We contend that the costs of delivering the facility should be shared according to the number of dwellings proposed by each of the four proposed developments. Clearly, the specifications and cost of the new facility will need to be the subject of further detailed discussions in due course. Therefore, it is not possible to calculate a precise cost figure that can be attributed to each planning application at this stage. Instead, agreement is needed on the percentage of the final cost of the facility that each application should contribute. Please see **Appendix 8** for our suggested methodology in this respect.

The request for a contribution towards the provision of a Safer Neighbourhood Team (SNT) Police Office is compliant with the tests set out in CIL Regulation 122, as detailed below:

Is the infrastructure necessary to make the development acceptable in planning terms?

Crime and community safety are planning considerations and accommodating staff in the optimum location to serve the four developments is essential if this is to be achieved. The NPPF identifies the need to achieve security in new development and make provision to deliver this through the planning system. In order to meet our statutory obligations, we require the provision of a new Safer Neighbourhood Team (SNT) Police Office.

Is it directly related to the development?

The additional staffing needs the development will generate have been established by reference to existing local deployment reflecting the actual Policing demands and crime patterns of the locality. In a similar vein the premises requirements that result from the need to accommodate additional staff at these levels is known. A direct relationship between the development, additional staffing and accommodation is demonstrated and it is appropriate to mitigate this through the planning system.

Is the contribution fairly and reasonably related in scale and kind to the development?

This is primarily a residential development and the accommodation needs of staff delivering Policing to meet local demands of development of this nature are known.

It should also be noted that in our calculations we have only accounted for the dwelling houses, not the other types of development proposed, as we do not have the data to quantify the precise demands arising from such uses in policing terms. However, it would be reasonable to assume that there will be a demand for policing services on top of those expected for the residential dwellings.

Therefore, the contribution requested is based on the scale and kind of the development proposed by W/14/0661, W/14/0681, W/14/0689 and W/14/0763.

Summary of Pro Rata Contributions Requested from W/14/0661

Recruitment and equipping of officers and staff	£28,403
Police Vehicles	£17,417
Automatic Number Plate Recognition Cameras	To be confirmed
Premises (indicative contribution - 55%)	£248,039.55
Total (excluding ANPR)	£293,859.55

Without the contribution the development will be unacceptable in planning terms and permission should not be granted as indicated in the NPPF. The lack of capacity in existing infrastructure to accommodate the population growth and associated demands occasioned by the development means that it is necessary for the developers to provide a contribution so that the situation might be remedied. The request is directly related to the development and the direct policing impacts it will generate based on an examination of demand levels in the local SNT and TPU area in which it is situated, adjacent areas and existing policing demands and deployment in relation to this. The request is wholly related in scale and kind of the proposed development.

We have undertaken this approach to requesting contributions taking account of advice we have received and recent reductions in our deployment. We have been advised that the contents of this submission are sufficient to justify the contribution sought. This approach has also been considered in six appeals where all the Inspectors and in two cases the Secretary of State, have found police requests for contributions compliant with CIL Regulation 122. These are as follows: -

- APP/X2410/A/13/2196938 & APP/X2410/A/13/2196929 (Secretary of State determination) – 8 April 2014
- APP/T2405/A/13/2193758 – 01 August 2013
- APP/G2435/A/13/2192131 – 30 May 2013
- APP/X2410/A/12/2173673 (Secretary of State determination) – 14 May 2013
- APP/X2410/A/12/2187470 – 15 April 2013
- APP/F2415/A/12/2179844 – 14 February 2013

We therefore consider that our request for contributions is robust, demonstrated by the evidence included in the Appendices to these representations and fully compliant with CIL Regulation 122.

Overall, we trust that these representations will be given due consideration and look forward to working with the Council and applicants to address all of the issues raised, namely highways and traffic management, Secured by Design and our request for a Section 106 contribution to mitigate the demands that delivery of the proposed scheme will have upon police services in this area of the District.

Yours sincerely

Andrew Morgan
Strategic Planner

“Without prejudice to any other obligation imposed upon it, it shall be the duty of each local authority to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can, to prevent crime and disorder in its area: Section 17(1) of the Crime and Disorder Act 1998.”

Appendix 1

Ian Dove QC Advice

Decision letter – Land at Melton Road, Barrow-upon-Soar

Decision letter – Land off Mountsorrel Lane, Rothley

Staffing Levels – Existing and Proposed

In the context of the uncertainty about the future organisation and staffing numbers for WP, the table uses current planned staffing levels as a basis for calculating the additional staffing requirement to serve the sites. The staffing levels below (identified as budgeted posts) are for the whole WP area and include the various support staff, many of whom are responsible for providing services across the WP area and not just within South Warwickshire. The population of WP's geographical area is currently about 545,500 and the area accommodates about 231,000 dwellings (Census 2011). The total levels of staffing across the whole of the WP area have been used to calculate pro-rata requirements for additional personnel required to serve the proposed developments.

The table below therefore shows the current budgeted posts and estimated additional personnel numbers required to serve 1,410 dwellings. This represents the cumulative total of planning applications W/14/0661, W/14/0681, W/14/0689 and W/14/0763.

Command Area	Total Posts in Warks	Approx Population in Warks per Post	Approx Dwellings in Warks per Post	Pro Rata Post Requirement (1,410 dw)
Local Policing				
Police Officers	566	964	408	4
Police Staff	400	1,364	578	2
Protective Services				
Police Officers	232	2,351	996	1
Police Staff	163	3,347	1,417	1
Enabling Services				
Police Officers	8	68,188	28,875	0
Police Staff	103	5,296	2,243	1
Finance				
Police Officers	1	545,500	231,000	0
Police Staff	44	12,398	5,250	0
Total	1,517			9 (5 Police Officers and 4 Police Staff)

The personnel requirements include both officers and support staff; broadly the Protective Services and Local Policing Units comprise mainly officers – the visible police presence – and the remaining units provide support functions. For the purposes of this assessment we consider that the 9 personnel will comprise 5 Police Officers and 4 Police Staff members.

These figures have also been discussed and verified with the Command Team for South Warwickshire TPU, led by Superintendent Debra Tedds. The Command Team have confirmed that the level of demand for policing services expected from the new developments, both during construction and once delivered, warrant the personnel numbers being proposed. If required funding for the personnel (see **Appendix 5**) is not provided, this will detrimentally impact on the TPU's ability to deliver sufficient coverage and protection to the developments both during construction and after delivery. This in turn would have 'knock-on' effects for the policing of South Warwickshire as a whole.

Appendix 5

Officers and Staff Set-up Costs

Contribution Requested From W/14/0661

Additional Officers	Approx Set-up Cost per Officer	Pro Rata Requirement for 5 Officers
Recruitment	£1,060	£5,300
Training	£4,400	£22,000
Uniform & Personal equipment	£940	£4,700
Standard equipment (ICT and furniture)	£1,642	£8,210
Total costs	£8,042	£40,210
Pro rata total - 785 homes of 1,410 total	-	£22,386

Additional Central Support Services	Approx Set-up Cost per Member of Staff	Pro Rata Requirement for 4 Staff
Recruitment	£1,060	£4,240
Standard equipment (ICT and furniture)	£1,642	£6,568
Total costs	£2,702	£10,808
Pro rata total - 785 homes of 1,410 total	-	£6,017

Appendix 6

Vehicle and Bicycle Costs

Contribution Requested From W/14/0661

Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), there is a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

It is essential that the current ratio of personnel to vehicles and personnel to bicycles applies to the additional personnel required as a result of development growth.

Vehicles costs have been capitalised on 5 year lifetime average costs for a low/medium size equipped vehicles (excluding fuel). Bicycle costs are established at £1,299 per cycle, with an additional maintenance charge of £297 per bicycle per annum, or £1,485 per 5 years, capitalised. The total cost of providing each new cycle and maintaining it for 5 years is therefore £2,784.

These costs do not include any costs for specialist operational equipment, and the cost estimates below are therefore moderated very conservatively.

On the basis of an additional 5 Police Officers in the territorial and protective services (**Appendix 4**), it is calculated that there will be a requirement for an additional vehicle and bicycle.

The cost of vehicles (both motorised and bicycles) based on 5 additional Police Officers required as a result of the proposed developments are shown below:

Additional vehicles and bicycles	Cost per item	Current cost for planned growth (1,410 dw)
1 vehicle	£28,500	£28,500
1 bicycle	£2,784	£2,784
Total costs	£31,284	£31,284
Pro rata total - 785 homes of 1,410 total	-	£17,417

Indicative Specifications and Cost of Freestanding SNT Police Office

Methodology for Calculating Contributions Towards SNT Police Office

Overall, a total of 1,410 dwellings are proposed by planning applications W/14/0661, W/14/0681, W/14/0689 and W/14/0763.

Using the indicative £450,981 total cost given in **Appendix 7** for the SNT Police Office, the methodology for attributing requested contributions to each application towards this total is as follows:

Planning Application	Number of Dwellings	% of Total Dwellings	Contribution Requested
W/14/0661	785	55	£248,039.55
W/14/0681	450	32	£144,313.92
W/14/0689	150	11	£49,607.91
W/14/0763	25	2	£9,019.62
Total	1,410	100	£450,981



Warwickshire
POLICE



West Mercia
POLICE

11 June 2014

Our Ref: P/H Div/0019/14
Your Ref: W/14/0681

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Ms Penny Butler, Planning Officer
Development Services
PO Box 2178
Warwick District Council
Riverside House
Milverton Hill
Royal Leamington Spa
CV32 5QH

Dear Ms Butler

PLANNING APPLICATION W/14/0681 – LAND SOUTH OF GALLOWS HILL, WARWICK POLICE SERVICE REPRESENTATIONS

As part of a Strategic Alliance, Warwickshire Police (WP) and West Mercia Police (WMP) now act as one on all infrastructure and town planning related matters across their combined geographical area. This includes making joint representations to all local planning authorities and other parties. For the avoidance of doubt however, the two forces retain their separate Police and Crime Commissioners (PCCs) and respective command teams.

From the perspective of the police service, planning application W/14/0681 is one of four proposed for this area of Warwick District: -

- W/14/0681 – Land South of Gallows Hills – 450 dwellings – Gallagher Estates
- W/14/0661 - Land at Lower Heathcote Farm – 785 dwellings – Gallagher Estates
- W/14/0689 – Land off Oakley Wood Road – 150 dwellings – Bloor Homes
- W/14/0763 – Land off Seven Acre Close – 25 dwellings – A.C. Lloyd Homes Ltd



www.warwickshire.police.uk
www.westmercia.police.uk



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warwickshire police
west mercia police

1,410 new dwellings are consequently proposed for this area of the District. The result is that the impacts arising from each of the proposed developments directly upon the police service cannot be considered in isolation from one another. By extension, mitigation is therefore not possible in an isolated fashion for each one. Representations have consequently been submitted in relation to each of the above applications. We request that the four representations are considered as one suite of documents making a cumulative case, rather than each one being considered separately.

It should be understood at the outset by all parties that WP and WMP take an entirely neutral position on the question of whether the proposed developments should be granted planning consent. We are aware also that not all the schemes may be granted planning consent. That is not our concern either. To ensure the resilience of the police service on a long-term basis in this area of the District, we are obliged to assume that all four will come forward and plan our infrastructure and service provision accordingly for the moment. As further information becomes available and/or the situation changes, further representations will be made as appropriate and necessary.

These representations to planning application W/14/0681 provide our comments with respect to the following matters: -

1. Traffic management implications;
2. Secured by Design; and
3. Police infrastructure requirements.

Description of the Proposed Development

Outline planning application W/14/0681, proposed by Gallagher Estates, is for the erection of up to 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, including attenuation pond; Ancillary infrastructure and ground modelling.

Traffic Management Implications

In the same manner to withdrawn planning application W/13/0603, the indicative Masterplan supporting W/14/0681 proposes a road linking the A425 Gallows Hill with the A452 Europa Way. The access plans therefore confirm that there is the potential to create a 'rat-run' for two reasons.

Firstly, because whilst it would enable traffic to avoid queuing to turn left at the Harbury Lane traffic island, it would create a potential for collisions at the new junction on Gallows Hill. This would arise from vehicles turning on and off the A425 where traffic is travelling at high speed.

In the current traffic configuration at the site, vehicles turning left onto Gallows Hill at the Harbury Lane traffic island do so at a lower rate, thus reducing the potential for collisions. The new road should therefore include physical speed reduction measures from the outset to avoid traffic problems being created, which would ultimately fall on WP to resolve on a continuing basis.

Secondly planning applications W/14/0681 and W/14/0661, if they are both approved, will create a new cross-roads junction on Europa Way prior to the Harbury Lane traffic island. This consequently has the potential to create a 'rat-run' from Harbury Lane to Gallows Hill through

both developments, as traffic seeks to avoid congestion at the Earl Rivers Avenue and Harbury Lane traffic islands. This reinforces the need for traffic calming measures to be included as part of the new road throughout both developments.

In view of the above, we request involvement in any Road Safety Audit as these proposals progress, to ensure that the highway design maximises road safety (without the need for police intervention) and minimises the potential for disruptive problems arising.

In respect of all of the above comments, our Traffic Management Advisor, Mr Mike Digger, would welcome the opportunity to discuss these matters directly with the Council and the applicants. Mr Digger can be contacted on: -

Tel: 01905 331258
Email: michael.digger@westmercia.pnn.police.uk

Secured by Design

As planning application W/14/0681 is in outline form, there is insufficient information contained within it to enable us to comment on this matter. If the Council grants planning consent and the proposal progresses to the reserved matters stage, we will make detailed representations on this topic at that time. If the Council or the applicants would like to discuss this matter further in the meantime, please contact our Crime Prevention Design Advisor, Mr Ian King, on: -

Tel: 01926 684279
Email: ian.king@warwickshire.pnn.police.uk

Police Infrastructure Requirements – Request for Section 106 Contribution

What does 'Infrastructure' mean in the Police Context?

Developer contributions are not being sought towards revenue/salary costs by the Police. Only infrastructure that is necessary to facilitate the delivery of policing services to development growth is detailed in these representations.

'Infrastructure' is not however a narrow term referring only to buildings. The Association of Chief Police Officers (ACPO) has taken legal advice from Ian Dove QC and this supports this contention (**Appendix 1** – see paragraph 7). Infrastructure can include equipment, which for example, includes vehicles, communications technology and surveillance equipment. It is also legitimate to include set up costs for new officers and staff covering equipment, training, uniform and personal equipment. As confirmed in this advice, this also pertains under the CIL regime. This is elaborated on further below.

Regulatory Context

We have ensured that the request set out below is fully compliant with the tests set out in CIL Regulation 122 as follows:

- Necessary to make the proposed development acceptable in planning terms.
- Directly related to the proposed development.
- Fairly and reasonable related in scale and kind to the proposed development.

Contributions towards police infrastructure have been found to be lawful when tested at appeal in decisions by the Secretary of State. In one appeal decision, (APP/X2410/A/12/2173673), the Inspector noted that:

“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.”

The decision letter relating to this appeal was issued in May 2013 and relates to a proposal for 300 dwellings on land at Melton Road, Barrow upon Soar, Leicestershire. The decision letter and Inspector’s report are included at **Appendix 2**. This appeal was recovered for determination by the Secretary of State who agreed with the Inspector’s conclusions and recommendations, including those relating to Planning Obligations. Paragraphs 288-294 deal with contributions towards policing and paragraphs 291 and 292 are particularly relevant.

The conclusions of the above were tested again recently by the Secretary of State in April 2014 at appeal (APP/X2410/A/13/2196928 & APP/X2410/A/13/2196929) and upheld. He concluded at paragraph 16 of his decision that: -

“He also agrees with the Inspector (IR8.43-8.46) that the completed s106 Unilateral Undertaking, dated 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 material consideration.”

The decision letter, relating to a proposal for 250 dwellings on land off Mountsorrel Lane, Rothley, Leicestershire and Inspector’s report are included at **Appendix 3**. Paragraphs 5.1 – 5.12 of the Inspector’s report deal with contributions towards policing and paragraphs 5.5 and 5.7 are particularly relevant.

It is therefore clear that where the rationale is clear and supported by evidence, contributions towards policing are compatible with Regulation 122, as confirmed by the aforementioned appeal decisions. We consider that all items of infrastructure sought in relation to the proposed development meet the statutory tests.

National Policy Context

The national policy position to support our request exists in the National Planning Policy Framework (NPPF). Securing sufficient facilities and services to meet local needs is a core planning principle (paragraph 17). Planning is to deliver facilities and services that communities need (paragraph 70). Local plan policies should deliver the provision of security infrastructure and other local facilities (paragraph 156). Local plan policy and decision making should be seamless (paragraph 186). Infrastructure planning should accompany development planning by LPAs (paragraph 177) who should work together with infrastructure providers (paragraph 162). The NPPF seeks environments where crime and disorder and the fear of crime do not undermine the quality of life and community cohesion (paragraph 69) and planning policies and decisions should deliver this (paragraph 58).

Local Policy Context

The development plan comprises of the ‘*Warwick District Local Plan 1996-2011*’ (adopted September 2007). There are two policies relevant to these representations.

Policy DP14 – ‘*Crime Prevention*’ states that the layout and design of development will be encouraged to minimise the potential for crime and anti-social behaviour and improve community safety. Paragraph 4.88 to Policy DP14 highlights the fact that the Council is required under Section 17 of the Crime and Disorder Act 1998 to take account of crime and disorder in all of its work. Paragraph 4.90 adds that applicants will be encouraged to obtain a ‘Secured by Design’ certificate from our Crime Prevention Design Advisor.

Policy SC14 – ‘*Community Facilities*’ confirms that contributions will be sought towards community facilities in conjunction with new development where appropriate. Supporting paragraph 5.83 states that new development puts pressure on existing infrastructure and that Government guidance is clear that planning authorities may seek contributions from applicants to offset the cost of this. Supporting paragraph 5.84 confirms that community facilities are included within the scope of Policy SC14.

The emerging development plan comprises of the ‘*Warwick District Local Plan 2011-2029 – Publication Draft*’ (May 2014). Although this document can only be ascribed limited material weight in view of its draft status, we consider that two policies should be noted by all parties.

Policy HS7 – ‘*Crime Prevention*’ states that development proposals should make provision for appropriate design and security measures to ensure crime prevention. This is elaborated on by the supporting ‘*Draft Infrastructure Delivery Plan – April 2014*’, which states in relation to police infrastructure on page 20 that provision needs to be made for: -

‘3 additional offices (Safer Neighbourhood Team Police Offices) at Europa Way, Lower Heathcote Farm and Thickthorn...

A range of other CIL compliant costs including vehicles, communications technology and surveillance technology, training, uniform and personal equipment.’

Policy DM1 – ‘*Infrastructure Contributions*’ states that development will be expected to provide, or contribute towards, the provision of physical and social infrastructure required to make it acceptable in planning terms. Furthermore the policy states that the Council will seek to secure site-specific infrastructure investments and/contributions, as well as off-site contributions and/or investments.

The policy concludes by stating that the Council will work with infrastructure providers to ensure the supporting Infrastructure Delivery Plan is up to date. As noted above, the ‘*Draft Infrastructure Delivery Plan – April 2014*’ confirms that the police and the emergency services are ‘infrastructure’; thereby the Council recognises that they are legitimate recipients of planning obligations.

WP’s Role and Responsibility

In this instance, we are responsible for delivering services to address community safety, tackle the fear of crime and seek to achieve a reduction in crime. The delivery of growth and new development, such as W/14/0681, places additional pressure on our infrastructure base, which is critical to the delivery of effective policing and securing safe and sustainable communities.

The primary issue for us is to ensure that new development like W/14/0681 makes adequate provision for the future policing needs it will generate. Like some other public services, our primary funding is insufficient to add new infrastructure to support new development when and wherever this occurs. Further, there are no bespoke funding regimes e.g. like Building Schools for the Future or the Health LIFT, to provide capital investment for our facilities.

This situation has been recognised by the Association of Chief Police Officers (ACPO) nationally for some time and there are public statements which explain our particular funding difficulties.

In addition to the above, the money received by us is comparatively low relative to the size of population in our geographical area. Whilst revenue funding is provided by the Home Office and the Council Tax precept, capital projects are mostly financed through borrowing. Borrowing to

provide infrastructure has an impact on delivery of safe and sustainable communities because loans have to be repaid from revenue budgets, the corollary of which is a reduction in the money available to deliver operational policing.

Current Levels of Policing Demand from the Locality

Policing is a 24/7 service resourced to respond and deploy on an “on demand” and “equal basis” and is wholly dependant on a range of facilities for staff to deliver this. Calls and deployments for this area, via our control room at Leek Wootton, are monitored and give an indication of the level of service demand in different areas

The application site is encompassed within the ‘Warwick Central’ Safer Neighbourhood Team (SNT) area, which is led by Sergeant David Kettle. During the period April 2013 – April 2014 we dealt with 1,675 offences, 8,220 incidents and 1,302 anti-social behaviour incidents from this SNT area. It is worth noting that within the specific geographical area encompassed by the application site almost no crime and incidents were recorded, which reflects the current open field character of the site.

Current Levels of Deployment and Infrastructure

Regular patrolling of the locality and local community around the application site is maintained by the aforementioned SNT operating from Warwick Police Station. Though the SNT operates on the basis that there is no demand from the application site.

It should however be understood that the wider organisation and delivery of policing services is not on a town by town or even on a district by district basis. In this instance the TPU, led by Superintendent Debra Tedds, delivers all neighbourhood policing services to Warwick District and Stratford-on-Avon District. The TPU also provides some support functions as well. Other TPUs cover the remainder of WP’s and WMP’s combined geographical area. However, the majority of the support and specialist services necessary to support the ‘front line’ are currently provided in this instance from Leek Wootton and our Hindlip Hall campus.

A huge range of central policing services are delivered to the District, encompassing areas such as:

- Investigations
- Intelligence
- Response policing
- Criminal justice
- Operations planning
- Dogs and firearms
- Special branch
- Forensic services
- Road policing
- Tactical support group
- IT and communications
- Child abuse team
- Economic crime team

All of the above central support services and others will be called upon during the lifetime of the proposed development, should it be delivered, just as they currently are for the existing settlements. These services and others in turn require organisational support functions in order to operate, such as:

- Finance
- Human resources
- Training
- Top level management

Specific numbers of staff delivering policing are spread across the following functions:

- 225 Police Officers deliver neighbourhood policing and emergency responses to South Warwickshire. They are not disaggregated according to District and therefore operate across the combined area. This figure does not include the officers based at Leek Wootton and our Hindlip Hall campus who are part of numerous specialist teams who deploy according to need across the entire force area.
- 59 Police Staff deliver support functions to the South Warwickshire TPU. Like officers, they deliver services to the whole area and are not disaggregated according to District. However this does not include the staff based at Leek Wootton and our Hindlip Hall campus, who will provide support across the entire alliance geographical area as need arises.

Based on existing crime patterns, and policing demand and deployment from nearby areas, indicates the direct and additional impacts of the development on local policing that will be manifested in demand and responses in the following areas:

- Additional calls and responses per year via our control centre.
- Attendance to additional emergency events within the proposed development and locality each year.
- Additional non-emergency events to follow up with public contact each year.
- Additional recorded crimes in the developments and locality.
- Additional anti-social behaviour incidents each year within the new development and locality.
- Demand for increased patrol cover.
- Additional vehicle use.
- Additional calls on our Airwaves system.
- Additional use of our Police National Database (PND) systems to process and store crime records and intelligence.
- Additional demand for deployment of Mobile CCTV technologies.
- Additional demand for local access to beat staff from local neighbourhood teams.
- Additional policing cover and interventions in all the areas described when considering staffing and functions above and for additional accommodation from which to deliver these.

The Police Contribution Request

A Section 106 contribution is requested to mitigate the additional impacts of this development. As stated previously, this is intended to be part of a single cumulative request made to the four development schemes (W/14/0681, W/14/0661, W/14/0689 and W/14/0763) proposed for this area. Our existing infrastructures do not have the capacity to meet the impacts arising from these schemes and because, like some other services, we do not have the ability to respond to the growth proposed. We anticipate using rates and Home Office revenues to pay for staff salaries and our day to day routine additional costs (e.g. call charges on telephony and Airwaves and so on).

Contributions are only sought that are related in scale and kind to the development, hence why this request is intended to be one of four. This ensures that the infrastructure in question will be fully funded and delivered. If the contribution is not forthcoming from W/14/0681 there will be a serious impact upon our ability to deliver an effective and efficient service. This is because we will be required to pay the amount ourselves. This in turn means that funds will have to be diverted away from other areas of deployment in South Warwickshire.

Such contributions are consequently lawful in the context of CIL Regulation 122, as explained earlier in these representations and as they are related in scale and kind to the development. As further justification, we confirm that the contribution will be used wholly to meet the direct impacts of this development and wholly in delivering policing to it. Without the development in place it is reasonable to forecast the impacts it will generate using information about known policing demands of comparable local development. Other services use such comparables and we believe that the NPPF encourages this.

The proposed development should make provision to mitigate the direct and additional policing impacts it will generate and cannot depend on the police to just absorb these within existing facilities with limited capacities and where police have no flexibility in funding to do this. It is not forced by current spending reductions, although strictures across the public sector reinforce the need to ensure that developments mitigate the direct impacts they cause.

Due to the very serious implications for policing of new developments, police nationally have taken advice about the best way to proceed in the transition period to the CIL regime. As a result, we only make requests solely in relation to the development under consideration; its direct impacts on policing and the necessary mitigations that it should provide. What follows is a detailed explanation of the methodologies used to calculate the contribution and our application of the statutory tests to justify each part.

Setting-up and Equipping of Officers and Staff

The table enclosed in **Appendix 4** shows the estimated additional personnel that will be required to serve the developments proposed by W/14/0681, W/14/0661, W/14/0689 and W/14/0763 combined. As stated previously, it is not appropriate to consider the application site in isolation given the relatively close proximity of the other schemes.

Setting-up and equipping police officers and staff entails providing IT, radios, protective equipment, uniforms and bespoke training in the use of these. However, additional staff will require additional equipment. There are practical limits to the extent to which existing equipment can be re-used e.g. with uniforms or where technology has moved on.

In this case, **Appendix 4** demonstrates that the four developments combined would fully occupy the equivalent of an additional 5 police officers and 4 police staff full-time. Staffing levels are under constant review to ensure that minimum acceptable numbers are deployed to meet existing levels of policing demand. This has the benefit of much needed savings in costs, but as a result there is no additional capacity to extend existing staffing to cover additional development.

Where additional development is proposed, as in this instance, we will seek to deploy additional staffing and additional infrastructures at the same level that is required to deliver policing to the locality. It would be complacent not to do this because without additional support unacceptable pressure will be put on existing staff and our capital infrastructures which will seriously undermine our ability to meet the policing needs of these developments, maintain the current level of policing to the rest of the SNT area and across the South Warwickshire TPU. The

impacts of the four developments are so significant that they cannot be met without additional staff deployed at a level consistent with the current policing of the locality.

The additional staff needed to police the development will require additional equipment. For a police officer, the additional items are recruitment £1,060, training £4,400, uniform and personal equipment £940, workstation £1,642. For other staff the additional items are recruitment £1,060 and workstation £1,642. As the development is forecast to contribute to a need for the equivalent of 5 full time officers and 4 full time staff members over its lifetime (**Appendix 4**), the contribution for setting-up and equipment is calculated to be £16,282 (**Appendix 5**).

We could not have officers and staff attending and delivering services to this development with less than adequate equipment, training and facilities without unnecessary risks to themselves and occupiers served.

Is the contribution necessary to make the development acceptable in planning terms?

Crime and community safety are planning considerations. The Council's own adopted and emerging Local Plans further demonstrate this. The NPPF identifies the need to achieve security in new development and makes provisions to deliver this through the planning system. Deployment of equipped staff is fundamental to delivering community safety and mitigating crime.

Is it directly related to the development?

The policing demands of this development are identified and police mitigation of these can only be delivered by adequately equipped staff. This has been calculated with reference to robust data sets and the specifications of the proposed development.

Is the contribution fairly and reasonably related in scale and kind to the development?

Appendices 4 and 5 set out the methodology for calculating the contribution that is fairly and reasonably related in scale and kind to the development. In addition, this is a residential development and the policing demands it will generate is known by comparison with local residential development. This is the only satisfactory way of determining the need from development that is not yet built. Therefore, level of demand and mitigations have been determined by the scale and kind of the development.

Police Vehicles

In managing and responding to crime a number of different vehicles can be deployed ranging from general response vehicles and patrol cars, unmarked general support vehicles, police service unit vans and minibuses, scientific (e.g. SOCO) vehicles, pursuit vehicles – 4x4 and high speed, motorcycles and so on. Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), this equates to a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

The average cost of a vehicle is £28,500. This includes the cost of the vehicle and the operational equipment required. The cost quoted does exclude fuel. We replace vehicles, on average, every 3 years and in the majority of cases there is no resale value. Based on this existing level of deployment to the locality we can forecast additional demands as a result of the developments.

The vehicle fleet also includes bicycles used for local neighbourhood policing.

In order to equip the additional officers (**Appendix 4**) required for policing this development and the others proposed for the area, 1 additional vehicle and 1 additional bicycle will be required. The set-up costs for these are shown in **Appendix 6**.

The impact of the development without the contribution will be that we will be required to spend the money ourselves, which in turn will spread existing transport resources too thinly to the extent that service delivery is prejudiced. Residents of the new development and their representatives will expect the same degree of cover as elsewhere in the locality and existing residents will expect existing cover to be maintained and not reduced as a result of the new developments.

Is the contribution necessary to make the development acceptable in planning terms?

Vehicles are fundamental infrastructure and facility to deliver community safety and address crime especially at Neighbourhood level.

Is it directly related to the development?

Fleet deployment is related to the known policing demands of comparable development in the WP area. The direct demand from the new developments can be accurately forecast. Delivering policing direct to this development, without detriment to existing areas, will not be possible without additional vehicle funding to do so.

Is the contribution fairly and reasonably related in scale and kind to the development?

This is a residential development and the police vehicle demands it will generate are known by comparison with deployment to other local residential developments. Therefore, level of demand and mitigations have been determined by the scale and kind of the development.

Automatic Number Plate Recognition (ANPR) Cameras

ANPR is a proven crime fighting tool which is used across the alliance area. Police-monitored ANPR has led to thousands of arrests and been involved in the detection of countless crimes. New development should benefit from the same technology as elsewhere in the alliance area. Indeed, crime levels are mitigated with this technology in place. Without ANPR, crime levels will rise and detection will become much more resource consuming.

Crime levels in the area immediately around the four proposed development sites are relatively low in comparison with other parts of the alliance area. However, once delivered they will unfortunately cumulatively be a draw for travelling criminals locally and nationally. Police monitored ANPR is an effective tool in preventing and combating this type of crime. The use of these technologies also has a beneficial impact in terms of minimising staff attendance.

We therefore currently carrying out an assessment as to how many ANPR cameras will be needed, where they should be located and the precise financial contributions that can be attributable in CIL Regulation 122 terms to the developments proposed by W/14/0681, W/14/0661, W/14/0689 and W/14/0763 respectively.

Unfortunately, it is not possible to complete this detailed ANPR assessment in time for the 21-day public consultation deadlines for W/14/0681, W/14/0661 and W/14/0689. We will however endeavour to submit this as soon as possible. The forthcoming ANPR submission should consequently be considered, once submitted, an addendum to these representations and to those submitted to the other three planning applications.

Safer Neighbourhood Team (SNT) Police Office

Day-to-day policing services to the application site are currently provided from Warwick Police Station. These services operate on the basis that there is no demand from the four application sites.

Services are not provided from our Greys Mallory Patrol Base (GMPB) located by Europa Way. The GMPB is one of the main vehicle centres for police patrols operating throughout Warwickshire's highways network. The site and building are designed exclusively for this purpose. It is therefore wholly unsuitable for delivering the community policing services that will be required by proposed developments W/14/0681, W/14/0661, W/14/0689 and W/14/0763.

There is however no reason to doubt that there will be a corresponding increase in crime and demand from new residents, occupiers and visitors to the application site and to the other proposed development site for policing services. These services cover a wide range spectrum of support and intervention.

It will consequently be necessary to accommodate the additional staff (as identified above), to deliver policing to the two proposed development sites. Whilst officers spend time away from base they are not independent and require a start and finish location, storage, briefing and report writing facilities. Our existing facilities cannot accommodate all the additional staff required (see **Appendix 4**) if the developments proposed by planning applications W/14/0681, W/14/0661, W/14/0689 and W/14/0763 are delivered.

However it is not appropriate, or logical, to provide separate police offices at each of the proposed development sites.

We therefore contend that a single new Safer Neighbourhood Team (SNT) Police Office should be situated within the local centre proposed by W/14/0661. This will provide the accommodation necessary for the additional officers and staff (**Appendices 4 and 5**) to provide services to the four proposed developments. The cost of providing it should therefore be shared proportionally by applications W/14/0681, W/14/0661, W/14/0689 and W/14/0763.

The Safer Neighbourhood Team (SNT) Police Office can either be freestanding within the local centre proposed by W/14/0661, or as part of a "community hub" within the same local centre. **Appendix 7** provides indicative specifications and costings of the Police Office, on the basis of a freestanding facility. This notwithstanding, the specification does provide an illustration of the type of accommodation required. It also demonstrates that there may be scope for police personnel to share some facilities, such as kitchen and toilet areas, with other users of the community hub if this approach is progressed.

We contend that the costs of delivering the facility should be shared according to the number of dwellings proposed by each of the four proposed developments. Clearly, the specifications and cost of the new facility will need to be the subject of further detailed discussions in due course. Therefore, it is not possible to calculate a precise cost figure that can be attributed to each planning application at this stage. Instead, agreement is needed on the percentage of the final cost of the facility that each application should contribute. Please see **Appendix 8** for our suggested methodology in this respect.

The request for a contribution towards the provision of a Safer Neighbourhood Team (SNT) Police Office is compliant with the tests set out in CIL Regulation 122, as detailed below:

Is the infrastructure necessary to make the development acceptable in planning terms?

Crime and community safety are planning considerations and accommodating staff in the optimum location to serve the four developments is essential if this is to be achieved. The NPPF identifies the need to achieve security in new development and make provision to deliver this through the planning system. In order to meet our statutory obligations, we require the provision of a new Safer Neighbourhood Team (SNT) Police Office.

Is it directly related to the development?

The additional staffing needs the development will generate have been established by reference to existing local deployment reflecting the actual Policing demands and crime patterns of the locality. In a similar vein the premises requirements that result from the need to accommodate additional staff at these levels is known. A direct relationship between the development, additional staffing and accommodation is demonstrated and it is appropriate to mitigate this through the planning system.

Is the contribution fairly and reasonably related in scale and kind to the development?

This is a residential development and the accommodation needs of staff delivering Policing to meet local demands of development of this nature are known.

It should also be noted that in our calculations we have only accounted for the dwelling houses, not the other types of development proposed, as we do not have the data to quantify the precise demands arising from such uses in policing terms. However, it would be reasonable to assume that there will be a demand for policing services on top of those expected for the residential dwellings.

Therefore, the contribution requested is based on the scale and kind of the development proposed by W/14/0681, W/14/0661, W/14/0689 and W/14/0763.

Summary of Pro Rata Contributions Requested from W/14/0681

Recruitment and equipping of officers and staff	£16,282
Police Vehicles	£9,984
Automatic Number Plate Recognition Cameras	To be confirmed
Premises (indicative contribution - 32%)	£144,313.92
Total (excluding ANPR)	£170,579.92

Without the contribution the development will be unacceptable in planning terms and permission should not be granted as indicated in the NPPF. The lack of capacity in existing infrastructure to accommodate the population growth and associated demands occasioned by the development means that it is necessary for the developers to provide a contribution so that the situation might be remedied. The request is directly related to the development and the direct policing impacts it will generate based on an examination of demand levels in the local SNT and TPU area in which it is situated, adjacent areas and existing policing demands and deployment in relation to this. The request is wholly related in scale and kind of the proposed development.

We have undertaken this approach to requesting contributions taking account of advice we have received and recent reductions in our deployment. We have been advised that the contents of this submission are sufficient to justify the contribution sought. This approach has also been considered in six appeals where all the Inspectors and in two cases the Secretary of State, have found police requests for contributions compliant with CIL Regulation 122. These are as follows: -

- APP/X2410/A/13/2196938 & APP/X2410/A/13/2196929 (Secretary of State determination) – 8 April 2014
- APP/T2405/A/13/2193758 – 01 August 2013
- APP/G2435/A/13/2192131 – 30 May 2013
- APP/X2410/A/12/2173673 (Secretary of State determination) – 14 May 2013
- APP/X2410/A/12/2187470 – 15 April 2013
- APP/F2415/A/12/2179844 – 14 February 2013

We therefore consider that our request for contributions is robust, demonstrated by the evidence included in the Appendices to these representations and fully compliant with CIL Regulation 122.

Overall, we trust that these representations will be given due consideration and look forward to working with the Council and applicants to address all of the issues raised, namely highways and traffic management, Secured by Design and our request for a Section 106 contribution to mitigate the demands that delivery of the proposed scheme will have upon police services in this area of the District.

Yours sincerely

Andrew Morgan
Strategic Planner

“Without prejudice to any other obligation imposed upon it, it shall be the duty of each local authority to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can, to prevent crime and disorder in its area: Section 17(1) of the Crime and Disorder Act 1998.”

Appendix 1

Ian Dove QC Advice

Decision letter – Land at Melton Road, Barrow-upon-Soar

Decision letter – Land off Mountsorrel Lane, Rothley

Staffing Levels – Existing and Proposed

In the context of the uncertainty about the future organisation and staffing numbers for WP, the table uses current planned staffing levels as a basis for calculating the additional staffing requirement to serve the sites. The staffing levels below (identified as budgeted posts) are for the whole WP area and include the various support staff, many of whom are responsible for providing services across the WP area and not just within South Warwickshire. The population of WP's geographical area is currently about 545,500 and the area accommodates about 231,000 dwellings (Census 2011). The total levels of staffing across the whole of the WP area have been used to calculate pro-rata requirements for additional personnel required to serve the proposed developments.

The table below therefore shows the current budgeted posts and estimated additional personnel numbers required to serve 1,410 dwellings. This represents the cumulative total of planning applications W/14/0681, W/14/0661, W/14/0689 and W/14/0763.

Command Area	Total Posts in Warks	Approx Population in Warks per Post	Approx Dwellings in Warks per Post	Pro Rata Post Requirement (1,410 dw)
Local Policing				
Police Officers	566	964	408	4
Police Staff	400	1,364	578	2
Protective Services				
Police Officers	232	2,351	996	1
Police Staff	163	3,347	1,417	1
Enabling Services				
Police Officers	8	68,188	28,875	0
Police Staff	103	5,296	2,243	1
Finance				
Police Officers	1	545,500	231,000	0
Police Staff	44	12,398	5,250	0
Total	1,517			9 (5 Police Officers and 4 Police Staff)

The personnel requirements include both officers and support staff; broadly the Protective Services and Local Policing Units comprise mainly officers – the visible police presence – and the remaining units provide support functions. For the purposes of this assessment we consider that the 9 personnel will comprise 5 Police Officers and 4 Police Staff members.

These figures have also been discussed and verified with the Command Team for South Warwickshire TPU, led by Superintendent Debra Tedds. The Command Team have confirmed that the level of demand for policing services expected from the new developments, both during construction and once delivered, warrant the personnel numbers being proposed. If required funding for the personnel (see **Appendix 5**) is not provided, this will detrimentally impact on the TPU's ability to deliver sufficient coverage and protection to the developments both during construction and after delivery. This in turn would have 'knock-on' effects for the policing of South Warwickshire as a whole.

Appendix 5

Officers and Staff Set-up Costs

Contribution Requested From W/14/0681

Additional Officers	Approx Set-up Cost per Officer	Pro Rata Requirement for 5 Officers
Recruitment	£1,060	£5,300
Training	£4,400	£22,000
Uniform & Personal equipment	£940	£4,700
Standard equipment (ICT and furniture)	£1,642	£8,210
Total costs	£8,042	£40,210
Pro rata total - 450 homes of 1,410 total	-	£12,833

Additional Central Support Services	Approx Set-up Cost per Member of Staff	Pro Rata Requirement for 4 Staff
Recruitment	£1,060	£4,240
Standard equipment (ICT and furniture)	£1,642	£6,568
Total costs	£2,702	£10,808
Pro rata total - 450 homes of 1,410 total	-	£3,449

Appendix 6

Vehicle and Bicycle Costs

Contribution Requested From W/14/0681

Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), there is a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

It is essential that the current ratio of personnel to vehicles and personnel to bicycles applies to the additional personnel required as a result of development growth.

Vehicles costs have been capitalised on 5 year lifetime average costs for a low/medium size equipped vehicles (excluding fuel). Bicycle costs are established at £1,299 per cycle, with an additional maintenance charge of £297 per bicycle per annum, or £1,485 per 5 years, capitalised. The total cost of providing each new cycle and maintaining it for 5 years is therefore £2,784.

These costs do not include any costs for specialist operational equipment, and the cost estimates below are therefore moderated very conservatively.

On the basis of an additional 5 Police Officers in the territorial and protective services (**Appendix 4**), it is calculated that there will be a requirement for an additional vehicle and bicycle.

The cost of vehicles (both motorised and bicycles) based on 5 additional Police Officers required as a result of the proposed developments are shown below:

Additional vehicles and bicycles	Cost per item	Current cost for planned growth (1,410 dw)
1 vehicle	£28,500	£28,500
1 bicycle	£2,784	£2,784
Total costs	£31,284	£31,284
Pro rata total - 450 homes of 1,410 total	-	£9,984

Indicative Specifications and Cost of Freestanding SNT Police Office

Methodology for Calculating Contributions Towards SNT Police Office

Overall, a total of 1,410 dwellings are proposed by planning applications W/14/0681, W/14/0661, W/14/0689 and W/14/0763.

Using the indicative £450,981 total cost given in **Appendix 7** for the SNT Police Office, the methodology for attributing requested contributions to each application towards this total is as follows:

Planning Application	Number of Dwellings	% of Total Dwellings	Contribution Requested
W/14/0661	785	55	£248,039.55
W/14/0681	450	32	£144,313.92
W/14/0689	150	11	£49,607.91
W/14/0763	25	2	£9,019.62
Total	1,410	100	£450,981



Warwickshire
POLICE



West Mercia
POLICE

11 June 2014

Our Ref: P/H Div/0020/14
Your Ref: W/14/0689

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Mr Rob Young, Planning Officer
Development Services
PO Box 2178
Warwick District Council
Riverside House
Milverton Hill
Royal Leamington Spa
CV32 5QH

Dear Mr Young

PLANNING APPLICATION W/14/0689 – LAND OFF OAKLEY WOOD ROAD POLICE SERVICE REPRESENTATIONS

As part of a Strategic Alliance, Warwickshire Police (WP) and West Mercia Police (WMP) now act as one on all infrastructure and town planning related matters across their combined geographical area. This includes making joint representations to all local planning authorities and other parties. For the avoidance of doubt however, the two forces retain their separate Police and Crime Commissioners (PCCs) and respective command teams.

From the perspective of the police service, planning application W/14/0689 is one of four proposed for this area of Warwick District: -

- W/14/0689 – Land off Oakley Wood Road – 150 dwellings – Bloor Homes
- W/14/0661 - Land at Lower Heathcote Farm – 785 dwellings – Gallagher Estates
- W/14/0681 – Land South of Gallows Hills – 450 dwellings – Gallagher Estates
- W/14/0763 – Land off Seven Acre Close – 25 dwellings – A.C. Lloyd Homes Ltd



www.warwickshire.police.uk
www.westmercia.police.uk



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warwickshire police
west mercia police

1,410 new dwellings are consequently proposed for this area of the District. The result is that the impacts arising from each of the proposed developments directly upon the police service cannot be considered in isolation from one another. By extension, mitigation is therefore not possible in an isolated fashion for each one. Representations have consequently been submitted in relation to each of the above applications. We request that the four representations are considered as one suite of documents making a cumulative case, rather than each one being considered separately.

It should be understood at the outset by all parties that WP and WMP take an entirely neutral position on the question of whether the proposed developments should be granted planning consent. We are aware also that not all the schemes may be granted planning consent. That is not our concern either. To ensure the resilience of the police service on a long-term basis in this area of the District, we are obliged to assume that all four will come forward and plan our infrastructure and service provision accordingly for the moment. As further information becomes available and/or the situation changes, further representations will be made as appropriate and necessary.

These representations to planning application W/14/0689 provide our comments with respect to the following matters: -

1. Traffic management implications;
2. Secured by Design; and
3. Police infrastructure requirements.

Description of the Proposed Development

Outline planning application W/14/0689, proposed by Bloor Homes Ltd, is for the erection of up to 150 dwellings, school drop-off, open space, landscaping, sustainable drainage systems, access, footpaths and associated infrastructure.

Traffic Management Implications

We recommend that the access road for the development includes traffic calming measures to maximise road safety without the need for continual police intervention. To this end, we request involvement in any Road Safety Audit as these proposals progress.

In respect of the above comments our Traffic Management Advisor, Mr Mike Digger, would welcome the opportunity to discuss them directly with the Council and the applicants. Mr Digger can be contacted on: -

Tel: 01905 331258
Email: michael.digger@westmercia.pnn.police.uk

Secured by Design

As planning application W/14/0689 is in outline form, there is insufficient information contained within it to enable us to comment on this matter. If the Council grants planning consent and the proposal progresses to the reserved matters stage, we will make detailed representations on this topic at that time. If the Council or the applicants would like to discuss this matter further in the meantime, please contact our Crime Prevention Design Advisor, Mr Ian King, on: -

Tel: 01926 684279
Email: ian.king@warwickshire.pnn.police.uk

Police Infrastructure Requirements – Request for Section 106 Contribution

What does 'Infrastructure' mean in the Police Context?

Developer contributions are not being sought towards revenue/salary costs by the Police. Only infrastructure that is necessary to facilitate the delivery of policing services to development growth is detailed in these representations.

'Infrastructure' is not however a narrow term referring only to buildings. The Association of Chief Police Officers (ACPO) has taken legal advice from Ian Dove QC and this supports this contention (**Appendix 1** – see paragraph 7). Infrastructure can include equipment, which for example, includes vehicles, communications technology and surveillance equipment. It is also legitimate to include set up costs for new officers and staff covering equipment, training, uniform and personal equipment. As confirmed in this advice, this also pertains under the CIL regime. This is elaborated on further below.

Regulatory Context

We have ensured that the request set out below is fully compliant with the tests set out in CIL Regulation 122 as follows:

- Necessary to make the proposed development acceptable in planning terms.
- Directly related to the proposed development.
- Fairly and reasonable related in scale and kind to the proposed development.

Contributions towards police infrastructure have been found to be lawful when tested at appeal in decisions by the Secretary of State. In one appeal decision, (APP/X2410/A/12/2173673), the Inspector noted that:

“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.”

The decision letter relating to this appeal was issued in May 2013 and relates to a proposal for 300 dwellings on land at Melton Road, Barrow upon Soar, Leicestershire. The decision letter and Inspector's report are included at **Appendix 2**. This appeal was recovered for determination by the Secretary of State who agreed with the Inspector's conclusions and recommendations, including those relating to Planning Obligations. Paragraphs 288-294 deal with contributions towards policing and paragraphs 291 and 292 are particularly relevant.

The conclusions of the above were tested again recently by the Secretary of State in April 2014 at appeal (APP/X2410/A/13/2196928 & APP/X2410/A/13/2196929) and upheld. He concluded at paragraph 16 of his decision that: -

“He also agrees with the Inspector (IR8.43-8.46) that the completed s106 Unilateral Undertaking, dated 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 material consideration.”

The decision letter, relating to a proposal for 250 dwellings on land off Mountsorrel Lane, Rothley, Leicestershire and Inspector's report are included at **Appendix 3**. Paragraphs 5.1 –

5.12 of the Inspector's report deal with contributions towards policing and paragraphs 5.5 and 5.7 are particularly relevant.

It is therefore clear that where the rationale is clear and supported by evidence, contributions towards policing are compatible with Regulation 122, as confirmed by the aforementioned appeal decisions. We consider that all items of infrastructure sought in relation to the proposed development meet the statutory tests.

National Policy Context

The national policy position to support our request exists in the National Planning Policy Framework (NPPF). Securing sufficient facilities and services to meet local needs is a core planning principle (paragraph 17). Planning is to deliver facilities and services that communities need (paragraph 70). Local plan policies should deliver the provision of security infrastructure and other local facilities (paragraph 156). Local plan policy and decision making should be seamless (paragraph 186). Infrastructure planning should accompany development planning by LPAs (paragraph 177) who should work together with infrastructure providers (paragraph 162). The NPPF seeks environments where crime and disorder and the fear of crime do not undermine the quality of life and community cohesion (paragraph 69) and planning policies and decisions should deliver this (paragraph 58).

Local Policy Context

The development plan comprises of the '*Warwick District Local Plan 1996-2011*' (adopted September 2007). There are two policies relevant to these representations.

Policy DP14 – '*Crime Prevention*' states that the layout and design of development will be encouraged to minimise the potential for crime and anti-social behaviour and improve community safety. Paragraph 4.88 to Policy DP14 highlights the fact that the Council is required under Section 17 of the Crime and Disorder Act 1998 to take account of crime and disorder in all of its work. Paragraph 4.90 adds that applicants will be encouraged to obtain a 'Secured by Design' certificate from our Crime Prevention Design Advisor.

Policy SC14 – '*Community Facilities*' confirms that contributions will be sought towards community facilities in conjunction with new development where appropriate. Supporting paragraph 5.83 states that new development puts pressure on existing infrastructure and that Government guidance is clear that planning authorities may seek contributions from applicants to offset the cost of this. Supporting paragraph 5.84 confirms that community facilities are included within the scope of Policy SC14.

The emerging development plan comprises of the '*Warwick District Local Plan 2011-2029 – Publication Draft*' (May 2014). Although this document can only be ascribed limited material weight in view of its draft status, we consider that two policies should be noted by all parties.

Policy HS7 – '*Crime Prevention*' states that development proposals should make provision for appropriate design and security measures to ensure crime prevention. This is elaborated on by the supporting '*Draft Infrastructure Delivery Plan – April 2014*', which states in relation to police infrastructure on page 20 that provision needs to be made for: -

'3 additional offices (Safer Neighbourhood Team Police Offices) at Europa Way, Lower Heathcote Farm and Thickthorn...

A range of other CIL compliant costs including vehicles, communications technology and surveillance technology, training, uniform and personal equipment.'

Policy DM1 – ‘*Infrastructure Contributions*’ states that development will be expected to provide, or contribute towards, the provision of physical and social infrastructure required to make it acceptable in planning terms. Furthermore the policy states that the Council will seek to secure site-specific infrastructure investments and/contributions, as well as off-site contributions and/or investments.

The policy concludes by stating that the Council will work with infrastructure providers to ensure the supporting Infrastructure Delivery Plan is up to date. As noted above, the ‘*Draft Infrastructure Delivery Plan – April 2014*’ confirms that the police and the emergency services are ‘infrastructure’; thereby the Council recognises that they are legitimate recipients of planning obligations.

WP’s Role and Responsibility

In this instance, we are responsible for delivering services to address community safety, tackle the fear of crime and seek to achieve a reduction in crime. The delivery of growth and new development, such as W/14/0689, places additional pressure on our infrastructure base, which is critical to the delivery of effective policing and securing safe and sustainable communities.

The primary issue for us is to ensure that new development like W/14/0689 makes adequate provision for the future policing needs it will generate. Like some other public services, our primary funding is insufficient to add new infrastructure to support new development when and wherever this occurs. Further, there are no bespoke funding regimes e.g. like Building Schools for the Future or the Health LIFT, to provide capital investment for our facilities.

This situation has been recognised by the Association of Chief Police Officers (ACPO) nationally for some time and there are public statements which explain our particular funding difficulties.

In addition to the above, the money received by us is comparatively low relative to the size of population in our geographical area. Whilst revenue funding is provided by the Home Office and the Council Tax precept, capital projects are mostly financed through borrowing. Borrowing to provide infrastructure has an impact on delivery of safe and sustainable communities because loans have to be repaid from revenue budgets, the corollary of which is a reduction in the money available to deliver operational policing.

Current Levels of Policing Demand from the Locality

Policing is a 24/7 service resourced to respond and deploy on an “on demand” and “equal basis” and is wholly dependant on a range of facilities for staff to deliver this. Calls and deployments for this area, via our control room at Leek Wootton, are monitored and give an indication of the level of service demand in different areas

The application site is encompassed within the ‘Warwick Rural West’ Safer Neighbourhood Team (SNT) area, which is led by Sergeant David Kettle. During the period April 2013 – April 2014 we dealt with 392 offences, 3,409 incidents and 202 anti-social behaviour incidents from this SNT area. It is worth noting that within the specific geographical area encompassed by the application site almost no crime and incidents were recorded, which reflects the current open field character of the site.

Current Levels of Deployment and Infrastructure

Regular patrolling of the locality and local community around the application site is maintained by the aforementioned SNT operating from Warwick Police Post on Cape Road. Though the SNT operates on the basis that there is no demand from the application site.

It should however be understood that the wider organisation and delivery of policing services is not on a town by town or even on a district by district basis. In this instance the TPU, led by Superintendent Debra Tedds, delivers all neighbourhood policing services to Warwick District and Stratford-on-Avon District. The TPU also provides some support functions as well. Other TPUs cover the remainder of WP's and WMP's combined geographical area. However, the majority of the support and specialist services necessary to support the 'front line' are currently provided in this instance from Leek Wootton and our Hindlip Hall campus.

A huge range of central policing services are delivered to the District, encompassing areas such as:

- Investigations
- Intelligence
- Response policing
- Criminal justice
- Operations planning
- Dogs and firearms
- Special branch
- Forensic services
- Road policing
- Tactical support group
- IT and communications
- Child abuse team
- Economic crime team

All of the above central support services and others will be called upon during the lifetime of the proposed development, should it be delivered, just as they currently are for the existing settlements. These services and others in turn require organisational support functions in order to operate, such as:

- Finance
- Human resources
- Training
- Top level management

Specific numbers of staff delivering policing are spread across the following functions:

- 225 Police Officers deliver neighbourhood policing and emergency responses to South Warwickshire. They are not disaggregated according to District and therefore operate across the combined area. This figure does not include the officers based at Leek Wootton and our Hindlip Hall campus who are part of numerous specialist teams who deploy according to need across the entire force area.
- 59 Police Staff deliver support functions to the South Warwickshire TPU. Like officers, they deliver services to the whole area and are not disaggregated according to District. However this does not include the staff based at Leek Wootton and our Hindlip Hall

campus, who will provide support across the entire alliance geographical area as need arises.

Based on existing crime patterns, and policing demand and deployment from nearby areas, indicates the direct and additional impacts of the development on local policing that will be manifested in demand and responses in the following areas:

- Additional calls and responses per year via our control centre.
- Attendance to additional emergency events within the proposed development and locality each year.
- Additional non-emergency events to follow up with public contact each year.
- Additional recorded crimes in the developments and locality.
- Additional anti-social behaviour incidents each year within the new development and locality.
- Demand for increased patrol cover.
- Additional vehicle use.
- Additional calls on our Airwaves system.
- Additional use of our Police National Database (PND) systems to process and store crime records and intelligence.
- Additional demand for deployment of Mobile CCTV technologies.
- Additional demand for local access to beat staff from local neighbourhood teams.
- Additional policing cover and interventions in all the areas described when considering staffing and functions above and for additional accommodation from which to deliver these.

The Police Contribution Request

A Section 106 contribution is requested to mitigate the additional impacts of this development. As stated previously, this is intended to be part of a single cumulative request made to the four development schemes (W/14/0689, W/14/0661, W/14/0681 and W/14/0763) proposed for this area. Our existing infrastructures do not have the capacity to meet the impacts arising from these schemes and because, like some other services, we do not have the ability to respond to the growth proposed. We anticipate using rates and Home Office revenues to pay for staff salaries and our day to day routine additional costs (e.g. call charges on telephony and Airwaves and so on).

Contributions are only sought that are related in scale and kind to the development, hence why this request is intended to be one of four. This ensures that the infrastructure in question will be fully funded and delivered. If the contribution is not forthcoming from W/14/0689 there will be a serious impact upon our ability to deliver an effective and efficient service. This is because we will be required to pay the amount ourselves. This in turn means that funds will have to be diverted away from other areas of deployment in South Warwickshire.

Such contributions are consequently lawful in the context of CIL Regulation 122, as explained earlier in these representations and as they are related in scale and kind to the development. As further justification, we confirm that the contribution will be used wholly to meet the direct impacts of this development and wholly in delivering policing to it. Without the development in place it is reasonable to forecast the impacts it will generate using information about known policing demands of comparable local development. Other services use such comparables and we believe that the NPPF encourages this.

The proposed development should make provision to mitigate the direct and additional policing impacts it will generate and cannot depend on the police to just absorb these within existing facilities with limited capacities and where police have no flexibility in funding to do this. It is not

forced by current spending reductions, although strictures across the public sector reinforce the need to ensure that developments mitigate the direct impacts they cause.

Due to the very serious implications for policing of new developments, police nationally have taken advice about the best way to proceed in the transition period to the CIL regime. As a result, we only make requests solely in relation to the development under consideration; its direct impacts on policing and the necessary mitigations that it should provide. What follows is a detailed explanation of the methodologies used to calculate the contribution and our application of the statutory tests to justify each part.

Setting-up and Equipping of Officers and Staff

The table enclosed in **Appendix 4** shows the estimated additional personnel that will be required to serve the developments proposed by W/14/0689, W/14/0661, W/14/0681 and W/14/0763 combined. As stated previously, it is not appropriate to consider the application site in isolation given the relatively close proximity of the other schemes.

Setting-up and equipping police officers and staff entails providing IT, radios, protective equipment, uniforms and bespoke training in the use of these. However, additional staff will require additional equipment. There are practical limits to the extent to which existing equipment can be re-used e.g. with uniforms or where technology has moved on.

In this case, **Appendix 4** demonstrates that the four developments combined would fully occupy the equivalent of an additional 5 police officers and 4 police staff full-time. Staffing levels are under constant review to ensure that minimum acceptable numbers are deployed to meet existing levels of policing demand. This has the benefit of much needed savings in costs, but as a result there is no additional capacity to extend existing staffing to cover additional development.

Where additional development is proposed, as in this instance, we will seek to deploy additional staffing and additional infrastructures at the same level that is required to deliver policing to the locality. It would be complacent not to do this because without additional support unacceptable pressure will be put on existing staff and our capital infrastructures which will seriously undermine our ability to meet the policing needs of these developments, maintain the current level of policing to the rest of the SNT area and across the South Warwickshire TPU. The impacts of the four developments are so significant that they cannot be met without additional staff deployed at a level consistent with the current policing of the locality.

The additional staff needed to police the development will require additional equipment. For a police officer, the additional items are recruitment £1,060, training £4,400, uniform and personal equipment £940, workstation £1,642. For other staff the additional items are recruitment £1,060 and workstation £1,642. As the development is forecast to contribute to a need for the equivalent of 5 full time officers and 4 full time staff members over its lifetime (**Appendix 4**), the contribution for setting-up and equipment is calculated to be £5,428 (**Appendix 5**).

We could not have officers and staff attending and delivering services to this development with less than adequate equipment, training and facilities without unnecessary risks to themselves and occupiers served.

Is the contribution necessary to make the development acceptable in planning terms?

Crime and community safety are planning considerations. The Council's own adopted and emerging Local Plans further demonstrate this. The NPPF identifies the need to achieve security in new development and makes provisions to deliver this through the planning system.

Deployment of equipped staff is fundamental to delivering community safety and mitigating crime.

Is it directly related to the development?

The policing demands of this development are identified and police mitigation of these can only be delivered by adequately equipped staff. This has been calculated with reference to robust data sets and the specifications of the proposed development.

Is the contribution fairly and reasonably related in scale and kind to the development?

Appendices 4 and 5 set out the methodology for calculating the contribution that is fairly and reasonably related in scale and kind to the development. In addition, this is primarily a residential development and the policing demands it will generate is known by comparison with local residential development. This is the only satisfactory way of determining the need from development that is not yet built. Therefore, level of demand and mitigations have been determined by the scale and kind of the development.

Police Vehicles

In managing and responding to crime a number of different vehicles can be deployed ranging from general response vehicles and patrol cars, unmarked general support vehicles, police service unit vans and minibuses, scientific (e.g. SOCO) vehicles, pursuit vehicles – 4x4 and high speed, motorcycles and so on. Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), this equates to a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

The average cost of a vehicle is £28,500. This includes the cost of the vehicle and the operational equipment required. The cost quoted does exclude fuel. We replace vehicles, on average, every 3 years and in the majority of cases there is no resale value. Based on this existing level of deployment to the locality we can forecast additional demands as a result of the developments.

The vehicle fleet also includes bicycles used for local neighbourhood policing.

In order to equip the additional officers (**Appendix 4**) required for policing this development and the others proposed for the area, 1 additional vehicle and 1 additional bicycle will be required. The set-up costs for these are shown in **Appendix 6**.

The impact of the development without the contribution will be that we will be required to spend the money ourselves, which in turn will spread existing transport resources too thinly to the extent that service delivery is prejudiced. Residents of the new development and their representatives will expect the same degree of cover as elsewhere in the locality and existing residents will expect existing cover to be maintained and not reduced as a result of the new developments.

Is the contribution necessary to make the development acceptable in planning terms?

Vehicles are fundamental infrastructure and facility to deliver community safety and address crime especially at Neighbourhood level.

Is it directly related to the development?

Fleet deployment is related to the known policing demands of comparable development in the WP area. The direct demand from the new developments can be accurately forecast. Delivering policing direct to this development, without detriment to existing areas, will not be possible without additional vehicle funding to do so.

Is the contribution fairly and reasonably related in scale and kind to the development?

This is a residential development and the police vehicle demands it will generate are known by comparison with deployment to other local residential developments. Therefore, level of demand and mitigations have been determined by the scale and kind of the development.

Automatic Number Plate Recognition (ANPR) Cameras

ANPR is a proven crime fighting tool which is used across the alliance area. Police-monitored ANPR has led to thousands of arrests and been involved in the detection of countless crimes. New development should benefit from the same technology as elsewhere in the alliance area. Indeed, crime levels are mitigated with this technology in place. Without ANPR, crime levels will rise and detection will become much more resource consuming.

Crime levels in the area immediately around the four proposed development sites are relatively low in comparison with other parts of the alliance area. However, once delivered they will unfortunately cumulatively be a draw for travelling criminals locally and nationally. Police monitored ANPR is an effective tool in preventing and combating this type of crime. The use of these technologies also has a beneficial impact in terms of minimising staff attendance.

We therefore currently carrying out an assessment as to how many ANPR cameras will be needed, where they should be located and the precise financial contributions that can be attributable in CIL Regulation 122 terms to the developments proposed by W/14/0689, W/14/0661, W/14/0681 and W/14/0763 respectively.

Unfortunately, it is not possible to complete this detailed ANPR assessment in time for the 21-day public consultation deadlines for W/14/0689, W/14/0661 and W/14/0681. We will however endeavour to submit this as soon as possible. The forthcoming ANPR submission should consequently be considered, once submitted, an addendum to these representations and to those submitted to the other three planning applications.

Safer Neighbourhood Team (SNT) Police Office

Day-to-day policing services to the application site are currently provided from Warwick Police Station. These services operate on the basis that there is no demand from the four application sites.

Services are not provided from our Greys Mallory Patrol Base (GMPB) located by Europa Way. The GMPB is one of the main vehicle centres for police patrols operating throughout Warwickshire's highways network. The site and building are designed exclusively for this purpose. It is therefore wholly unsuitable for delivering the community policing services that will be required by proposed developments W/14/0689, W/14/0661, W/14/0681 and W/14/0763.

There is however no reason to doubt that there will be a corresponding increase in crime and demand from new residents, occupiers and visitors to the application site and to the other proposed development site for policing services. These services cover a wide range spectrum of support and intervention.

It will consequently be necessary to accommodate the additional staff (as identified above), to deliver policing to the two proposed development sites. Whilst officers spend time away from base they are not independent and require a start and finish location, storage, briefing and report writing facilities. Our existing facilities cannot accommodate all the additional staff required (see **Appendix 4**) if the developments proposed by planning applications W/14/0689, W/14/0661, W/14/0681 and W/14/0763 are delivered.

However it is not appropriate, or logical, to provide separate police offices at each of the proposed development sites.

We therefore contend that a single new Safer Neighbourhood Team (SNT) Police Office should be situated within the local centre proposed by W/14/0661. This will provide the accommodation necessary for the additional officers and staff (**Appendices 4 and 5**) to provide services to the four proposed developments. The cost of providing it should therefore be shared proportionally by applications W/14/0689, W/14/0661, W/14/0681 and W/14/0763.

The Safer Neighbourhood Team (SNT) Police Office can either be freestanding within the local centre proposed by W/14/0661, or as part of a “community hub” within the same local centre. **Appendix 7** provides indicative specifications and costings of the Police Office, on the basis of a freestanding facility. This notwithstanding, the specification does provide an illustration of the type of accommodation required. It also demonstrates that there may be scope for police personnel to share some facilities, such as kitchen and toilet areas, with other users of the community hub if this approach is progressed.

We contend that the costs of delivering the facility should be shared according to the number of dwellings proposed by each of the four proposed developments. Clearly, the specifications and cost of the new facility will need to be the subject of further detailed discussions in due course. Therefore, it is not possible to calculate a precise cost figure that can be attributed to each planning application at this stage. Instead, agreement is needed on the percentage of the final cost of the facility that each application should contribute. Please see **Appendix 8** for our suggested methodology in this respect.

The request for a contribution towards the provision of a Safer Neighbourhood Team (SNT) Police Office is compliant with the tests set out in CIL Regulation 122, as detailed below:

Is the infrastructure necessary to make the development acceptable in planning terms?

Crime and community safety are planning considerations and accommodating staff in the optimum location to serve the four developments is essential if this is to be achieved. The NPPF identifies the need to achieve security in new development and make provision to deliver this through the planning system. In order to meet our statutory obligations, we require the provision of a new Safer Neighbourhood Team (SNT) Police Office.

Is it directly related to the development?

The additional staffing needs the development will generate have been established by reference to existing local deployment reflecting the actual Policing demands and crime patterns of the locality. In a similar vein the premises requirements that result from the need to accommodate additional staff at these levels is known. A direct relationship between the development, additional staffing and accommodation is demonstrated and it is appropriate to mitigate this through the planning system.

Is the contribution fairly and reasonably related in scale and kind to the development?

This is a residential development and the accommodation needs of staff delivering Policing to meet local demands of development of this nature are known.

It should also be noted that in our calculations we have only accounted for the dwelling houses, not the other types of development proposed, as we do not have the data to quantify the precise demands arising from such uses in policing terms. However, it would be reasonable to assume that there will be a demand for policing services on top of those expected for the residential dwellings.

Therefore, the contribution requested is based on the scale and kind of the development proposed by W/14/0689, W/14/0661, W/14/0681 and W/14/0763.

Summary of Pro Rata Contributions Requested from W/14/0689

Recruitment and equipping of officers and staff	£5,428
Police Vehicles	£3,328
Automatic Number Plate Recognition Cameras	To be confirmed
Premises (indicative contribution - 11%)	£49,607.91
Total (excluding ANPR)	£58,363.91

Without the contribution the development will be unacceptable in planning terms and permission should not be granted as indicated in the NPPF. The lack of capacity in existing infrastructure to accommodate the population growth and associated demands occasioned by the development means that it is necessary for the developers to provide a contribution so that the situation might be remedied. The request is directly related to the development and the direct policing impacts it will generate based on an examination of demand levels in the local SNT and TPU area in which it is situated, adjacent areas and existing policing demands and deployment in relation to this. The request is wholly related in scale and kind of the proposed development.

We have undertaken this approach to requesting contributions taking account of advice we have received and recent reductions in our deployment. We have been advised that the contents of this submission are sufficient to justify the contribution sought. This approach has also been considered in six appeals where all the Inspectors and in two cases the Secretary of State, have found police requests for contributions compliant with CIL Regulation 122. These are as follows: -

- APP/X2410/A/13/2196938 & APP/X2410/A/13/2196929 (Secretary of State determination) – 8 April 2014
- APP/T2405/A/13/2193758 – 01 August 2013
- APP/G2435/A/13/2192131 – 30 May 2013
- APP/X2410/A/12/2173673 (Secretary of State determination) – 14 May 2013
- APP/X2410/A/12/2187470 – 15 April 2013

- APP/F2415/A/12/2179844 – 14 February 2013

We therefore consider that our request for contributions is robust, demonstrated by the evidence included in the Appendices to these representations and fully compliant with CIL Regulation 122.

Overall, we trust that these representations will be given due consideration and look forward to working with the Council and applicants to address all of the issues raised, namely highways and traffic management, Secured by Design and our request for a Section 106 contribution to mitigate the demands that delivery of the proposed scheme will have upon police services in this area of the District.

Yours sincerely

Andrew Morgan
Strategic Planner

“Without prejudice to any other obligation imposed upon it, it shall be the duty of each local authority to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can, to prevent crime and disorder in its area: Section 17(1) of the Crime and Disorder Act 1998.”

Appendix 1

Ian Dove QC Advice

Decision letter – Land at Melton Road, Barrow-upon-Soar

Decision letter – Land off Mountsorrel Lane, Rothley

Staffing Levels – Existing and Proposed

In the context of the uncertainty about the future organisation and staffing numbers for WP, the table uses current planned staffing levels as a basis for calculating the additional staffing requirement to serve the sites. The staffing levels below (identified as budgeted posts) are for the whole WP area and include the various support staff, many of whom are responsible for providing services across the WP area and not just within South Warwickshire. The population of WP's geographical area is currently about 545,500 and the area accommodates about 231,000 dwellings (Census 2011). The total levels of staffing across the whole of the WP area have been used to calculate pro-rata requirements for additional personnel required to serve the proposed developments.

The table below therefore shows the current budgeted posts and estimated additional personnel numbers required to serve 1,410 dwellings. This represents the cumulative total of planning applications W/14/0689, W/14/0661, W/14/0681 and W/14/0763.

Command Area	Total Posts in Warks	Approx Population in Warks per Post	Approx Dwellings in Warks per Post	Pro Rata Post Requirement (1,410 dw)
Local Policing				
Police Officers	566	964	408	4
Police Staff	400	1,364	578	2
Protective Services				
Police Officers	232	2,351	996	1
Police Staff	163	3,347	1,417	1
Enabling Services				
Police Officers	8	68,188	28,875	0
Police Staff	103	5,296	2,243	1
Finance				
Police Officers	1	545,500	231,000	0
Police Staff	44	12,398	5,250	0
Total	1,517			9 (5 Police Officers and 4 Police Staff)

The personnel requirements include both officers and support staff; broadly the Protective Services and Local Policing Units comprise mainly officers – the visible police presence – and the remaining units provide support functions. For the purposes of this assessment we consider that the 9 personnel will comprise 5 Police Officers and 4 Police Staff members.

These figures have also been discussed and verified with the Command Team for South Warwickshire TPU, led by Superintendent Debra Tedds. The Command Team have confirmed that the level of demand for policing services expected from the new developments, both during construction and once delivered, warrant the personnel numbers being proposed. If required funding for the personnel (see **Appendix 5**) is not provided, this will detrimentally impact on the TPU's ability to deliver sufficient coverage and protection to the developments both during construction and after delivery. This in turn would have 'knock-on' effects for the policing of South Warwickshire as a whole.

Appendix 5

Officers and Staff Set-up Costs

Contribution Requested From W/14/0689

Additional Officers	Approx Set-up Cost per Officer	Pro Rata Requirement for 5 Officers
Recruitment	£1,060	£5,300
Training	£4,400	£22,000
Uniform & Personal equipment	£940	£4,700
Standard equipment (ICT and furniture)	£1,642	£8,210
Total costs	£8,042	£40,210
Pro rata total - 150 homes of 1,410 total	-	£4,278

Additional Central Support Services	Approx Set-up Cost per Member of Staff	Pro Rata Requirement for 4 Staff
Recruitment	£1,060	£4,240
Standard equipment (ICT and furniture)	£1,642	£6,568
Total costs	£2,702	£10,808
Pro rata total - 150 homes of 1,410 total	-	£1,150

Appendix 6

Vehicle and Bicycle Costs

Contribution Requested From W/14/0689

Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), there is a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

It is essential that the current ratio of personnel to vehicles and personnel to bicycles applies to the additional personnel required as a result of development growth.

Vehicles costs have been capitalised on 5 year lifetime average costs for a low/medium size equipped vehicles (excluding fuel). Bicycle costs are established at £1,299 per cycle, with an additional maintenance charge of £297 per bicycle per annum, or £1,485 per 5 years, capitalised. The total cost of providing each new cycle and maintaining it for 5 years is therefore £2,784.

These costs do not include any costs for specialist operational equipment, and the cost estimates below are therefore moderated very conservatively.

On the basis of an additional 5 Police Officers in the territorial and protective services (**Appendix 4**), it is calculated that there will be a requirement for an additional vehicle and bicycle.

The cost of vehicles (both motorised and bicycles) based on 5 additional Police Officers required as a result of the proposed developments are shown below:

Additional vehicles and bicycles	Cost per item	Current cost for planned growth (1,410 dw)
1 vehicle	£28,500	£28,500
1 bicycle	£2,784	£2,784
Total costs	£31,284	£31,284
Pro rata total - 150 homes of 1,410 total	-	£3,328

Indicative Specifications and Cost of Freestanding SNT Police Office

Methodology for Calculating Contributions Towards SNT Police Office

Overall, a total of 1,410 dwellings are proposed by planning applications W/14/0689, W/14/0661, W/14/0681 and W/14/0763

Using the indicative £450,981 total cost given in **Appendix 7** for the SNT Police Office, the methodology for attributing requested contributions to each application towards this total is as follows:

Planning Application	Number of Dwellings	% of Total Dwellings	Contribution Requested
W/14/0661	785	55	£248,039.55
W/14/0681	450	32	£144,313.92
W/14/0689	150	11	£49,607.91
W/14/0763	25	2	£9,019.62
Total	1,410	100	£450,981



Warwickshire
POLICE



West Mercia
POLICE

11 June 2014

Our Ref: P/H Div/0022/14
Your Ref: W/14/0763

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Ms Emma Spandley, Planning Officer
Development Services
PO Box 2178
Warwick District Council
Riverside House
Milverton Hill
Royal Leamington Spa
CV32 5QH

Dear Ms Spandley

PLANNING APPLICATION W/14/0763 – LAND OFF SEVEN ACRE CLOSE POLICE SERVICE REPRESENTATIONS

As part of a Strategic Alliance, Warwickshire Police (WP) and West Mercia Police (WMP) now act as one on all infrastructure and town planning related matters across their combined geographical area. This includes making joint representations to all local planning authorities and other parties. For the avoidance of doubt however, the two forces retain their separate Police and Crime Commissioners (PCCs) and respective command teams.

From the perspective of the police service, planning application W/14/0763 is one of four proposed for this area of Warwick District: -

- W/14/0763 – Land off Seven Acre Close – 25 dwellings – A.C. Lloyd Homes Ltd
- W/14/0661 - Land at Lower Heathcote Farm – 785 dwellings – Gallagher Estates
- W/14/0681 – Land South of Gallows Hills – 450 dwellings – Gallagher Estates
- W/14/0689 – Land off Oakley Wood Road – 150 dwellings – Bloor Homes



www.warwickshire.police.uk
www.westmercia.police.uk



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warwickshire police
west mercia police

1,410 new dwellings are consequently proposed for this area of the District. The result is that the impacts arising from each of the proposed developments directly upon the police service cannot be considered in isolation from one another. By extension, mitigation is therefore not possible in an isolated fashion for each one. Representations have consequently been submitted in relation to each of the above applications. We request that the four representations are considered as one suite of documents making a cumulative case, rather than each one being considered separately.

It should be understood at the outset by all parties that WP and WMP take an entirely neutral position on the question of whether the proposed developments should be granted planning consent. We are aware also that not all the schemes may be granted planning consent. That is not our concern either. To ensure the resilience of the police service on a long-term basis in this area of the District, we are obliged to assume that all four will come forward and plan our infrastructure and service provision accordingly for the moment. As further information becomes available and/or the situation changes, further representations will be made as appropriate and necessary.

These representations to planning application W/14/0763 provide our comments with respect to the following matters: -

1. Secured by Design.
2. Police infrastructure requirements.

Description of the Proposed Development

Outline planning application W/14/0763, proposed by A.C. Lloyd Homes Ltd, is for the erection of up to 25 residential dwellings together with associated infrastructure, landscaping and open space (all matters reserved except access).

Secured by Design

As planning application W/14/0763 is in outline form, there is insufficient information contained within it to enable us to comment on this matter. If the Council grants planning consent and the proposal progresses to the reserved matters stage, we will make detailed representations on this topic at that time. If the Council or the applicants would like to discuss this matter further in the meantime, please contact our Crime Prevention Design Advisor, Mr Ian King, on: -

Tel: 01926 684279
Email: ian.king@warwickshire.pnn.police.uk

Police Infrastructure Requirements – Request for Section 106 Contribution

What does 'Infrastructure' mean in the Police Context?

Developer contributions are not being sought towards revenue/salary costs by the Police. Only infrastructure that is necessary to facilitate the delivery of policing services to development growth is detailed in these representations.

'Infrastructure' is not however a narrow term referring only to buildings. The Association of Chief Police Officers (ACPO) has taken legal advice from Ian Dove QC and this supports this contention (**Appendix 1** – see paragraph 7). Infrastructure can include equipment, which for example, includes vehicles, communications technology and surveillance equipment. It is also legitimate to include set up costs for new officers and staff covering equipment, training, uniform

and personal equipment. As confirmed in this advice, this also pertains under the CIL regime. This is elaborated on further below.

Regulatory Context

We have ensured that the request set out below is fully compliant with the tests set out in CIL Regulation 122 as follows:

- Necessary to make the proposed development acceptable in planning terms.
- Directly related to the proposed development.
- Fairly and reasonable related in scale and kind to the proposed development.

Contributions towards police infrastructure have been found to be lawful when tested at appeal in decisions by the Secretary of State. In one appeal decision, (APP/X2410/A/12/2173673), the Inspector noted that:

“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.”

The decision letter relating to this appeal was issued in May 2013 and relates to a proposal for 300 dwellings on land at Melton Road, Barrow upon Soar, Leicestershire. The decision letter and Inspector’s report are included at **Appendix 2**. This appeal was recovered for determination by the Secretary of State who agreed with the Inspector’s conclusions and recommendations, including those relating to Planning Obligations. Paragraphs 288-294 deal with contributions towards policing and paragraphs 291 and 292 are particularly relevant.

The conclusions of the above were tested again recently by the Secretary of State in April 2014 at appeal (APP/X2410/A/13/2196928 & APP/X2410/A/13/2196929) and upheld. He concluded at paragraph 16 of his decision that: -

“He also agrees with the Inspector (IR8.43-8.46) that the completed s106 Unilateral Undertaking, dated 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 material consideration.”

The decision letter, relating to a proposal for 250 dwellings on land off Mountsorrel Lane, Rothley, Leicestershire and Inspector’s report are included at **Appendix 3**. Paragraphs 5.1 – 5.12 of the Inspector’s report deal with contributions towards policing and paragraphs 5.5 and 5.7 are particularly relevant.

It is therefore clear that where the rationale is clear and supported by evidence, contributions towards policing are compatible with Regulation 122, as confirmed by the aforementioned appeal decisions. We consider that all items of infrastructure sought in relation to the proposed development meet the statutory tests.

National Policy Context

The national policy position to support our request exists in the National Planning Policy Framework (NPPF). Securing sufficient facilities and services to meet local needs is a core planning principle (paragraph 17). Planning is to deliver facilities and services that communities need (paragraph 70). Local plan policies should deliver the provision of security infrastructure and other local facilities (paragraph 156). Local plan policy and decision making should be seamless (paragraph 186). Infrastructure planning should accompany development planning by

LPAs (paragraph 177) who should work together with infrastructure providers (paragraph 162). The NPPF seeks environments where crime and disorder and the fear of crime do not undermine the quality of life and community cohesion (paragraph 69) and planning policies and decisions should deliver this (paragraph 58).

Local Policy Context

The development plan comprises of the '*Warwick District Local Plan 1996-2011*' (adopted September 2007). There are two policies relevant to these representations.

Policy DP14 – '*Crime Prevention*' states that the layout and design of development will be encouraged to minimise the potential for crime and anti-social behaviour and improve community safety. Paragraph 4.88 to Policy DP14 highlights the fact that the Council is required under Section 17 of the Crime and Disorder Act 1998 to take account of crime and disorder in all of its work. Paragraph 4.90 adds that applicants will be encouraged to obtain a 'Secured by Design' certificate from our Crime Prevention Design Advisor.

Policy SC14 – '*Community Facilities*' confirms that contributions will be sought towards community facilities in conjunction with new development where appropriate. Supporting paragraph 5.83 states that new development puts pressure on existing infrastructure and that Government guidance is clear that planning authorities may seek contributions from applicants to offset the cost of this. Supporting paragraph 5.84 confirms that community facilities are included within the scope of Policy SC14.

The emerging development plan comprises of the '*Warwick District Local Plan 2011-2029 – Publication Draft*' (May 2014). Although this document can only be ascribed limited material weight in view of its draft status, we consider that two policies should be noted by all parties.

Policy HS7 – '*Crime Prevention*' states that development proposals should make provision for appropriate design and security measures to ensure crime prevention. This is elaborated on by the supporting '*Draft Infrastructure Delivery Plan – April 2014*', which states in relation to police infrastructure on page 20 that provision needs to be made for: -

'3 additional offices (Safer Neighbourhood Team Police Offices) at Europa Way, Lower Heathcote Farm and Thickthorn...'

'A range of other CIL compliant costs including vehicles, communications technology and surveillance technology, training, uniform and personal equipment.'

Policy DM1 – '*Infrastructure Contributions*' states that development will be expected to provide, or contribute towards, the provision of physical and social infrastructure required to make it acceptable in planning terms. Furthermore the policy states that the Council will seek to secure site-specific infrastructure investments and/contributions, as well as off-site contributions and/or investments.

The policy concludes by stating that the Council will work with infrastructure providers to ensure the supporting Infrastructure Delivery Plan is up to date. As noted above, the '*Draft Infrastructure Delivery Plan – April 2014*' confirms that the police and the emergency services are 'infrastructure'; thereby the Council recognises that they are legitimate recipients of planning obligations.

WP's Role and Responsibility

In this instance, we are responsible for delivering services to address community safety, tackle the fear of crime and seek to achieve a reduction in crime. The delivery of growth and new development, such as W/14/0763, places additional pressure on our infrastructure base, which is critical to the delivery of effective policing and securing safe and sustainable communities.

The primary issue for us is to ensure that new development like W/14/0763 makes adequate provision for the future policing needs it will generate. Like some other public services, our primary funding is insufficient to add new infrastructure to support new development when and wherever this occurs. Further, there are no bespoke funding regimes e.g. like Building Schools for the Future or the Health LIFT, to provide capital investment for our facilities.

This situation has been recognised by the Association of Chief Police Officers (ACPO) nationally for some time and there are public statements which explain our particular funding difficulties.

In addition to the above, the money received by us is comparatively low relative to the size of population in our geographical area. Whilst revenue funding is provided by the Home Office and the Council Tax precept, capital projects are mostly financed through borrowing. Borrowing to provide infrastructure has an impact on delivery of safe and sustainable communities because loans have to be repaid from revenue budgets, the corollary of which is a reduction in the money available to deliver operational policing.

Current Levels of Policing Demand from the Locality

Policing is a 24/7 service resourced to respond and deploy on an "on demand" and "equal basis" and is wholly dependant on a range of facilities for staff to deliver this. Calls and deployments for this area, via our control room at Leek Wootton, are monitored and give an indication of the level of service demand in different areas

The application site is encompassed within the 'Warwick Rural West' Safer Neighbourhood Team (SNT) area, which is led by Sergeant David Kettle. During the period April 2013 – April 2014 we dealt with 392 offences, 3,409 incidents and 202 anti-social behaviour incidents from this SNT area. It is worth noting that within the specific geographical area encompassed by the application site almost no crime and incidents were recorded, which reflects the current open field character of the site.

Current Levels of Deployment and Infrastructure

Regular patrolling of the locality and local community around the application site is maintained by the aforementioned SNT operating from Warwick Police Post on Cape Road. Though the SNT operates on the basis that there is no demand from the application site.

It should however be understood that the wider organisation and delivery of policing services is not on a town by town or even on a district by district basis. In this instance the TPU, led by Superintendent Debra Tedds, delivers all neighbourhood policing services to Warwick District and Stratford-on-Avon District. The TPU also provides some support functions as well. Other TPUs cover the remainder of WP's and WMP's combined geographical area. However, the majority of the support and specialist services necessary to support the 'front line' are currently provided in this instance from Leek Wootton and our Hindlip Hall campus.

A huge range of central policing services are delivered to the District, encompassing areas such as:

- Investigations
- Intelligence
- Response policing
- Criminal justice
- Operations planning
- Dogs and firearms
- Special branch
- Forensic services
- Road policing
- Tactical support group
- IT and communications
- Child abuse team
- Economic crime team

All of the above central support services and others will be called upon during the lifetime of the proposed development, should it be delivered, just as they currently are for the existing settlements. These services and others in turn require organisational support functions in order to operate, such as:

- Finance
- Human resources
- Training
- Top level management

Specific numbers of staff delivering policing are spread across the following functions:

- 225 Police Officers deliver neighbourhood policing and emergency responses to South Warwickshire. They are not disaggregated according to District and therefore operate across the combined area. This figure does not include the officers based at Leek Wootton and our Hindlip Hall campus who are part of numerous specialist teams who deploy according to need across the entire force area.
- 59 Police Staff deliver support functions to the South Warwickshire TPU. Like officers, they deliver services to the whole area and are not disaggregated according to District. However this does not include the staff based at Leek Wootton and our Hindlip Hall campus, who will provide support across the entire alliance geographical area as need arises.

Based on existing crime patterns, and policing demand and deployment from nearby areas, indicates the direct and additional impacts of the development on local policing that will be manifested in demand and responses in the following areas:

- Additional calls and responses per year via our control centre.
- Attendance to additional emergency events within the proposed development and locality each year.
- Additional non-emergency events to follow up with public contact each year.
- Additional recorded crimes in the developments and locality.
- Additional anti-social behaviour incidents each year within the new development and locality.
- Demand for increased patrol cover.
- Additional vehicle use.
- Additional calls on our Airwaves system.

- Additional use of our Police National Database (PND) systems to process and store crime records and intelligence.
- Additional demand for deployment of Mobile CCTV technologies.
- Additional demand for local access to beat staff from local neighbourhood teams.
- Additional policing cover and interventions in all the areas described when considering staffing and functions above and for additional accommodation from which to deliver these.

The Police Contribution Request

A Section 106 contribution is requested to mitigate the additional impacts of this development. As stated previously, this is intended to be part of a single cumulative request made to the four development schemes (W/14/0763, W/14/0661, W/14/0681 and W/14/0689) proposed for this area. Our existing infrastructures do not have the capacity to meet the impacts arising from these schemes and because, like some other services, we do not have the ability to respond to the growth proposed. We anticipate using rates and Home Office revenues to pay for staff salaries and our day to day routine additional costs (e.g. call charges on telephony and Airwaves and so on).

Contributions are only sought that are related in scale and kind to the development, hence why this request is intended to be one of four. This ensures that the infrastructure in question will be fully funded and delivered. If the contribution is not forthcoming from W/14/0763 there will be a serious impact upon our ability to deliver an effective and efficient service. This is because we will be required to pay the amount ourselves. This in turn means that funds will have to be diverted away from other areas of deployment in South Warwickshire.

Such contributions are consequently lawful in the context of CIL Regulation 122, as explained earlier in these representations and as they are related in scale and kind to the development. As further justification, we confirm that the contribution will be used wholly to meet the direct impacts of this development and wholly in delivering policing to it. Without the development in place it is reasonable to forecast the impacts it will generate using information about known policing demands of comparable local development. Other services use such comparables and we believe that the NPPF encourages this.

The proposed development should make provision to mitigate the direct and additional policing impacts it will generate and cannot depend on the police to just absorb these within existing facilities with limited capacities and where police have no flexibility in funding to do this. It is not forced by current spending reductions, although strictures across the public sector reinforce the need to ensure that developments mitigate the direct impacts they cause.

Due to the very serious implications for policing of new developments, police nationally have taken advice about the best way to proceed in the transition period to the CIL regime. As a result, we only make requests solely in relation to the development under consideration; its direct impacts on policing and the necessary mitigations that it should provide. What follows is a detailed explanation of the methodologies used to calculate the contribution and our application of the statutory tests to justify each part.

Setting-up and Equipping of Officers and Staff

The table enclosed in **Appendix 4** shows the estimated additional personnel that will be required to serve the developments proposed by W/14/0763, W/14/0661, W/14/0681 and W/14/0689 combined. As stated previously, it is not appropriate to consider the application site in isolation given the relatively close proximity of the other schemes.

Setting-up and equipping police officers and staff entails providing IT, radios, protective equipment, uniforms and bespoke training in the use of these. However, additional staff will require additional equipment. There are practical limits to the extent to which existing equipment can be re-used e.g. with uniforms or where technology has moved on.

In this case, **Appendix 4** demonstrates that the four developments combined would fully occupy the equivalent of an additional 5 Police Officers and 4 Police Staff full-time. Staffing levels are under constant review to ensure that minimum acceptable numbers are deployed to meet existing levels of policing demand. This has the benefit of much needed savings in costs, but as a result there is no additional capacity to extend existing staffing to cover additional development.

Where additional development is proposed, as in this instance, we will seek to deploy additional staffing and additional infrastructures at the same level that is required to deliver policing to the locality. It would be complacent not to do this because without additional support unacceptable pressure will be put on existing staff and our capital infrastructures which will seriously undermine our ability to meet the policing needs of these developments, maintain the current level of policing to the rest of the SNT area and across the South Warwickshire TPU. The impacts of the four developments are so significant that they cannot be met without additional staff deployed at a level consistent with the current policing of the locality.

The additional staff needed to police the development will require additional equipment. For a police officer, the additional items are recruitment £1,060, training £4,400, uniform and personal equipment £940, workstation £1,642. For other staff the additional items are recruitment £1,060 and workstation £1,642. As the development is forecast to contribute to a need for the equivalent of 5 full time officers and 4 full time staff members over its lifetime (**Appendix 4**), the contribution for setting-up and equipment is calculated to be £905 (**Appendix 5**).

We could not have officers and staff attending and delivering services to this development with less than adequate equipment, training and facilities without unnecessary risks to themselves and occupiers served.

Is the contribution necessary to make the development acceptable in planning terms?

Crime and community safety are planning considerations. The Council's own adopted and emerging Local Plans further demonstrate this. The NPPF identifies the need to achieve security in new development and makes provisions to deliver this through the planning system. Deployment of equipped staff is fundamental to delivering community safety and mitigating crime.

Is it directly related to the development?

The policing demands of this development are identified and police mitigation of these can only be delivered by adequately equipped staff. This has been calculated with reference to robust data sets and the specifications of the proposed development.

Is the contribution fairly and reasonably related in scale and kind to the development?

Appendices 4 and 5 set out the methodology for calculating the contribution that is fairly and reasonably related in scale and kind to the development. In addition, this is primarily a residential development and the policing demands it will generate is known by comparison with local residential development. This is the only satisfactory way of determining the need from development that is not yet built. Therefore, level of demand and mitigations have been determined by the scale and kind of the development.

Police Vehicles

In managing and responding to crime a number of different vehicles can be deployed ranging from general response vehicles and patrol cars, unmarked general support vehicles, police service unit vans and minibuses, scientific (e.g. SOCO) vehicles, pursuit vehicles – 4x4 and high speed, motorcycles and so on. Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), this equates to a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

The average cost of a vehicle is £28,500. This includes the cost of the vehicle and the operational equipment required. The cost quoted does exclude fuel. We replace vehicles, on average, every 3 years and in the majority of cases there is no resale value. Based on this existing level of deployment to the locality we can forecast additional demands as a result of the developments.

The vehicle fleet also includes bicycles used for local neighbourhood policing.

In order to equip the additional officers (**Appendix 4**) required for policing this development and the others proposed for the area, 1 additional vehicle and 1 additional bicycle will be required. The set-up costs for these are shown in **Appendix 6**.

The impact of the development without the contribution will be that we will be required to spend the money ourselves, which in turn will spread existing transport resources too thinly to the extent that service delivery is prejudiced. Residents of the new development and their representatives will expect the same degree of cover as elsewhere in the locality and existing residents will expect existing cover to be maintained and not reduced as a result of the new developments.

Is the contribution necessary to make the development acceptable in planning terms?

Vehicles are fundamental infrastructure and facility to deliver community safety and address crime especially at Neighbourhood level.

Is it directly related to the development?

Fleet deployment is related to the known policing demands of comparable development in the WP area. The direct demand from the new developments can be accurately forecast. Delivering policing direct to this development, without detriment to existing areas, will not be possible without additional vehicle funding to do so.

Is the contribution fairly and reasonably related in scale and kind to the development?

This is a residential development and the police vehicle demands it will generate are known by comparison with deployment to other local residential developments. Therefore, level of demand and mitigations have been determined by the scale and kind of the development.

Automatic Number Plate Recognition (ANPR) Cameras

ANPR is a proven crime fighting tool which is used across the alliance area. Police-monitored ANPR has led to thousands of arrests and been involved in the detection of countless crimes. New development should benefit from the same technology as elsewhere in the alliance area. Indeed, crime levels are mitigated with this technology in place. Without ANPR, crime levels will rise and detection will become much more resource consuming.

Crime levels in the area immediately around the four proposed development sites are relatively low in comparison with other parts of the alliance area. However, once delivered they will unfortunately cumulatively be a draw for travelling criminals locally and nationally. Police monitored ANPR is an effective tool in preventing and combating this type of crime. The use of these technologies also has a beneficial impact in terms of minimising staff attendance.

We therefore currently carrying out an assessment as to how many ANPR cameras will be needed, where they should be located and the precise financial contributions that can be attributable in CIL Regulation 122 terms to the developments proposed by W/14/0763, W/14/0661, W/14/0681 and W/14/0689 respectively.

Unfortunately, it is not possible to complete this detailed ANPR assessment in time for the 21-day public consultation deadlines for W/14/0689, W/14/0661 and W/14/0681. We will however endeavour to submit this as soon as possible. The forthcoming ANPR submission should consequently be considered, once submitted, an addendum to these representations and to those submitted to the other three planning applications.

Safer Neighbourhood Team (SNT) Police Office

Day-to-day policing services to the application site are currently provided from Warwick Police Station. These services operate on the basis that there is no demand from the four application sites.

Services are not provided from our Greys Mallory Patrol Base (GMPB) located by Europa Way. The GMPB is one of the main vehicle centres for police patrols operating throughout Warwickshire's highways network. The site and building are designed exclusively for this purpose. It is therefore wholly unsuitable for delivering the community policing services that will be required by proposed developments W/14/0763, W/14/0661, W/14/0681 and W/14/0689.

There is however no reason to doubt that there will be a corresponding increase in crime and demand from new residents, occupiers and visitors to the application site and to the other proposed development site for policing services. These services cover a wide range spectrum of support and intervention.

It will consequently be necessary to accommodate the additional staff (as identified above), to deliver policing to the two proposed development sites. Whilst officers spend time away from base they are not independent and require a start and finish location, storage, briefing and report writing facilities. Our existing facilities cannot accommodate all the additional staff required (see **Appendix 4**) if the developments proposed by planning applications W/14/0763, W/14/0661, W/14/0681 and W/14/0689 are delivered.

However it is not appropriate, or logical, to provide separate police offices at each of the proposed development sites.

We therefore contend that a single new Safer Neighbourhood Team (SNT) Police Office should be situated within the local centre proposed by W/14/0661. This will provide the accommodation necessary for the additional officers and staff (**Appendices 4 and 5**) to provide services to the four proposed developments. The cost of providing it should therefore be shared proportionally by applications W/14/0763, W/14/0661, W/14/0681 and W/14/0689.

The Safer Neighbourhood Team (SNT) Police Office can either be freestanding within the local centre proposed by W/14/0661, or as part of a "community hub" within the same local centre. **Appendix 7** provides indicative specifications and costings of the Police Office, on the basis of a freestanding facility. This notwithstanding, the specification does provide an illustration of the

type of accommodation required. It also demonstrates that there may be scope for police personnel to share some facilities, such as kitchen and toilet areas, with other users of the community hub if this approach is progressed.

We contend that the costs of delivering the facility should be shared according to the number of dwellings proposed by each of the four proposed developments. Clearly, the specifications and cost of the new facility will need to be the subject of further detailed discussions in due course. Therefore, it is not possible to calculate a precise cost figure that can be attributed to each planning application at this stage. Instead, agreement is needed on the percentage of the final cost of the facility that each application should contribute. Please see **Appendix 8** for our suggested methodology in this respect.

The request for a contribution towards the provision of a Safer Neighbourhood Team (SNT) Police Office is compliant with the tests set out in CIL Regulation 122, as detailed below:

Is the infrastructure necessary to make the development acceptable in planning terms?

Crime and community safety are planning considerations and accommodating staff in the optimum location to serve the four developments is essential if this is to be achieved. The NPPF identifies the need to achieve security in new development and make provision to deliver this through the planning system. In order to meet our statutory obligations, we require the provision of a new Safer Neighbourhood Team (SNT) Police Office.

Is it directly related to the development?

The additional staffing needs the development will generate have been established by reference to existing local deployment reflecting the actual Policing demands and crime patterns of the locality. In a similar vein the premises requirements that result from the need to accommodate additional staff at these levels is known. A direct relationship between the development, additional staffing and accommodation is demonstrated and it is appropriate to mitigate this through the planning system.

Is the contribution fairly and reasonably related in scale and kind to the development?

This is a residential development and the accommodation needs of staff delivering Policing to meet local demands of development of this nature are known.

It should also be noted that in our calculations we have only accounted for the dwelling houses, not the other types of development proposed, as we do not have the data to quantify the precise demands arising from such uses in policing terms. However, it would be reasonable to assume that there will be a demand for policing services on top of those expected for the residential dwellings.

Therefore, the contribution requested is based on the scale and kind of the development proposed by W/14/0763, W/14/0300, W/14/0661, W/14/0681 and W/14/0689.

Summary of Pro Rata Contributions Requested from W/14/0763

Recruitment and equipping of officers and staff	£905
Police Vehicles	£555
Automatic Number Plate Recognition Cameras	To be confirmed

Premises (indicative contribution - 2%)	£9,019.62
Total (excluding ANPR)	£10,479.62

Without the contribution the development will be unacceptable in planning terms and permission should not be granted as indicated in the NPPF. The lack of capacity in existing infrastructure to accommodate the population growth and associated demands occasioned by the development means that it is necessary for the developers to provide a contribution so that the situation might be remedied. The request is directly related to the development and the direct policing impacts it will generate based on an examination of demand levels in the local SNT and TPU area in which it is situated, adjacent areas and existing policing demands and deployment in relation to this. The request is wholly related in scale and kind of the proposed development.

We have undertaken this approach to requesting contributions taking account of advice we have received and recent reductions in our deployment. We have been advised that the contents of this submission are sufficient to justify the contribution sought. This approach has also been considered in six appeals where all the Inspectors and in two cases the Secretary of State, have found police requests for contributions compliant with CIL Regulation 122. These are as follows: -

- APP/X2410/A/13/2196938 & APP/X2410/A/13/2196929 (Secretary of State determination) – 8 April 2014
- APP/T2405/A/13/2193758 – 01 August 2013
- APP/G2435/A/13/2192131 – 30 May 2013
- APP/X2410/A/12/2173673 (Secretary of State determination) – 14 May 2013
- APP/X2410/A/12/2187470 – 15 April 2013
- APP/F2415/A/12/2179844 – 14 February 2013

We therefore consider that our request for contributions is robust, demonstrated by the evidence included in the Appendices to these representations and fully compliant with CIL Regulation 122.

Overall, we trust that these representations will be given due consideration and look forward to working with the Council and applicants to address all of the issues raised, namely highways and traffic management, Secured by Design and our request for a Section 106 contribution to mitigate the demands that delivery of the proposed scheme will have upon police services in this area of the District.

Yours sincerely

Andrew Morgan
Strategic Planner

“Without prejudice to any other obligation imposed upon it, it shall be the duty of each local authority to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can, to prevent crime and disorder in its area: Section 17(1) of the Crime and Disorder Act 1998.”

Appendix 1

Ian Dove QC Advice

Decision letter – Land at Melton Road, Barrow-upon-Soar

Decision letter – Land off Mountsorrel Lane, Rothley

Staffing Levels – Existing and Proposed

In the context of the uncertainty about the future organisation and staffing numbers for WP, the table uses current planned staffing levels as a basis for calculating the additional staffing requirement to serve the sites. The staffing levels below (identified as budgeted posts) are for the whole WP area and include the various support staff, many of whom are responsible for providing services across the WP area and not just within South Warwickshire. The population of WP's geographical area is currently about 545,500 and the area accommodates about 231,000 dwellings (Census 2011). The total levels of staffing across the whole of the WP area have been used to calculate pro-rata requirements for additional personnel required to serve the proposed developments.

The table below therefore shows the current budgeted posts and estimated additional personnel numbers required to serve 1,410 dwellings. This represents the cumulative total of planning applications W/14/0763, W/14/0661, W/14/0681 and W/14/0689.

Command Area	Total Posts in Warks	Approx Population in Warks per Post	Approx Dwellings in Warks per Post	Pro Rata Post Requirement (1,410 dw)
Local Policing				
Police Officers	566	964	408	4
Police Staff	400	1,364	578	2
Protective Services				
Police Officers	232	2,351	996	1
Police Staff	163	3,347	1,417	1
Enabling Services				
Police Officers	8	68,188	28,875	0
Police Staff	103	5,296	2,243	1
Finance				
Police Officers	1	545,500	231,000	0
Police Staff	44	12,398	5,250	0
Total	1,517			9 (5 Police Officers and 4 Police Staff)

The personnel requirements include both officers and support staff; broadly the Protective Services and Local Policing Units comprise mainly officers – the visible police presence – and the remaining units provide support functions. For the purposes of this assessment we consider that the 9 personnel will comprise 5 Police Officers and 4 Police Staff members.

These figures have also been discussed and verified with the Command Team for South Warwickshire TPU, led by Superintendent Debra Tedds. The Command Team have confirmed that the level of demand for policing services expected from the new developments, both during construction and once delivered, warrant the personnel numbers being proposed. If required funding for the personnel (see **Appendix 5**) is not provided, this will detrimentally impact on the TPU's ability to deliver sufficient coverage and protection to the developments both during construction and after delivery. This in turn would have 'knock-on' effects for the policing of South Warwickshire as a whole.

Appendix 5

Officers and Staff Set-up Costs

Contribution Requested From W/14/0763

Additional Officers	Approx Set-up Cost per Officer	Pro Rata Requirement for 5 Officers
Recruitment	£1,060	£5,300
Training	£4,400	£22,000
Uniform & Personal equipment	£940	£4,700
Standard equipment (ICT and furniture)	£1,642	£8,210
Total costs	£8,042	£40,210
Pro rata total - 25 homes of 1,410 total	-	£713

Additional Central Support Services	Approx Set-up Cost per Member of Staff	Pro Rata Requirement for 4 Staff
Recruitment	£1,060	£4,240
Standard equipment (ICT and furniture)	£1,642	£6,568
Total costs	£2,702	£10,808
Pro rata total - 25 homes of 1,410 total	-	£192

Appendix 6

Vehicle and Bicycle Costs

Contribution Requested From W/14/0763

Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), there is a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

It is essential that the current ratio of personnel to vehicles and personnel to bicycles applies to the additional personnel required as a result of development growth.

Vehicles costs have been capitalised on 5 year lifetime average costs for a low/medium size equipped vehicles (excluding fuel). Bicycle costs are established at £1,299 per cycle, with an additional maintenance charge of £297 per bicycle per annum, or £1,485 per 5 years, capitalised. The total cost of providing each new cycle and maintaining it for 5 years is therefore £2,784.

These costs do not include any costs for specialist operational equipment, and the cost estimates below are therefore moderated very conservatively.

On the basis of an additional 5 Police Officers in the territorial and protective services (**Appendix 4**), it is calculated that there will be a requirement for an additional vehicle and bicycle.

The cost of vehicles (both motorised and bicycles) based on 5 additional Police Officers required as a result of the proposed developments are shown below:

Additional vehicles and bicycles	Cost per item	Current cost for planned growth (1,410 dw)
1 vehicle	£28,500	£28,500
1 bicycle	£2,784	£2,784
Total costs	£31,284	£31,284
Pro rata total - 25 homes of 1,410 total	-	£555

Indicative Specifications and Cost of Freestanding SNT Police Office

Methodology for Calculating Contributions Towards SNT Police Office

Overall, a total of 1,410 dwellings are proposed by planning applications W/14/0763, W/14/0661, W/14/0681 and W/14/0689.

Using the indicative £450,981 total cost given in **Appendix 7** for the SNT Police Office, the methodology for attributing requested contributions to each application towards this total is as follows:

Planning Application	Number of Dwellings	% of Total Dwellings	Contribution Requested
W/14/0661	785	55	£248,039.55
W/14/0681	450	32	£144,313.92
W/14/0689	150	11	£49,607.91
W/14/0763	25	2	£9,019.62
Total	1,410	100	£450,981



Ref:
Date: 26th June 2014

Development Policy Manager
Development Services
Warwick District Council
Riverside House
Milverton Hill
Leamington Spa
CV32 5QH

Dear Sir/Madam

**Warwick District Local Plan Publication Draft
Representation on behalf of Warwickshire Police and West Mercia Police**

I write on behalf of Warwickshire Police and West Mercia Police (WP and WMP) in response to the Publication Draft Local Plan consultation, specifically in respect of the Draft Infrastructure Delivery Plan that forms part of the Local Plan evidence base. Separate representations are submitted in relation to the policies and proposals of the Local Plan by Mr Andrew Morgan, Estate Strategic Planner, Warwickshire Police and West Mercia Police.

The Draft Infrastructure Delivery Plan is an important component of the evidence base that underpins the Local Plan. WP and WMP are pleased to note that the Draft Infrastructure Delivery Plan takes account of the information provided to you in the letter dated 8th April 2014 from Andrew Morgan. A copy of this letter is attached for ease of reference. It provides the most up-to-date information available on police infrastructure requirements that are directly attributable to the levels of growth proposed in the Local Plan.

We note that, within the draft IDP, each item of infrastructure is prioritised as either Category 1: strategically essential, Category 2: strategically desirable or locally essential or Category 3: desirable. In terms of police infrastructure, we wish to point out that all the items listed in the IDP are critical to the delivery of operational policing to serve the growth proposed within the Local Plan and should therefore be prioritised as strategically essential.

As indicated in Andrew Morgan's letter, WYG is working with WP and WMP to prepare a detailed Strategic Infrastructure Assessment (SIA) that will cover all the elements of police infrastructure necessary to serve the proposed growth. This can be used to inform future reviews of the IDP, which we understand is a 'live' document that will be updated as infrastructure requirements are refined and costed. The SIA will provide the background to, and full justification for, the police's infrastructure requirements as set out in the IDP and will be CIL Regulation 122 compliant. It is intended that the SIA will be updated annually to take account of any changes in local or operational circumstances.



It is proposed that the SIA will cover both Warwick District and Stratford-on-Avon District. These two districts together form the South Warwickshire Territorial Policing Unit (TPU), which provides all neighbourhood policing services across both local authority areas, with most services being delivered and/or co-ordinated from Warwick Police Station and the Warwickshire Justice Centre in Royal Leamington Spa.

Whilst the SIA will cover growth related police infrastructure requirements for both districts, it will deal separately with requirements for each district in order that the costs of policing are calculated separately and apportioned according to the levels of growth proposed in each.

The methodology will be based on a SIA recently undertaken by WYG for Rugby Borough. In that case, the costs attributable to the Rugby Radio Station development were calculated separately and used to inform the s106 agreement that accompanied the planning permission.

The methodology has been accepted by a number of local authorities and we consider it provides robust evidence to underpin requests for funding of police infrastructure. We would hope to discuss the methodology with you and your colleagues in due course.

We look forward to working with the Council to provide input and evidence to the IDP as it progresses through the Local Plan process.

Yours faithfully,

A handwritten signature in purple ink that reads 'Ros Woodhall'.

Ros Woodhall
Associate
For and on behalf of WYG

cc Andrew Morgan



Warwickshire
POLICE



West Mercia
POLICE

08 April 2014

Our Ref: P/H Div/0009/14

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Ms Sally Jones, Planning Policy Officer
Planning Policy
Warwick District Council

By Email Only

Dear Ms Jones

Warwick District – Development Growth – Police Infrastructure Requirements

As part of a Strategic Alliance, Warwickshire Police (WP) and West Mercia Police (WMP) now act as one on all infrastructure and town planning related matters across their combined geographical area. This includes making joint representations to all local planning authorities and other parties. For the avoidance of doubt however, the two forces retain their separate Police and Crime Commissioners (PCCs) and respective command teams.

These representations have been made in response to the invitation of Warwick District Council to provide details of anticipated police infrastructure requirements in the District, in order to inform the preparation of the following documents: -

1. Warwick District Local Plan
2. Infrastructure Delivery Plan
3. Preliminary Community Infrastructure Levy (CIL) Charging Schedule

At this juncture we would like to stress that WP and WMP take an entirely neutral position on the question of whether some or all of the proposed development sites should be included in the Local Plan.

We are aware, for example, that some of the proposed sites may be promoted in parallel through the planning application process, or that some promoters may make representations against other development options. None of these types of issues are our concern. To ensure the resilience of the police service on a long-term basis in the District, we are obliged to assume that all will come forward and plan our infrastructure and service provision accordingly for the moment. As further information becomes available and/or the situation changes, further representations to the Council's planning policy team and/or development control team will be made by us as appropriate and necessary.

Before continuing, we emphasise that the high level findings presented below are based on the information available currently. We intend to prepare later this year, in conjunction with our consultants WYG, a detailed Strategic Infrastructure Assessment (SIA) of our predicted requirements based on the Council's Submission Local Plan when it is published. The following is therefore necessarily an indicative 'snapshot in time' that will require updating in due course by the SIA.

WP's role and responsibility

In Warwick District WP is responsible for delivering services to address community safety, tackle the fear of crime and seek to achieve a reduction in crime. The delivery of growth and new development places additional pressure on our infrastructure base, which is critical to the delivery of effective policing and securing safe and sustainable communities.

The primary issue for us is to ensure that new development makes adequate provision for the future policing needs it will generate. Like some other public services, our primary funding is insufficient to add new infrastructure to support new development when and wherever this occurs. Further, there are no bespoke funding regimes e.g. like Building Schools for the Future or the Health LIFT, to provide capital investment for our facilities.

This situation has been recognised by the Association of Chief Police Officers (ACPO) nationally for some time and there are public statements which explain our particular funding difficulties.

In addition to the above, the money received by us is comparatively low relative to the size of population in our geographical area. Whilst revenue funding is provided by the Home Office and the Council Tax precept, capital projects are mostly financed through borrowing. Borrowing to provide infrastructure has an impact on the delivery of safe and sustainable communities because loans have to be repaid from revenue budgets, the corollary of which is a reduction in the money available to deliver operational policing.

Current Levels of Deployment and Infrastructure

Regular patrolling of the District is maintained by the South Warwickshire Territorial Policing Unit (TPU), with most services for the area being delivered and/or coordinated from Warwick Police Station and the Warwickshire Justice Centre in Royal Leamington Spa.

It should however be understood that the wider organisation and delivery of policing services is not on a town by town or even on a district by district basis. In this instance the TPU, led by Superintendent Debra Tedds, delivers all neighbourhood policing services to Warwick District and Stratford-on-Avon District. The TPU also provides some support functions as well. Other TPUs cover the remainder of WP's and WMP's combined geographical area. However, the majority of the support and specialist services necessary to support the 'front line' are currently provided in this instance from Leek Wootton and our Hindlip Hall campus.

It should be noted that the above operational arrangement may change by the end of 2014. If this should be the case, further information will be submitted to the Council.

Notwithstanding the above, a huge range of central policing services are delivered to the District, encompassing areas such as:

- Investigations
- Intelligence
- Response policing
- Criminal justice
- Operations planning
- Dogs and firearms
- Special branch
- Forensic services
- Road policing
- Tactical support group
- IT and communications
- Child abuse team
- Economic crime team

All of the above central support services and others will be called upon during the lifetime of the proposed developments, should they be delivered, just as they currently are for the existing settlements. These services and others in turn require organisational support functions in order to operate, such as:

- Finance
- Human resources
- Training
- Top level management

Specific numbers of staff delivering policing are spread across the following functions:

- 225 police officers deliver neighbourhood policing and emergency responses to South Warwickshire. They are not disaggregated according to District and therefore operate across the combined area. This figure does not include the officers based at Leek Wootton and our Hindlip Hall campus who are part of numerous specialist teams who deploy according to need across the entire force area.
- 59 police staff deliver support functions to the South Warwickshire TPU. Like officers, they deliver services to the whole area and are not disaggregated according to District. However this does not include the staff based at Leek Wootton and our Hindlip Hall campus, who will provide support across the entire alliance geographical area as need arises.

Based on existing crime patterns, and policing demand and deployment from nearby areas, indicates the direct and additional impacts of new development in the District on local policing, which will be manifested in demand and responses in the following areas:

- Additional calls and responses per year via our control centre.
- Attendance to additional emergency events within the proposed development and locality each year.
- Additional non-emergency events to follow up with public contact each year.
- Additional recorded crimes in the developments and locality.
- Additional anti-social behaviour incidents each year within the new development and locality.
- Demand for increased patrol cover.

- Additional vehicle use.
- Additional calls on our Airwaves system.
- Additional use of our Police National Database (PND) systems to process and store crime records and intelligence.
- Additional demand for deployment of Mobile CCTV technologies.
- Additional demand for local access to beat staff from local neighbourhood teams.
- Additional policing cover and interventions in all the areas described when considering staffing and functions above and for additional accommodation from which to deliver these.

On the basis of the above, the following police infrastructure will be required to serve the District:

Setting-up and Equipping of Officers and Staff

The table enclosed in **Appendix 1** shows the estimated additional personnel that will be required to serve all the proposed developments in the District.

Setting-up and equipping police officers and staff entails providing IT, radios, protective equipment, uniforms and bespoke training in the use of these. However, additional staff will require additional equipment. There are practical limits to the extent to which existing equipment can be re-used e.g. with uniforms or where technology has moved on.

In this case, **Appendix 1** demonstrates that delivering services to the additional development proposed by the emerging Local Plan would fully occupy the equivalent of an additional 32 police officers and 29 police staff full-time. These totals are broken down as follows: -

- Small SHLAA (Urban) – 1 Police Officer and 1 Police Staff
- Allocated Brownfield Sites – 4 Police Officers and 4 Police Staff
- Canalside & Employment Regeneration Areas – 1 Police Officer and 1 Police Staff
- Allocated Greenfield Sites – 14 Police Officers and 13 Police Staff
- Villages – 3 Police Officers and 2 Police Staff
- Windfall – 9 Police Officers and 8 Police Staff

Staffing levels are under constant review to ensure that minimum acceptable numbers are deployed to meet existing levels of policing demand. This has the benefit of much needed savings in costs, but as a result there is no additional capacity to extend existing staffing to cover additional development.

Where additional development is proposed we would seek to deploy additional staffing and additional infrastructures at the same level that is required to deliver policing to the District. It would be complacent not to do this because without additional support unacceptable pressure will be put on existing staff and our capital infrastructures, which will in turn seriously undermine our ability to meet the policing needs of these developments and maintain the current level of policing to the South Warwickshire TPU as a whole. The impacts of the proposed developments

would be so significant that they could not be met without additional staff deployed at a level consistent with the current level of policing.

The additional officers and staff needed to police the developments proposed by the emerging Local Plan will require additional equipment. For a police officer, the additional items are recruitment £1,060, training £4,400, uniform and personal equipment £940, workstation £1,642. For other staff the additional items are recruitment £1,060 and workstation £1,642. The costs for this arising from the different proposed developments are set out in **Appendix 2**. In summary, the total costs are as follows: -

- Small SHLAA (Urban) – £10,744
- Allocated Brownfield Sites – £42,976
- Canalside & Employment Regeneration Areas – £10,744
- Allocated Greenfield Sites – £147,714
- Villages – £29,530
- Windfall – £93,994

We could not have officers and staff attending and delivering services to the developments with less than adequate equipment, training and facilities without unnecessary risks to themselves and occupiers served.

Police Vehicles

In managing and responding to crime a number of different vehicles can be deployed ranging from general response vehicles and patrol cars, unmarked general support vehicles, police service unit vans and minibuses, scientific (e.g. SOCO) vehicles, pursuit vehicles – 4x4 and high speed, motorcycles and so on. Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), this equates to a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

The average cost of a vehicle is £28,500. This includes the cost of the vehicle and the operational equipment required. The cost quoted does exclude fuel. We replace vehicles, on average, every 3 years and in the majority of cases there is no resale value. Based on this existing level of deployment to the locality we can forecast additional demands as a result of the developments.

In order to equip the additional officers (**Appendix 1**) required to police the development proposed the following vehicles and bicycles will be needed (**Appendix 3**):

- Small SHLAA (Urban) – No vehicular requirement
- Allocated Brownfield Sites – 1 vehicle - £28,500
- Canalside & Employment Regeneration Areas – No vehicular requirement
- Allocated Greenfield Sites – 4 vehicles and 1 bicycle - £116,784

- Villages – 1 vehicle – £28,500
- Windfall – 2 vehicles - £57,000

The costs quoted do exclude fuel. We replace vehicles, on average, every 3 years and in the majority of cases there is no resale value.

On-site Capital Infrastructure Requirements

The proposed sites which we consider would warrant the permanent presence of an on-site Safer Neighbourhood Team (SNT) Police Office are as follows: -

- Europa Way
- Lower Heathcote Farm
- Thickthorn

At present the sites do not place any significant demands upon the police service. However, following delivery, there is no reason to doubt that there will be a corresponding increase in crime and demand from new residents, occupiers and visitors from the above sites for policing. This will cover a wide range spectrum of support and intervention.

It will consequently be necessary to accommodate the additional staff required to deliver policing to the development sites. Whilst officers spend time away from base they are not independent and require a start and finish location, storage, briefing and report writing facilities. Our existing facilities cannot accommodate the additional staff required for these sites.

The Safer Neighbourhood Team (SNT) Police Office can either be freestanding within a local centre, or as part of a “community hub” building. **Appendix 4** provides indicative specifications and costings of the Police Office, on the basis of a freestanding facility.

Cumulative Infrastructure Requirements

The custody requirements of the District are currently met from the custody suite in the Warwickshire Justice Centre at Royal Leamington Spa. However, the delivery of 13,085 additional homes in the District between 2011 and 2029 will trigger a need for additional custody provision.

The custody suite at Warwick Police Station has been closed for a long time and the cost of refurbishing and extending it now would be prohibitive. This is because the standards required by the Home Office and Her Majesty’s Inspectorate of Constabulary (HMIC) for custody facilities have moved on considerably in the intervening years. We therefore consider that it would be more sensible to extend or refurbish one or more of the existing custody suites that are in use in Warwickshire. Based on the level of growth proposed for the District, we consider that in total 12 additional cells will be needed. Based on proxy figures we have for providing new build custody suites elsewhere in the alliance area, the build cost in this instance would be circa £42,000 per cell i.e. £504,000 for 12no. cells.

It is suggested that the costs of delivering the facility should be shared according to the number of dwellings proposed e.g. through the CIL mechanism. Clearly, the specifications and cost of

the new custody facility will need to be the subject of further detailed discussions in due course. Therefore, it is not possible to calculate a precise cost figure that can be attributed to each development site at this stage.

Summary of Police Infrastructure Required for Development Growth Options

Small SHLAA (Urban)

Recruitment and equipping of officers and staff	£10,744
---	---------

Allocated Brownfield Sites

Recruitment and equipping of officers and staff	£42,976
---	---------

Police vehicles	£28,500
-----------------	---------

Canalside & Employment Regeneration Areas

Recruitment and equipping of officers and staff	£10,744
---	---------

Allocated Greenfield Sites

Recruitment and equipping of officers and staff	£147,714
---	----------

Police vehicles	£116,784
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Villages

Recruitment and equipping of officers and staff	£29,530
---	---------

Police vehicles	£28,500
-----------------	---------

Windfall

Recruitment and equipping of officers and staff	£93,994
---	---------

Summary of On-site Capital Infrastructure Requirements

Europa Way

Premises (SNT Police Office – assuming freestanding)	£450,981
--	----------

Lower Heathcote Farm

Premises (SNT Police Office – assuming freestanding)	£450,981
--	----------

Thickthorn

Premises (SNT Police Office – assuming freestanding)	£450,981
--	----------

Cumulative Capital Infrastructure Requirement

Custody – 12 additional cells £504,000

Overall Police Infrastructure Cost £2,366,429

Without the above infrastructure, we consider that the proposed development growth will be unacceptable in planning terms as indicated in the National Planning Policy Framework (NPPF). We further consider that the lack of capacity in our existing infrastructure to accommodate the population growth and associated demands occasioned by the delivery of development means that it will prove necessary for promoters to provide contributions, either financially or in-kind, so that the situation might be remedied.

Should there be any queries with any of the evidence presented, we would be pleased to discuss them further.

Yours sincerely

**Andrew Morgan
Strategic Planner**

“Without prejudice to any other obligation imposed upon it, it shall be the duty of each local authority to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can, to prevent crime and disorder in its area: Section 17(1) of the Crime and Disorder Act 1998.”

Appendix 1
Staffing Levels – Existing and Proposed

In the context of the uncertainty about the future organisation and staffing numbers for WP, the table uses current planned staffing levels as a basis for calculating the additional staffing requirement to serve the sites. The staffing levels below (identified as budgeted posts) are for the whole WP area and include the various support staff, many of whom are responsible for providing services across the WP area and not just within South Warwickshire. The population of WP's geographical area is currently about 545,500 and the area accommodates about 231,000 dwellings (Census 2011). The total levels of staffing across the whole of the WP area have been used to calculate pro-rata requirements for additional personnel required to serve the proposed developments.

Command Area	Total Posts in Warks	Approx Population in Warks per Post	Approx Dwellings in Warks per Post	Pro Rata Post Requirement Small SHLAA (Urban) (393 dw)	Pro Rata Post Requirement Allocated Brownfield Sites (1,330 dw)	Pro Rata Post Requirement Canalside & Employment Regeneration Areas (269 dw)	Pro Rata Post Requirement Allocated Greenfield Sites (4,165 dw)	Pro Rata Post Requirement Villages (814 dw)	Pro Rata Post Requirement Windfall Allowance (2,485 dw)
Local Policing									
Police Officers	566	964	408	1	3	1	10	2	6
Police Staff	400	1,364	578	1	2	1	7	1	4
Protective Services									
Police Officers	232	2,351	996	0	1	0	4	1	3
Police Staff	163	3,347	1,417	0	1	0	3	1	2
Enabling Services									
Police Officers	8	68,188	28,875	0	0	0	0	0	0
Police Staff	103	5,296	2,243	0	1	0	2	0	1
Finance									
Police Officers	1	545,500	231,000	0	0	0	0	0	0
Police Staff	44	12,398	5,250	0	0	0	1	0	1
Total	1,517			2 (1 police officer and 1 police staff)	8 (4 police officers and 4 police staff)	2 (1 police officer and 1 police staff)	27 (14 police officers and 13 police staff)	5 (3 police officers and 2 police staff)	17 (9 police officers and 8 police staff)

Appendix 2
Officers and Staff Set-up Costs

Police Officers

Additional Officers	Approx Set-up Cost per Officer	Small SHLAA (Urban)	Allocated Brownfield Sites	Canalside & Employment Regeneration Areas	Allocated Greenfield Sites	Villages	Windfall
		1 Police Officer	4 Police Officers	1 Police Officer	14 Police Officers	3 Police Officers	9 Police Officers
Recruitment	£1,106	£1,106	£4,424	£1,106	£15,484	£3,318	£9,954
Training	£4,400	£4,400	£17,600	£4,400	£61,600	£13,200	£39,600
Uniform & Personal Equipment	£940	£940	£3,760	£940	£13,160	£2,820	£8,460
Standard Equipment (ICT and Furniture)	£1,642	£1,642	£6,568	£1,642	£22,988	£4,926	£14,778
Total Costs	£8,042	£8,042	£32,168	£8,042	£112,588	£24,126	£72,378

Police Staff

Additional Officers	Approx Set-up Cost per Officer	Small SHLAA (Urban)	Allocated Brownfield Sites	Canalside & Employment Regeneration Areas	Allocated Greenfield Sites	Villages	Windfall
		1 Police Staff	4 Police Staff	1 Police Staff	13 Police Staff	2 Police Staff	8 Police Staff
Recruitment	£1,106	£1,106	£4,424	£1,106	£14,378	£2,212	£8,848
Standard Equipment (ICT and Furniture)	£1,642	£1,642	£6,568	£1,642	£21,346	£3,284	£13,136
Total Costs	£2,702	£2,702	£10,808	£2,702	£35,126	£5,404	£21,616

Appendix 3
Vehicle and Bicycle Costs

Current fleet deployment to Warwickshire comprises 350 cars/vans and 50 bicycles. Based on the number of posts in WP (1,517), there is a ratio of 1 vehicle per 4 posts and 1 bicycle per 30 posts.

It is essential that the current ratio of personnel to vehicles and personnel to bicycles applies to the additional personnel required as a result of development growth.

Vehicles costs have been capitalised on 5 year lifetime average costs for a low/medium size equipped vehicles (excluding fuel). Bicycle costs are established at £1,299 per cycle, with an additional maintenance charge of £297 per bicycle per annum, or £1,485 per 5 years, capitalised. The total cost of providing each new cycle and maintaining it for 5 years is therefore £2,784.

These costs do not include any costs for specialist operational equipment, and the cost estimates below are therefore moderated very conservatively.

Development Growth	Additional Vehicles and Bicycles	Cost per Item	Total Cost
Small SHLAA (Urban)	0 vehicles 0 bicycle	£28,500 £2,784	-
Allocated Brownfield Sites	1 vehicle 0 bicycle	£28,500 £2,784	£28,500 -
Canalside & Employment Regeneration Areas	0 vehicles 0 bicycle	£28,500 £2,784	-
Allocated Greenfield Sites	4 vehicles 1 bicycle	£28,500 £2,784	£114,000 £2,784
Villages	1 vehicles 0 bicycle	£28,500 £2,784	£28,500 -
Windfall	2 vehicles 0 bicycle	£28,500 £2,784	£57,000 -

Appendix 4
Indicative Specifications and Cost of Freestanding SNT Police Office



Contract: Safer Neighbourhood Team Police Office
Client: Police Service
Report: Feasibility Study (New Build Estimate) Rev.C
Date: 2013

Author: J. Tylee





Contract: Safer Neighbourhood Team Police Office
Client: Police Service
Report: Feasibility Study (New Build Estimate) Rev.C
Date: 2013

Author: J. Tylee

Executive Summary

Estimate of construction costs of new build Police Office (Approx. 178m2)

Budget Range: **£420,000 - £490,000**

Basis of Feasibility Estimate:

Drawing: Refer to Layout page
Spec: Refer to Layout page

Assumptions

New Build Construction, approx. 178m2 GFA
 Single Storey, standalone, office accommodation to house approx. 10nr. Staff
 Traditional methods of construction (Elemental Basis)
 Level, cleared site, with 'normal' ground conditions
 Services / Utilities & drainage all provided to site
 Provisional Sum of £17,000 allowed for Statutory Authority Fees
To be used for indicative purposes only

Exclusions

Location Index - To be Rebased
 Date Index - To be Rebased
 No demolition required
 No allowance for contamination, removal of asbestos, or environmental protection
 No allowance for diversion and/or protection of existing services
 No allowance for VAT
 No allowance for Archaeology and/or Environmental Surveys (& mitigation/outcomes)

Elemental Basis

Element Nr. Element / Spec.

- 1 Substructure: Insitu Concrete, Strip Foundation, Insitu Slab
- 2A Frame: Concrete frame/blockwork and slab
- 2C Roof: Timber trussed roof, insulation, covering, Rainwater goods, Clay tiles
- 2E External Walls: Cavity Walls, Dense Block, Rendered
- 2F External Windows & Doors: Steel frame, purpose made, powder coated, shutters
- 2G Internal Walls and Partitions: Blockwork partitions
- 2H Internal Doors: Solid timber doors with vision panels
- 3A Wall Finishes: Plasterboard lining & Skim / Ceramic wall tiles
- 3B Floor Finishes: 75 Screed, Insulation, Vinyl sheet / carpet
- 3C Ceiling Finishes: Suspended ceiling, medium quality, concealed grid
- 4 Fittings & Furnishings: Kitchen Unit, Reception Desk, Workstations
- 5A Sanitary Appliances: General sanitaryware
- 5D Water Installations: Hot and Cold water services
- 5F Space Heating: Gas LTHW general heating
- 5H Electrical Installations: Electric light and power installations
- 5L Communications & Security: Fire & Intruder alarms, CCTV, etc.
- 5N Builders Work in connection: Connection with services
- 6A Site Works: Site Prep, Generally
- 6B Drainage: General Building and site drainage, connect to existing

Contract: Safer Neighbourhood Team Police Office
Client: Police Service
Report: Feasibility Study (New Build Estimate) Rev.C
Date: 2013

Author: J. Tylee

Police Office Layout - Utilised for Measure

Drawing: As per Sketch below (Indicative - *size and layout only*)
Spec: As per General Police Movement Plan - Accomodation Requirements

GIA taken as 178m2





Contract: Safer Neighbourhood Team Police Office
Client: Police Service
Report: Feasibility Study (New Build Estimate) Rev.C
Date: 2013

Author: J. Tylee

Police Office - Elemental Estimate

Total GFA (m2): 178.00

Element Nr.	Element	Package Cost	Rate (£/m2)	Percentage (%)
1	Substructure	23,400.00	131.46	5.39%
2	Superstructure	106,090.00	596.01	24.45%
2A	Frame	25,200.00	141.57	5.81%
2B	Upper Floors	-	-	0.00%
2C	Roof	28,800.00	161.80	6.64%
2D	Stairs	-	-	0.00%
2E	External Walls	16,400.00	92.13	3.78%
2F	External Windows and Doors	18,400.00	103.37	4.24%
2G	Internal Walls and Partitions	11,790.00	66.24	2.72%
2H	Internal Doors	5,500.00	30.90	1.27%
3	Finishes	21,975.00	123.46	5.06%
3A	Wall Finishes	6,675.00	37.50	1.54%
3B	Floor Finishes	7,740.00	43.48	1.78%
3C	Ceiling Finishes	7,560.00	42.47	1.74%
4	Fittings and furnishings	18,000.00	101.12	4.15%
5	Services	86,940.00	488.43	20.03%
5A	Sanitary Appliances	5,000.00	28.09	1.15%
5B	Services Equipment	-	-	0.00%
5C	Disposal Installations	-	-	0.00%
5D	Water Installations	6,300.00	35.39	1.45%
5E	Heat Source	-	-	0.00%
5F	Space Heating and Air Conditioning	18,000.00	101.12	4.15%
5G	Ventilating Systems	-	-	0.00%
5H	Electrical Installations	23,580.00	132.47	5.43%
5I	Fuel Installations	-	-	0.00%
5J	Lift and Conveyor Installations	-	-	0.00%
5K	Fire and Lightning Protection	-	-	0.00%
5L	Communications and Security Installations	31,000.00	174.16	7.14%
5M	Special Installations	-	-	0.00%
5N	Builders Work in Connection	3,060.00	17.19	0.71%
5O	Management of Commissioning	-	-	0.00%
6	External Works	60,000.00	337.08	13.83%
6A	Site Works	50,000.00	280.90	11.52%
6B	Drainage	10,000.00	56.18	2.30%
6C	External Services	-	-	0.00%
6D	Minor Building Works	-	-	0.00%
6E	Demolition and Work outside site	-	-	0.00%
SUB-TOTAL		316,405.00	1,777.56	72.91%
Preliminaries 15%		47,460.75	266.63	10.94%
Design Fees 12%		37,968.60	213.31	8.75%
		401,834.35	2,257.50	92.59%
Contingencies 8%		32,146.75	180.60	7.41%
CONTRACT SUM (£)		433,981.10	2,438.10	100.00%
Statutory Authority Charges (Allowance)		17,000.00		
CONTRACT SUM inc. Stat.Charges (£)		450,981.10		



Department for
Communities and
Local Government

Mr R J Gardner
GVA Grimley Ltd
3 Brindley Place
BIRMINGHAM
B1 2JB

Our Ref: : APP/X2410/A/12/2173673
Your Ref: Jelson Barrow on Soar

14 May 2013

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY JELSON HOMES
LAND AT MELTON ROAD, BARROW UPON SOAR, LEICESTERSHIRE, LE12 8NN
APPLICATION REF: P/10/1518/2**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Keith Manning BSc (Hons) BTP MRTPI, who held a public local inquiry on 7 days between 9 October 2012 and 16 January 2013 into your clients' appeal against the refusal of Charnwood Borough Council ("the Council") to grant outline planning permission for residential development at land at Melton Road, Barrow Upon Soar, Leicestershire, LE12 8NN, in accordance with application ref: P/10/1518/2.
2. On 18 June 2012, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves a proposal over 150 units on a site of more than 5 ha which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission granted. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising following the close of the inquiry

4. Nicky Morgan MP wrote to the Planning Inspectorate on 2 April 2013 to point out that the Council's Cabinet would be considering their draft Core Strategy document at a meeting on 11 April with a view to approving it for consultation, and the Parish Council

Jean Nowak, Decision Officer
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wrote to the Secretary of State on 7 May 2013 drawing attention to the revocation of the *East Midlands Regional Plan 2009 (RS)* and to the Council's approval of the Core Strategy for public consultation. Copies of this correspondence can be obtained by written application to the address at the bottom of the first page of this letter, and the points raised are covered in paragraph 5 below.

Policy considerations

5. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, following the revocation of the RS with effect from 12 April 2013, the Development Plan consists of the saved policies of the Charnwood Local Plan 1991-2006. The Secretary of State does not consider that the revocation of the RS raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced. He has also had regard to the fact that the Council is progressing work on its Core Strategy. However, as that is at an early stage in its preparation, he gives it little weight.
6. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (The Framework); *Technical Guidance to the National Planning Policy Framework* (March 2012); Circular 11/1995: *Use of Conditions in Planning Permission*; and the *Community Infrastructure Levy (CIL) Regulations 2010* as amended.

Main issues

7. The Secretary of State agrees with the Inspector that the main issues in this case are those identified by the Inspector at IR219.

Housing land supply

8. The Secretary of State agrees with the Inspector that, for the reasons given at IR220-221, the presumption in favour of sustainable development set out in paragraph 14 of the Framework is engaged and the failure to demonstrate a 5 year supply of deliverable housing sites is a matter to which substantial weight must be accorded.

Sustainability

9. For the reasons given at IR222-232, the Secretary of State agrees with the Inspector's conclusion at IR233 that the appeal site's basic credentials in terms of natural resource conservation, potential for good design, choice of sustainable transport modes and scope for future improvement of public transport in response to demand are highly conducive to development of the type proposed. Like the Inspector (IR234), the Secretary of State recognises that other considerations impinge on the overall sustainability of the site, and he goes on to consider those individually below.

Highway safety

10. The Secretary of State notes (IR236) that the Highway Authority has not objected to the appeal proposals but that the junction of Grove Lane with Sibley Road/South Street does not provide the visibility to the left that, ideally, it should. Having carefully

considered the evidence summarised by the Inspector at IR235-243, the Secretary of State agrees with him (IR244) that it is appropriate to consider the matter of the safety of the Grove Lane junction in the round. He therefore agrees with the Inspector (IR244-245) that, despite its perceived deficiency in respect of visibility to the left, the junction operates safely and should not trigger prevention of the proposed scheme unless the impact of the proposed development on its continued safe operation would be demonstrably severe in the sense intended by paragraph 32 of the Framework.

11. Accordingly, for the reasons given at IR247-248, the Secretary of State agrees with the Inspector that it would not be unreasonable to conclude that the safety of the junction would not be materially diminished by the extra traffic from the proposed development. He also agrees with the Inspector (IR249) that, on the basis of the evidence seen by the Inspector, there would seem to be no reason why safety should be reduced for pedestrians or cyclists. Overall, therefore, he agrees (IR250) that the balance of evidence points to a judgement that highway safety would not be materially compromised by the appeal scheme and that only limited weight should be afforded to the perception of any such risk.
12. With regard to the site access itself (IR251-253), the Secretary of State agrees with the Inspector that there is no reason to disagree with the Highway Authority with regard to the need for a separate emergency access (IR252); and that no weight should be accorded to any potential deficiencies in the forward visibility to the access roundabout from the north east (IR253).

Traffic circulation in Barrow Upon Soar

13. Having regard to the Inspector's consideration of the traffic circulation issues arising from the concentration of traffic onto the listed Barrow Road bridge, and the periodic inundation of the alternative route via Slash Lane placing more pressure on the bridge when such flooding occurs (IR254-256), the Secretary of State agrees with the Inspector at IR257 that the key question is whether the extra traffic impact of the proposed development on flood days would be so severe as to render it untenable. Taking account of the Inspector's deliberations at IR258-264, including the appellant's off-site proposals to improve capacity through traffic management measures and the fact that the highway authority is satisfied with them, the Inspector concludes that he has seen no cogent evidence to suggest that the position would be untenable; and the Secretary of State sees no reason to disagree with that conclusion.

Flood risk

14. Like the Inspector, the Secretary of State considers that, despite the apprehension of local residents, the proposed development should not make matters worse in any significant way for the existing population (IR265-267) and may possibly improve the position for some existing householders (IR274). The Secretary of State also agrees with the Inspector (IR268) that, although the evidence produced so far has been sufficient to satisfy the Environment Agency that relevant objectives could be met, if more detailed investigation subsequently shows that they could not actually be satisfied, the development would not be able to proceed. Overall, for the reasons given at IR269-274, the Secretary of State agrees with the Inspector's conclusions at IR275-276 that there is no significant conflict with the intentions of the development plan or the Framework in respect of flood risk, and that any potential impact on foul

drainage and risk of surcharge arising from flooding of Fishpool Brook can be addressed by the imposition of conditions.

Infrastructure

15. Like the Inspector (IR301), the Secretary of State appreciates the local perception in the community of growth and consequent pressure. Nevertheless, having carefully considered the Inspector's deliberations on infrastructure provision at IR277-300 (and taking account of his conclusions on the terms of the planning obligation at paragraph 20 below), the Secretary of State agrees with the Inspector at IR 301 that the proposed development would provide the necessary mitigation, but little more, of its own impact and so should not lead to the deterioration in the quality of life which the Parish Council and others assert. He therefore also agrees with the Inspector (IR302) that the proposed development would not lead to a deterioration in the quality of life of existing residents sufficient to warrant dismissal of the appeal.

Accordance with the development plan and the Framework

16. For the reasons given at IR303-311, and taking account of the revocation of the RS, the Secretary of State agrees with the Inspector's conclusion at IR312 that the appeal scheme displays a very substantial degree of accordance with the development plan as a whole apart from the conflict with the protection of the countryside outside defined settlement boundaries - where the local plan intention has to be tempered by the presumption in favour of sustainable development in the Framework. The Secretary of State also agrees with the Inspector's more detailed conclusions with regard to accordance with the Framework at IR313-323.

17. Furthermore, like the Inspector, he has given careful consideration to the core principle with regard to "empowering people to shape their surroundings" (IR324), but he agrees with the Inspector that that pulls in the opposite direction to the presumption in favour of sustainable development that is engaged in this case. In coming to this conclusion, the Secretary of State agrees with the Inspector (IR326) that, as the aspiration to prepare a neighbourhood plan is clearly some time from fulfilment, with no firm programme for preparation, paragraph 14 of the Framework is inescapably influential in the context of the Framework as a whole, bearing in mind the sustainability of the appeal scheme in terms of its location and characteristics.

The planning balance

18. For the reasons given at IR327-337, the Secretary of State agrees with the Inspector at IR338 that, while there are harmful aspects to the appeal scheme to which weight should be accorded, these have to be weighed against the very substantial contribution to housing needs that the site is capable of providing in the context of an acknowledged shortage of suitable land and the inherent sustainability of the location. He also agrees that those aspects of the planning obligation which help to mitigate the impact of the proposed development should be accorded due weight and that, bearing in mind the policies of the Framework as a whole and the development plan taken as a whole, the presumption in favour of sustainable development should be the decisive factor.

Conditions and obligations

19. The Secretary of State has considered the Inspector's reasoning and conclusions on planning conditions as set out at IR197-215, and he is satisfied that the conditions as proposed by the Inspector and set out at Annex A to this letter are reasonable, necessary and comply with Circular 11/95.
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 4 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. For the reasons given at IR286, the Secretary of State agrees with the Inspector at IR287 that no weight should be given to the Travel Plan Penalty element of the planning obligation.

Overall Conclusions

21. The Secretary of State gives significant weight to the fact that the Framework indicates that, in the absence of a 5 year housing land supply in an up-to-date, adopted development plan, planning permission should be granted for the proposal. He is satisfied that the appeal site is in a sustainable location for housing development, and that, as the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole, he does not consider that there are any material considerations of sufficient weight to justify refusing planning permission.

Formal Decision

22. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby grants outline planning permission for residential development at land at Melton Road, Barrow Upon Soar, Leicestershire, LE12 8NN, in accordance with application ref: P/10/1518/2.
23. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
24. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

25. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

26. A copy of this letter has been sent to the Council. A notification e-mail / letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

JEAN NOWAK

Authorised by Secretary of State to sign in that behalf

CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
4. No development shall commence until both a Master Plan in general conformity with the submitted Illustrative Masterplan 4045_SK_001 rev E and a Design Code for the site have been submitted to and approved in writing by the local planning authority. Both shall substantially accord with the submitted Design and Access Statement Rev G. Any amendment to either shall be submitted to and approved in writing by the local planning authority. The Design Code shall address the following:-
 - i) Architectural and sustainable construction principles
 - ii) Character areas
 - iii) Lifetime home standards
 - iv) Car parking principles
 - v) Cycling provision including pedestrian and cycle links to adjoining land
 - vi) Street types and street materials
 - vii) Boundary treatments
 - viii) Building heights (which should be limited to a maximum height of three storeys, being located on the main street only, as indicated on pages 33/34 of the Design and Access Statement, and two storeys for the remaining parts of the development)
 - ix) Building materials
 - x) Provision of public open spaces (including timetable for implementation)
 - xi) Design of the site to accord with Secure by Design principles.
 - xii) Phases of development.

Applications for approval of the reserved matters submitted pursuant to condition 2) above shall be in accordance with the Master Plan and Design Code as approved. In addition to the Design and Access Statement previously referred to, The Master Plan and Design Code and the reserved matters submitted for approval shall also accord with the principles set out in the following submitted documents: Flood Risk Assessment June 2010; Addendum to Flood Risk Assessment January 2011; Ecological Appraisal June 2010; Bats in Trees Addendum December 2010; Tree Assessment Report Rev A; and Badger Mitigation Strategy December 2010. Development shall be carried out in accordance with all matters approved pursuant to this condition.

5. Notwithstanding the generality of condition 4) above, the development hereby permitted shall be carried out in accordance with the following approved plans:

4045_SK_005 Site Location Plan
 0940/SK/010 rev C Typical Badger Tunnel Detail
 0940/SK/013 rev E Melton Road Alternative Site Access Roundabout
 0940/SK/014 rev A Site Access Roundabout
 0940/SK/022 rev B Fishpool Brook Pedestrian Footbridge Crossing
 0940/ATR/002 rev A Proposed Site Access – Swept Path Analysis
 4045-L-01 rev D Types of Open Space

4045-L-02 rev A Extended Floodplain Area to be Regraded
4045-L-04 Public Open Space Phasing Plan
NTW/307/Figure 4 Rev A Indicative Floodplain Sections
NTW/307/Addendum Figure 1 Rev A Fishpool Brook Modelled Floodplain Extent

6. The maximum area of residential development on the site (excluding the areas of public open space, structural landscaping, meadow and SUDS) shall be defined on the Master Plan to be approved pursuant to condition 4) above and shall not exceed 8.32 hectares, and no more than 300 dwellings shall be constructed on the site.
7. No construction on any phase of the development hereby permitted shall commence until such time as the following details in respect of that phase have been submitted to and approved in writing by the local planning authority:
 - a) Siting including details of proposed levels of ground surfaces and finished floor levels of all buildings and a number of selected typical sections across the phase.
 - b) A landscaping scheme including details of all trees and hedgerow to be retained, full planting specification, timing or phasing of implementation, services above and below ground; and a landscape management plan covering a minimum period of 10 years following completion of the development. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted;
 - c) Treatment of all hard surfaced areas, including types and colours of materials street furniture, signing and lighting of all public spaces.
 - d) Boundary treatment to all open areas where the site bounds other land (where confirmed in writing by the local planning authority to be required) including design, height, materials and colour finish.
 - e) Details of the proposed standard signage for the footpaths at the points where footpath I 23 is proposed to be crossed by the new estate roads.
 - f) Layout and design of children's play areas; Multi Use Games Area/skate park area and any other play/ recreation area within the development;
 - g) Details of external lighting.

Development shall be carried out in accordance with the approved details.

8. No development shall commence until the applicant or developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority, and no development shall take place except in accordance with the approved scheme details.
9. No development shall commence until drainage plans for the disposal of foul sewage have been submitted to and approved in writing by the local planning authority. No dwelling, in any phase of construction, shall be occupied until all the works necessary in respect of that phase have been implemented in accordance with the approved details.
10. No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydro-geological context of the development, including any requirement for the provision of a balancing pond, has been submitted to and approved in writing by the local planning authority. No dwelling, in any phase of construction, shall be occupied until all the works necessary in respect of that phase have been implemented in accordance with the approved details. The balancing pond, if required, shall be completed and be in operation before the occupation of the first dwelling on any phase.

11. No development shall commence until a scheme to install trapped gullies has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details. No dwelling, in any phase of construction, shall be occupied until all the works necessary in respect of that phase have been implemented in accordance with the approved details.
12. If during development contamination not previously identified is found to be present at the site then no further development should be carried out in that location until such time as a remediation strategy has been submitted to and agreed in writing by the local planning authority and the works carried out in accordance with the agreed strategy prior to re-commencement on that part of the site.
13. Prior to the commencement of development, a scheme for the protection of trees and hedges to be retained on site shall be submitted to and approved in writing by the local planning authority. The scheme shall include:-
 - Details of all trees and hedges to be retained on site.
 - Details of any works proposed in respect of any retained trees and hedges on site.
 - Details of operational and physical measures proposed for the protection of trees and hedges
 - Details of any ground works that are to be carried out within 10 metres of any tree or hedge identified as being retained.
 - Details of the methodology to be employed when carrying out ground or other works within 10 metres of any tree or hedge to be retained.

Development shall be carried out in accordance with the approved details.

14. No development shall commence on any phase until the tree/hedge protection measures for that phase approved pursuant to condition 13) above have been fully implemented. The approved tree/hedge protection measures shall be retained and maintained in their approved form until development on the phase in which they are located is complete. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil of any kind shall be placed or stored thereon unless approved as part of the details submitted to discharge the condition.
15. No development shall commence until a scheme of noise attenuation/mitigation measures (in order to reduce noise likely to be experienced in dwellings and private gardens from the use of the railway corridor to the south west of the site) has been submitted to and approved in writing by the local planning authority. No dwelling in any phase of the site identified by the scheme as being affected by railway noise shall be occupied until the required measures have been implemented in accordance with the approved scheme.
16. No development shall commence until details of the construction of the proposed access roundabout (as shown indicatively on drawing 0940/SK/013 Rev E) and the footpath/cycleway bridge across the Fishpool Brook (as shown indicatively on drawing 0940/SK/022 rev B) have been submitted to and approved in writing by the local planning authority. No dwelling on the site shall be occupied until the access roundabout and pedestrian bridge have been constructed in accordance with the approved details.
17. No development shall commence until a detailed scheme of works for the improvement of traffic flow at the Barrow Road Bridge of the type illustrated on WSP UK drawing numbered SK/017 Rev A has been submitted to and approved in writing by the local planning authority. No dwelling on the site shall be occupied until the improvement works at the bridge have been fully implemented in accordance with the approved details.
18. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) the routing of construction traffic throughout the construction process and the mechanism for securing adherence to approved routes
- iii) loading and unloading of plant and materials
- iv) storage of plant and materials used in constructing the development
- v) the erection and maintenance of security fencing
- vi) wheel washing facilities
- vii) measures to control the emission of dust and dirt during construction
- viii) a scheme for recycling/disposing of waste resulting from the construction works
- ix) precautionary measures to ensure that no badgers become trapped or injured during development work

19. No development shall commence until procedures have been initiated to upgrade the existing public footpaths I 23 and I 24 (part) beyond the edge of the meadow boundary to the eastern boundary of the application site to footpaths/cycleways. The upgrading works (including those approved through Condition 7) shall be completed prior to the occupation of 50% of the dwellings on the site.
20. No development shall commence until a scheme of electronic or other suitable signing to warn of flooding on Slash Lane has been submitted to and approved by the local planning authority. No dwelling on the site shall be occupied until the scheme has been fully implemented in accordance with the approved details.
21. No development shall commence until a scheme of public art to be delivered on site has been submitted to and agreed in writing by the local planning authority. Those elements of the approved public art scheme which are to be delivered on a particular phase of the development shall be delivered prior to the occupation of 80% of the dwellings in that phase.
22. No development shall commence until an assessment of the anticipated energy requirements arising from the development has been submitted to and approved in writing by the local planning authority. That assessment must demonstrate how a minimum of 10% of the energy requirements shall be secured from decentralised and renewable or low-carbon energy sources. Details and a timetable of how these measures are to be achieved, including details of any physical works on site, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.



The Planning
Inspectorate

Report to the Secretary of State for Communities and Local Government

by Keith Manning BSc (Hons) BTP MRTPI

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

Date: 13 March 2013

TOWN AND COUNTRY PLANNING ACT 1990

CHARNWOOD BOROUGH COUNCIL

APPEAL BY

JELSON HOMES

Inquiry opened on 9 October 2012

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

File Ref(s): APP/X2410/A/12/2173673

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

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Jelson Homes against the decision of Charnwood Borough Council.
- The application Ref P/10/1518/2, dated 12 July 2010, was refused by notice dated 9 December 2011.
- The development proposed is residential development.

Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions

Procedural Matters

1. The Inquiry sat for seven days in total, from 9 October – 12 October and on 13 November 2012, and on 15 and 16 January 2013, having been unfortunately delayed in its completion by the serious illness of one of the parties' representatives. I visited the site and various other locations in Barrow Upon Soar, on an accompanied basis, on 6 December 2012.
2. For consistency, I use the spelling Barrow Upon Soar throughout. 'The Council' is a reference to the Charnwood Borough Council. 'The County Council' is a reference to the Leicestershire County Council and 'The Parish Council' is a reference to the Barrow Upon Soar Parish Council.
3. The application subject to appeal is in outline with all matters except access reserved for subsequent approval.
4. A Planning Agreement dated 4 October 2012 was submitted at the Inquiry, accompanied by a Deed of Variation dated 15 January 2013. This does not affect the substance of the Agreement, the signatories to which are Jelson Limited, the Council of the Borough of Charnwood and Leicestershire County Council.
5. The agreement provides for financial contributions in respect of Community Facilities, Healthcare, Policing, Education, Libraries, Pedestrian and Cycle Routes, Travel Passes, Travel Packs and Bus Shelters. It provides for a financial penalty in respect of the Travel Plan in prescribed circumstances.
6. The agreement also provides for the provision and maintenance of open space within the site and for the provision of Affordable Housing as part and parcel of the residential development proposed in accordance with an Affordable Housing Scheme to be approved by the Council prior to the commencement of the proposed development. 30% of the dwellings would be Affordable Housing as defined in the National Planning Policy Framework or any successor document.
7. A Statement of Common Ground (SoCG) between the Council and the appellant was agreed in May 2012 confirming a good measure of agreement across a broad spectrum of considerations. It lists the following as having been submitted in support of the application: Planning Statement (PS); Design and Access Statement (DAS); Transport Assessment (TA), Addendum Transport Assessment (ATA), Framework Travel Plan (FTP), Updated Framework Travel Plan (UFTP), VISSIM Modelling Report (VMR), Stage One Road Safety Audit (RSA1); Flood Risk Assessment (FRA); Arboricultural Survey (AS); Ecological Survey (ECOS);

Archaeological Information (AI); and an Acoustic Report (AR). There is also a submitted Addendum (AFRA) to the Flood Risk Assessment dated 17 January 2011. [The abbreviations are mine for the purposes of this report].

The Site and Surroundings

8. The site comprises approximately 15 hectares of agricultural land on the eastern edge of Barrow upon Soar. None of the land falls within the category of Best and Most Versatile. It is predominantly Sub-grade 3b with small pockets of Sub-grade 3c.¹
9. The site fall into two distinct parts; a relatively low-lying area of meadow surrounded by mature hedgerows and semi-mature trees on its western side, associated with the line of Fishpool Brook and Breachfield Road; and a large sloping field surrounded by mature hedges and trees. The field slopes gently upwards towards the north-east and gives the impression of being part of a shallow bowl or valley side in the broader scale rural landscape beyond, with much of the existing built-up area of the village occupying a corresponding slope to the north-west. West of Fishpool Brook, houses on Breachfield Road stand elevated above much of their back garden areas, which are susceptible to flooding.
10. To the south, the site is bounded by the Midland Main Railway.
11. The site is traversed by two public footpaths.

Planning Policy

12. National Planning Policy, which is a material consideration, is contained in the Framework.
13. The development plan currently comprises the East Midlands Regional Plan (RSS) and saved policies of the Charnwood Local Plan 1991-2006 ('the local plan').
14. The Council's Core Strategy has not progressed since 2008 (Issues and Options stage) and it is common ground between the main parties that it should be accorded no weight in the determination of the appeal.²
15. It is common ground between the main parties that the Council's Supplementary Planning Guidance (SPG) documents *Leading in Design* and *S106 Developer Contributions* are relevant material considerations.³
16. While many policies in the development plan taken as a whole are relevant, an agreed range being set out in Section 4 of the SoCG, there are few which are in contention as policies which the proposed development would conflict with and these are confined to the local plan. The policies of the RSS were in force at the time of the Inquiry and remain in force at the time of my report. They may be accorded due weight on that basis. The following local plan policies merit explanation at this point, whereas other policies may need to be referred to and their gist explained at the relevant point in my conclusions. The text of the

¹ Doc 35

² SoCG paragraph 5.7

³ Ibid paragraph 5.6

following policies is reproduced in Appendix 2⁴ to the evidence of Mr Thorley and elsewhere.

17. Local plan policy **TR/6** concerns the impact on highways of development on non-designated sites. Its first requirement (i) is that such development should not result in “unsafe and unsatisfactory operation of the highway system”. This is not inconsistent in principle with the relevant intentions of the Framework, albeit paragraph 32 creates a test of “severity” for the residual impacts after mitigation that the local plan policy does not. The latter refers in its explanation to the “acceptability” and “unacceptability” of such impacts with relevant adopted standards to be fully taken into account.
18. Local plan policy **ST/1** is a multi-faceted policy concerning the development needs of the Charnwood Borough and, inter alia; promotes sustainable development; aims to conserve, protect and enhance those features of the environment particularly valued by the community; and seeks to protect the character and appearance of the countryside for its own sake, especially within areas of particularly attractive countryside and other areas of local landscape value. In principle, such intentions are not inconsistent with broadly equivalent intentions of the Framework.
19. Local plan policy **ST/2** effectively confines built development (subject to specified exceptions) to allocated sites and other land within identified limits to development. To the extent that such an intention supports the concept of development being plan-led, it is not inconsistent with the intentions and core principles of the Framework.
20. Policies **CT/1** and **CT/2** together seek to strictly control development in the open countryside, i.e. outside the development limits defined for settlements. Insofar as they recognise the intrinsic character and beauty of the countryside and seek to conserve environmental assets, the policies are not inconsistent with broadly equivalent intentions of the Framework.
21. A wide range of other relevant policies, including RSS policies, is listed in the SoCG, albeit with no suggestion of conflict. I refer to policies from this list only if it is necessary to do so.

Planning History

22. A previous application for residential development of the appeal site, Ref P/09/2376/2, was refused by the Council in March 2010 for nine reasons. In addition to concerns over the Grove Lane junction, these related primarily to an absence of certain supporting technical information and a number of site specific matters since addressed. It is common ground that none of the reasons concerned the principle of residential development on the site.
23. The application subject to appeal was refused for the following single reason:

“The existing junction of Grove Lane with South Street/Sileby Road* is lacking in adequate visibility to the left out of Grove Lane. The proposal if approved would lead to increased dangers for road users and not be in the interests of highway safety. Accordingly, the development is contrary to policy TR/6 of the Borough of Charnwood Local Plan 2004.” (* NB For convenience, I refer to this throughout as ‘the Grove Lane junction’.)

⁴ A1a

The Proposals

24. Although the application is in outline, considerable supporting information to explain and illustrate the intended manner of development of the site has been submitted, encapsulated in the Illustrative Masterplan.⁵
25. Within the envelope created by the existing boundary vegetation comprising hedgerows and trees, up to 300 dwellings of varying size and type would be constructed, arranged around a central loop road and access ways off. The loop would be designed to accommodate buses and access to the existing highway system would be via a new roundabout constructed on Melton Road at the north west extremity of the site, linked to an internal roundabout by a short stretch of road incorporating a badger tunnel and designed with the roundabouts to facilitate "run-over" for emergency access purposes in the event of carriageway blockage.
26. The public footpath crossing the site west to east would be retained, as would a route from Breachfield Road across to the south east extremity of the site, where the old footbridge across the railway has been demolished pending replacement by Network Rail. A new pedestrian/cyclist bridge across Fishpool Brook to Breachfield Road is proposed.
27. Open space would generally be disposed around the periphery of the site but a more substantial area of open space would correspond to the existing meadowland in the floodplain of the Fishpool Brook, the capacity of which would be increased by limited excavation and re-grading of the existing landform. A broadly equivalent area of open space would be created in the lower lying southern margin of the site near the railway. This would incorporate an attenuation pond. A multi-use games area, a play area and a community orchard would be located in the main area of open space in the south and west of the site.

Other Agreed Matters Defining the Common Ground

28. The SoCG sets out in detail what is agreed as common ground. The following points agreed by the main parties are salient:
 - Following a lengthy period of negotiation and discussion between the appellant and officers of the Council, the application was reported to the Council's Development Control Committee in December 2011 with a recommendation for approval.
 - The only robust and evidence-based housing targets for the Borough of Charnwood at present are those within the RSS and that these should be used to assess the five year supply for the purposes of the Framework. As at October 2011 the housing land supply for the period April 2012 to April 2017 was 2.63 years for the district as a whole. The position has not materially altered (for the better) since the application was refused and that it will not improve during the anticipated determination period of the appeal. Indeed, the August 2012 Addendum to the SoCG shows that as at June 2012, the supply position had worsened significantly, with only 1.98 years' supply of deliverable sites being available when a 20% buffer to compensate for under-

⁵ Drawing No 4045_SK_001 rev E.

delivery, as per the Framework, has been added to the base calculation. When divided between the Principal Urban Areas and the Non-Principal Urban Areas, this deficit equates to 0.59 years and 3.55 years supply respectively. It is common ground that the allocations in the local plan only cover the period to 2006 and are now expended. The Council will be unable to meet its needs on brownfield land alone and the majority of new housing will need to be on greenfield sites.

- Barrow Upon Soar is a sustainable location for development on the scale proposed. In the "Further Consultation" version of the emerging Core Strategy it is suggested as a "Service Centre", a higher order settlement for nearby villages with a range of community facilities including a supermarket, post office, primary school, secondary school, health centre, pharmacy, optician, library, cash points and public houses. It is suggested that the village could accommodate in the region of 500 new homes in the period to 2026.
- The site is within easy walking distance of the community facilities in the village centre of Barrow upon Soar, existing bus stops and the Barrow upon Soar railway station. It is also common ground that this gives ready access to the major centres of Leicester, Loughborough and Nottingham.
- The site is suitable and sustainable and that the proposals represent sustainable development for the purposes of paragraphs 14, 49, and 197 of the Framework and that the proposals comply with the intentions of paragraphs 37 and 38.
- The proposals accord with relevant policies of the RSS, notably Policy 3 and Policy 12, and that they will help to meet the housing needs of the district as set out in Policies 13a and SRS3.
- The proposals accord with a wide range of local plan policies but conflict with the intentions of policies ST/2, CT/1 and CT/2 which generally seek to restrict development in the countryside. Insofar as these policies concern the supply of housing land, it is common ground between the main parties that these should not be considered up-to-date in the context of paragraph 49 of the Framework bearing in mind the lack of a five-year supply of deliverable housing sites.⁶
- The residential development of the site is acceptable in principle.
- Save for the Grove Lane junction, the base data used in the preparation of the highways and transport assessments are robust and fit for purpose and that the inclusion of the FTP accords with the intentions of paragraphs 35 and 36 of the Framework.
- Save for the Grove Lane junction, all other impacts on the highways network would be satisfactorily mitigated by the package of highways measures proposed, including those for the Barrow Road Bridge.

⁶ SoCG paragraph 6.12

- Save for the impact on the Grove Lane junction, the proposals fully comply with the relevant transport policies of the local plan and the intentions of paragraphs 32 and 35 of the Framework.
- The proposals demonstrate a high standard of design and that they comply with the design policies EV1 and H16 of the local plan, the Council's *Leading by Design* SPG and Section 7 of the Framework 'Requiring good design'.
- There would be no adverse impact on the living conditions of existing residents in the vicinity of the site and that an adequate standard of residential amenity for up to 300 dwellings within the site can be achieved and that this would not be compromised by noise from the railway. There would, it is agreed, be no conflict with the intentions of the relevant local plan policies in this respect.
- The interests of nature conservation would not be compromised and that biodiversity would be maintained or enhanced, satisfying relevant policies in the local plan and according with the relevant intentions of paragraph 118 of the Framework.
- Existing flooding in the area would not be exacerbated by the proposed development and that the resulting increased capacity of the floodplain of Fishpool Brook would be a benefit with the potential to reduce the risk of flooding in the gardens of the adjacent properties on Breachfield Road. It is therefore agreed that the relevant policies and intentions of the local plan and the Framework in respect of flood risk and climate change would be complied with.
- Save for the policing contribution, the provisions of the planning obligation accord with relevant local policy, meet the intentions of the Framework and comply with the CIL Regulations.

29. The only area of disagreement between the main parties concerns the safety of the Grove Lane junction, specifically with regard to visibility to the left.

The Case for Jelson Homes (Docs 2, 44, A1, A2, A3 & A4)

The salient material points are:

30. This is an appeal in respect of a single reason for refusal, on highway grounds, issued contrary to the advice of the Council's own officers and that of the highway authority.
31. It is agreed that the proposal represents sustainable development in a sustainable location that would contribute to overcoming a severe shortfall of housing land, would provide needed affordable housing and that the presumption in favour of sustainable development applies.
32. Policies 1, 3, 12, 13a, 14, 15 and SRS3 of the RSS are complied with and it was accepted by the Council that this was so. The proposal would deliver market and affordable housing in accordance with the relevant targets adjacent to a service centre without infringing any environmental restraint in the RSS.
33. The local plan contains policies to prevent development in the countryside outside settlements defined to accommodate a level of housing need that is now historical. It was prepared in the 1990s. Current needs cannot be met by the

- local plan and require that development takes place on substantial areas of land classified by the local plan as “countryside” adjoining urban areas or settlements, the boundaries of which reflect historical needs. There is therefore a conflict within the development plan and section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the RSS prevails.
34. The development plan as a whole is complied with and the alleged conflict with policy TR/6 of the local plan is not accepted.
 35. In any event the Framework now provides, at paragraph 32, that proposals should only be refused (on highways grounds) where the impacts are severe. The second bullet point thereof clearly refers to the access to the site itself, a matter that can be controlled by the developer, whereas the third bullet point refers to the wider highway network. Safety is important, but real evidence of danger has not been demonstrated. The risk referred to by the Council and others is theoretical.
 36. Overall, the proposals conform to the development plan and should be approved without delay according to paragraph 14 of the Framework.
 37. It is agreed that the policies preventing development in the countryside are out-of-date and they are in any case deemed to be so by virtue of paragraph 49 of the Framework. The proposition put by Mr Reid for the Council, that they should nevertheless attract substantial weight, is untenable. His approach was rejected in two recent appeal decisions in Charnwood⁷ and he accepted the approach in the Bishop’s Cleeve decision⁸ that such policies should be given substantially reduced weight. Following the approach in the Worsley decision⁹, very little weight should be accorded to the Council’s 27 September 2012 decision regarding what may be an emerging local plan strategy. These are simply early thoughts on its part.
 38. The objection to the proposal on highway grounds cannot be sustained. There is no material shortfall in visibility. On the basis of appropriate calculations¹⁰, visibility to the left (‘Y –distance’) of some 38 metres is required but some 42 metres¹¹ is actually available.
 39. The accident record over many years confirms the Grove Lane junction to be a safe junction. The evidence of experience clearly demonstrates this to be so. Circa 1.5 million vehicles per annum use it, together with many pedestrians and cyclists. Its physical circumstances have remained constant and over the eight years for which formal accident records are now available there have been none recorded relating to visibility. There have been two recent accidents¹² but one (3 October 2012) occurred 500 metres to the east and there is no evidence that lack of visibility played any part in the accident of 27 September 2012.

⁷ Documents 36 & 37

⁸ Appendix 7 to evidence of Mr Thorley

⁹ Appendix 6 to evidence of Mr Thorley

¹⁰ Evidence of Mr Young paragraph 6.3.12 and Appendix H

¹¹ Subsequently confirmed to be 42.5 metres with one metre encroachment or 40.3 metres with 0.75 metres encroachment (Doc 20).

¹² Docs 8 and 10

40. In any event Manual for Streets¹³ states that there is no evidence of a relationship between reduced visibility and the potential for accidents and there is no evidence that an increase in traffic will lead to any increased risk of accidents. The TMS report¹⁴ shows that the statistical correlation is nowhere near that which would be required to demonstrate a reliable relationship between the two factors. This junction has huge spare capacity. Increasing flows will not have any effect on the potential for accidents.
41. There is no evidence that the relevant criterion (i) of local plan policy TR/6 would be breached and no evidence of any harmful impact on the highway network.
42. It should be borne in mind as context that the proposed development will add only 30 movements to the left turn in the peak hour, which would be imperceptible, the average "queue" over this period being less than one vehicle. Any delays will be minimal and will not lead to frustrated drivers taking risks.
43. Two factors should be taken into account in calculating the appropriate visibility requirement, the appropriate 85th percentile speed and the appropriate MfS2 calculations.
44. The speed survey of the appellant's consultant, Mr Young, is to be preferred to that of the Council's consultant, Mr Bancroft. It complied with the mandatory TA22/81 requirement of 200 readings. Furthermore these readings were taken beyond the potential influence of local or bank holidays. The appropriate wet weather correction was made, whereas no such correction was made by Mr Bancroft whose recorded speed of 31.4 mph was not so corrected despite conditions being observed as merely damp/intermittent rain. The further readings¹⁵ were inappropriately contrary to TA22/81 methodology being over a 24 hour period and thereby distorting the results with high speeds.
45. Mr Young's Stopping Sight Distance (SSD) calculation correctly made no allowance for HGVs and buses in compliance with the guidance because 2.9% HGV/bus content in the recorded vehicles was by reference to 2 X 3 hour periods rather than simply peak hours. It is therefore reliable.
46. If it is assumed that such vehicles should be included then the MfS2 reduction for buses of 10% (not accounted for by Mr Bancroft) should be applied to HGVs also. This is consistent with everyday observation and the admittedly small sample of readings referred to by Mr Young which show a 10.03% reduction. This approach results in a SSD of 40.83m.¹⁶
47. The amended figures from Mr Bancroft¹⁷ are wrong because they do not make any speed reduction and the Council's preferred figure of 47.5 makes no speed reduction at all. In summary, the 43.86 metre splay distance requirement is based on the incorrect speed of 31.48mph; the 42.93 metre requirement is based on the WSP speed but uncorrected for wet weather; the 38.21 metre requirement is correct; and all the figures in the right hand column are wrong as they fail to allow for the lower speeds of HGVs and buses.

¹³ Referred to generally as MfS (or more specifically MfS1 or MfS2 as appropriate)

¹⁴ Doc 9

¹⁵ C1b Appendix I to the evidence of Mr Bancroft

¹⁶ Rebuttal evidence of Mr Young, but based on Mr Bancroft's speed, not Mr Young's.

¹⁷ 09/10/12 *Statement to address amendment to visibility calculation* (Mr Bancroft C1c)

48. As far as the available visibility is concerned, there is agreement between all three highway witnesses following a visit to the junction observed by the Inspector. From 2.4m on the centre line of Grove Lane (a starting point accepted by Mr Bancroft) there is a Y distance of 42.5m to a 1m off-set and Mr Bancroft accepted¹⁸ a 1.3m off-set, so on his evidence there would be materially more than 42.5m. From 2.4m offset by 1m to the centre of the left turning lane there is a Y distance of 40.3m to a 0.75m off-set. But such a small offset cannot be justified because there is a virtually non-existent possibility of a motorcycle being closer into the kerb on approach from the east.
49. Mr Young's measurements are not only vindicated but found to be understated and there plainly is no material shortfall in visibility, even on the basis of unreliable speeds.
50. However the requirement should be calculated the junction has proved to be very safe and drivers in any event take more care at restrictions on the road network. If the objection were to prevail, moreover, needed development would be stifled at countless locations as Mr Young explained that the majority of junctions in most towns and cities are substandard; and that would be flatly contrary to the intentions of the Framework. The conventional approach to such matters is used in the recent appeal decision¹⁹ at Bramcote Road, Loughborough and a similar approach is advocated here. In any event, if ever the operation of the junction required improvement, there is adequate scope for improvement.
51. The additional points raised by the Parish Council and others have no support from either the Council or the highway authority.
52. The highways objections raised by the Parish Council cannot be substantiated. First, at the site access it is inappropriate to rely on DMRB²⁰, which is primarily for motorways and trunk roads when the proper guidance for this location, applied by the highway authority, is MfS. If the 85th percentile speed of 34.5mph is correct the required SSD is 52.5m which is achievable.²¹ There is no problem with levels.
53. The visibility requirements of MfS are not absolute and applying the necessary wet weather reduction gives a 28.5 mph speed generating a requirement of 38 metres, which is available.
54. The single point of access contested as inappropriate by the Parish Council raises no objection from the highway authority whose own guidance advocates assessment of the matter on a site-by-site basis and concludes that a cul-de-sac may be the best solution in certain circumstances.
55. Thirdly, conflict with local plan policy TR/6 or the Framework does not arise at the Barrow Road Bridge as in the peak hour the development would add an imperceptible 93 vehicles and there is no evidence that this would make any difference to the safety or satisfactory operation of the bridge. The proposed

¹⁸ Paragraph 5.5 of the evidence of Mr Bancroft

¹⁹ Doc 37, para. 29

²⁰ *Design Manual for Roads and Bridges*

²¹ Rebuttal evidence of Mr Young Appendix D

- improvements would more than offset any impact as is shown by the LINSIG output in the ATA.
56. The VISSIM model showed the effects of the MOVA system proposed as reducing delay by around 13% with a consequential 2-3% improvement in capacity at the bridge accepted as an improvement arising from the development by the highway authority. It was accepted by Mr Cage in cross-examination that paragraph 6.3 of the later report,²² which stated that the CD modelling the traffic flows showed the impact of development at the bridge, was misleading.
57. Mr Cage's second proof is of no assistance because the model deployed assumes fixed timings which ignores the reality and negates the purpose of the MOVA system proposed, which shares out capacity according to demand at any given time. In fact, table 3.2/3.3 of the relevant report shows an improvement in capacity that exceeds the impact of the development with consequential benefits for base traffic. There would be a decrease not an increase in queuing at the bridge.
58. There are other problems with the figures and results and, in summary, the report is not reliable evidence, whereas the WSP model is.
59. So far as Appendix B to the report²³ is concerned, it simply ignored the proposed improvements to hatching which would enable the optimum location of stop lines for a 9/10 second intergreen phase.
60. The occasional flooding at Slash Lane cannot be a highway objection to the proposed development. Unlike the Redland development²⁴, there is no proposal to take access at this location. A number of the other points raised in respect of the bridge scheme are matters for detailed design.
61. Two thirds of the development will be within 400 metres of a good bus service to Leicester and Loughborough and the extremities within 800 metres, which is comfortably accessible and both the Council and the highway authority consider this a sustainable location. Access to the rail station and good services is also easy.
62. Even without the rail footbridge to the south-east corner of the site the accessibility of the proposed development would be good and the Council and the highway authority are satisfied that is so. In any event network Rail are pursuing its replacement, having obtained permission and approached landowners. Mr Cage thinks it could be built within five years.
63. The Breachfield Road junction with Grove Lane (a short one-way stretch) is an existing situation with no record of accidents. The developer is entitled to assume that people will continue to observe the law here.
64. The concern of the Parish Council as set out in its statement of case is with the impact of the proposed development on the existing community and its facilities, as set out in evidence by Mr Cattle, not the proposition in its closing submissions that deliverability over a five year period is in doubt. The technical material

²² Doc 26

²³ Ibid.

²⁴ Ref T/APP/X2410/A/95/259402/P4 at Appendix A to PC3

- supporting the proposal satisfies the Council and the highway authority in that context and the appellant is an experienced developer well versed in addressing practical issues.
65. Service capacity constraints in Barrow (identified by the Council as a service centre appropriate for growth) are to be addressed by the section 106 obligation that meets the requirements of the relevant statutory providers. This also provides for benefits sought by the Parish Council.
 66. The benefits of the proposed development for the whole settlement will include; increased floodplain capacity; improvements at Barrow Road Bridge; the introduction of warning signs to alert people of flooding on Slash Lane; upgraded pedestrian and cycle links to the centre of the village; the services of a Travel Plan Co-ordinator; additional public open space and some additional community facilities.
 67. Despite this, the Parish Council maintains that Barrow has had enough of development and can take no more, a position adopted by many residents and Barrow upon Soar Community Association (BUSCA). It is not for the developer to remedy the perceived deficiencies referred to by the latter, but the substantial S106 contributions are agreed as appropriate by the local planning authority and the statistics demonstrate that Barrow's growth has been comparable to other settlements and relatively less in some cases. It is calculated that less than 20% of the village population object to the proposal, rather than the overwhelming majority as claimed.
 68. 'Amber' values in the Council's assessment of potential service centres²⁵ do not preclude growth, simply some constraints. Several of the potential service centres are constrained in some respect. The 'amber' status in respect of health services is historic and rectified and the appropriate contribution in the planning obligation is supported by the Primary Care Trust and the Council. The excellence of care at the health centre was explained by Dr Parker who was careful to explain not that this would be jeopardised but that future improvement would be more challenging. Similarly, education is not threatened and very substantial contributions to education are provided for with the support of the relevant authorities.
 69. Parking difficulties in the village centre are aggravated by commuter parking and is not a matter peculiar to this village, being also a question of management. Few objectors refer to landscape and visual impact and the site has no special designations. In the Worsley decision previously referred to substantial harm in that respect was outweighed by the benefits of housing gain.
 70. No part of the developed area would be outside Flood Zone 1 according to the FRA which has been rigorously assessed by the Environment Agency, whose findings have subsequently been verified by the new hydraulic model of the Fishpool Brook catchment it has created. The proposals comply with the relevant policies of the Framework and there will be some betterment in that although gardens on Breachfield Road will continue to flood the occurrence and severity of

²⁵ *Charnwood 2028 Local Development Framework (LDF) Core Strategy Service Centre Capacity Assessment (Final Report) December 2011 ('SCCA')* – Appendix D to Evidence of Mr Cantle (PC4) and Appendix 2 to Evidence of Mr Thorley (A1a)

such events will be reduced. With appropriate planning conditions as recommended by the EA, there is no reason to resist the proposal on surface or foul water drainage grounds.

71. **In conclusion**, the proposals comply with the development plan as a whole and should be approved without delay.

The Case for Charnwood Borough Council (Docs 4, 43, C1 & C2)

The salient material points are:

72. The application was refused because members disagreed with their officer's view. This was based on advice from the highway authority. Although this recognised the Grove Lane junction to be deficient it decided, all other objections having been addressed, that it could not support an objection on the basis of the one single issue of visibility alone.
73. At the time of application the appellant recognised that the junction fell short of the relevant visibility standard but now claims it will be met.
74. This standard is that the 'x' distance should be measured from a point 2.4m back from the give way line in the centre of the carriageway. The 'y' distance depends on variables affecting the SSD.
75. On a robust assessment the visibility splay is inadequate and the junction will not operate safely, giving rise to conflict with policy TR/6(i) of the local plan and the intentions of the Framework.
76. The conflict with the development plan is not outweighed by other considerations and the appeal should be dismissed.
77. Two recent appeals²⁶ in the Charnwood District have been allowed because of the inadequate housing land supply but that makes little difference to the merits of this case. In particular the junction inadequacy on its own should preclude the grant of permission in this case. None of the appeal decisions referred to in evidence by the appellant²⁷ involved determinative highway inadequacies and they are of limited assistance in this case.
78. The Council is cognisant of the benefits of the proposed development (these are set out for example in the officer's committee report) and the appellant has not suggested that the Council was not aware of them.
79. The main issue for the Council is the adequacy of the visibility for left turning traffic at the Grove Lane junction.
80. UK practice (as explained by MfS2) generally focuses on SSD. Paragraph 10.3.1 explains how the minimum SSD is deployed. This shows why a cautious approach is necessary to permitting additional traffic at junctions with inadequate visibility.
81. Although MfS2 explains, on the basis of research undertaken by TMS, that there was no evidence to suggest that failure to provide standard visibility at junctions

²⁶ Docs 36 & 37

²⁷ Appendices 3 – 7, 12 – 14 and 16 – 18 to A1 Evidence of Mr Thorley

- resulted in an increase in injury collisions at 'high-risk' urban sites, it did not conclude that the evidence disproved the assumption that this would be so. The outcome of the research should be treated with caution and it is significant that MfS2 does not jettison the concept of adequate visibility splays being required.
82. Without local evidence to the contrary, it says, a reduction from recommended visibility will not necessarily lead to a significant problem.
 83. Local evidence goes beyond the Personal Injury Accident (PIA) record. It means all relevant local circumstances, including the particular features of the junction.
 84. In this case these include: frequent overrunning of the kerb (where it is dropped to facilitate crossing by pedestrians) by left turning vehicles so as to avoid encroaching onto the westbound lane used by oncoming vehicles; the route is also well used by cyclists; there are a number of private drives impinging on the junction layout, adding to potential conflicts; marked turning lanes are often ignored; and bus turning manoeuvres using the entire carriageway cause oncoming vehicles to brake suddenly.
 85. This local evidence militates in favour of caution as it may simply be good fortune that there are no recorded PIAs, rather than the junction being safe as the appellant suggests.
 86. It became common ground that the appropriate point in the carriageway to measure the 'y' distance to is 1 metre in from the carriageway edge.
 87. Based on one day surveys the parties variously calculated the appropriate wet weather speed for calculating SSD as 28.51mph (appellant) and 31.38mph (Council). In view of these differences a subsequent survey was undertaken by the Council between Thursday 30 August and Monday 3 September 2012, giving a 7 day average 85th percentile speed of 32.8mph.
 88. The Council's interpretation is that wet weather conditions do not have a major impact on speeds at this junction and it may therefore be unwise to rely on the lowest 85th percentile speed of 28.51mph advocated by the appellant.
 89. Notwithstanding criticism from the appellant that the Council's survey did not comply with TD22/81 guidance, aspects of its own work failed to comply, including reliance on single day surveys. Moreover, informed interpretation of the guidance by experienced professionals is more important than the quantity of vehicles included. Therefore surveying only 100 vehicles rather than the 200 advocated by the guidance is common practice among professionals, usually acceptable to highway authorities. The Council's results are reliable.
 90. Buses and HGVs have different characteristics in this context, with slower deceleration making for longer SSD and hence longer visibility splays, but guidance suggests that, in combination, bus and HGV traffic of less than 5% of total flow need not be assessed, subject to local circumstances. The appellant's TA did not contain information on the composition of traffic flow but both the appellant and the Council commissioned further survey work to address the point.
 91. However, the appellant's survey covered only the AM and PM peak hours, contrary to MfS2 guidance, whereas the Council's work covered 24 hour periods in which the proportion of HGVs/buses significantly exceeds the 5% threshold.

- The only criticism by the appellant was that the survey was 30 August to 3 September, which, although school term time locally, was not entirely neutral given that results could still be affected by the holiday period. This is a flimsy criticism, not based on guidance, which should be rejected.
92. It was agreed by the appellant that on the basis of the Council's data HGVs/buses should be taken into account. However, no separate survey of HGV/bus speeds has been undertaken by any party and therefore the information is imperfect.
93. In these circumstances the 85th percentile speed for all vehicles should not be used as it includes buses and HGVs.
94. Although MfS2 does not recommend it, the appellant sought to argue that there should be a 10% reduction of the 85th percentile speed for HGVs as well as buses, indicating how constrained the junction is. No such reduction is warranted in relation to HGVs. The practical consequences are that an overtaking HGV driver might not see a driver emerging from Grove Lane until it is too late to stop.
95. The available splay measured to the agreed 1 m point in the carriageway is agreed to be 42.5m.²⁸
96. The appellant considers the required splay length to be 38m, but this assumes a wet weather 85th percentile speed of only 28.51mph, much lower than that observed by the Council in wet weather and lower than the ATC data suggests the average 7 day 85th percentile speed is. The appellant's splay length takes no account of the different deceleration rate for HGVs and buses.
97. The Council concludes that the required splay length is 47.5m, using an 85th percentile speed of 31.48mph, which is reasonable given that it is in the middle of the three available measured speeds, also reasonably not discounting buses and HGVs as there is insufficient data upon which to do so. The Council's assessment is more robust and is to be preferred.
98. That leads to a shortfall against the available splay of 5m which is in excess of 10% and not de minimis. MfS2 does not endorse unlimited flexibility but rather says that 'y' distances should be based on the recommended SSD values. While a reduction in visibility will not necessarily lead to road safety problems, that depends on local evidence.
99. The Council submits that the shortfall in visibility is a serious one and should not be accepted. Its evidence is that adding additional traffic as proposed would lead to a situation on the highway that is unsafe and unsatisfactory and hence there is conflict with policy TR/6 of the local plan.
100. This policy is not out-of-date and is in any event consistent with the aims of the Framework.
101. The threshold of severity the appellant claims to be the meaning of paragraph 32 of the Framework is not relevant to this as there is either a well founded highway safety concern or there is not and it would be extraordinary if planning permission could not be refused on the basis of a really serious (as opposed to

²⁸ Doc 20

severe) risk to highway safety. It is more likely that the “safety” part of paragraph 32, the second bullet point, applies here, whereas the third bullet point is concerned with convenience, delay etc where severity is a more meaningful concept.

102. **In conclusion**, the appeal should be dismissed.

The Case for Barrow Upon Soar Parish Council (Docs 3, 42 & PC1 - PC4)

The salient material points are:

103. The Parish Council does not oppose the principle of residential development in the settlement but believes it cannot support substantial development of the type proposed in this case without major infrastructure improvements, principally the upgrading of Slash Lane to provide two flood free links to the A6 and the provision of a new or significantly upgraded health centre. These concerns are evidenced by the Parish Plan final report, the NHS response to the application and the lack of permissions for major house building in the last 12 years.²⁹
104. But for the Secretary of State’s intervention and consequent inquiry, the application would not have been sufficiently scrutinised in terms of deliverability in the context of meeting the Charnwood shortfall in housing land supply. Moreover, the proposed development is not “sustainable development” of the type envisaged by the Framework and insufficient mitigation is provided in respect of local infrastructure constraints, the consequences of which are articulated by those with local knowledge and experience.
105. The Parish Council’s concerns lead to technical objections concerning traffic impact, safety, sustainability and flood risk management and practical objections in respect of the ability of the village infrastructure to cope with this and other housing development that may occur.
106. The Council’s emerging core strategy shifts the emphasis away from the identified service centre settlements such as Barrow Upon Soar.
107. The proposed development will increase the risk of accidents at the Grove Lane junction and the wider highway network is severely constrained. The approaches to the village are subject to capacity issues as a consequence of growth in traffic with attendant safety concerns, notably when Slash Lane is flooded for typically 2 or 3 days around 12 times a year. The exacerbation of these concerns by the proposed development will not be adequately mitigated.
108. The site access arrangements and external linkages are inadequate.
109. There should be at least two points of access for a development on this scale, one of which could be an emergency access. This should be separate from the principal access and the proposed arrangements in this case are unacceptable. The development could be marooned by a road accident or a fuel spillage.

²⁹ Appendix G to the Parish Council’s evidence in fact records, inter alia, the grant of permission for 360 dwellings to David Wilson homes (land between Cotes Road and Willow Way Ref P/04/0999/2 in outline and subsequent reserved matters P/05/2778/2)

110. There is insufficient assurance from the submitted material that adequate forward visibility to the access roundabout on approach from the north east could be achieved without tree removal and re-grading of third party land.
111. There will be a risk that the short section of Grove Lane that is one-way to the north of its junction with Breachfield Road will be increasingly abused by impatient drivers, an occurrence which anecdotal evidence suggests to be periodic and which led to a recorded accident with a pedestrian on 17 December 2008. This is a further indicator that the main vehicular route to the site is constrained.
112. The Grove Lane junction has been considered in great detail and the Parish Council endorses the case made by the Council. The second scenario agreed by the parties³⁰ is considered appropriate, i.e. Splay 2: 2.4 (offset 1 metre east of centreline) x 40.3 x 0.75 (encroachment) metres. This is because right turning vehicles constrain the observed propensity of left turning drivers to position themselves at the centreline for maximum turning advantage.
113. The majority of vehicles turning left emerge from the junction and impinge on the opposite carriageway to avoid overrunning the kerb.
114. Even with speed cushions the surveyed wet weather speed recorded by the Council is 31mph and should not be reduced further for the purposes of calculating the splay requirement. The requisite 45m visibility is not available.
115. Both MfS2 and the WSP supporting research paper are caveated by cautions as to their conclusions regarding the relationship between visibility at junctions and accidents. It is common sense that constrained visibility to the left reduces the necessary attention that drivers can give to traffic approaching from the right.
116. This is the principal route from the site and it is unsuitable for serving significant new housing development.
117. With regard to the proposed improvements at the Barrow Road Bridge, the ATA acknowledges that MOVA control is only likely to result in a 2-3% increase in capacity. Moving the stop lines closer prevents HGVs passing or causes vehicles passing to take additional time. The humpback of the bridge restricts visibility and deters efficient use of the green phase. Cyclists now have a dedicated phase that will negate the proposed capacity improvements. The absence of an adverse impact from this has not been demonstrated. The location of the signal heads cannot be optimised because the bridge is a listed structure.
118. The anticipated MOVA improvements will only materialise if both approaches are not at saturation. The WSP VISSIM model underestimated the queues and therefore didn't account for queuing vehicles beyond the purview of the model, a deficiency that will be exacerbated by anticipated traffic growth. The proposed 'hurry loop' to prevent vehicles queuing back onto the Jerusalem roundabout will cause excessive queuing from the west in the AM peak.
119. Barrow upon Soar is a constrained location due to periodic flooding of Slash Lane and the Barrow Causeway. It is primarily a dormitory settlement and travel beyond it to work and for main food shopping and leisure is a constant necessity.

³⁰ Doc 20

- No meaningful improvements to current travel patterns are proposed and the principles of paragraph 32 of the Framework need to be applied.
120. The sustainability credentials of the proposal are questionable as far as travel is concerned, with most residents travelling to work by car outside the settlement. There is no new employment proposed and no linkage across the railway and parking facilities in the village centre are inadequate.
121. Without the replacement footbridge, the programme for which is uncertain, over one third of the site would be in excess of 400m from a bus stop. The footpath crossing of Fishpool Brook will be within the flood alleviation area and if raised to avoid the water would impede flow, a scenario that has not been modelled.
122. The proposed improved pedestrian routes to the village centre are subject to a number of deficiencies and it has not been demonstrated that the £40,000 provided for improvement will be adequate. It is questionable whether the routes are truly “walkable” and hence whether the centre is within 10 minutes walk of the site as advised by MfS.
123. The Travel Plan target of a 14% modal shift away from the private car is unlikely to be realised as it has no real incentives. There is no proposed increase in the level of bus services and no proposed changes to train services or accessibility to the train station.
124. The train station suffers from the lack of car parking or drop-off facilities; it is only accessible by a large number of steps and is unmanned with an isolated platform with little in the way of shelter. It is an overstatement to say that it offers an excellent level of service. Its existence does not automatically make the appeal site sustainable. Only 1% of the Barrow Upon Soar population used the train to travel to work in 2001 and despite increased rail patronage the level of service remains unaltered, indicative of the usage made. Similarly the existence of a half-hourly bus service does not automatically make the appeal site sustainable. It is the practical ability to use such services on a sustained basis that is material. The Travel Plan does not and cannot provide that level of reassurance. The Travel Plan Co-ordinator may be of some benefit but without improved services there is little that can be achieved. The Travel Plan Penalty is nowhere near the level of funding that would be required to improve services.
125. The gaps in the technical information concerning the site development profile, sewage disposal and ground conditions mean that there is insufficient means to assess whether the houses proposed can be delivered within five years, with question marks also in respect of highway capacity, traffic flow and surface water drainage.
126. Ground conditions including a Phase 1 contamination survey have yet to be investigated but it is known that there are lime kilns within the site and old mine workings in the vicinity. The effect on works required to drain the site is unknown.
127. The potential increase in surface water flows have not been properly assessed and flood risk and flood management issues will be exacerbated, together with foul drainage difficulties. There is doubt about the ability of the site to contain its surface water flows so as to ensure no further increase in flood risk to adjoining land and this could affect layout and hence housing yield.

128. The exacting requirements of the Environment Agency's suggested condition (8)³¹, the lack of discussions with Severn Trent Water and the configuration of the existing drainage diminish confidence in the occupation of any dwellings on the site within 5 years. This is highlighted by the fact that the appellant has not had discussions with Severn Trent Water and the knowledge that the sewer is at capacity due to gradient and already discharges at times of peak flow. The opportunities for redirecting the flow away from this catchment are limited and the construction of a new sewer would require a tunnel under the railway and the crossing of third party land, possibly with a need to upgrade a pumping station. There is therefore no certainty that any houses on the site could be occupied within 5 years.
129. There are concerns about the impact of the culvert under the railway being blocked and the revised modelling that took some account of this took no account of the impact of serviceable pedestrian crossing points for Fishpool Brook.
130. EA acceptance of the revised FRA was not without reservation and the exacting requirements of the suggested conditions (5), (7) and (8)³² should be borne in mind.
131. The EA response is detailed and prescriptive and indicates that much detailed work is yet to be done, including soakage tests. No assessment of the consequences of exceedance of the propose drainage systems in extreme events such that water flows directly into Fishpool Brook and no conclusions can be drawn on the adequacy of the drainage proposals.
132. The EA remains concerned because it advocates the lifting of floor slabs to 48m AOD. However, a large element of the proposed development is below 48m AOD and the raising of slab levels to that height has unknown consequences for the layout.
133. The absence of blockage modelling highlights the issue that at a flood level of 48m there would be an impact on the floor slabs of existing houses on Breachfield Road.
134. The proposed and any additional pedestrian crossings of Fishpool Brook will cause more flooding of properties upstream than has currently been modelled.
135. There will be a greater risk of debris in the brook and consequent blocking of the culvert during significant events with deeper flooding of the properties on Breachfield Road as a consequence.
136. The local health centre will be placed under unacceptable pressure and the mitigation proposed in the form of a contribution for extra car parking spaces will not address the underlying concern regarding a health centre operating at capacity.
137. The education contributions, which are phased, will not guarantee the provision of new classrooms and the same applies to contributions to community facilities and other contributions. The proposed mitigation will not deliver the necessary

³¹ Doc 29 Revised Draft Conditions

³² Ibid

facilities to achieve the improvements now required from the planning system by paragraph 9 of the Framework.

138. **In conclusion**, the proposals will not lead to a better quality of life or positive improvements as advocated by the Framework but rather it will lead to deterioration in the quality of life currently enjoyed by Barrow Upon Soar residents. Although they seek to meet the Charnwood housing shortfall, they remain incomplete and uncertain in delivery with harmful impacts such as not to be the type of sustainable development the Framework encourages. The grant of outline consent would have a number of adverse effects and the appeal should be dismissed.

The Cases for Interested Parties

The salient material points are:

Mr Hilsdon (Docs 32 & 34)

139. Gardens in Breachfield Road flood on a regular basis. This won't affect the new residents but the situation for existing residents will be made worse. There is a danger that the culvert under the railway will block, making the situation worse. What guarantee do the residents have that these things will not occur? Old mine workings could exacerbate drainage and flood problems.

Mr Willcocks

140. The travel plan will not work. Experience of commuting to Leicester prior to retirement is that the service is poor, unreliable and overcrowded. There are only two carriages on the relevant trains and the station is rudimentary. The railway is only useful for a journey to work if the stations are walkable at both ends of the journey.

Dr Sarah Parker (Doc 5 re: GPs' practice at the Barrow Upon Soar Health Centre)

141. The health centre was purpose built in 1980 around which time the practice list of 4,500 was broadly comparable to the population. The current population of Barrow Upon Soar is circa 6,320 but the practice list is around 8,650. New types of patient place new demands on a practice and at present the clinical skills available match the demographic profile.
142. The premises have adapted in response to a rising population, with S106 monies from another development being used for refurbishment in 2011, bringing into use rooms vacated by district nurses, health visitors and school nurses pursuant to NHS re-organisation. The limited surgery space is shared to manage clinical availability and evening appointments are offered on a Wednesday.
143. The practice boundary has been redrawn to curtail pressure and patients are no longer accepted from outside the boundary. The appeal site is within it and will therefore have an impact, as only under exceptional circumstances can GPs lists be closed.
144. The objection arises because the appeal proposal comes hard on the heels of the challenge posed by the ongoing construction of 360 houses elsewhere in Barrow Upon Soar.

145. The Practice is challenged by the rising population, having been rated “deep amber” by the PCT prior to refurbishment and there are ongoing uncertainties arising from further NHS reorganisation. The health centre is currently operating at 70% over capacity and will be 90% over if the appeal scheme is developed. There is no prospect of NHS funded capital investment at present. Adding patients to the current practice list will cause deterioration in the services offered.
146. The central location of the health centre is appreciated by patients for its good public transport links but at busy times the car park is often full.
147. The quality of care provided is good and the Practice is keen to improve it further. The continued rapid growth of the Practice population would make achieving improvement extremely challenging and would be detrimental to the care of both existing and future patients.
148. The appeal should be dismissed.

Nicky Morgan MP (Doc 16 on behalf of constituents in Barrow Upon Soar)

149. First, the former Planning Minister Greg Clark and the former Local Government Minister Bob Neill have both emphasised the Government’s commitment to Localism and empowering communities to shape their neighbourhoods through neighbourhood plans as the Parish Council wants to do. This is clear in the Framework. To ignore residents’ concerns is to ignore the policy intentions of Localism. I have not been contacted by a single resident of Barrow Upon Soar in favour of this development. The community has had more than its fair share of new development through the large Willow Road development. This proposal outside the village limits is a step too far.
150. Secondly, the Secretary of State needs to be aware of the vulnerability of Councils such as Charnwood, which does not yet have a core strategy in place, to speculative applications such as this. The framework says weight can be given to an emerging core strategy and in September 2012 the Council indicated its intention that service centres including Barrow upon Soar would share 200 homes between them over 15 years, whereas this proposal is for 300 homes in Barrow Upon Soar alone.
151. Thirdly, the development would put intolerable strains on the physical and social infrastructure of the settlement and it is inconceivable that the residents of the proposed development would use public transport rather than their cars. The development cannot be considered sustainable.
152. The appeal should be dismissed.

Mr Rowland (Doc 18 Landmark Planning for Barrow Residents’ Action Group)

153. BRAG supports the Council’s reason for refusal.
154. The appeal site is on rising land and prominent. The proposed development would harm the landscape and the harm could not be mitigated by the proposed landscaping scheme. It would therefore be contrary to saved local plan policies CT/1 and CT/2.
155. The harm to the rural landscape and the danger to highway safety would outweigh the benefit of reducing Charnwood’s housing land deficit.

156. The appeal should be dismissed.

Councillors Ranson and Fryer (Docs 17 & 40)

157. We support the Parish Council, the Barrow Residents' Action Group (BRAG) and the residents in their opposition to the development.

158. Its adverse effects would significantly outweigh its benefits when assessed against the Framework as a whole. It is over dominant and alters the whole character of the village. The roads will not cope and access to the schools is under stress as roads serving them do not have the scope to be improved. More than 500 houses have been built or approved in 10 years and the High Street facilities suffer from lack of parking already. It is unrealistic to suppose people will walk to the shops and back.

159. Slash Lane is often closed by flooding and more warning signs would do little to help drivers already committed to using the route through the village, which takes traffic from other villages en route to the A6, M1 and A46.

160. The health centre is heavily oversubscribed and access to it from the appeal site would be by car, adding to congestion.

161. Existing residents have made welcome the occupiers of many new houses in recent years. They are not "NIMBYs" but do object to the sheer scale of what is proposed. The changing climate is increasingly disrupting the road system through flooding around the village and the measures proposed will not help. Huge investment is needed, for example at Slash Lane.

162. The appeal should be dismissed.

Mr Wilson

163. Experience suggests that, with the fire station being based in Loughborough, there will be problems of accessibility for it if the roads are congested at times of flood.

Mr Burton (Doc 39)

164. This is the first area to flood in Leicestershire, up to 12 times per year. Traffic congestion is always caused, with of a mile in length. The police put signs up and additional signs will not help as most people know when roads will be closed.

165. The abuses of the one-way system between Breachfield Road and Melton Road are not reported to the police. The station is inaccessible due to the many steps and people are more likely to drive in any event because they can visit superstores and the like during the course of their journeys, or they will drive to the station and park on roads near the station.

166. The sewer is at capacity and subject to storm overflows, but Severn Trent Water tends not to object. However, there has been no mention of the water Framework Directive which requires rivers to be improved by 2027. It is doubtful if surface water can be dealt with using SUDS

167. Previous applications in the countryside have been rejected and nothing has changed to justify this one.

Mr Smith (Doc 19)

168. There is a highway danger at the Melton Road/Breachfield Road/Babington Road junction close to the appeal site as illustrated on my annotated plan.³³
169. MOVA might help with Barrow Road Bridge but the wider area including Slash Lane needs to be looked at.

Councillor Forrest (Chair of BRAG)

170. Local residents are not "NIMBYs". Lots of them have had new houses "in their back yard". Barrow Upon Soar is a great place to live and we do welcome newcomers, but we are at saturation point and enough is enough. The infrastructure will not cope.

County Council (represented by Mr Prendergrast, Mrs Owen, Mr Kettle and Mr Tyrer) (Docs CC1 & CC2)

171. In its essentials, the position of the County Council is as set out in the written evidence submitted and there is little to add. A Civic Amenities site is no longer required as one has been provided at Mountsorrel.
172. The adopted County Council policy in respect of developer contributions is the *Statement of Requirements for Developer Contributions in Leicestershire* (SRDCL) which is the starting point for negotiating appropriate contributions, the latest review of which was in 2007.
173. There are written submissions from Mr Tyrer, the Developer Contributions Officer and Mr Cook in respect of highways and transportation matters.

Mrs Anderson (Doc 15 for Leicestershire and Rutland Primary Care Trust)

174. The concerns expressed by the practice regarding the pressure of extra patients are echoed³⁴ but in terms of consequential capacity improvements to premises the need would be for extra parking capacity, for which a £30,000 contribution is sought.

Mr Page

175. Traffic on Grove Lane/Melton road is at the capacity of the highway and creates a potential danger to children.

Mrs Noon (Doc 28 for CPRE Charnwood District Group)

176. The County Council has given insufficient weight to the appeal decision referenced T/APP/X2410/A/95/259402/P4³⁵ regarding the disruptive effect to traffic of flooding on Slash Lane. This is relevant to any additional development in Barrow Upon Soar. The circumstances have not changed in the 14 years that have since elapsed but rather they have been exacerbated.
177. This is an important appeal decision and consideration should be given to the increased volumes of traffic that the proposed development would add to various

³³ Doc 19

³⁴ Doc 15

³⁵ Included also as Appendix 2 to Doc 28

routes in Barrow Upon Soar that are already disrupted by flooding and the appeal should be dismissed for this reason.

Mrs Reed

178. Parked vehicles disrupt the flow of traffic, especially lorries, on the eastern approach to the Barrow Road Bridge and this will undermine the proposed improvements.

Mr Pepper

179. Cyclists will inevitably slow traffic as it passes over Barrow Road Bridge because of the configuration of the highway and cycling has been encouraged in Barrow Upon Soar. Mountsorrel Lane also floods and that practically leaves the bridge as the only route. 30% of residents in a Parish Plan survey cited flood disruption as a reason not to build.

Mr Hobbs

180. A trial run of MOVA should be considered as set out in letter.³⁶

Mrs Rodgers (Doc 41 for Barrow Upon Soar Community Association)

181. BUSCA is looking to build a new purpose built community centre in the village to accommodate a variety of activities in response to identified needs.³⁷ Dual use of the Humphrey Perkins School facilities, including the sports hall, has been curtailed for practical reasons. Little attention has been given by the developers, or by the Council, to the detrimental impact of a large influx of new residents and the social consequences.

182. In order to maintain social cohesion it is imperative that the village has the facility BUSCA hopes to build at an estimated cost of around £1.5 million. This is an essential facility that would be necessitated by the proposed development and the sum proposed in the planning obligation (£100,000) will not cover the cost.

Written Representations

The salient material points are:

The County Council

183. The signing of the S106 planning obligation obviated the need for the representatives of the County Council who had prepared evidence to be called as witnesses. That evidence therefore effectively becomes written submissions.

184. The gist of the evidence in respect of financial contributions to education and library services is that they are based on formulae in the SRDCL,³⁸ adopted by the County Council as Supplementary Planning Guidance.

185. In respect of education, the proposed development will not affect the high school but will impact on the primary and upper schools, which are full and predicted to remain so. This will give rise to a need for funding of school places

³⁶ Doc 31

³⁷ Detailed in Doc 41

³⁸ *The Statement of Requirements for Developer Contributions in Leicestershire*

at circa £12,099 per primary school place and circa £18,355 per upper school place, the deficit in the number of places relative to the number of dwellings being calculated according to standard formulae.

186. The contributions sought are proportionate, necessary and directly related to the development. They are therefore CIL compliant.
187. In respect of library facilities, the contribution would be used to improve the lending stock and computing facilities at Barrow Upon Soar Library and reconfigure its internal space to provide for additional public access. Calculated by standard formulae, the contribution sought is proportionate, necessary and directly related to the development. It is therefore CIL compliant.
188. The contributions for public transport and pedestrian and cycle improvements stem from the core principle of the Framework that patterns of growth should be actively managed to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
189. The proposed enhancements to the walking and cycling routes to the High Street, the Humphrey Perkins High School and the Sibley Road bus stops are necessary to cater for and encourage increased use in accordance with travel plan objectives. £40,000 is proportionate and the need stems from the development given the likely demand that development on this scale will give rise to. The Travel Packs Contribution, 6 month public transport passes and the funding of two bus shelters are necessary, proportionate and directly related to the proposed development, the object being to facilitate and encourage public transport use from the outset.
190. The Travel Plan Penalty will become payable if monitoring demonstrates that the modal shift target of 14% in the Travel Plan is not achieved. This penalty will incentivise the developer to seriously implement the travel plan and give comfort to the County Council that further funding would be available to encourage modal shift if targets are not met. The penalty is necessary, directly related and proportionate.

Nicky Morgan MP

191. The application was refused prior to the finalisation of the Framework. This clarifies the meaning of sustainable development and the impact on the roads, schools and health services in particular render it unsustainable in terms of the Framework. There is a five year land supply in the local area. The development will, by taking open countryside, harm the character and visual amenity of the area contrary to saved policies CT/1 and CT/2 of the local plan. It is also contrary to saved policy ST/1(ii) because it is clear from the level of objection that this landscape is "particularly valued by the local community". The refusal on highway safety grounds is supported.

Barrow Upon Soar Parish Council

192. It is misleading for the appellant to suggest that the Borough Council has previously supported the proposed development "in principle". The application is speculative and exploits the Borough Council's failure to deliver a Local Development Framework. It is unsustainable because it is on greenfield valuable

agricultural land outside the limits to development, visually dominant on high ground, and will overload healthcare and schools in the village.

Leicestershire Constabulary

193. The policing contribution is necessary, proportionate and directly related to the development. It is therefore CIL compliant.

Barrow Residents' Action Group

194. The appeal site is on rising land and prominent. The proposed development would harm the landscape and the harm could not be mitigated by the proposed landscaping scheme. It would therefore be contrary to saved local plan policies ST/1(ii), CT/1 and CT/2. The harm to the rural landscape and the danger to highway safety would outweigh the benefit of reducing Charnwood's housing land deficit.

Private Individuals

195. There is a great weight of correspondence from local residents. In reading this I have discerned a number of consistent themes:

- First, there is a widespread feeling that the village community has witnessed rapid expansion and that it is outgrowing the physical and social infrastructure available to it.
- Secondly, there is a concern at the loss of countryside around the village.
- Thirdly, there is a concern with highway safety, especially at the Grove Lane junction
- Fourth, many people believe that the capacity of the highways is near its limit, certainly at peak times, and that the problems are particularly intense because periodic flooding already disrupts flows.
- Fifth, there is a perception that the proposed development will increase flooding.

196. In addition, there are numerous comments raising concerns which include; the effect on the living conditions of neighbouring residents, parking pressure in the village centre, noise and disturbance to existing residents, destruction of trees and hedges, inadequate public transport, harm to biodiversity, loss of agricultural land, unsuitable ground conditions, potential to increase crime and disorder, the slow progress or halting of existing residential developments for lack of demand, encouragement of car-based travel building and the disregard of the opportunities for using existing empty properties.

Conditions and the Planning Obligation

Conditions

197. A number of suggested conditions (SC) were agreed between the Council and the appellant.³⁹ Discussion of these at the Inquiry was inclusive of the Parish Council and interested local residents.

³⁹ Doc 29

198. I have reviewed the SC in the light of the advice in Circular 11/95 *The Use of Conditions in Planning Permissions* and the relevant tests therein, together with the advice of the Framework. Some require minor rewording to more closely accord with the relevant advice of the circular and others may usefully be combined for economy, but in general they are appropriate.
199. The standard timescales (SC1) for an outline permission and submission of reserved matters are appropriate but these should be more precisely expressed so as to define the reserved matters and the associated timescales.
200. Accordance with the definitive plans (SC2) should be prescribed by condition for the avoidance of doubt and in the interests of good planning but general accordance with supporting documents is an imprecise approach. However, precision may be introduced by requiring the submission of details for approval by the local planning authority in relevant cases to be in accordance with the principles contained therein. Bearing in mind, inter alia, the planning obligation, I do not consider the approach appropriate for the TA, the ATA, the UFTP or VISSIM modelling. It is inappropriate to address the proposed off-site works at Barrow Road Bridge in this fashion as the land involved is not in the control of the appellant. However, bearing in mind that these are essentially traffic management measures susceptible to refinement and I am not persuaded, having considered the evidence and observed the relevant circumstances of the bridge on site, by the proposition [117] that there would be impediments to its detailed implementation in practice that could not be readily resolved, I consider it could appropriately be dealt with separately through a Grampian style condition. (See also my comments on SC15 below.)
201. The various assessments have been based on a maximum of 300 new houses and as this number is not specified in the description of the development or the application, which is simply for "residential development" it is necessary to limit the number to a maximum of 300 (SC3) by specific condition. Moreover, it is necessary to prescribe the maximum developable area bearing in mind the importance of flood alleviation, the scope for SUDS and the role of the structural landscaping, with a Master Plan creating an overarching framework for the submission of reserved matters. However, the submitted masterplan is purely illustrative. This difficulty may be overcome by the approach advanced in SC4, as this builds on the general principle illustrated to create a firm framework and phasing programme, the latter being necessary for a development on this scale, in my view. I see no difficulty in requiring general conformity to the illustrated principles according to which the proposal has been advocated as a sustainable form of development. This would not fail the test of precision as those principles are spatially expressed on the illustrative masterplan and articulated in the Design and Access Statement. It would be for the Council to reasonably consider whether or not the Master Plan and Design Code submitted pursuant to the relevant condition were in general conformity with them.
202. SC5 increases the focus on the detailed implementation of any particular phase approved pursuant to SC4 and this seems to me to be an entirely necessary and reasonable approach.
203. The site is known to have some archaeological potential including the remains of lime kilns of varying age from early post-medieval until perhaps as recently as the nineteenth century, but the Archaeological Services team at the University of

Leicester is satisfied that the matter can be addressed by a programme of work following a written Scheme of Investigation.⁴⁰ This may be secured by a condition such as SC6.

204. Although SC7 – SC9 are all essentially concerned with drainage it seems to me that, in the circumstance of the site, the matters addressed are most practically dealt with by separate conditions specifically concerned with sustainable surface water drainage, foul sewage and the specific detail of trapped gully provision in each phase of development.
205. The site is currently in arable use and there is no reason to suspect widespread contamination. However, its archaeological characteristics suggest that disturbance of buried deposits might, in places, give rise to concern and hence, on balance, a precautionary condition of the type suggested (SC10) is appropriate.
206. SC11 seeks to protect retained trees and hedges on the site as the development progresses through phases. It would require an overall scheme to be first approved, supplemented as necessary by the implementation of the approved measures as each phase commences (SC12). This seems to me to be a logical and methodical approach to this important matter that it is necessary to address in the interests of sustainability.
207. SC13 reflects the concerns regarding the impact of the railway on the living conditions of future occupiers of parts of the site and while there is no reason to constrain development in principle for that reason, suitable detailed measures to secure amenity are necessary.
208. SC14 effectively requires the precise details of the access applied for to be resolved and the works, including the pedestrian and cyclists' bridge over the Fishpool Brook to be fully implemented before any dwelling is occupied; and I consider this to be necessary as these involve the sole vehicular access and the principal pedestrian route anticipated.
209. SC15, in effect, partially replicates the suggested content of SC2 insofar as it specifically concerns the off-site works for the Barrow Road Bridge traffic management scheme to improve its capacity, and involves further consideration of the details of the improvement, notwithstanding the satisfaction of the highway authority with the details submitted to date. This is necessary and will potentially cater for the effects of the cyclists phase subsequently introduced. Being off-site on land not controlled by the appellant, it needs to be negatively expressed in 'Grampian' style and to ensure early delivery and benefit the condition should, as suggested, make first occupation of a dwelling contingent upon its implementation.
210. SC16 – SC18 are best combined within the purview of a standard form of construction management condition suitably adapted to include, inter alia, the precautions to be taken in respect of badgers passing through the works.
211. SC19, if appropriately cross-referenced to the details of design, would require the retained public footpaths within the site to be upgraded by the time half the houses are occupied. This seems a reasonable and necessary precaution to

⁴⁰ Doc 24

ensure that such improvements are incorporated in the development in a timely fashion whilst accommodating any unavoidable delay.

212. The Slash Lane Flood warning system (SC20) is promoted as a benefit of the proposal and a means of mitigating the impact of extra traffic on such occasions and is seen as such by the highway authority. Despite some scepticism amongst third parties as to its value or efficacy I am nevertheless satisfied that it is necessary to secure the benefit by condition.
213. Insofar as public art (SC21) is required by the provisions of the development plan, it is necessary to secure its implementation by condition. Local plan policy EV/43 seeks to make public art integral to the design of major developments and, given this development plan rationale for the condition, it is not in my view inappropriate, in this instance, to seek to reinforce the quality of the detailed scheme design in this way.
214. Insofar as the Framework encourages renewable energy as an important aspect of sustainability, it is necessary to reinforce this locally on a development of this scale by a condition such as SC22.
215. The Parish Council promoted a condition to minimise the risk of flooding caused by the blocking of the Fishpool Brook culvert under the railway line, suggesting that the land as far as the culvert is in the control of the appellant and that the test of necessity is met by the need to avoid such blockage. However, I am not persuaded that this is appropriate or necessary as the potential blockage of culverts is a universal and ongoing matter for the appropriate authorities rather than the developer of any particular site. Moreover, I do not consider the risk of blockage to be demonstrably increased by the proposed development as the risk of unauthorised disposal of items likely to cause such a problem would arguably be reduced by the greater surveillance of the Fishpool Brook that is likely.

Planning Obligation

216. The Framework sets the tests for planning obligations consistent with the statutory requirements of the Community Infrastructure Levy Regulations 2010 (CIL Regulations). The Council's evidence addresses in some detail⁴¹ the developer contributions provided for and concludes, with reservations regarding the Travel Plan Penalty, that all bar the Policing Contribution are compliant with the relevant tests and the CIL Regulations. The separate matter of Affordable Housing in the obligation is justified on the basis of local and national policy and the relevant local evidence base. The precise level of affordable housing is a matter of negotiation on the specifics of any particular site, but it seems to me that 30% affordable, to be tailored to local needs as regards the mix of Social Rented Dwellings and Intermediate Affordable Dwellings, is a reasonable expectation on a greenfield site of this nature. The rationale for the Education and Library Facilities contributions is set out in the written evidence of the County Council,⁴² which also refers to the original request for a Civic Amenity contribution, subsequently dropped as a result of convenient local facilities with adequate capacity having been provided.

⁴¹ C2 Evidence of Mr Reid, Section 3

⁴² CC1 Evidence of Mr Tyrer

217. I have no reason to depart from the Council's analysis in respect of Public Open Space/Recreation and Community Facilities, Education and Library Services, all of which are calculated on the basis of established practice locally and with a view to specific provision in response to the predicted impacts of the proposed developments. Full weight may be accorded to those elements of the Planning Obligation. They 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.

218. More substantial comment, to which I return in due course in the context of my conclusions regarding infrastructure, is necessary on the financial contributions provided for in respect of Highways and Transport, Policing and Health.

Conclusions

References are made, where appropriate, to previous parts of the report by indicating the relevant paragraph number thus [0].

Main Considerations

219. I have identified the following main considerations in this case:

- (i) Whether the Council can demonstrate a five year supply of deliverable housing;
- (ii) The sustainability of the proposed development;
- (iii) The effect of the proposed development on highway safety, in particular its effect on the safe operation of the junction of Grove Lane with Sibley Road and South Street ('the Grove Lane junction');
- (iv) The effect of the proposed development on traffic circulation within Barrow Upon Soar, including at times of flooding;
- (v) The effect of the proposed development on flood risk;
- (vi) The effect of the proposed development on the infrastructure of the village and whether its impacts may be adequately mitigated by the provisions of the planning obligation;
- (vii) Whether the proposed development accords with the development plan for the area in respect of highway safety and the protection of the countryside;
- (viii) The accordance of the proposed development with the intentions of the National Planning Policy Framework ('the Framework') regarding the delivery of a wide choice of high quality homes, good design and the promotion of healthy communities; and
- (ix) Whether any harm arising from the proposals would be outweighed by other considerations, i.e. the planning balance.

(i) Housing Land Supply

220. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites and there was no substantive, evidence-based, challenge from any party regarding this. Accordingly, the Council accepts that the local plan policies

concerning housing land supply, specifically, cannot be considered up-to-date. [28]

221. I have no reason to doubt the position and it merits no further discussion other than to note that the presumption in favour of sustainable development set out in paragraph 14 of the Framework is thereby engaged. The failure to demonstrate a five year supply of deliverable housing sites is a matter to which substantial weight must be accorded.

(ii) Sustainability

222. Sustainability is a multi-faceted concept most authoritatively articulated in the Framework for present purposes. It merits some attention in that the sustainability credentials of the site are questioned by many, albeit not the Council [28], including numerous local residents who object to the proposals.

223. In land resource terms it has been established that the site does not comprise Best and Most Versatile land [8] and hence the loss of farmland does not weigh significantly against the proposal in sustainability terms, given the inevitability of having to develop greenfield sites in the Council's area.

224. Moreover, I am satisfied that there are no seriously adverse implications from the point of view of biodiversity. Again this is common ground between the main parties [28]. It seems to me that, if anything, the enrichment of habitat through extensive landscaping with appropriate species and the additional benefits afforded by individual suburban gardens in the fullness of time would be a benefit, notwithstanding that some species associated with farmland would be unlikely to return to the site itself.

225. Insofar as design is an important facet of sustainability, the qualities of the layout are such that it is common ground [28] between the main parties that relevant objectives would be met or would be capable of being achieved at the detailed design stage. It seems to me that the proposals balance the need to make efficient use of the site with the need to provide adequate open space to not only create a pleasant setting but also to accommodate appropriate SUDS measures and flood attenuation in a practical fashion.

226. The majority of the site is within a reasonable walking distance of the village centre. I noted that at reasonable walking pace it is 10-15 minutes and the upgrading of the routes would encourage their use. The south eastern part of the site is the least accessible at present, including to the bus stops on Sileby Road to the south. However, the evidence before me suggests [62] that Network Rail fully intends to replace the closed pedestrian crossing point of the railway that currently disrupts the footpath network with a footbridge and I have no reason to believe that this replacement will not in due course be implemented. The layout of the site makes for the encouragement of trips on foot and by bicycle and certainly facilitates such modes for those who wish to utilise them in preference to using a car for local journeys.

227. More strategically, the existence of the railway station, which provides access to major centres for employment, shopping and leisure, is a major advantage of the settlement of Barrow Upon Soar which would be readily shared by residents of the proposed development. I acknowledge that the station is perhaps more properly described as a 'halt' rather than a 'station', insofar as the latter is more

commonly understood as a substantial building or group of buildings with ticket office, staff and possibly shops and cafés. Nevertheless, the fact of the matter is that it exists and enables the population of Barrow Upon Soar to make ready use of the railway to travel to a variety of important destinations for employment, shopping, leisure and many other services, should they choose to do so. It may not be the most comfortable of facilities but for the majority of able-bodied people it is a perfectly practicable proposition.

228. This is an important consideration in terms of the concept of sustainability, to which the long view is intrinsic. Transient factors such as the state of the rolling stock or the quality of the service are less important than the fact of heavy and permanent infrastructure investment having already been undertaken, thereby representing an asset to be capitalised upon as needs dictate. The fact that usage is apparently low at present [124]⁴³ does not detract from the fundamental long term advantage of the railway as a focus for residential development.
229. The Framework⁴⁴, importantly, puts it thus: (Planning should)... *“actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable”*. This core principle places Barrow Upon Soar in a category of existing settlements which are inherently sustainable and, moreover, the appeal site itself is all within an entirely comfortable walking distance of the station⁴⁵. Many of the houses would be within 800m and none would be further than one kilometre, equivalent to a 10-15 minute comfortable walk for most. [28,61]
230. In addition, the existence of regular local bus services, for the most part within 400m⁴⁶ of the proposed houses with the potential for diversion through the site in due course, complements the more strategic accessibility afforded by the railway. [25,28,61]
231. It is relevant in this context to note in full the reported comments of the County Council’s Director of Environment and Transport, set out in full in Appendix 3 to *Charnwood 2028 Local Development Framework (LDF) Core Strategy Service Centre Capacity Assessment (Final Report) December 2011* (‘the SCCA’) [68]. These were that Barrow Upon Soar... *“is well served by bus services, and has a railway station but accessibility for pedestrians is currently limited to stairs only. However, existing public transport levels are insufficient to cater for the level of modal shift away from the car that would be required in order for the village to be considered suitable for a further significant expansion in housing provision.”*
232. The third key element in the equation as regards the sustainability of the location is the existence of a village centre with a good range of services that is already accessible on foot for those with the time and inclination to walk, and can be made more pleasantly so by the measures provided for in the planning obligation. There is no reason to regard the site as disadvantageous or discouraging to the use of bicycles.

⁴³ PC1 Evidence of Mr Cage, Appendix 1

⁴⁴ Paragraph 17

⁴⁵ ATA fig 3.2

⁴⁶ ATA Fig 3.1

233. For the above reasons I conclude that the appeal site's basic credentials in terms of both natural resource conservation, potential for good design, choice of sustainable transport modes and, importantly, scope for future improvement of public transport in response to demand, are in fact highly conducive to development of the type proposed.

234. It is of course the case that many other considerations impinge on the overall sustainability of the site and those that are of potentially decisive importance, namely highway safety, traffic circulation, flood risk and village infrastructure are separately considered below in order that an assessment in the round within the context of the development plan and the Framework can be made.

(iii) Highway safety

235. Grove Lane joins Sileby Road/South Street in the form of a section of one-way street with left turning and right turning lanes. The visibility to the right is entirely adequate but the visibility to the left is constrained by an existing property and it was agreed,⁴⁷ on the basis of on-site measurement during the course of the Inquiry, that the available visibility was, in practical terms, 42.5 metres to a 1 metre offset from the kerb. [48].

236. Much evidence was adduced regarding observed speeds on the road, adjustments for wet weather conditions and the composition of the traffic, to which I have given careful consideration. It seems to me, bearing in mind not only the totality of the evidence but also the response of the Highway Authority, which does not object to the proposals that, were the junction being constructed today, a more generous 'Y' distance of around 45 metres would be provided as a matter of course. Correspondence between the appellant's highway engineers and the highway authority⁴⁸ indicates its view that 45 metres was the appropriate standard to work to and that this could be achieved by the use of a 1.31m offset from the kerb. In other words, the layout of the junction does not provide the visibility to the left that, ideally, it should [114] [38 - 50, 73-99 and 112 – 114 for detail of the cases put].

237. This perceived deficiency must, in my view, be considered in the light of a number of factors, including the, albeit cautious, conclusion in MfS2 that there is no invariable relationship between visibility and collision risk. A second contextual factor is the reality that numerous junctions in urban areas are below current standards but are not normally reconfigured unless there is evidence of safety problems arising on a regular basis as a consequence. Otherwise they are left alone to carry volumes of traffic far in excess of those that originally typified the streets, on the basis that drivers exercise the necessary degree of caution as circumstances demand. The proposition was advanced that, if absolute standards were to be routinely applied to junctions in the network at a distance from individual application sites, this would unnecessarily inhibit the development of urban areas [50].

238. In response to my questions on that matter, Mr Young, for the appellant, explained the reality of the general picture very clearly and I concur with the commonsense assessment that he gave. Moreover, the Framework, at

⁴⁷ Doc 20

⁴⁸ ATA, Appendix A email from Younus Seedat to Stephen Yeates 25/01/11 @16:46

paragraph 32, sets out an approach which takes account the need for safety at the site access itself and residual cumulative impacts on the network that must be severe if development is to be prevented or refused. While it was submitted on behalf of the Council [101] that severity is a concept that that is inapplicable to the safe operation of a junction, i.e. it is either safe or it is not, I do not consider that the real world operates in that way. It would of course be wrong to sanction any development that self-evidently gave rise to significant deterioration in road safety without effective mitigation of the problem, but there is no cogent evidence to suggest that would be the case here.

239. MfS advises that local evidence should be taken into account in exercising the necessary judgement about any junction and the evidence in this instance is a sustained freedom from recorded accidents at the Grove Lane junction. It is of course the case that lack of accidents related to visibility is not proof that a substandard junction is inherently safe, but it does strongly suggest that it operates in practice in a safe manner because of its particular circumstances and the response of the drivers using and approaching the junction to such circumstances.
240. I observed the operation of the Grove Lane junction both as a driver and as a bystander on a number of occasions during the course of my visit to the area. There is no doubt that larger vehicles emerging from the junction to turn left do impinge on the far side of the carriageway, but they appear to do so in a cautious manner which gives adequate time where necessary for vehicles approaching from the east to adjust their speed to accommodate the manoeuvre. I also observed that certain other vehicles turning left do cross the lowered kerb so as to remain within the nearside of the highway whilst effecting the manoeuvre, whereas the great majority had no need to do that. The tyre marks and the evidence of my own eyes suggest that this is a regular, if not unduly frequent, occurrence, but the fact remains that large numbers of vehicles have exited the junction over the years without mishap. On the basis of agreed flows the junction carries in excess of 1.5 million vehicles annually, albeit right turning as well as left turning [39].
241. The reasons for the evidently safe operation of the junction may well include driver knowledge of its characteristics, including the lack of turns into it by reason of its one-way flow. But I also note that the approach to the junction from the east is up a perceptible gradient which is traffic calmed to some extent with occasional speed cushions and subject to the "friction" of parked cars where parking is not restricted and the improved forward visibility that results where it is, the net result being that drivers unfamiliar with the road are likely to approach the junction from the east with appropriate caution rather than assuming that they may proceed with impunity at a constant speed, as would be the tendency for instance on a free-flowing rural road. The urban and complex driving conditions give rise to a driver response that meets the circumstances, as is the case in countless situations throughout the country.
242. Competing assessments on the part of the appellant and the Council⁴⁹ make for a range of required visibility from 38.21m to 43.86m when appropriate reductions in average speeds to account for HGVs and buses are made [47].

⁴⁹ Doc 44, paragraph 25

The actual visibility based on what I consider to be an appropriate offset from the kerb of 1 metre, inside of which the highly unlikely and extremely rare occurrence of a motorcycle overtaking another vehicle overtaking a parked vehicle would not be entertained by its rider owing to the risk of kerb clipping, grids etc, is 42.5m from the centre line of Grove Lane⁵⁰. This comfortably exceeds the mid-point of the range, which is fractionally over 41m. Therefore, if the appellant is right in its calculation of 38m⁵¹ being the appropriate distance there is clearly no deficiency at all but the Council's more cautious approach without speed reductions for HGV/Bus content in the flows would produce a deficiency of the order of 3% against the 42.5m available. Using the appellant's surveyed speed uncorrected for wet weather, the 42.93m requirement would give a deficiency of around 1%. Only the most extreme requirement canvassed of 47.5 metres (Council's preferred figure with no speed reductions at all) would give a deficiency of around 10%.

243. Clearly a deficiency of that order would not be de minimis, but it is material that a more pragmatic approach was taken by the highway authority itself, which regarded 45 metres as being the desirable visibility and in any event does not object to the proposed development, and that the appellant's approach, in my view, more closely accords with the totality of the relevant available advice, little of which is wholly prescriptive, and contains the necessary ingredient of judgement on the circumstances and evidence.

244. I therefore consider it is appropriate to consider the matter of the safety of the Grove Lane junction in the round, bearing in mind the contextual considerations I have described, the lack of recorded accidents that could be ascribed to visibility, and the fact that the highway authority has at no time considered the junction to be in any sense a priority for improvement, notwithstanding that it is one of the principal junctions in the settlement of Barrow Upon Soar. I am also conscious that its one-way operation makes for a simpler pattern of movement and interaction between road users than would be the case if it were a conventional two-way flow with traffic entering it from the main road. It is pertinent to bear in mind the advice originally set out in MfS1⁵² concerning driver reaction and stopping sight distances, the various strands of local evidence and the revised guidance in MFS2⁵³. All things considered, I conclude that, despite its perceived deficiency in respect of visibility to the left, the junction, on the basis of that local evidence, operates safely and would not, understandably, be a priority candidate for improvement on the basis of current usage.

245. In my estimation, the deficiency, such as it is, is of marginal significance when the judgement is made in the round and should not trigger prevention of the proposed development unless the impact upon its continued safe operation would be demonstrably severe in the sense intended by paragraph 32 of the Framework. In the ordinary course of events developers cannot reasonably be expected to address imperfections in the existing network unless the impact of the proposals would be significantly adverse.

⁵⁰ Doc 20

⁵¹ Doc 44 paragraph 19

⁵² MfS1 7.5

⁵³ MfS2 10.1 – 10.5

246. That begs the question in this instance of whether the impact of additional traffic on the junction would be so significant as to undermine its currently safe operation.
247. The traffic forecast calculations accepted by the highway authority and the parties as the correct basis of calculation show that with no allowance for modal shift as a result of the Travel Plan but with allowance for unreduced⁵⁴ traffic growth to 2020 the proposed development would add some 62 right turners and some 30 left turners during the am peak hour to the one way exit from Grove Lane. PICADY results show that the consequential delays per vehicle at 2020⁵⁵ would be of the order of a few seconds only for left turners and a little longer for right turners, with less than one vehicle being added to the left turning queue and 1.3 vehicles being added to the right turning queue. The ratio of flow to capacity would be 0.401 for left turners and 0.58 for right turners, well within the accepted capacity threshold of 0.850. Similarly, the pm peak flows would be well within capacity.
248. On that basis, it is evident that the junction would continue to operate comfortably within capacity at the busiest times, with little additional delay for drivers that might otherwise cause impatient behaviour that could potentially undermine the demonstrably safe current operation of the junction. It seems to me that the evidence demonstrates conclusively that the junction should continue to operate without significant change when the additional traffic from the development has built up to its maximum anticipated level, which would in any event be a gradual process which would allow drivers to adjust their habits to compensate for any perceptions of additional delay in any event. Bearing all the relevant considerations in mind, I see no reason why, on a robust assessment, the safety of the junction would be materially diminished by the extra traffic from the proposed development.
249. Nor do I see any reason on the basis of the evidence before me [39, 83 - 85] why pedestrian safety in the vicinity of the junction should be any less than it is now, or that safety for cyclists would be diminished. In relation to the latter, I am conscious that MfS2 notes that greater visibility at T- junctions is associated with higher cycle collision rates.
250. For all the above reasons, while I understand the perception of the Council and the Parish Council that the imperfection of the Grove Lane junction with regard to its geometry and visibility to the left would be a cause for concern [72 - 101, 112 - 116] albeit not one ultimately shared by the highway authority, if the proposed development were to go ahead, I consider that the balance of evidence points conclusively to the judgement that highway safety would not be materially compromised by it. I therefore accord only limited weight to that perception and accordingly, I am unable to conclude that the effect of the proposed development would have an unacceptable impact in those terms as far as the Grove Lane junction is concerned. It follows that the claimed conflict with criterion (i) of local plan policy TR/6, set out in the Council's sole reason for refusal [23], is not, in my estimation, substantiated.

⁵⁴ Surveyed flows at the junction have decreased between 2009 and 2012

⁵⁵ Capacity assessment updated to 2020 at request of highway authority and summarised in evidence of Mr Young at table 5.3 of his evidence (A2)

251. I turn now briefly to the matter of the site access itself. The Council raises no objection to the proposed site access [28] and neither does the highway authority. The Parish Council, on the other hand maintained that the vehicular access to the site itself would be unsatisfactory in two principal respects, namely the single access point (with no separate emergency access) and the forward visibility to the access roundabout from the north east [109, 110].
252. The more usual approach is to provide for two or more access points on a development of this size, or a separate emergency access, but that is not always possible, a fact recognised by the highway authority's own guidance⁵⁶ which advocates assessment on a site-specific basis [54]. In this case, the requisite emergency access would be 'designed in' to the access roundabouts and short connecting road by the provision of over-run areas to be constructed sufficiently firmly and kept free of obstruction so as to allow emergency vehicles the option of leaving the carriageway itself to get round any obstruction within it. Clearly there is always the possibility that an incident such as a road traffic accident or fuel spillage could close the access itself for a while, but in such circumstances emergency vehicles would be able to reach the relevant area and no doubt by-pass it on the over-run area provision in the event that a simultaneous emergency occurred within the housing area beyond. The highway authority is entirely satisfied on this point [28] and I have no reason to disagree. There are no objections from the relevant emergency service providers in any event.
253. As far as the forward visibility to the roundabout is concerned, the relevant and appropriate guidance in MfS2 suggests that on the current observed speeds the necessary distance is around 52 metres and that, it is claimed by the appellant can be achieved, even when the changing levels of the land and adjacent land are taken into account as the Parish Council suggests. Having carefully studied the levels information on Drawing No 0940/SK/014 rev A and the drawing at Appendix D to Mr Young's rebuttal evidence,⁵⁷ and having observed the lie of the land and positioning of retained trees at my site visit I am satisfied that is so. The Highway authority has no objection to the proposed geometry either. Moreover, the speeds measured by the Parish Council in this 30 mph limit are clearly a driver response to the highway geometry as it currently exists, not the geometry proposed, which would include a signified roundabout and a more curved road, both of which would tend to reduce speeds in any event. This is not, in my estimation, a significant point against the proposed development which would create conflict with the intentions of the development plan or the Framework in respect of highway safety and no weight should be accorded to it [52,53,110].

(iv) Traffic circulation in Barrow Upon Soar

254. The particular geography of Barrow Upon Soar tends to concentrate traffic entering and leaving the settlement via the nearby A6 onto the historic Barrow Road Bridge, a listed structure. The alternative route to and from the A6 via Slash Lane to the east of the settlement is regularly inundated by flooding, albeit there appear to be no reliably precise records of exactly how many days in the year it is wholly impassable to motor vehicles.⁵⁸ Nevertheless, from all that I

⁵⁶ The so-called '6 C's' guidance (Appendix C to PC1 Evidence of Mr Cage)

⁵⁷ A3

⁵⁸ See for example paragraph 13.1 of evidence of Mr Cage on flooding (PC3)

saw and heard I have no doubt that this is a strategic difficulty for the settlement, indeed a difficulty that contributed to the dismissal of an appeal in of an appeal in 1997 [60,176]. I have studied this decision carefully and it seems to me that the circumstances of the site were different in that it was directly related to the possibility of providing a flood reduced link via Slash Lane to ensure the accessibility of the business premises at that time proposed, but there were in any event a range of other substantiated objections to the proposal and the Inspector concluded, amongst other things, that... *“such consequences of poorly sited development are particularly unnecessary at this time when there is no urgent need for further employment land to be released and when there is to be debate over how to best provide for future needs in the context of the emerging Local Plan.”*⁵⁹

255. At the strategic level a further distinguishing feature was the lack of demonstrable need for the release of employment land at the time and I am also conscious that housing development has continued apace in Barrow Upon Soar, especially on its northern fringe, despite the obvious difficulty that the periodic severance of Slash Lane and other routes causes. Nevertheless, it seems to me that in the ordinary course of events the expansion of the settlement without resolution of the problem via public investment in the necessary works, however funded, does weigh against the current proposal in the absence of a clear mechanism, set out for example in an up to date development plan, so as to overcome the difficulty, which, unresolved, must ultimately limit the growth of the settlement, especially if climate change increases its frequency.
256. Against that, the settlement is established and must continue to thrive despite those intermittent difficulties which load additional traffic onto the more reliable route across Barrow Road Bridge, leading on such occasions to additional and widespread congestion. The relationship of the proposed development to the Slash Lane difficulty is not so direct or unique that it would be reasonable to require resolution of the problem, which is common to the entire settlement, to be funded by the appellant in this case and there is no suggestion from the Council or the highway authority (neither of which objects to the proposed development on the grounds of the Slash Lane situation) that it should be. Some mitigation of the extra impact of the proposed development on ‘flood days’ is arguably necessary but has been catered for by the commitment to extra warning signs, albeit these do not address the root cause of the difficulty.
257. The key question is whether the extra traffic impact of the proposed development on flood days would be so severe as to render the development untenable as a consequence of the extra loadings on the Barrow Bridge route on those occasions which disrupt the traffic flow and cause congestion in the settlement in any event, but I have no cogent evidence to suggest that a critical threshold would be crossed so as to render the existing unfortunate situation wholly unacceptable.
258. Moreover, the appellant’s off-site proposals to improve the capacity of the Barrow Road Bridge through the use of some additional traffic management measures, including the repositioning of the traffic lights and stop-lines and the installation of MOVA technology would serve to ease, it seems to me, the position

⁵⁹ Ibid paragraph 33

on flood days in the same way that it would on the ordinary days when Slash Lane and sometimes Mountsorrel Lane, apparently, are closed. Clearly the congestion would be greater and more enduring on such occasions but that simply reflects the current position without the proposed Barrow Road Bridge improvements necessitated by the additional traffic from the development proposed in this instance.

259. The effectiveness of those proposed improvements was questioned by the Parish Council [117,118], albeit not the Council or the highway authority, on a number of counts. While I can see that an overly ambitious approach to repositioning the stop lines could potentially cause difficulties in the event of large vehicles meeting at the point of constriction, I have no doubt that precise positioning at the point of implementation would minimise the risk of such an occurrence. Moreover, there is no cogent evidence that the listing of the structure would necessarily inhibit the most advantageous re-positioning of the traffic signals. It does seem that the recent introduction of a dedicated cyclists' phase by the highway authority has the potential to require further modification to the proposals, but the highway authority is the instigator of that and I have no doubt that adjustments could be made as it considers necessary.
260. Fundamentally, it seems to me, the MOVA system proposed, being a dynamic means of traffic management in response to the prevailing circumstances, has the potential for continuous adjustment, for example in the event of the so-called 'hurry loop' introducing unintended consequences⁶⁰, to achieve the optimum outcome at a bridge which has served the settlement and will continue to do so on the basis of alternating one-way flows. The appellant's VISSIM modelling was criticised as being too limited in its scope on the approach roads, for example stopping short of the 'Jerusalem Roundabout' but the inclusion of the additional traffic in a wider purview would tend to dilute its significance in any event. Ultimately, all such modelling has its limitations and the Parish Council's evidence failed to convince me that its VISSIM modelling ultimately gave a more accurate prediction. It seems to me that the CD visualisation of the predicted traffic movement failed to take into account matters that would be properly addressed by experienced drivers on a day to day basis, such as minimising delays caused by right turners into Proctor's Park Road.
261. In any event, the addition of around 90 vehicles in the peak hour or around 1.5 vehicles per minute, whilst not perhaps, at 6% increase, imperceptible as the appellant claims⁶¹, would certainly not give rise to insurmountable or unacceptable levels of increase in congestion relative to the existing situation, even if the installation of the proposed measures were to be less effective than predicted. While I have no doubt that there are occasions when the bridge does give rise to difficulties in the settlement, I observed it on a number of occasions, including my formal site visit (timed to observe am peak conditions at the Jerusalem Roundabout.) I can only conclude, having done so, that, given the constriction in the network that the bridge must inevitably create, for the most part it operates as well as can reasonably be expected and that, with the benefit of the improvements proposed, it will continue to do so and may even experience some improvement as the appellant claims. It is significant that the highway

⁶⁰ Doc 42 paragraph 5.16

⁶¹ Doc 44 paragraph 39

authority is satisfied with the proposed mitigation of additional flows on the network in this respect and that there is in any event continuing scope for refinement of a system that is intrinsically sensitive to demand at any time and allocates the available capacity of the bridge accordingly, i.e. an intelligent system. A 'trial run', as has been suggested by a local resident [180], would, in the circumstances, neither be practical, nor, in my view, necessary.

262. All in all, given the proposed improvements, there is no reason to consider that the increased traffic at the Barrow Road Bridge would lead to any conflict with the intentions of the development plan or those of paragraph 32 of the Framework, which says that decisions should take account of, inter alia, whether...

"improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe." The residual impact of the proposal on the Barrow Road Bridge following the introduction of the proposed MOVA system, even if were to fail to fully live up to its promise of more than compensating for the impact of the proposed development⁶², could by no stretch of the imagination be described as 'severe' even though some adverse impact might at some point on some occasions conceivably occur.

263. Moreover, the visibility towards the bridge is perfectly adequate from both directions and would remain so even after the adjustments proposed to the signal heads were effected. There is no convincing evidence to demonstrate that visibility at the bridge, or the layout of the road, is in any sense a cause of undue danger. The bridge is an inconvenience known, logically, to most drivers in the peak hours and almost certainly to a sizeable majority of those using it outside those hours. The only potentially decisive question is one of consequential materially and unacceptably reduced capacity on the highway network and, for the reasons previously explained, I do not consider that to the case in any event.

264. Finally, as regards the day to day operation of the highway network elsewhere, there was contention; from the Parish Council [111]⁶³ that abuse of the short stretch of one-way routeing between the junction of Breachfield Road with Grove Lane, between it and Melton Road; and from Mr Smith [168]⁶⁴ regarding the speed of traffic passing the junction of Babbington Road with Melton Road in the vicinity of the northern end Breachfield Road; that both were potential sources of danger, underlining constraints in the network. With regard to the latter point, I consider that the introduction of the proposed site access roundabout (Drawing No 0940/SK/014 rev A) would advantageously change the geometry of Melton Road, improving visibility whilst calming traffic. As regards the former point, it can only reasonably be assumed that local motorists will obey the law and resist the temptation to short-cut. If anything, a perception of increased flow, such as it would be, would reduce that temptation rather than increase danger, in my view. I do not consider that either point would amount to a conflict with local plan policy TR/6 or the intentions of Framework policy concerning road safety and, again, I am conscious that there is no objection from the highway authority.

⁶² Ibid paragraph 45

⁶³ Doc 42 paragraph 5.4

⁶⁴ Doc 19

(v) Flood risk

265. Flood risk is not an objection raised by the Council, which is satisfied on the basis of the technical evidence and the position of the Environment Agency (EA) that, with the imposition of appropriate conditions, the appropriate standard of mitigation will be achieved, principally through siting the dwellings wholly within Flood Zone 1 within a specified maximum area, by SUDS techniques to maintain run-off rates of surface water at the existing greenfield level and by an engineered increase in the capacity of the existing floodplain of Fishpool Brook. The latter would ameliorate⁶⁵, it is suggested, albeit not eliminate, the problems for existing householders on Breachfield Road with rear gardens bounded by the brook.
266. Having visited certain of the gardens and studied, in particular, the photographs⁶⁶ submitted by Mr Hilsdon and Mr Burton, as well as those appended⁶⁷ to the FRA and AFRA, I can well appreciate the apprehension of residents [139] that flooding of Fishpool Brook would be exacerbated, notwithstanding that their gardens are clearly designed and profiled to cope with such periodic flooding. It plainly occurs. It cannot be pleasant, and the prospect of it increasing would be a cause for dismay. However, such a prospect is not borne out by the evidence, even though it was not possible for the FRA to survey this private land specifically, causing reliance on so-called 'glass wall' modelling techniques.
267. Understandable apprehension is no substitute for robust evidence and the FRA and its submitted addendum to address masterplan amendments provides just that. The evidence of Mr Rassool, sections 3.00 – 6.00 in particular, demonstrates very effectively that a robustly pessimistic or conservative approach in the modelling has been taken and that there could well be the prospect of a slight improvement in the experience of the householders, albeit that flooding of their lower gardens will still occur. The proposed development would not, therefore, be a panacea. However, I am satisfied that a careful approach has been taken, rooted in the appropriate scientific principles and, on that basis, the proposed development should certainly not make matters worse in any significant way. The EA's updated modelling⁶⁸ provides a further level of comfort on the issue. Moreover, the note prepared by Mr Rassool⁶⁹ in response to Mr Hilsdon's concerns about drainage from old mine workings⁷⁰ deals authoritatively, in my view, with that matter.
268. The Parish Council's submissions on flooding⁷¹ are extensive but miss the essential point that, whilst stating that its requirements would be "exacting", the work undertaken satisfies the EA, and the essential point also that such requirements can be secured through the imposition of appropriate planning conditions such that the development could not proceed if more detailed investigations belie the conclusion that, in principle, all relevant requirements

⁶⁵ AFRA paragraphs 1.16, 1.17 and 1.23

⁶⁶ Docs 32 and 39 respectively

⁶⁷ Appendices I and A respectively

⁶⁸ Ref NTW307/TN1 (Appendix B to A4 Evidence of Mr Rassool)

⁶⁹ Doc 38

⁷⁰ Doc 32

⁷¹ Doc 42 Section 4.0

appear capable of being satisfied on the basis of the work undertaken to date. This is an outline application for a large development with sufficient scope for flexibility, for example in attenuation capacity, regarding SUDS techniques built into the basic masterplan; and it would negate the spirit and purpose of the outline procedure if the expense of comprehensive and definitive investigation and design of the end state solution were to be required in advance of the certainty of planning permission that might be withheld for other reasons. It is sufficient at this stage to demonstrate to the EA and, with the benefit of its advice, the decision maker, that the most up to date and refined modelling available, in combination with a site layout that incorporates the principles that would enable the relevant objectives to be met, give sufficient comfort that a practicable solution is in prospect. I have seen no evidence sufficiently compelling to convince me that is not the case.

269. Moreover, it seems to me that future investigation of the permeability of the sub-strata in detail, bearing in mind the above, may improve upon the situation, if it proves better than has been portrayed,⁷² although there would be no adverse consequences if it did not.

270. Further, while I note the contention that the modelling did not account for any reduction in capacity of the floodplain of Fishpool Brook if, for example, a causeway approach were to be adopted in its design, I am conscious that other solutions could be considered which would allow the free passage of floodwater in any event, whilst maintaining the passage of pedestrians across the low lying area. Alternatively, acceptance of the partial submergence of an at grade pedestrian route as a temporary inconvenience would not significantly undermine the sustainability credentials of the site as alternative routes would be available via the principal access to the site. Although perhaps not ideal, I do not consider the consequences of the pedestrian link crossing the floodplain to be intrinsically insurmountable and I have no reason to consider that the consequences in terms of flood risk would be sufficient to change my overall assessment that the flood risk modelling is adequate.

271. Nor do I consider the alleged increase in risk of the culvert under the railway blocking to be a matter to which weight should be accorded. The culvert is presently rather inaccessible and consequently rarely observed. Hence debris potentially causing a blockage is likely to go unreported. More natural surveillance of the Fishpool Brook could just as readily reduce the risk of blockage as more public access to the adjacent land might increase it. I have no evidence to suggest that this is a serious criticism of the scheme which should carry any weight. Similarly, the maintenance of the culvert is ultimately the responsibility of Network Rail and I have no evidence that the potential for increased scour is a serious threat to its structural integrity or continued effectiveness.

272. The Parish Council's submission [132] that the EA recommendation to keep floor slabs at 48 metres AOD or above to cater for potential 50% blockage of the culvert in the 1 in 100 year plus climate change event would cause significant problems is not borne out by the evidence. The western edge of the development area shown on the masterplan, within which the layout is

⁷² Ibid paragraph 4.6

illustrative, broadly corresponds with the 48m contour shown on the site survey drawing included as Appendix A to the FRA. It is plain to me that the necessary precautionary minimum slab level which the EA recommends would readily be achieved by the scheme as currently conceived without unduly radical revisions to the layout. Moreover, the AFRA⁷³ shows the 100 year plus 20% for climate change modelled floodplain to be well below this level, such that any blockage would have to cause flooding at significant additional depth over a very extensive area to cause significant problems in that respect. That possibility is plainly remote in the extreme when the relevant contours are studied.

273. In the final analysis, the expert responsible statutory consultee is content that the approach to flood risk at outline stage is sufficient to engender confidence that its requirements can be met in practice. This is powerful evidence of the ability of the scheme to comply with relevant policy regarding flood risk in the Framework and associated technical guidance and a position to which substantial weight and credence is to be accorded. The logic of the approach to flood risk within the design of the scheme is compelling and I am satisfied that in principle it effectively addresses the matter, with a firm prospect of the broad approach to the disposition and extent of land uses illustrated being retained in broadly the same form at detailed design stage. The illustrative masterplan has a logic to it that has clearly taken into account the relevant precautionary requirements regarding flood risk. In short, I am satisfied that the evidence shows that, subject to the imposition of the EA's requirements, the proposed development would not be subject to fluvial inundation on any reasonable assessment of risk and nor would it materially increase flood risk elsewhere in the catchment.

274. For all the above reasons I am able to conclude that, whilst the definitively detailed measures have not been designed at this stage, the evidence, including the evident satisfaction of the EA, which is fully aware of the master plan proposals for the site, clearly indicates that in practice they will be effective in avoiding any increase in flood risk; and may possibly give rise to betterment that could, on occasion, improve the position of certain of the existing householders whose lower rear gardens are currently affected by flooding.

275. There is, therefore, no significant conflict with the intentions of the development plan or the Framework in respect of flood risk.

276. As to the potential impact of the flooding of Fishpool Brook on foul drainage and the risk of surcharge, I see no reason in principle why appropriate design measures could not be incorporated to secure the system, thereby effecting an improvement on the current situation. The matter is capable of being addressed as necessary by planning condition.

(vi) Infrastructure

277. It is apparent that Barrow Upon Soar, over a number of decades, has expanded through the development of housing estates from its original core. Its location on the north east side of the of the River Soar, which effectively separates the settlement from the group of settlements comprised of Loughborough, Quorn and Mountsorrel, makes it relatively freestanding but there is little to suggest that it is notably self-contained despite its identification as a 'Potential Service Centre' in

⁷³ Figure 1

the evidence base for the Council's forthcoming Core Strategy. Nevertheless, in the context of an expansion of the total Charnwood population of 15.4%, the document in question (SCCA) [68] indicates, at Table 7, that other settlements - Mountsorrel (36.9%), Rothley (30%) and Wymeswold (24.5%) – have expanded in population terms relatively more in the period 1991 – 2009. Barrow Upon Soar, by comparison, has expanded by some 20.6% in population terms over the same period, with 619 houses having been built. Clearly, this expansion is ongoing with the continuing development at the Willow Road site in the northern part of the settlement, together with smaller sites, as the Parish Council's evidence clearly indicates, suggesting a likely increase of the order of 50% since 2001 if the proposed development in this case were to be allowed and constructed.⁷⁴

278. Table 12 of the SCCA broadly classifies the range of facilities on a comparative basis as between their level of provision in the identified Service Centres. In the case of Barrow Upon Soar 'Services and facilities', 'Quality of centre', 'Opportunities for improvement' and 'Planning constraints' are ranked as "reasonable" with a moderate level of capacity constraint, whilst 'Transport access', 'Employment self-containment' and 'Infrastructure capacity' are ranked as "fair" with a significant level of capacity constraint. No category is ranked as poor or as giving rise to a very significant or potentially overriding level of constraint.
279. The classification is broad and has yet to be tested through independent examination. Moreover, the development strategy itself for the district has yet to be settled in terms of the emerging plan and it is common ground between the main parties that it should be accorded no weight in the determination of the appeal [14]. Nevertheless, the evidence base presents a picture that is perhaps less constrained than the very clear perception of the Parish Council and the numerous local residents [103 -105, 136,137, 141-148,151,158-161,170,174,181,182 185] who have made representations that the physical and social infrastructure of Barrow Upon Soar is unduly stretched, although elsewhere in the SCCA [68] specific concerns are highlighted. For example, Table 2 notes the highway authority's concern that the Barrow Road bridge is constrained in capacity terms and that the settlement is prone to disruption when Sibley Road and Slash lane are flooded, together with the comment that *"it is not readily apparent how these issues might be addressed in order to accommodate further housing growth in the village"*.
280. I also note that Table 11 of the SCCA indicates, inter alia, that there is potential for improvement through contributions to *"capacity of services and facilities where justified"* and that there is the opportunity to... *"Improve provision for buses, cycling and walking plus better traffic management to help reduce pressures. New highway capacity only considered where no other reasonable alternative can address traffic related problems."*
281. These matters go to the heart of my previous consideration of the suggested planning conditions and the planning obligation submitted and what, because of the statutory CIL tests, may or may not be accorded weight in the decision making process as far as the latter is concerned, notably in relation to the

⁷⁴ PC4 Evidence of Mr Cattle paragraphs 2.2 – 2.7

- financial contributions provided for in respect of Highways and Transport, Policing and Health.
282. The County Council's written evidence to inform the Inquiry [183 – 190] includes details⁷⁵ of the manner in which specified contributions for Highways and Transport are intended to be spent and my conclusions are summarised below.
283. The bus shelter and pedestrian and cycle routes contributions relate to physical works and infrastructure so as to more effectively serve the proposed development by public transport and physically link it into the existing built village with improved access to the village centre and the Humphrey Perkins High School. They involve capital expenditure which is necessary to make the development acceptable in the sense of keying it in to the fabric of the settlement and this is directly related to the development and, it seems to me, fairly and reasonably related to it in scale and kind. Full weight may be accorded to this element of the Planning Obligation.
284. It is common ground between the main parties that the site is sustainably located. The 'Travel Pass Contribution' is essentially a form of revenue expenditure effectively, albeit indirectly, subsidising the provision of rail and bus services for a temporary period to induce good habits in potential customers. There can be no guarantee that such habits will continue. People tend to be rational in the exercise of transport choice and, if it suits their needs to make use of the public transport services to which the site is inherently accessible, they will do so; otherwise they will use other means, whether that be bicycle, motorcycle or motor car. However, insofar as it would promote sustainable transport habits to capitalise on the advantages of the site's location, thereby contributing to the promotion of sustainable transport advocated by the Framework, the contribution may be regarded as a necessary complement to help ensure that the sustainability credentials of the development are maximised at the outset.
285. The obligation also provides for a 'Travel Packs Contribution'. Such packs are undoubtedly good practice. They may influence the behaviour and travel choices of a proportion of the occupants of the proposed houses, initially at least. Again, to the extent that they would promote sustainable transport habits from the outset, they may be regarded as a necessary complement to help ensure that the sustainability credentials of the development are fully utilised early on. The packs would clearly be directly related to the development proposed and I have no reason to consider the sums of money involved disproportionate.
286. However, the Travel Plan Penalty (CC2, para. 3.3) cannot, logically, be necessary to make the development acceptable in planning terms. It caters for the possibility that, notwithstanding the services of a Community Travel Plan Co-ordinator (CTC) for a temporary period⁷⁶ whilst the development takes place, the Travel Plan fails to meet its target of 14% modal shift away from the private car, which of itself is a laudable objective in policy terms. However, by the time that failure had become apparent, the houses would have been built and occupied and the additional measures to pursue modal shift objectives that the £45,000 penalty would fund would be further physical measures or travel packs and passes, it is said, but the latter would only be for a temporary period. It is also

⁷⁵ CC2 Evidence of Mr Cook

⁷⁶ Fourth Schedule to planning obligation, paragraph 5.3.7

said that the penalty provides an incentive for the developer to seriously implement the measures in the travel plan but, realistically, in the context of a development of 300 new houses and, possibly, a commensurate reduction in the base value of the land in any event, I cannot see that this would be so. It may have merit as a signal that necessary good practice is expected, but I do not consider such an arrangement to be necessary to make the development acceptable in planning terms in the longer term. The concept of necessity, in my view has to be more robust than a measure that, at best, would seek to retrofit good practice and unspecified physical measures at some point in the future after the development had been implemented in any event.

287. For these reasons, I do not consider that any weight should be accorded to that particular element of the planning obligation.

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 Thorley⁷⁷ addresses this matter at Section 12 and his Appendix 10⁷⁸ 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."*

⁷⁷ A1

⁷⁸ In A1a

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 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.
295. The ‘Healthcare’ contribution of £30,000 is solely for the improvement of the health centre car park rather than, for example, additional consulting space, albeit more efficient use of space and hence easier parking should, in principle, help to improve the efficiency of throughput as people have less difficulties in prompt attendance. The PCT,⁷⁹ despite its reservations about the impact of the proposed development on its ability to deliver continuously improving services

⁷⁹ Doc 15

through the health centre, nevertheless sees this specific action as complementary to premises improvement funded by previous S106 monies. Given the inevitable increase in patient numbers that the proposed development would give rise to, it does appear to be a considered and specified use of funds for a relevant capital project to cater for additional demand rather than simply a bid to overcome an existing deficiency. In the circumstances that have been described to me [145,146,174] it would therefore meet the relevant tests and may be accorded weight.

296. For the above reasons, I consider the contributions to the infrastructure of Barrow Upon Soar and encouragement of public transport use that would be delivered via the executed obligation should be accorded weight in the planning balance, but that the Travel Plan Penalty ought not to be accorded weight.
297. The majority of the provisions in the obligation are necessary to the grant of planning permission and do otherwise meet the relevant tests, the upshot being that the concerns of the residents and the Parish Council concerning pressures on the physical and social infrastructure of the village are capable of being met, but only barely so in the context of individual applications for development such as this one. The reality is that the mitigation of impact is confined to that which may directly be ascribed to the proposed development. Therefore, whilst the impact of development might be mitigated in the sense of services and infrastructure ultimately remaining no more stretched than previously, the perception is one of increased pressure on a finite quantum of service provision; hence the sentiment expressed in the Parish Council's closing submissions that the proposals will not lead to a better quality of life or positive improvements as advocated by the Framework but rather it will lead to deterioration in the quality of life currently enjoyed by Barrow Upon Soar residents [138].
298. I have previously drawn conclusions in respect of traffic and the highways infrastructure which, with the measures proposed, the highway authority considers will cope and I do not consider that the residual cumulative impacts would be severe. Therefore, bearing in mind the principle set out in paragraph 32 of the Framework and notwithstanding that the existing situation is perceived as unsatisfactory, certainly on flood days when one or more routes out of the settlement is closed, refusal would not be warranted on that ground, albeit the prospects for further growth in the absence of more radical measures would in my view be questionable and would ideally be addressed in the context of the development plan.
299. As I have noted, the planning obligation makes sufficient provision to mitigate the impacts of the proposed development on schools, libraries, policing, open space and recreation facilities and community facilities. In other words, the status quo would be broadly maintained at the existing level of pressure, whereas, it seems to me that local residents and the Parish Council feel that the existing level of pressure is already unsatisfactory due to the pace of growth in the relatively recent past. Perhaps understandably in the circumstances, a single proposal to construct up to 300 additional dwellings is perceived as too much for the community to absorb. It would of course be built out over a period of time, albeit relatively short, and the planning obligation makes provision for that in terms of stepped contributions as specified thresholds are crossed in respect of, for example, education. In other words, funds would be released proportionate to the impact over time.

300. The Health Centre and its services are clearly under pressure from an increasing population [141-148], albeit its commitment to excellence suggests that it would cope even if anticipated improvements are delivered less rapidly than might be hoped for. However, notwithstanding my previous observations on the generality of public services for the community in the context of policing, I do not consider that the limits to growth of a settlement can in principle be determined by the availability of health service resources that the increasing population would have to avail itself wherever it was housed in any event. It seems to me that such services are inherently malleable and capable of being expanded locally to meet demand, much in the same way as commercially provided services in a settlement respond to the opportunities created by additional population, albeit in the case of public services the necessary funding is prone to different disciplines and priorities. Put simply, it would be absurd to turn away needed housing simply because the present number of medical staff in a particular settlement was set at a finite number. The answer is clearly to improve upon their availability through the established funding channels to match population growth. The adequacy or otherwise of such funding is not a matter for me to address. Provision is made, in this instance, for the physical improvement of the capacity of the Health Centre car park so as to improve efficiency and help mitigate the impact [145] of significantly increased patient numbers.

301. In all the circumstances, while I can appreciate the local perception in the community of growth and consequent pressure, the reality is that in accordance with the CIL Regulations and the relevant formulae where applicable used by the public services, the proposed development would provide for the necessary mitigation, but little more, of its own impact and on that basis should not lead to the deterioration in the quality of life that the Parish Council and others assert. If additional benefits were to be provided for in the sense of positive but extraneous improvements not directly related to the proposed development, I would not be able to recommend that they should be given weight in the determination of the appeal. The most obvious example of this would be the funding sought by BUSCA for a community centre. I have no doubt that it would be perceived as a substantial benefit by the community, but funding of that order is not on offer and could not weigh in favour of the proposed development if it were.

302. In the final analysis, the approach adopted by the appellant, the Council and the County Council to the provision of physical and social infrastructure is, in the main, the correct one insofar as it aims to provide for proportionate mitigation of impact. There is no lack of such mitigation that would weigh decisively against the proposed development in this case, whatever the perception to the contrary might be. The provision made is sufficient, in accordance with relevant legislation and local and national policy. Given that position, I do not accept the proposition that in those terms the proposed development would lead to a deterioration in the quality of life of existing residents sufficient to warrant dismissal of the appeal.

(vii) Accordance with the development plan

303. The appellant maintains that the proposed development accords with the development plan as a whole [32-34,71]. I consider it more correct to say that there is substantial accordance with many aspects of the development plan, but clear conflict with certain key elements of it.

304. It is common ground between the main parties that the proposed development accords with a wide range of policies [21,28], both in the RSS and in the local plan. I have no reason to depart from that analysis.
305. The Council [23] alleges conflict with policy TR/6 but I have concluded that there is no conflict with that policy.
306. It is common ground that the proposals conflict with the intentions of policies ST/2, CT/1 and CT/2 which generally seek to restrict development in the countryside [28].
307. More specifically: ST/2 seeks to confine development to allocated sites within the defined limits of settlements and the appeal site lies outside the defined limit for Barrow Upon Soar. CT/1 seeks to strictly control development in the open countryside outside such limits to specified categories of essentially rural development. CT/2 permits development that would not harm the character and appearance of the countryside and which would safeguard its historic, nature conservation, amenity and other local interest value.
308. The conflict with ST/2 is self-evident. Moreover, suburban housing estates do not fall within the purview of what is contemplated by policy CT/2. The rural ambience of the appeal site would be transformed into that of such an estate and in that sense the conflict with CT/2 is clear, albeit there is no objection on the grounds of nature conservation or historic value in this instance.
309. Third parties [191,194] have specifically cited conflict with local plan policy ST/1(ii) in the sense that the nature of the many objections was indicative of the value ascribed by the community to the appeal site. Policy ST/1 states that, in providing for the development needs of the Borough measures will be taken to, amongst other things.....*"conserve, protect and enhance those features of the natural, historic and built environment which are particularly valued by the community"*... but gives no objective criteria by which to identify such features, specifically, albeit the explanation associated with the policy at paragraphs 2.24 – 2.27 appears to imply by its topic coverage that criterion (ii) is primarily concerned with heritage assets and designated sites, rather than the more nebulous concept simply of environment that is valued. On that basis, there would be no conflict with the policy as the appeal site contains no such assets or designations or features otherwise formally recognised.
310. Notwithstanding the groundswell of objection to the prospective loss of the site to development, I therefore do not consider the policy as originally conceived and drafted would be contravened in the manner that has been suggested and there is no suggestion from the Council that this would be the case, either in the SoCG or the evidence of Mr Reid. In terms of impact the loss of "ordinary" undesignated countryside that the appeal site represents would undoubtedly be keenly felt by a significant section of the community. However, although pleasant in its present rural appearance, the site is well contained by the vegetation at its margins that has the potential to be retained and strengthened in the overall landscaping scheme that would be necessary. The sloping nature of the site does make for prominence but the nature of the topography is such that this would be largely confined to visibility from within the existing settlement and the outer margins would be below the skyline given the nature of the topography [9] and would in some respects mirror the existing development on the gently sloping land to the west of the Fishpool Brook. This is particularly

evident when the site is viewed in context from its north-eastern margin. If it is necessary to release this greenfield site for development, there are, in my estimation, no overriding aesthetic objections to doing so based on development plan policy.

311. What the SoCG does confirm is the Council's view that policies ST/2, CT/1 and CT/2, being adopted prior to 2004, may only be given weight commensurate with the extent that they comply with the provisions of the Framework.⁸⁰ Moreover, it also confirms the Council's view that the policies, whilst generally restricting development in the countryside, also relate to the supply of housing and are "out of date" when considered in the context of paragraph 49 of the Framework because the Council is unable to demonstrate a five year supply of deliverable housing land [28]. I have no reason to depart from that analysis.
312. For the above reasons, I consider the proposed development displays a very substantial degree of accordance with the development plan as a whole, bar conflict with the protection of the countryside outside defined settlement boundaries. However, that local plan intention must be tempered by the presumption in favour of sustainable development as set out in paragraph 14 of the Framework. The Council accepts that the proposed development represents sustainable development [28] and I have drawn a similar conclusion in my initial broad analysis of its sustainability credentials. Nothing in my subsequent analysis of the main considerations would lead me to an alternative view.

(viii) Accordance with the Framework

313. The Framework promotes sustainable development and I have concluded that the proposal represents sustainable development in a sustainable location where a variety of transport choices, including rail travel, are already available and could in principle be improved upon.
314. I have also concluded, with the pedestrian and cycling measures provided for, that safe and suitable access to the site can be achieved for all and that the improvements to the operation of the Barrow Road Bridge would help to limit the impact of additional traffic and that the residual cumulative impacts of the proposed development in transport terms would not be severe and that the Grove Lane junction geometry is not, in the light of local evidence and circumstances, a sufficient reason to withhold planning permission.
315. The Travel Plan measures provided for can only serve to improve the situation and at least encourage the sustainable transport choices necessary to serve broad policy intentions articulated in the Framework. This represents good practice that accords with the spirit of the Framework's intentions in respect of promoting sustainable transport, albeit I do not consider the Travel Plan Penalty to be justified. Moreover, the site is capable of being readily linked in to the existing fabric of the settlement in terms of footpaths and cycleways and there is no reason to doubt that this objective will ultimately be better realised at the south-eastern extremity of the site when Network Rail fulfils its putative obligations⁸¹ by constructing a footbridge to restore the footpath connection across the tracks.

⁸⁰ SoCG paragraph 6.13

⁸¹ Submitted Planning Statement, paragraphs 8.15 – 8.23 and Doc 44, paragraph 56

316. The layout of the site avoids placing residential development in the floodplain of the Fishpool Brook, allows for increasing its capacity and, moreover would enable houses to be placed above the required level to future proof them in respect of the potential effects of climate change, whilst allowing sufficient scope through SUDS techniques not to increase levels of run-off. The generous provision of open space within the proposed development required to achieve these outcomes would also facilitate recreational activity, a pleasantly landscaped setting and the promotion of biodiversity.
317. Many of the above characteristics assist the promotion of a healthy community and the housing proposed, which would be 30% affordable would make a valuable contribution to the delivery of a wide choice of high quality homes. Although there is evident and widespread concern that the existing community of Barrow Upon Soar will struggle to accommodate the additional population, especially in view of ongoing expansion as a result of permissions granted in the relatively recent past, the executed planning obligation would at least mitigate the impact of additional population in a proportionate manner commensurate with statutory requirements, even if compensating provision for perceived pressure already arising from existing expansion would not be added to that mitigation. The proposed development achieves what it must in terms of the latter.
318. The design of the proposed houses themselves is a reserved matter but given the carefully conceived layout to address a number of the above matters, I have no reason to consider that a standard of design appropriate to the essentially suburban nature of the existing settlement could not be achieved. The layout itself is also a reserved matter but its importance to the acceptability of the proposal is such that it would be necessary to secure its essential principles through the imposition of a planning condition (SC4 as previously referred to). The Framework of course provides for that approach.
319. As the proposed development is able to adequately address flood risk, the appeal site is not subject to any specific policies in the Framework that would inhibit its development in the manner indicated by paragraph 14 (Footnote 9 to the Framework refers). Nor would the development involve the loss of Best and Most Versatile land as discouraged by paragraph 112.
320. Bearing all of the above in mind and the acknowledged inability of the Council to demonstrate a five year supply of deliverable housing sites, together with its acknowledgement that policies ST/2, CT/1 and CT/2 may thereby not be considered up-to-date, and my conclusion that in any event the proposed development displays a very substantial degree of accord with the development plan as a whole, I have no doubt that the presumption in favour of sustainable development is, in principle, engaged.
321. The Parish Council submitted [125 – 131] that the practical difficulties associated with bringing the site into development would inhibit its full development within a five year period, but that approach is in my view a misconception as to the relevant approach to land availability as conceived by the Framework at paragraph 47. To enter the five year land supply an unallocated site such as this must be granted planning permission, not necessarily full permission, with a realistic prospect that housing will be delivered on the site within five years. There is no clear evidence in this case that the scheme would

- or could not be delivered over a five year period. There is no evidence to suggest that it is not viable, or that there is no longer a demand for the types of units (primarily family housing) proposed. For practical reasons the build-out of a site such as this should and would be phased, but that is a sequence of events, not in this case a means of preventing development prior to specified dates.
322. There would of course be practical matters to address, conditions precedent to discharge and consents to be gained before development could commence, but that is by no means unusual for a greenfield development on this scale. There is nothing to suggest that that an experienced developer, with the surety of an outline planning permission, would not invest heavily and with alacrity in the necessary up-front efforts to bring a site such as this into development. It is in no way dependent on a significant publicly funded infrastructure programme that might have to be implemented in advance. Even though other agencies such as Severn Trent Water and the highway authority may be involved in various ways they have statutory obligations in any event and the major financial resources needed would be in the control of the developer, to be deployed through other agencies where necessary.
323. It cannot of course be guaranteed that all the dwellings would be built and occupied within five years but there is, in my view, a realistic prospect of substantial delivery, thereby facilitating the availability of needed houses as the Framework intends. At this juncture, there is no cogent evidence that would significantly belie the appellant's intention or ability to secure substantial delivery within an appropriate timescale. I have no reason to doubt that, building on the work undertaken so far, vigorous concerted action by an experienced house builder would bring the development into being within a realistic timescale. Approval in principle is the essential catalyst to the necessary action on a site such as this. Little weight should, in my view, therefore be placed on the Parish Council's submissions in this respect.
324. The Framework does incorporate the core principle that decision taking should be... *"genuinely plan-led, empowering people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area"*. This principle was most forcefully put by Nicky Morgan MP [149] and is without doubt material. It pulls in the opposite direction to the presumption in favour of sustainable development that is engaged by this case and I have given considerable thought to those representations, summarised below.
325. The Council itself specifically states that no weight should be accorded to its emerging core strategy and it is clear that with the exception of the single highway safety reason for refusal based on conflict with local plan policy TR/6 it considers the proposal to be not only sustainable but substantially in accordance with the development plan as it currently stands, with the obvious exception of policies ST/2, CT/1 and CT/2, which it says are "out-of-date". Bar its conclusion on policy TR/6 I have no reason to take a different view in this case and therefore place less weight on Mrs Morgan's proposition than might be appropriate in other circumstances.
326. Moreover, in respect of the neighbourhood planning process, Mr Cattle confirmed, in response to my question on the matter, that it was the Parish Council's intention, following discussions with the Council, to follow the progress

and context of the core strategy insofar as its aspiration to prepare a neighbourhood plan was concerned. That is clearly some time off and Mr Cattle confirmed that the Parish Council did not have 'Frontrunner' status in the neighbourhood planning initiative. Nor do I have any evidence of a firm programme of preparation (albeit reference is made by the Parish Council to the spirit and implementation of the Localism Act 2011).⁸² Accordingly, although the representations on the point merit weight in the context of the first core principle of the Framework, and might be regarded as an adverse impact in terms of public expectations, the presumption set out in paragraph 14 is inescapably influential in the context of the Framework as a whole, bearing in mind the sustainability of the proposal in terms of its location and characteristics.

(ix) The planning balance

327. The background to this appeal includes an uncontested shortfall in residential land supply in Charnwood Borough. A development of the order of 300 dwellings, deliverable at pace once necessary investigative and detailed design work and associated approvals are achieved, would make a significant contribution to reducing that shortfall, representing around 10% of the current deficit.⁸³ Nearly a third of the dwellings would be affordable. This quantum of housing in that context is a benefit which merits substantial weight.
328. Notwithstanding the existing disruption to road traffic that the settlement periodically experiences as a consequence of the flooding of strategic highway connections, the evidence demonstrates that on a day to day basis the traffic flows generated by the proposed development would be accommodated by the highway network, with specific improvements to the Barrow Road Bridge provided for, without the modal shift intended by the Travel Plan and its associated incentives and penalty. If that shift occurs it would be a bonus and a significant benefit, but I am unable to conclude that it would be necessary for the development to go ahead, or that it would be necessary to make it sustainable.
329. The essential characteristics of the settlement in this context are that it is served by a railway and bus services. The infrastructure for public transport is already in place, with connections to a variety of significant destinations. The existence of such infrastructure is particularly advantageous in the case of rail. Services are potentially capable of being improved in response to demand as the operators may see fit. The settlement has an accessible centre, albeit with parking difficulties as many are, but can be reached on foot from the site by those wishing to do so, relatively easily. Given the existence of the settlement and the public transport infrastructure, the location of the site is inherently sustainable. This weighs heavily in favour of the proposed development.
330. Other aspects of sustainability, including the direction of development away from Best and Most Versatile land and the protection and promotion of biodiversity, would be well served by the proposals.
331. While the highway safety arguments of the Council and others are not in my estimation substantiated in all the local circumstances, the perception that further traffic growth should not be contemplated is understandable in a

⁸² PC4 Evidence of Mr Cattle, paragraph 4.3

⁸³ Addendum to SoCG shows a shortfall of 2,980 units at June 2012

settlement that is regularly disrupted by flooding on the highway network. This is a matter to which some, weight should, in my view, be accorded. If it is a problem that merits significant investment to overcome it, it is an existing and long-established problem that cannot reasonably be resolved by private funding from an individual developer such as the appellant. The proposed development would not worsen the flooding, but its occupants are potentially inconvenienced by it, if they choose to travel by car on flood days. While the problems of Barrow Upon Soar in this regard must ultimately inhibit the further growth of the settlement if not resolved, I am unable to conclude on the evidence that the present periodic disruption is a sufficient reason in itself to refuse permission for the development at issue, large though it may be. The matter does weigh against the development but not, in my view, decisively so.

332. The outline design of the development has the potential to at least adequately mitigate the potential run-off through SUDS techniques. It would not place the new dwellings proposed at risk from fluvial inundation and could create some marginal improvement for existing homeowners with gardens prone to flooding. Importantly, the Environment Agency is satisfied that, with the measures it recommends, the development may go ahead without causing harm in this context.
333. Given the expansion of the village, recently and in previous decades, the concerns of the community regarding its social as well as its physical infrastructure are understandable and should, in the circumstances, be accorded weight. This is a material concern. However, within the constraints of what is permitted by the CIL Regulations, the appellant has made provision to mitigate the impact of the proposed development, calculated in the main according to the established formulae of the relevant service providers. Clearly, there will be additional pressure but, given that provision, the existing situation should not be materially worsened even if no tangible improvements are perceived. Due weight should be therefore accorded to the planning obligation entered into by the appellant, the Council and the County Council.
334. While the dismay of the local health centre at the prospect of additional pressure on its services must be acknowledged, I do not accept that such pressure should count decisively against the development. Such services must perforce adapt to demand within the budgetary constraints within which they operate and the obligation provides for physical improvements to the operation of the centre, albeit to the car park, in any event. Only limited weight should therefore be accorded to the representations made against the proposals on such grounds.
335. There is no significant conflict with an extensive range of policies identified in the SoCG [21] and this is a factor to which significant weight should be accorded. Nor have I found there to be significant conflict, in practice, with the intentions of local plan policy TR/6. Again, this is a factor to which significant weight should be accorded. There is clear conflict with the intentions of local plan policies ST/2, CT/1 and CT/2 but, insofar as the effective operation of these policies is contingent upon an adequate supply of housing land in the form of specific allocations or unallocated land within the existing settlement boundaries, these policies are rendered out-of-date by paragraph 49 of the Framework and it is common ground that is so. I have no reason to take a different view and the

weight that might otherwise be accorded to such harmful conflicts is thereby reduced.

336. The conflict with local plan policy ST/1 alleged by certain parties [191,194] is not borne out, on analysis, by the terms of the policy and its explanation. The sense of prospective loss expressed by local residents regarding the appeal site as a positive contribution to the rural setting of Barrow Upon Soar is real nevertheless and merits weight insofar as the intrinsic character and beauty of the countryside is valued by the Framework.

337. The intentions embodied in the first core principle of the Framework concerning plan-led development and local empowerment at the neighbourhood level is also a material consideration to which weight should be accorded. However, substantial harm or potential harm in that respect has not been demonstrated in this instance, and there is substantial accordance with the intentions of the Framework to promote sustainable development, in this case contributing to the delivery of a wide choice of high quality homes in a well designed scheme that facilitates healthy lifestyles.

338. While I am bound to report that there are harmful aspects to this development to which weight should be accorded, these must be weighed against the very substantial contribution to housing needs that the site is capable of providing in the context of an acknowledged shortage of suitable land and the inherent sustainability of the location. Those aspects of the planning obligation which may be taken into account to mitigate the impact of the proposed development should also be accorded due weight. The presumption in favour of the sustainable development, bearing in mind the policies of the Framework as a whole and the development plan taken as a whole, should therefore be the decisive factor in this case.

Overall Conclusion and Recommendation

339. In the light of the above main considerations and having taken full account of all other matters raised, I consider the balance of planning advantage to be in favour of the scheme. I therefore recommend that the appeal be allowed and planning permission granted, subject to the conditions set out in the attached annex.

Keith Manning

Inspector

Annex: Schedule of Recommended Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall commence until both a Master Plan in general conformity with the submitted Illustrative Masterplan 4045_SK_001 rev E and a Design Code for the site have been submitted to and approved in writing by the local planning authority. Both shall substantially accord with the submitted Design and Access Statement Rev G. Any amendment to either shall be submitted to and approved in writing by the local planning authority. The Design Code shall address the following: -
 - i) Architectural and sustainable construction principles
 - ii) Character areas
 - iii) Lifetime home standards
 - iv) Car parking principles
 - v) Cycling provision including pedestrian and cycle links to adjoining land
 - vi) Street types and street materials
 - vii) Boundary treatments
 - viii) Building heights (which should be limited to a maximum height of three storeys, being located on the main street only, as indicated on pages 33/34 of the Design and Access Statement, and two storeys for the remaining parts of the development)
 - ix) Building materials
 - x) Provision of public open spaces (including timetable for implementation)
 - xi) Design of the site to accord with Secure by Design principles.
 - xii) Phases of development.

Applications for approval of the reserved matters submitted pursuant to condition 2) above shall be in accordance with the Master Plan and Design Code as approved. In addition to the Design and Access Statement previously referred to, The Master Plan and Design Code and the reserved matters submitted for approval shall also accord with the principles set out in the following submitted documents: Flood Risk Assessment June 2010; Addendum to Flood Risk Assessment January 2011; Ecological Appraisal June 2010; Bats in Trees Addendum December 2010; Tree Assessment Report Rev A; and Badger Mitigation Strategy December 2010. Development shall be carried out in accordance with all matters approved pursuant to this condition.

- 5) Notwithstanding the generality of condition 4) above, the development hereby permitted shall be carried out in accordance with the following approved plans:

4045_SK_005 Site Location Plan
0940/SK/010 rev C Typical Badger Tunnel Detail
0940/SK/013 rev E Melton Road Alternative Site Access Roundabout
0940/SK/014 rev A Site Access Roundabout
0940/SK/022 rev B Fishpool Brook Pedestrian Footbridge Crossing
0940/ATR/002 rev A Proposed Site Access – Swept Path Analysis
4045-L-01 rev D Types of Open Space
4045-L-02 rev A Extended Floodplain Area to be Regraded
4045-L-04 Public Open Space Phasing Plan
NTW/307/Figure 4 Rev A Indicative Floodplain Sections

NTW/307/Addendum Figure 1 Rev A Fishpool Brook Modelled Floodplain Extent

- 6) The maximum area of residential development on the site (excluding the areas of public open space, structural landscaping, meadow and SUDS) shall be defined on the Master Plan to be approved pursuant to condition 4) above and shall not exceed 8.32 hectares, and no more than 300 dwellings shall be constructed on the site.
- 7) No construction on any phase of the development hereby permitted shall commence until such time as the following details in respect of that phase have been submitted to and approved in writing by the local planning authority:
 - a) Siting including details of proposed levels of ground surfaces and finished floor levels of all buildings and a number of selected typical sections across the phase.
 - b) A landscaping scheme including details of all trees and hedgerow to be retained, full planting specification, timing or phasing of implementation, services above and below ground; and a landscape management plan covering a minimum period of 10 years following completion of the development. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted;
 - c) Treatment of all hard surfaced areas, including types and colours of materials street furniture, signing and lighting of all public spaces.
 - d) Boundary treatment to all open areas where the site bounds other land (where confirmed in writing by the local planning authority to be required) including design, height, materials and colour finish.
 - e) Details of the proposed standard signage for the footpaths at the points where footpath I 23 is proposed to be crossed by the new estate roads.
 - f) Layout and design of children's play areas; Multi Use Games Area/skate park area and any other play/ recreation area within the development;
 - g) Details of external lighting.Development shall be carried out in accordance with the approved details.
- 8) No development shall commence until the applicant or developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority, and no development shall take place except in accordance with the approved scheme details.
- 9) No development shall commence until drainage plans for the disposal of foul sewage have been submitted to and approved in writing by the local planning authority. No dwelling, in any phase of construction, shall be occupied until all the works necessary in respect of that phase have been implemented in accordance with the approved details.
- 10) No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydro-geological context of the development, including any requirement for the provision of a balancing pond, has been submitted to and approved in writing by the local planning authority. No dwelling, in any phase of construction, shall be occupied until all the works necessary in respect of that phase have been implemented in accordance with the approved details. The balancing pond, if required, shall be completed and be in operation before the occupation of the first dwelling on any phase.
- 11) No development shall commence until a scheme to install trapped gullies has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details. No dwelling, in any phase of

construction, shall be occupied until all the works necessary in respect of that phase have been implemented in accordance with the approved details.

- 12) If during development contamination not previously identified is found to be present at the site then no further development should be carried out in that location until such time as a remediation strategy has been submitted to and agreed in writing by the local planning authority and the works carried out in accordance with the agreed strategy prior to re-commencement on that part of the site.
- 13) Prior to the commencement of development, a scheme for the protection of trees and hedges to be retained on site shall be submitted to and approved in writing by the local planning authority. The scheme shall include: -
- Details of all trees and hedges to be retained on site.
 - Details of any works proposed in respect of any retained trees and hedges on site.
 - Details of operational and physical measures proposed for the protection of trees and hedges
 - Details of any ground works that are to be carried out within 10 metres of any tree or hedge identified as being retained.
 - Details of the methodology to be employed when carrying out ground or other works within 10 metres of any tree or hedge to be retained.

Development shall be carried out in accordance with the approved details.

- 14) No development shall commence on any phase until the tree/hedge protection measures for that phase approved pursuant to condition 13) above have been fully implemented. The approved tree/hedge protection measures shall be retained and maintained in their approved form until development on the phase in which they are located is complete. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil of any kind shall be placed or stored thereon unless approved as part of the details submitted to discharge the condition.
- 15) No development shall commence until a scheme of noise attenuation/mitigation measures (in order to reduce noise likely to be experienced in dwellings and private gardens from the use of the railway corridor to the south west of the site) has been submitted to and approved in writing by the local planning authority. No dwelling in any phase of the site identified by the scheme as being affected by railway noise shall be occupied until the required measures have been implemented in accordance with the approved scheme.
- 16) No development shall commence until details of the construction of the proposed access roundabout (as shown indicatively on drawing 0940/SK/013 Rev E) and the footpath/cycleway bridge across the Fishpool Brook (as shown indicatively on drawing 0940/SK/022 rev B) have been submitted to and approved in writing by the local planning authority. No dwelling on the site shall be occupied until the access roundabout and pedestrian bridge have been constructed in accordance with the approved details.
- 17) No development shall commence until a detailed scheme of works for the improvement of traffic flow at the Barrow Road Bridge of the type illustrated on WSP UK drawing numbered SK/017 Rev A has been submitted to and approved in writing by the local planning authority. No dwelling on the site shall be occupied until the improvement works at the bridge have been fully implemented in accordance with the approved details.
- 18) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors

- ii) the routing of construction traffic throughout the construction process and the mechanism for securing adherence to approved routes
 - iii) loading and unloading of plant and materials
 - iv) storage of plant and materials used in constructing the development
 - v) the erection and maintenance of security fencing
 - vi) wheel washing facilities
 - vii) measures to control the emission of dust and dirt during construction
 - viii) a scheme for recycling/disposing of waste resulting from the construction works
 - ix) precautionary measures to ensure that no badgers become trapped or injured during development work
- 19) No development shall commence until procedures have been initiated to upgrade the existing public footpaths I 23 and I 24 (part) beyond the edge of the meadow boundary to the eastern boundary of the application site to footpaths/cycleways. The upgrading works (including those approved through Condition 7) shall be completed prior to the occupation of 50% of the dwellings on the site.
- 20) No development shall commence until a scheme of electronic or other suitable signing to warn of flooding on Slash Lane has been submitted to and approved by the local planning authority. No dwelling on the site shall be occupied until the scheme has been fully implemented in accordance with the approved details.
- 21) No development shall commence until a scheme of public art to be delivered on site has been submitted to and agreed in writing by the local planning authority. Those elements of the approved public art scheme which are to be delivered on a particular phase of the development shall be delivered prior to the occupation of 80% of the dwellings in that phase.
- 22) No development shall commence until an assessment of the anticipated energy requirements arising from the development has been submitted to and approved in writing by the local planning authority. That assessment must demonstrate how a minimum of 10% of the energy requirements shall be secured from decentralised and renewable or low-carbon energy sources. Details and a timetable of how these measures are to be achieved, including details of any physical works on site, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.

* * *

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Melissa Murphy	Of Counsel
She called	
Mr Chris Bancroft Adv Tip TS FCILT	Director, Bancroft Consulting
Mr Iain Reid DipTP DipLD MRTPI	Director, Iain Reid Landscape Planning Limited

FOR THE APPELLANT:

Christopher Lockhart-Mummery QC	
He called	
Mr Robert Thorley BA (Hons) DipTP MRTPI	Associate Planner, GVA
Mr Alan Young BSc (Hons) MBA CEng MICE FCIHT	Senior Technical Director, WSP
Mr Iqbal Rassool BEng (Hons) CEng MCIWEM	Service Director, BWB

FOR THE BARROW UPON SOAR PARISH COUNCIL:

John Pugh-Smith	Of Counsel
He called	
Parish Councillor Peter Cantle CertEd DipComEd	Barrow Upon Soar Parish Council
Mr Jonathan Cage Eng (Hons) MSc CEng MCIHT MICE	Managing Director, Create Consulting Engineers Limited

INTERESTED PERSONS:

Councillor P Ranson	Ward Councillor
Councillor H Fryer	Ward Councillor
Dr Sarah Parker	GP Barrow Upon Soar Health Centre, on behalf of Dr NHR Simpson and Partners
Mrs Nicky Morgan MP	MP for the Loughborough constituency
Councillor S Forrest	Chair of BRAG
Mr P Rowland	Landmark Planning on behalf of BRAG
Mr J Prendergrast	Solicitor, Leicestershire County Council (LCC)
Mrs Owen	LCC
Mr Kettle	LCC
Mr A Tyrer	Development Contributions Officer LCC
Mrs A Anderson	Primary Care Premises Manager, Leicester, Leicestershire and Rutland PCT Cluster
Mrs J Noon	CPRE Charnwood Group
Mrs S Rodgers	Vice Chair Barrow Upon Soar Community Association
Mrs P Reed	Local resident

Mr K Pepper	Local resident
Mr T Burton	Local resident
Mr C Smith	Local resident
Mr P Hilsdon	Local resident
Mr A Willcocks	Local resident
Mr D Wilson	Local resident
Mr K Page	Local resident
Mr G Hobbs	Local resident
Mrs Burrows	Local resident
Mr R Billson	Local resident
Mr T Anderson	Local resident
Mrs C Hilsdon	Local resident
Mr D Ellison	Local resident

INQUIRY DOCUMENTS

- 1 Council's notification letter
- 2 Appellant's opening submissions
- 3 Parish Council's opening submissions
- 4 Council's opening submissions
- 5 Dr Sarah Parker's speaking notes
- 6 Report to Cabinet of 27 September 2012 re local development framework
- 7 Minutes of Cabinet meeting of 27 September 2012
- 8 Email exchange of 9 October 2012 between Create Consulting Engineers and Leicestershire Police re Incident 82: 03/10/2012 and Incident 460: 27/09/2012
- 9 Extract (pages 13 – 16) from TMS report *Safer Roads for Everyone*
- 10 Email exchange of 4 October between Parish Council and Leicestershire Police re Incident 460: 27/09/2012
- 11 Tables of Estimated Population Increase in Barrow Upon Soar
- 12 Letter dated 5 May 2011 from Parish Council with Parish Council minutes of 02/11/10, 7/12/10, 13/04/11, 03/07/11 and 06/07/11
- 13 Email from Alison Saunders (08 October 2012 @ 14:24) with Technical notes from Create Consulting Engineers Ltd re Micro-simulation Traffic Model, email exchange with Leicestershire Police re Incident 460: 27/09/2012 and Telephone Note by Mark Allen (dated 08/10/120 re conversations on 3/10/12 with Richard Clay and Kingsley Cook of Leicestershire County Council.
- 14 2001 Census data re Travel to Work
- 15 Representation from Primary Care Trust re impact of proposed development on GP practice at Barrow Health Centre
- 16 Statement by Nicky Morgan MP
- 17 Statement by Councillors Ranson and Fryer
- 18 Statement by Barrow Residents Action Group
- 19 Annotated map of local road network by Mr Charles Smith
- 20 Agreement by Bancroft Consulting, WSP and Create Consulting re achievable visibility at South Street/Sileby Road/ Grove Lane junction
- 21 Report of the Overview Scrutiny Group re Local Development Framework Position Report and Way Forward: Cabinet – 27 September 2012
- 22 East Midlands Trains Timetable (Leicester-Nottingham-Cleethorpes) 09/12/12 to 18/05/13
- 23 Committee Report of 9 December 2009 on Application Ref P/09/2376/2
- 24 University of Leicester letter dated 5 July 2010 concerning archaeological work
- 25 Various emails (12/01/10, 11/11/10 & 14/02/11) from Network Rail (Margaret Lake) to Council (Neil Thompson)
- 26 CCE VISSIM Model Report
- 27 Email from GVA 24/10/12 re CCE VISSIM Model Report and response from Parish Council (Lesley Bell 29/10/12) with comments from Jonathan Cage of CCE
- 28 Statement from Charnwood District Group CPRE
- 29 Revised Draft Conditions
- 30 Extract (R A Crowder) Chapter 7 Hydraulic Analysis and Design
- 31 Letter from Mr Hobbs to PINS dated 27/11/12
- 32 Letter from Mr Hilsdon received by PINS 24/12/12 'Record of Flooding, Fishpool Brook. Barrow upon Soar 1983-2012'
- 33 Email from Parish Council dated 10/01/13 with Analysis of Comments
- 34 Letter from Mr Hilsdon received by PINS 10/01/13 re; mine workings (Soar Valley Local Plans) Agricultural Land Classification of appeal site
- 35 Appeal Ref. APP/X2410/A/12/2177327 (Iveshead Road, Shepshed)
- 36 Appeal Ref. APP/X2410/A/12/2177036 (Bramcote Road, Loughborough)
- 37 Appeal Ref. APP/X2410/A/12/2177036 (Bramcote Road, Loughborough)
- 38 Note by Mr Rassool in response to letter from Mr Hilsdon (Doc 32 above)

- 39 Set of photos of flooding at locations in Barrow Upon Soar submitted by Mr Burton
- 40 Concluding statement from Councillors Ranson and Fryer
- 41 Statement from Barrow Upon Soar Community Association
- 42 Closing Statement – Barrow upon Soar Parish Council
- 43 Closing Submissions – Charnwood Borough Council
- 44 Closing Submissions – Appellant

S106 Planning Agreement dated 4 October 2012 (with Deed of Variation dated 15 January 2013)

Proofs of Evidence

Appellant

- A1 Evidence of Mr Thorley
- A1a Appendices to A1
- A2 Evidence of Mr Young (Volume 1)
- A2a Appendices to A2 (Volume 2)
- A3 Rebuttal evidence of Mr Young
- A4 Evidence of Mr Rassool

Council

- C1 Evidence of Mr Bancroft (Volume 1)
- C1a Appendices A-E to C1 (Volume 2)
- C1b Appendices F-N to C1 (Volume 3)
- C1c Statement to address amendment to visibility calculation (Mr Bancroft)
- C2 Evidence of Mr Reid

Parish Council

- PC1 Evidence of Mr Cage – highways, transport, sustainability
- PC2 Evidence of Mr Cage – flood risk and drainage
- PC3 Evidence of Mr Cage – Slash Lane flooding
- PC4 Evidence of Councillor Cattle
- PC5 Appendices to PC4

County Council

- CC1 Evidence of Mr Tyrer
- CC2 Evidence of Mr Cook



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.



Department for
Communities and
Local Government

Mr Paul Stone
Signet Planning Ltd
Strelley Hall
Nottingham
NG8 6PE

Our Ref: APP/X2410/A/13/2196928 &
APP/X2410/A/13/2196929
Your Ref: EM1891

8 April 2014

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY WILLIAM DAVIS LTD
LAND OFF MOUNTSORREL LANE, ROTHLEY, LEICESTERSHIRE
APPLICATION REFs: P/12/2005/2 and P/12/2456/2**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Harold Stevens BA MPhil DipTP MRTPI FRSA, who held a public local inquiry on 10-13 December 2013 into your clients' appeal against the failure of Charnwood Borough Council ("the Council") to give notice within the prescribed period of their decisions on applications for planning permission for:

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

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.

2. On 29 May 2013, the appeals were recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because they involve proposals over 150 units or on sites of more than 5 ha which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeals be allowed and outline planning permission granted. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendations. A copy of the Inspector's report

Jean Nowak, Decision Officer
Planning Casework Division
Department for Communities and Local Government
1/H1, Eland House
Bressenden Place
London, SW1E 5DU

Tel 0303 444 1626
Email pcc@communities.gsi.gov.uk

(IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. The application for costs (IR1.1) made by your clients at the Inquiry is the subject of a decision letter being issued separately by the Secretary of State.
5. The Secretary of State notes (IR8.2-8.9) that the parties agreed at the inquiry that the description of the proposals should be amended to read:

Appeal A:

“A hybrid planning application for a maximum of 250 dwellings, access, green infrastructure, a relief road, balancing ponds, public open space and demolition of barns”

Appeal B:

“Change of use from agricultural land to Biodiversity Park.”

The Secretary of State is satisfied that all interested persons were given an opportunity to express their views on these changes and there is no evidence of prejudice. He has therefore determined the appeals on the revised basis.

6. Following publication of the planning practice guidance on 6 March 2014, the Secretary of State wrote to you and the Council on 17 March to seek views on any points of relevance to your clients’ case; and you responded on 31 March on behalf of both parties confirming that your clients and the Council are content that the new guidance on the relevant topics does not materially alter the considerations in this case. A copy of your response may be obtained on written request to the address at the foot of the first page of this letter.

Policy considerations

7. In deciding these appeals, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the Charnwood Borough Council Local Plan 2004 (LP); and the Secretary of State agrees with the Inspector that the policies most pertinent to the main issues in these appeals are those set out at IR1.22-1.27. Like the Inspector (IR1.28), he gives them due weight according to their degree of consistency with the *National Planning Policy Framework* (The Framework), as set out at IR1.34.
8. The Secretary of State has also taken account of the *Charnwood Local Plan 2006 to 2028 Core Strategy (CS) (Pre-Submission Draft)* (IR1.29-1.32); and he is aware that, since the close of the appeal inquiry, the examination into the soundness of the CS has been opened. Nevertheless, for the reasons given at IR1.32 (particularly with regard to unresolved objections), he attributes little weight to it.
9. In addition to the Framework, other material considerations which the Secretary of State has taken into account include *the planning practice guidance* referred to in paragraph 6 above, and the *Community Infrastructure Levy (CIL) Regulations 2010* as amended.

Main issues

10. The Secretary of State agrees with the Inspector that the main issues in this case are those set out at IR1.4 and also referred to at IR8.1.

Appeal A

Consistency with development plan and sustainability

11. For the reasons given at IR8.10-8.22, the Secretary of State agrees with the Inspector's conclusion at IR8.24 that the appeal proposal would accord with a wide range of development plan policies but that there would be limited conflict with Policy CT/4 (development in Areas of Local Separation (ALS)) to which he gives some weight (see paragraph 13 below). The Secretary of State also agrees with the Inspector that, as agreed by the parties (IR8.23), the appeal site is in a sustainable location for housing development.

Housing needs and land supply

12. For the reasons given at IR8.25-8.29, the Secretary of State agrees with the Inspector's conclusion at IR8.30 that the release of the appeal A site is necessary to meet the housing needs of the Borough. Whilst acknowledging the steps that have been taken towards the adoption of a CS since the close of the appeal inquiry, he agrees with the Inspector's observation at IR8.26 that there is currently little evidence of sufficient sites having been allocated to provide a 5 year housing land supply. He also agrees (IR8.27-8.29) that paragraph 14 of the Framework is engaged because the local plan is out-of-date so that the presumption in favour of sustainable development applies.

Character and appearance of the area, including the purpose and integrity of the ALS

13. Like the Inspector (IR8.31), the Secretary of State accepts that, if the appeal succeeds, there would be a reduction in openness and the character of the existing ALS between Mountsorrel and Rothley would be changed. However, he also agrees with the Inspector at IR8.39 that, for the reasons given at IR8.32-8.38, the proposed development would not significantly harm the character and appearance of the area or undermine the planning purpose or overall integrity of the wider ALS. He also agrees that the countervailing environmental benefits, including those arising from the landscaping proposals in the appeal scheme master plan and the careful design of the relief road to include significant areas of new planting, more than outweigh the loss of ALS and the limited landscape harm caused by the loss of green field land.

Appeal B

14. Having regard to the Inspector's comments at IR8.7-8.9, and noting that the Council have resolved that Appeal B is acceptable on its own terms (IR8.51), the Secretary of State agrees with the Inspector at IR8.55 that the Appeal B proposal is wholly in accordance with the Framework and with the local plan and that there are no other material considerations which indicate planning permission should not be granted.

Conditions and obligations

15. The Secretary of State has considered the proposed conditions and the Inspector's reasoning and conclusions thereon (IR8.40-8.41), and he is satisfied that the conditions as proposed by the Inspector and set out at Annex A to this letter are reasonable, necessary and comply with the terms of the planning practice guidance.
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. However, the Secretary of State agrees with the Inspector that, for the reasons given at IR8.47, the signed and completed S106 Unilateral Undertaking, dated 13 December 2013, between the Appellant, the Council and NHS England (Leicestershire and Lincolnshire) (APP13) does not meet the tests of Regulation 122, and he therefore gives it no weight.

Overall Conclusions

17. The Secretary of State concludes that, as the development plan is out-of-date and the Council cannot demonstrate a 5 year supply of housing land, there is a strong case for allowing this appeal and granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. He acknowledges that the proposed development would represent a limited conflict with the development plan through its effect on the purpose and integrity of the ALS, but he considers that this harm would be limited and insufficient to undermine its continuing planning function. Therefore, having regard to the other benefits of the appeal proposals, he concludes that, overall, the scheme represents a suitable and sustainable development where other material considerations clearly outweigh the limited development plan conflict.

Formal Decision

18. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby allows your clients' appeals and grants planning permission for:

Appeal A: a maximum of 250 dwellings, access, green infrastructure, a relief road, balancing ponds, public open space and demolition of barns, in accordance with amended application ref: P/12/2005/2, dated 20 September 20112; and

Appeal B: change of use from agricultural land to Biodiversity Park in accordance with amended application ref: P/12/2456/2 dated 21 November 2012.

19. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

20. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

21. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

22. A copy of this letter has been sent to the Council.

Yours faithfully

JEAN NOWAK

Authorised by Secretary of State to sign in that behalf

CONDITIONS**APPEAL A - Appeal Ref: APP/X2410/A/13/2196928**

- 1) Insofar as this decision grants full planning permission for the relief road as indicated in the application, the development, hereby permitted, shall be begun not later than 2 years from the date of this permission.
- 2) The development of the relief road shall be carried out only in accordance with the details and specifications included in the submitted application, as amended by the revised drawings Nos. NTT/2033/HD/104 rev P3, NTT/2033/HD/104 rev P4, NTT/2033/HD/105 rev P4, NTT/2033/HD/106 rev P4, NTT/2033/HD/100 P11, NTT/2033/008 rev P2 showing the layout and design of the relief road.
- 3) Insofar as this decision grants outline planning permission for those parts of the development other than the relief road, details of the layout, scale, appearance, access, landscaping and proposed ground levels and finished floor levels of all buildings (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins, in accordance with the phasing scheme as agreed under condition No. 5 below and the development shall be carried out as approved.
- 4) The application(s) for approval of reserved matters shall be made within three years of the date of this permission and the development shall be begun not later than two years from the final approval of the last of the reserved matters.
- 5) No development, including site works, shall take place until a phasing scheme in respect of the relief road, pedestrian/cycle access routes to the site, public open space, recreational, children's play areas, Biodiversity Park and the residential areas has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed phasing scheme.
- 6) No development, including site works, shall take place until details of the disposal of foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is brought into use.
- 7) No development, including site works, shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year critical storm plus an appropriate allowance for climate change will not exceed the run-off from the undeveloped site following the corresponding rainfall event.
The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
The scheme shall also include:

- details of how the scheme shall be maintained and managed after completion
 - sustainable drainage techniques or SuDS incorporated into the design in line with The SUDS manual C697. A development of this type should incorporate at least two treatment trains.
 - details to show the outflow from the site is limited to the maximum allowable rate, i.e. greenfield site run-off
 - design details of the proposed balancing ponds, including cross-sections and plans. This includes all connections to any receiving watercourse.
- 8) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Revision B and the mitigation measures detailed within the FRA produced by BWB Consulting and dated March 2013.
- 9) No development, including site works, shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:-
- (i) the routing of construction traffic;
 - (ii) the times of construction work;
 - (iii) the parking of vehicles of site operatives and visitors;
 - (iv) loading and unloading of plant and materials;
 - (v) storage of plant and materials used in constructing the development
 - (vi) measures to control the emission of dust and dirt (including a scheme for wheel cleaning) during construction to ensure that the highway is kept free of mud, water and stones;
 - (vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - (viii) measures to protect the trees and hedges to be retained on the application site during the duration of the construction works;
 - (ix) measures to protect the wildlife habitats and wildlife corridors during the duration of the construction works.
- 10) No development, including site works, shall take place until a Phase II ground investigation has been undertaken to establish the full nature and extent of any contamination of the site and the results of the investigation together with details of any remediation strategy necessary to render the site safe shall be submitted to the Local Planning Authority for their assessment and written approval. Any remediation works required by the approved strategy shall be carried out in accordance with the approved remediation strategy.
- 11) No development in any phasing as agreed under condition 5, including site works, shall take place until a landscaping scheme for the respective phase, to include those details specified below, has been submitted to and agreed in writing by the Local Planning Authority:
- (i) the treatment proposed for all ground surfaces, including hard areas;
 - (ii) full details of tree planting;

- (iii) planting schedules, noting the species, sizes, numbers and densities of plants;
 - (iv) finished levels or contours;
 - (v) any structures to be erected or constructed;
 - (vi) functional services above and below ground; and
 - (vii) all existing trees, hedges and other landscape features, indicating clearly those to be removed.
- 12) The landscaping schemes for the development shall be fully completed, in accordance with the details agreed under the terms of condition No. 11, in the first planting and seeding seasons following the first occupation of any part of the development or in accordance with a programme previously agreed in writing by the Local Planning Authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.
- 13) No development, including site works, shall take place until a Green Infrastructure Biodiversity Management Plan, including long term design objectives, management responsibilities and maintenance schedules, including ecological measures for all landscape areas, other than domestic gardens, has been submitted to and agreed in writing by the Local Planning Authority. The agreed Green Infrastructure Biodiversity Management Plan shall then be fully implemented.
- 14) The details to be submitted in accordance with condition No. 3 shall include open space/children's play area provision at a rate of 200 square metres per 10 dwellings of which 75 square metres per 10 dwellings must include play equipment.
- 15) The details to be submitted in accordance with condition No. 3 shall include open space provision for recreational use by adults, youth and for general amenity purposes.
- 16) No development, including site works, shall take place until all existing vehicular accesses to the site have been identified and details submitted to and approved in writing by the Local Planning Authority to show how and when the accesses that are to become redundant as a result of this proposal shall be closed permanently and the existing vehicular crossings reinstated.
- 17) No development, including site works, shall take place until a scheme of public art within the built fabric of the development, including its future management and a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be fully implemented in accordance with the agreed timetable.
- 18) No development, including site works, shall take place until the applicant or developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been previously submitted to and agreed in writing by the Local Planning Authority, and no development shall take place except in accordance with the approved details.

APPEAL B - Appeal Ref: APP/X2410/A/13/2196929

- 1) The development, hereby permitted, shall be begun not later than 3 years from the date of this permission.
- 2) The use hereby permitted shall not commence until a landscaping scheme, to include those details specified below, has been submitted to and agreed in writing by the Local Planning Authority:
 - (i) the treatment proposed for all ground surfaces, including hard areas;
 - (ii) full details of tree planting;
 - (iii) planting schedules, noting the species, sizes, numbers and densities of plants;
 - (iv) all existing trees, hedges and other landscape features, indicating clearly those to be removed.
- 3) The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting and seeding seasons following the commencement of the use or in accordance with a programme previously agreed in writing by the Local Planning Authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.
- 4) The use hereby permitted shall not commence until a Green Infrastructure Biodiversity Management Plan, including long term design objectives, management responsibilities and maintenance schedules for the area, has been submitted to and agreed in writing by the Local Planning Authority. The agreed landscape management plan shall then be fully implemented.

Report to the Secretary of State for Communities and Local Government

by Harold Stephens BA MPhil Dip TP MRTPI FRSA

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

Date: 27 January 2014

Town and Country Planning Act 1990

Two appeals by William Davis Ltd

Local Planning Authority: Charnwood Borough Council

Land off Mountsorrel Lane, Rothley, Leicestershire LE7 7PS

File Refs: APP/X2410/A/13/2196928 & APP/X2410/A/13/2196929

Inspector's Report

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File Ref: APP/X2410/A/13/2196928 (APPEAL A)
Land off Mountsorrel Lane, Rothley, Leicestershire LE7 7PS

- 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 William Davis Limited against Charnwood Borough Council.
- The application Ref P/12/2005/2 is dated 20 September 2012.
- The development proposed is the 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 relief road (details to be agreed as part of the submission) and demolition of barns.

Summary of Recommendation: That the appeal be allowed and planning permission be granted subject to conditions.

File Ref: APP/X2410/A/13/2196929 (APPEAL B)
Land off Mountsorrel Lane, Rothley, Leicestershire LE7 7PS

- 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 William Davis Limited against Charnwood Borough Council.
- The application Ref P/12/2456/2 is dated 21 November 2012.
- The development proposed is an outline application for an area of public open space including water balancing ponds and green infrastructure.

Summary of Recommendation: That the appeal be allowed and planning permission be granted subject to conditions.

1. Procedural Matters

- 1.1 At the Inquiry an application for costs was made by William Davis Limited against the Charnwood Borough Council. This application is the subject of a separate Report.
- 1.2 The Inquiry was held at the Ramada Hotel, High Street, Loughborough into two appeals by William Davis Limited on 10-13 December 2013. I made accompanied site visits on 12 December 2013 to the appeal sites and other sites. I also visited other sites on an unaccompanied basis.
- 1.3 The appeals were recovered by the Secretary of State (SoS) by a direction, made under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, on 29 May 2013. The reason for this direction is that the appeals involve proposals for residential development of over 150 units or on sites over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
- 1.4 On the information available at the time of making the direction, the statements of case and the evidence submitted to the Inquiry, the following are the matters on which the SoS needs to be informed for the purpose of his consideration of these appeals:

- (i) *The extent to which the proposed development is consistent with the development plan for the area and would deliver a sustainable form of development;*
- (ii) *Whether the proposed development is necessary to meet the housing needs of the Borough bearing in mind the housing land supply position;*
- (iii) *The effect of the proposed development on the character and appearance of the area including the purpose and integrity of the Area of Local Separation;*
- (iv) *Whether any permission should be subject to any conditions and, if so, the form these should take; and*
- (v) *Whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.*

1.5. There are two Statements of Common Ground (SoCG); one for Appeal A,¹ and one for Appeal B.² There is a Section 106 Planning Obligation Agreement,³ and two Section 106 Unilateral Undertakings⁴ and a List of Suggested Conditions for each appeal.⁵ The Appellant, the Council and other parties have also provided a separate list of documents which each submitted to the Inquiry. Copies of all the proofs of evidence, appendices and summaries have been supplied to the SoS. The document lists are set out at the end of this Report.

The Sites and Surroundings

1.6 There are agreed site descriptions for both appeals in the SoCGs.

The main points for each site are:

1.7 **Appeal Site A** covers about 26.22 hectares and is located in Rothley, Leicestershire. Vehicular access would be off the junction of Mountsorrel Lane and Walton Way to the west and Loughborough Road to the east. Appeal site A is part of a larger area of land controlled by the Appellant which comprises about 32.82 hectares. 6.6 hectares relate to land to the south of the appeal site which is the subject of conjoined Appeal B.

1.8 To the north of Appeal Site A is residential development, which is separated from the site by a narrow watercourse (Sic Brook), sports fields and a site with the benefit of planning permission for housing. Adjacent farmland defines the southern limits of the site. To the east there is a garden centre (Brooklea Nursery). The western boundary is marked by the rear gardens of properties fronting Mountsorrel Lane, Mountsorrel Lane itself and a cemetery.

1.9 There are a number of hedges crossing the site and existing trees as shown in Design and Access Statement (DAS). The site generally falls north to south down towards Rothley Brook (circa 47m AOD). The northern part of the site,

¹ INQ3

² INQ4

³ APP9

⁴ APP10 and APP13

⁵ APP22A and APP22B

adjacent the Linkfield Road area, actually falls to the north-west (circa 57m AOD). The highest point (circa 69m AOD) sits to the south of this and forms a ridge line; some 12 metres higher than the north-west boundary.

- 1.10 There are no public footpaths or bridleways across the site. The site is currently used predominantly as grazing land with some arable farmland. The site is situated close to a number and range of community facilities. These facilities are listed in the SoCG⁶ with walking distances taken from the centre of the site except where specified.
- 1.11 **Appeal Site B** covers about 6.6 hectares and is located in Rothley, Leicestershire. Pedestrian access would be off Mountsorrel Lane to the west and Loughborough Road to the east. To the north of the site there are fields which are the subject of an appeal for residential development and a relief road (Appeal A). The adjacent Rothley Brook defines the southern limits of the site. To the east is Loughborough Road. The western boundary is marked by the rear gardens of properties fronting Mountsorrel Lane, Rothley Tennis Club and Rothley CoE Primary School.
- 1.12 The site comprises trees, hedges, grassland and wetland habitat. The hedges crossing the site and existing trees are shown in the DAS.⁷ The site falls within the Environment Agency's designated flood zones 2 and 3. Rothley Brook Local Wildlife Site (LWS) and Farnham Bridge Marsh LWS occur within or on the site boundary. There are no heritage assets on the appeal site. There are no public footpaths or bridleways across the site.

The Proposals and the Council's Putative Reason for Refusal

- 1.13 Although the Council did not determine the applications within the appointed time, it subsequently reported both applications to the Plans Committee on 20 June 2013. With regard to the application for residential development and the link road (Appeal A) the officer's report (CBC02) explained that the Council would have refused this application for the following putative reason. The Council's resolution to refuse the application is at CBC01 and for convenience I set it out below:

"The local planning authority is of the opinion that the proposal would lead to the loss of an Area of Local Separation resulting in a significantly narrowed and reduced actual and perceived gap of open undeveloped land between the villages of Rothley and Mountsorrel contrary to the saved policy CT/4 in the adopted Borough of Charnwood Local Plan. This would be contrary to interests of the well established planning policies and emerging policies in the Charnwood Local Plan to prevent the coalescence and merging of villages in the Soar Valley. This significant adverse impact is considered to outweigh the benefits of allowing the development because of the harmful effect it would have on the purpose and integrity of the Area of Local Separation and would undermine its continuing planning function".

- 1.14 With regard to the application for the Biodiversity Park (Appeal B) this was also reported to the Council's Plans Committee on 20 June 2013 (see CBC04)

⁶ INQ3

⁷ APP16

following the lodging of the appeal against non determination and it was resolved that planning permission would have been granted subject to conditions (see CBC03). It was considered that this development could be delivered without the housing and link road development and without an adverse impact on the Area of Local Separation (ALS) and was therefore considered acceptable.

- 1.15 The application in Appeal A was submitted in outline form with all matters save for access reserved for future consideration. The application in Appeal B was also submitted in outline but with all matters reserved for future consideration. The reader should be aware that there were considerable discussions between the Appellant and the Council on both applications prior to the submission of these appeals and these resulted in various changes being made to the proposals to try and overcome the concerns of the Council on a number of issues. Section 6 of Mr Morley's proof explains in more detail the changes that were made and the revised plans that were received by the Council. As a result of these various changes I asked at the outset of the Inquiry for clarification of the description of the both proposals, a list of the plans on which both proposals should be based and a list of the documents submitted with both appeals.
- 1.16 In this regard the reader should refer to documents APP12A, APP12B, APP14 and APP20 which were agreed by the Appellant and the Charnwood Borough Council. Document APP12A confirms that in relation to Appeal A the description of the proposal has now changed from that shown on the original application form to:
- "A hybrid planning application for a maximum of 250 dwellings, access, green infrastructure, a relief road, balancing ponds, public open space and demolition of barns."*
- Document APP20 also explains that the changes are compliant with the Wheatcroft principles.⁸ Document 12B confirms that in relation to Appeal B the description of the proposal has now changed from that shown on the original application form to:
- "Change of use from agricultural land to Biodiversity Park."*
- Document APP14 sets out the agreed list of plans for both appeals and Document 16 sets out the agreed list of documents supporting both appeals.
- 1.17 The Appeal A proposal is described in Section 3 of the SoCG.⁹ The most helpful plan is the Illustrative Masterplan P-A3. This indicates the areas proposed for a maximum of 250 dwellings, the proposed access via a link road, the proposed green infrastructure, balancing ponds, public open space and community orchard.
- 1.18 The Appeal B proposal is described in Section 3 of the SoCG.¹⁰ The most helpful plan is the Illustrative Masterplan P-B3. This indicates that of the 6.6 hectares some 5.73 hectares would comprise the Biodiversity Park and the

⁸ Wheatcroft v Secretary of State [1981] 1EGLR139

⁹ INQ3

¹⁰ INQ4

remainder would be green infrastructure. Pedestrian access to the site would be off Mountsorrel Lane to the west, Loughborough Road to the east and the proposed residential development to the north.

Environmental Impact Assessment (EIA)

- 1.19 The proposed development falls within the description at paragraph 10(b) of Schedule 2 of the 2011 Regulations,¹¹ being an urban development project on a site exceeding 0.5ha. No Screening Opinion was issued by the LPA. The SoS considered the matter and having taken into account the criteria in Schedule 3 to the above Regulations came to the view that the proposed development would not be likely to have a significant effect on the environment by virtue of factors such as its nature, size or location. Accordingly, in exercise of the powers conferred on the SoS by Regulations 12(1) and 6(4) of the above Regulations, the SoS issued a Screening Direction on 12 September 2013 to the effect that this development is not EIA development. I agree that the proposed development is not EIA development and therefore it does not require the submission of an Environmental Statement.

Planning Policy

- 1.20 The development plan for the area includes the saved policies of the Charnwood Borough Council Local Plan 2004 (CBCLP). A list of the relevant policies is set out in the SoCG for each site. A copy of the Saving Letter dated 21 September 2007 and the detailed wording of all the policies is also included on the file.
- 1.21 Set out below are those policies which are most pertinent to the main issues in these appeals. However, the Conclusions and Recommendations in this Report have taken account of all relevant policies.

Charnwood Borough Council Local Plan 2004 (Saved Policies)

- 1.22 *Policy ST/1 – Overall Strategy for Charnwood* – sets the overall framework for development in the Borough, ensuring that needs of the community are met and that features of the natural and built environment are protected and safeguarded where necessary. *Policy ST/2 – Limits to Development* – indicates that development will be limited to within the existing Limits to Development boundaries of existing settlements, subject to specific exceptions set out in the Local Plan. *Policy ST/3 – Infrastructure* – ensures that developers provide financial contributions for related infrastructure or community facilities.
- 1.23 *Policy H/5 - Affordable Housing on Unallocated Sites* – seeks to secure the provision of the appropriate amount of affordable housing with a range of house types on windfall sites. *Policy H/16 – Design and Layout of New Housing Developments* – seeks to ensure that high standards of design are achieved in terms of scale, character of the area, privacy, landscaping and creating a safe and secure environment.
- 1.24 *Policy CT/1 - General Principles for Area of Countryside, Green Wedge and Local Separation* - states that development within these areas will be strictly

¹¹ The Town and Country Planning (Environmental Impact Assessment) Regulations 2011
www.planningportal.gov.uk/planninginspectorate Page 8

controlled. The policy allows permission for the re-use and adaptation of rural buildings for uses suitable in scale and nature, and small-scale new built development, where there would not be a significant adverse environmental impact and the proposal would meet certain criteria. *Policy CT/2 – Development in the Countryside* - states that in areas defined as Countryside, developments acceptable in principle will be permitted where it would not harm the character and appearance of the countryside and provided it could safeguard its historic, nature conservation, amenity and other local interests. *Policy CT/4 – Development in Areas of Local Separation* – states that in Areas of Local Separation development would be acceptable in principle where the predominantly open and undeveloped character of the area is retained and gaps between settlements not reduced.

- 1.25 *Policies RT/3 – RT5* set standards for the provision of play and recreation spaces in new development. *Policy RT/12* indicates that areas of open space for recreation, amenity, structural landscaping and natural green space will be required in association with new development. *Policy EV/43 – Percent for Art* calls for works of public art to be provided as an integral part of new major development, where it can be readily seen by the public.
- 1.26 *Policy TR/1 – The Specified Road Network* - seeks to ensure that development is not granted which results in serious congestion on the main traffic routes through the Borough, or otherwise prejudice the ability to provide for safe and efficient movement of traffic. *Policy TR/6 – Traffic Generation from New Development* - indicates that developments which would result in unsafe and unsatisfactory operation of the highway system or have a significant impact on the environment will not be permitted, unless measures are proposed to overcome any harmful effects.
- 1.27 *Policy TR/16 – Traffic Calming* - seeks to ensure measures are included to reduce traffic speeds and assist in the creation of higher quality and safer living and working environments within and in the vicinity of development sites. *Policy TR/17 – Impact of Traffic on Minor Roads* - indicates that developments which would result in significant changes to the amount of traffic using rural or roads through villages with safety or environmental implications will not be permitted, unless measures are proposed to overcome any harmful effects. *Policy TR/18 – Parking Provision in New Development* - seeks to set the maximum standards by which development should provide for off street car parking dependent on floorspace or dwelling numbers.
- 1.28 The CBCLP was not adopted in accordance with the Planning and Compulsory Purchase Act 2004 therefore, in accordance with the NPPF paragraph 215 and accompanying footnote 39, due weight should be given to these policies according to their degree of consistency with the NPPF.

Charnwood Local Plan 2006 to 2028 Core Strategy (Pre-Submission Draft)

- 1.29 The Council's Pre-Submission Draft Core Strategy (CS) was considered by Cabinet on 11 April 2013 and approved for consultation. The SoCG sets out an indicative timetable for the preparation of the CS which anticipates a Public Examination in April 2014 and Adoption in October 2014. The emerging CS sets out a development strategy for the provision of homes and jobs in Policy

CS1.¹² The priority location for growth will be the Leicester Principal Urban Area, where 7,260 homes and up to 46 hectares of employment will be delivered by 2028. The majority of the remaining growth will be met at Loughborough and Shepshed where at least 6,450 homes and up to 22 hectares of employment land will be delivered by 2028.

- 1.30 A small amount of housing and employment development is anticipated in the Service Centres to maintain their facilities and services to benefit the people who live there and to support surrounding communities. A total of 3,170 homes and up to 7 hectares of employment land will be delivered in the Service Centres. Mountsorrell and Rothley are identified as Service Centres in the emerging CS. There is no specific policy relating to ALS in the CS. However, the emerging CS envisages the continued use of ALS but with the boundaries to be reviewed through a Sites Allocations and Development Management Development Plan Document (DPD) which is planned to be adopted in June 2015.
- 1.31 Policy CS11 of the emerging CS¹³ relates to landscape and countryside. It indicates that the predominantly open and undeveloped character of ALS will be protected unless new development clearly maintains the separation between built-up areas of settlements. Policy CS12 relates to Green Infrastructure and recognises the need to protect and enhance green infrastructure for communities. It specifically supports proposals related to the River Soar which provide high quality walking and cycling links between the corridor and Charnwood's towns and villages. Policy CS13 supports developments that protect biodiversity and geo-diversity and those that enhance, restore or re-create biodiversity.
- 1.32 In accordance with paragraph 216 of the NPPF, account can be taken of emerging policies but the weight attached to such documents and policies will depend on their stage of preparation, extent to which there are unresolved objections and the degree of consistency between these emerging policies and the NPPF. It is agreed between the main parties that the weight that can be attributed to the emerging CS is limited as there are significant unresolved objections.¹⁴

Supplementary Planning Documents

- 1.33 The Council has issued a number of Supplementary Planning Documents (SPD) that are of relevance. The *'Leading in Design'* SPD (October 2006) encourages, promotes and inspires higher design standards in development. The *'Making it Easy'* SPD (February 2006) is a set of guidelines for creating buildings and environments that are accessible for all people with disabilities. The *'S106 Developer Contributions'* SPD (October 2007) ensures the provision of reasonably related infrastructure that is appropriate to the type and scale of development and the circumstances of the particular locality. The *'Affordable Housing'* SPD (October 2005) sets out the need for affordable housing. It seeks

¹² APP17

¹³ CBC12

¹⁴ INQ3 paragraph 6.10

a minimum of 30% affordable housing units on sites of this size for new housing.

National Planning Policy Framework (NPPF) (2012)

- 1.34 The NPPF has the presumption in favour of sustainable development at its heart and this has three dimensions: economic, social and environmental. It is confirmed that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is one such material consideration. Paragraph 215 makes it quite clear that the NPPF can override development plan policy that is not consistent with its provisions. Paragraph 49 of the NPPF indicates that relevant policies for the supply of housing will not be considered up-to-date if the Council is unable to demonstrate a five-year supply of deliverable housing sites. Paragraph 14 of the NPPF indicates that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole or unless specific NPPF policies indicate development should be restricted.

2. THE CASE FOR CHARNWOOD BOROUGH COUNCIL (CBC)

The main points are:

Introduction

- 2.1 It is common ground that: (a) Appeal B is acceptable on its own terms; the matter in dispute relates to Appeal A; (b) the Council cannot demonstrate a 5 year supply and therefore the housing supply policies of the development are out of date pursuant to paragraph 49 of the NPPF; (c) by operation of the NPPF, the appeals should be allowed unless the harm to the ALS significantly and demonstrably outweighs the benefits of the scheme; (d) by operation of paragraph 215 of the NPPF, due weight should be accorded to the development plan depending on the degree of consistency with the NPPF; (e) 83% of the Borough is covered by countryside and 5% of the countryside is subject to protection as ALS and Green Wedge. The appeal sites lie within a designated ALS; and (f) the northern cluster of proposed new housing, which hugs the edge of Mountsorrel, is unlikely to have an unacceptable impact. The Council's concerns relate to the impact of the larger southern cluster of houses and the relief road on the ridge.

Status of the ALS

- 2.2 It is also common ground that the appeal site has the following attributes agreed by Mr Rech in cross examination: (a) it possesses relatively coherent countryside character; (b) it makes a positive contribution to local distinctiveness on account of the fact that it is typical of the landscape character area to which it lies; (c) its predominant appearance is open and natural, notwithstanding the presence of urban features in the vicinity; (d) presently, it fulfils its planning function of providing open and undeveloped land to maintain separation between the villages; (e) it is visually more impressive than most urban fringe sites; and (f) it is of higher landscape quality than the remaining part of the eastern part of the ALS on account of

the fact that it has a more coherent field pattern and better preserved trees and hedgerows.

- 2.3 The SoS is invited to accept that the appeal site forms part of an enclave of countryside which presently carries a strong impression of separation between Mountsorrel and Rothley.
- 2.4. Policy CT/4 states that within an ALS development will only be permitted where the predominately open and undeveloped character of the area is retained and the already narrow gap between settlements is not reduced.¹⁵ The intent of the policy is crystal clear. The words are written in plain English. The explanatory text could not be more explicit: "These already narrow gaps should remain predominately open and undeveloped to secure effective separation" (at paragraph 6.24).
- 2.5 In his 2000 Local Plan report the Inspector noted: "It is my opinion that there is still a need to maintain an effective area of separation between Mountsorrel and Rothley in order to retain their own identities."¹⁶ Importantly, he describes the gap between the two settlements as "already narrow".
- 2.6 At that time, he found: "In my view, with the ridge line moving closer towards Rothley, the gap between the two settlements would be materially reduced in visual terms...I cannot agree with the objectors that the objection site would be developed in a manner which provides for the continued protection of the separate characters, and setting, of the settlements of Rothley and Mountsorrel, without affecting adversely the ALS."¹⁷
- 2.7 Later, he concluded: "I consider that the proposal would significantly diminish the physical and visual separation between Mountsorrel and Rothley, and materially harm their characters and separate identities."¹⁸
- 2.8 In 1980 an Inspector considered the character and role of the southern part of the appeal site. That appeal related to residential development in the location of the proposed southern cluster as shown at LPA1. The Inspector concluded: "despite the ribbon of development along Mountsorrel Lane, however, I consider that the open countryside separating the 2 settlements is the dominant feature in the landscape, particularly when viewed from the outskirts of Rothley...The shallow valley to the east of Mountsorrel Lane is pleasing in appearance, and together with the ridge to the north, it provides an emphatic visual and physical separation between Rothley and Mountsorrel."¹⁹
- 2.9 Of course, the policy architecture under which the appeal was dismissed is quite different to that which exists today, but this central aesthetic assessment is just as applicable now as it was then. Mr Rech agreed that the appearance of the site has not changed materially in the last 33 years. It is clear that the Appellant intends to build its southern cluster of housing on the very area of

¹⁵ See Mr Morley's Appendix CBC07

¹⁶ See Mr Morley's Appendix CBC08 paragraph 4.1134

¹⁷ Ibid. paragraph 4.1135

¹⁸ Ibid. paragraph 4.1136

¹⁹ See Mr Morley's Appendix CBC15 paragraph 17

land which the Inspector found provided an emphatic visual and physical separation between Rothley and Mountsorrel.

- 2.10 The Appellant avers that the existing gap between the villages of some 800m is not narrow. Indeed, Mr Rech described the gap as "wide". This is not credible. In this regard, the Appellant finds itself in a minority of one. The CBCLP states all the gaps to which Policy CT/4 relate are narrow. In respect of this particular ALS, the Inspector in the 2000 Local Plan report describes the gap between the two settlements as "already narrow". The SoS is invited to agree with not only the Council but also the Inspector and the development plan that the gap is already narrow.
- 2.11 In these circumstances, Mr Rech agreed that where a gap is already narrow the terms of Policy CT/4 should be applied with rigour. So it is here.

Is Policy CT/4 consistent with the NPPF?

- 2.12 It is submitted that the policy is consistent with the NPPF. The Appellant avers that Policy CT/4 is inconsistent with the NPPF because it provides a blanket ban on residential development by incorporation of Policy CT/1. It is not accepted that this is the case given that the restriction on land use applies to a very small part of the Borough's land. Even if the policy is considered to sit uncomfortably with the more permissive approach of the NPPF, it is telling that emerging Policy CS11 (the successor ALS policy to Policy CT/4) introduces a more flexible approach. This shall be returned to later.
- 2.13 Addressing the Appellant's allegation head-on, it is noted that it is common ground that the aspiration of maintaining areas of open land in order to keep separation between settlements is an enduring and well-established principle of planning.
- 2.14 Second, whilst not expressly referred to in the NPPF, it can be seen that the purpose of such a local designation finds support in the NPPF:
- (a) One of the Core Planning Principles recognises "the intrinsic character and beauty of the countryside" and the need "to take account of the different roles and character of different areas;"²⁰ and
 - (b) In plan-making local authorities are told to "identify land where development would be inappropriate, for instance because of its environmental or historic significance"²¹ — this is precisely what the development plan does now and in its emerging form.
- 2.15 In determining whether the restrictive nature of Policy CT/4 is consistent with the NPPF, the SoS is assisted by the conclusion reached by other decision makers. In the Rearsby Roses decision 8 months ago, the Inspector found that the ALS designation in the Borough, founded upon Policy CT/4, "does not clearly conflict with the Framework."²²

²⁰ NPPF paragraph 17

²¹ NPPF paragraph 157

²² Mr Morley's Appendix CBC16

- 2.16 Further assistance is provided in the recovered decision at Land North of Stephenson Way, Coalville which addresses the weight to be attached to the Green Wedge designation.²³ The Inspector concluded that the restrictive Green Wedge policy (Policy E20) "is not out of date and that it remains relevant and that it merits significant weight in the appeal" (paragraph 311). The SoS agreed with this conclusion, finding that "the saved policies in the NWLLP [which includes Policy E20] should be given most weight" (paragraph 10). Importantly, the SoS notes "the period the NWLLP covers ended in 2006, but he agreed that the Green Wedge here has served and continues to serve a useful and much valued planning purpose, and that it should only be lost for very compelling land use planning reasons" (paragraph 13). Overall the SoS concludes that he agrees with the Inspector that "overall the proposals cannot be regarded as sustainable development" (paragraph 19). The view of the SoS could not be clearer: restrictive policies designed to significantly inhibit built development to maintain separation between particular settlements is up to date and entirely consistent with the pro-growth imperative of the NPPF.
- 2.17 The Peggs Green decision, 9 months ago, relates to an appeal for 5 houses within a Green Wedge in Leicestershire.²⁴ The Inspector records that although the appeal site was then within the Green Wedge designation the emerging CS disapplies this designation to it. In short, the Green Wedge designation was a dead man walking and would die imminently. The Inspector concludes: "The fact that the Framework does not provide for the designation of Green Wedges does not in itself make the policy inconsistent...In my opinion, the designation in protecting an area of landscape provides a useful strategic planning function, and although it is intended that the designation will be deleted, until the CS is adopted it will continue to perform that function. It is a function that is not inconsistent with the Framework and in particular the environmental role of planning in contributing to protecting and enhancing the natural, built and historic environment" (paragraph 8). If the Inspector accorded weight to a designation which was to die imminently, greater weight should be afforded the ALS here, which is intended to live on for the next plan period.
- 2.18 These appeal decisions fly in the face of the position advanced by the Appellant at this Inquiry. It is plain that there is no conflict between Policy CT/4 and the NPPF. It is clear that the aspiration to maintain open land between settlements to prevent coalescence is a longstanding and well-established principle of planning. There is nothing eccentric or old fashioned about Policy CT/4. It is a perfectly conventional and acceptable means of protecting land which serves an important planning function.
- 2.19 It is telling that the Appellant has been unable to identify a single decision of an Inspector or SoS which adopts the approach which it advances at this Inquiry. This speaks volumes.
- 2.20 The central proposition at the centre of the Appellant's case is that the ALS designation, as provided by the terms of Policy CT/4 is inconsistent with the NPPF and therefore no weight should be accorded to it. For the reasons given, this is quite simply a bad point.

²³ Mr Morley's Appendix CBC18

²⁴ Mr Morley's Appendix CBC22

2.21 By operation of paragraph 215 of the NPPF, it is common ground that due weight should be accorded to the development plan depending on the degree of consistency with the NPPF. Given that the ALS is not in material conflict with the thrust of the NPPF, full weight should be attached to it.

Weight to be attached to the ALS Designation

2.22 It is common ground that the ALS is a longstanding designation and has protected the appeal site for the last 3 decades.

2.23 This is not a case where some elderly local designation has become redundant through the passage of time. This is not a case where the designation is intended to come to an end in the foreseeable future. The ALS, embodied by saved Policy CT/4, lives on in the emerging CS. Policy CS11 states expressly: "We will protect the predominately open and undeveloped character of ALSs unless new development clearly maintains the separation between the built up areas of these settlements."²⁵

2.24 Mr Stone agreed in cross examination that this emerging policy:

- (a) Does not tolerate a marginal degree of separation as separation must be clear; and
- (b) If it is concluded that a residual gap of 240m is insufficient, the terms of the policy will be offended.

2.25 The explanatory text accompanying Policy CS11 states that "the retention of ALS will be balanced against the need to provide new development, including homes, in the most sustainable locations" (paragraph 7.15). It is plain that Policy CS11 properly responds to the pro-growth imperative of the NPPF by introducing a more flexible element to its wording by allowing residential development if its impact is not unacceptable.

2.26 The emerging CS is to be submitted to the SoS by the end of 2013. To date, 20 consultation responses have been received by the Council. They are broadly supportive of the continuing role of ALS. There is only one which challenges the appeal site's designation as an ALS. It was the Appellant. This speaks volumes. Again, the Appellant finds itself in a minority of one. The SoS can be satisfied, at the very least, that Policy CS11 is likely to form part of the adopted new development plan. Further, notwithstanding that a review of the boundaries of the ALS is to be undertaken, given the location of the appeal site in the centre of the ALS it is highly improbable that the boundaries will be amended so radically so as to delete the appeal site from it. If it were, the integrity and purpose of this ALS would be fatally undermined.

2.27 The SoS is invited to judge the ALS as it is constituted now. It is a matter of record that there is to be a review of the boundaries of the ALS. There is no evidence before the Inquiry that the part of the ALS which relates to the appeal site is ripe for deletion. That the boundary of the ALS may be altered in some unknown way at some future point in time is speculative. Even if the

²⁵ See Mr Morley's Appendix CBC12

boundary were to be altered, Mr Morley explained in evidence that given its central location the appeal site is not an obvious candidate for removal.

- 2.28 The ALS and Green Wedge designations protect 5% of the Borough. Therefore, 78% of the Borough which comprises open countryside is undesignated. It follows as a matter of common sense that in order to make good the significant housing supply shortfall, it is not inevitable that the ALS designation will be largely lost. This is not a Local Planning Authority whose area is covered by large swathes of designated land (such as Green Belt, AONB or Conservation Areas) which mean that other land is inevitably vulnerable to development. To put it simply, there is plenty of undesignated land beyond the built limits of settlements to provide the much needed housing.
- 2.29 There is a dispute as to whether Policy CT/4 should be characterised as a housing supply policy to which paragraph 49 of the NPPF applies. Whilst, of course, the restrictive nature of Policy CT/4 has an impact on the distribution of housing in the Borough the Council respectfully prefers the judgement of Lang J over that of Lewis J. It cannot convincingly be described as a housing supply policy.²⁶

Extent of Harm

- 2.30 There is agreement between the parties that the photomontages before this Inquiry are methodologically sound and can assist the SoS in determining the appeals.
- 2.31 It is common ground that if the appeal succeeds:
- (a) there will be a reduction in openness;
 - (b) the character of the appeal site will be fundamentally altered; and
 - (c) operational development in the form of the new relief road will connect Mountsorrel Lane and Loughborough Road across the ALS.
- 2.32 The reduction in openness and the substantial narrowing of the gap between the villages of over two thirds is significant, since Mr Rech agreed in cross examination that it is the very openness of the appeal site which helps it to fulfil its planning function under Policy CT/4.
- 2.33 As a matter of approach it is common ground that one should not merely undertake an arithmetic exercise of measuring the length of the residual gap between the villages, but must consider the perception of separation Mr Rech agreed with this in cross examination. In this way, the decision maker should undertake a quantitative and a qualitative assessment. The extent to which the Appellant seeks to reduce the exercise to comparing minimum distances, it falls into error.
- 2.34 As a matter of fact, it is common ground that the minimum length of the separation will fall from in the region of 800m to 240m. On any reckoning this represents a significant reduction in the extent of separation. The Appellant points approvingly to the western part of the ALS, where the minimum length

²⁶ See paragraph 8.18 of my Report

of the separation is less than the residual gap between the villages if the appeal succeeds. Little turns on this point. The two parts of the ALS are not physically connected and there is little inter-visibility between the two. Mr Rech confirmed in cross examination that in reality each part functions as a distinct enclave of open land.

- 2.35 Turning to the qualitative assessment, the Council is confident that the Inspector will conclude that on the ground the siting of the southern cluster of housing and the relief road on the conspicuous ridge will cause a significant detraction to the sense of separation.
- 2.36 It is agreed that 10 new openings will be created in the existing hedgerow, which shall lead to the removal of a length of 250m. It is difficult to afford credibility to Mr Rech's characterisation that this loss is "very minimal". It is fair to report that as part of the mitigation, 1km of new hedgerow is to be planted along the relief road and the new access road serving the northern boundary of the main housing area. However, Mr Rech confirmed in cross examination that existing hedgerows are far more valuable in landscape terms than recently planted ones. It can therefore be seen that notwithstanding the net increase in hedgerow, that which will be lost is of a higher aesthetic value contributing to the legible field pattern than the new planting which is designed to provide screening for the road.
- 2.37 The material harm caused to existing hedgerows and the attendant impact on the coherence of the field pattern weighs against the appeal.
- 2.38 The proposed scheme comprises 2 clusters of housing. The northern cluster is intended to form part of Mountsorrel. The southern cluster is intended to form part of Rothley. It is common ground that the two clusters are intended to be connected by the new relief road. Doubtless the SoS will have in mind the extent to which the fact that the single proposed scheme straddles the two settlements can be said to maintain the separateness of the settlements or whether it is likely to have the opposite effect.
- 2.39 It is clear when one visits the site that the southern cluster does not relate well to edge of Rothley. It is perceived as an urban extension rather than the 'rounding off of the village.
- 2.40 It is common ground that the relief road is not required to make the proposal acceptable since the two clusters of housing could be adequately accessed from the existing Mountsorrel Lane.²⁷ The Council does not doubt that the provision of the new road brings benefits to the existing residents in the area and enjoys the support of the Highway Authority. However, the Council must consider the road in the round, rather than simply in highway terms. Given that it is not necessary to make the development acceptable, one must consider whether the benefits of its construction outweigh what Mr Rech conceded was some harm.

²⁷ Agreed by Mr Stone in cross examination and see also paragraph 2.10 of the Highway Assessment at Mr Stone's Appendix 21

- 2.41 The Council remains firmly of the view that the location of the relief road on the ridge means that it is to be sited on the most visually prominent part of the appeal site. The road is to be built in accordance with Manual for Streets. It is to be two lanes in width, with provision for cyclists and pedestrians and street lit in parts. Such a well-used road is likely to prove to be a significant detracting influence on this most conspicuous part of the ALS. The harm to the ALS is exacerbated by the fact that the road snakes through the main part of open land of the appeal site, which by operation of the s106 Agreement, is to be kept in agricultural use. The location of the relief road, bisecting the open land which the Appellant has expressly designed to have the important role in maintaining the open and undeveloped land between the villages, will inevitably have the effect of reducing the effectiveness of the land in performing this vital function.
- 2.42 Put simply, the SoS cannot be satisfied that the relief road is needed and the benefits of its provision outweigh the considerable cost to the character of this elevated part of the ALS.

The Development Plan

- 2.43 The Appellant's case on Policy CT/4 is confused. Mr Stone confirmed in cross examination that it was offended by the appeal proposal. In contrast, Mr Rech vociferously denied that it was breached. He argued at some length that the deployment of a volume of well-chosen green infrastructure will prevent the loss of openness and so comply with Policy CT/4.
- 2.44 It is plain that the construction of up to 250 houses together with a new road would inevitably undermine the integrity of the ALS. It was utterly unconvincing for Mr Rech to suggest otherwise and aver that the policy is not breached at all. The idea that a masterly sophisticated green infrastructure would have such a marked effect so as to mean that the presence of 250 houses would not cause a loss of open and undeveloped land lacks credibility.

Valued Landscape

- 2.45 The SoS is invited to accept that the appeal site falls to be convincingly characterised as a valued landscape on account of the fact that it serves an important role in providing an area of open and undeveloped land to provide meaningful separation between the villages. This value not only reflects its explicit protection in the development plan for the last 3 decades, but also the amenity value derived from views across it from roads and existing properties which overlook it. The value of the appeal site is enhanced by its rarity; there is only a very small area of land between the villages.
- 2.46 If the land falls to be characterised in this way, it follows that the appeal site is subject to two layers of protection: Policy CT/4 and paragraph 109 of the NPPF which requires that development must not only maintain but also enhance the character of the area. It is clear to all who have eyes to see that the siting of 250 houses, even with the most sophisticated mitigation scheme known to man, must have an adverse impact on what is presently an open and natural piece of land. Whatever the extent of the adverse impact, the development will offend the requirement of paragraph 109 'to do no harm'.

- 2.47 In these circumstances, the planning balance tips decisively against the acceptability of the appeal proposal.

Conclusion

- 2.48 The appeal offends the development plan and important parts of the NPPF. It is submitted that the harms identified significantly and demonstrably outweigh the accepted benefits of both schemes in terms of the provision of market and affordable housing, provision of POS and ecological gains.
- 2.49 The proposal cannot convincingly be characterised as sustainable development in the terms sought by Government.
- 2.50 The SoS is invited to dismiss both appeals. If it is concluded that Appeal A is to be allowed, the Council agrees that Appeal B should be allowed also.

THE CASE FOR WILLIAM DAVIS LTD

The main points are:

Introduction

- 3.1 At the outset of the Inquiry the Inspector outlined the main issues in this case. These are set out at paragraph 1.4 of this Report. There is no need to repeat them here but they will be addressed individually and they provide a structure for these submissions. The views of interested persons will also be assessed.

(i) Compliance with the Development Plan and sustainable development principles

- 3.2 The development plan for the purposes of this case consists of the saved policies of the CBCLP (adopted 2004). This document was only intended to make provision for development needs (including housing) up to 2006. The "Saving Letter" dated 21 September 2007²⁸ saved a variety of policies but did so subject to express caveats that (i) saved policies would be replaced "promptly" — this was especially important for CBC because by 21 September 2007 the plan was already a year past the end date (2006) of the period for which it was intended to make development provisions; and (ii) where policies were adopted "some time ago" (i.e. in 2004)

"...it is likely that material considerations in particular the emergence of new national and regional policy and also new evidence, will be afforded considerable weight in decisions. ..."

- 3.3 These caveats have direct relevance to the application of the development plan in this case. Section 38 (6) requires that

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination

²⁸ Mr Morley's Appendix CBC10

must be made in accordance with the plan unless material considerations indicated otherwise."

3.4 The "material considerations" referred to in this case must include at least (i) the NPPF and (ii) the "Saving Letter".

3.5 The NPPF makes clear that:

"This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making."

3.6 However, paragraph 215 establishes what the approach is in respect of saved plans such as this one:

"In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

3.7 It is necessary therefore to test the consistency of the saved policies with the NPPF.

3.8 Only one development plan policy is raised by CBC in the putative reason for refusal: Policy CT/4: Area of Local Separation (ALS). The policy cross-refers to Policy CT/1 in terms of restricting the type of development that might be allowed. Any such types of potentially acceptable development identified in Policy CT/1 to be acceptable must also meet the criteria in Policy CT/4. This is the control mechanism of Policy CT/4. However, the purpose of Policy CT/4 is to prevent settlements merging with each other.

3.9 The case of COLMAN²⁹ identifies the consequences of paragraph 215 of the NPPF in decision taking at appeal. In that case Parker J characterised the relevant policies in that case in this way:

"These policies are, in my view, on their own express terms, very far removed from the 'cost/benefit' approach of the NPPF."³⁰

3.10 If this "cost/benefit" approach is applied to Policy CT/4, it is found somewhat wanting as its central intention and its control mechanism is to avoid anything other than the development identified in Policy CT/1 being brought forward in the ALS. However, the purpose of the policy is consistent with the NPPF because all parties to the Inquiry agree that, in principle, that it is a sound planning aspiration to seek to maintain separation of settlements.

3.11 What is the answer to this quandary? The solution is to conclude that the purpose aspect of Policy CT/4 is consistent with the NPPF but that the control mechanism aspect is not because it represents an outright ban on open

²⁹ Mr Stone's Appendix APP10 - see paragraphs 6 and 16

³⁰ *ibid* at paragraph 22

market housing within the ALS, without the possibility of any countervailing benefit outweighing the prohibition.

3.12 This analysis is also helpful in deciding how the question in paragraph 49 of the NPPF must be answered, namely: Is Policy CT/4 a "relevant policy for the supply of housing"?

3.13 There are two conflicting High Court judgments in this respect: WILLIAM DAVIS³¹ and COTSWOLD DISTRICT COUNCIL.³² The approaches of the two judges are apparently irreconcilable and one of them must be wrong.

3.14 In this case the preference that the SoS may have for one or other authority is tempered by the fact that the paragraph 49 decision is not central to this case because:

(i) the paragraph 215 COLMAN test of consistency with the NPPF must be undertaken independently of the paragraph 49 question whether or not Policy CT/4 is a policy for the supply of housing;

(ii) the answer to the paragraph 49 question results in the presumption in paragraph 14 of the NPPF being activated or not: in this case it has been accepted that for five reasons the paragraph 14 presumption exists in this case.³³ The Appellant does not need therefore to rely on the test in paragraph 49 to enjoy the presumption in favour of development in paragraph 14 of the NPPF.

3.15 If a choice were essential, which it is not, the SoS is invited to prefer the approach in COTSWOLD because the control mechanism in Policy CT/4 is clearly very relevant to the supply of housing: it represents an absolute ban on open market housing in the ALS. The effect of Policy CT/4 is therefore very relevant to the supply of housing. The approach taken in DAVIS is correct to point out that paragraph 49 of the NPPF is within the housing section. However that section presumes that there will be adequate housing provision in the plan. This is clearly not the case here and paragraph 49 needs to be read with this in mind. Furthermore, the limits to development and ALS (and Green Wedge) boundaries were all drawn in the 2004 plan reflecting housing needs up to 2006 only. Housing needs are obviously greater in 2013 and the emerging CS³⁴ acknowledges that the ALS boundaries will have to be redrawn as part of the Site Allocations and Development Management DPD process. This also serves to demonstrate the direct link between ALS and provision of housing.

3.16 For these reasons it is submitted that Inspector Morgan puts the position correctly in the Sapcote decision:

³¹ CBC17 at paragraph 47

³² APP4 at paragraph 72

³³ Accepted by Mr Morley in cross examination

³⁴ CBC12 at paragraph 7.14 and Mr Morley's proof of evidence at paragraph 13.6

"In this case, no such district-wide supply exists, and Policy C4 of the BDLP, insofar as it is a relevant policy imposing restraint on housing supply, has also to be considered out-of-date."³⁵

This policy analysis enabled the Inspector to regard ALS Policy C4 as having two characteristics:

- (i) the purpose aspect as described in paragraph 14 of the decision

"The AoS performs the important function of preserving the separate identities of both settlements. Although the appeal scheme would not physically reduce the measure of that separation, it would reduce the perception of their separateness. This would be harmful to the function of the AoS thus rendering the development in conflict with policy C4 of the BDLP. The extent of this harm however, needs to be quantified."

and

- (ii) the restriction aspect as described in paragraph 48 of the decision set out above.

Is the Development consistent with the Development Plan?

- 3.17 The answer to this question is that the proposal conforms with the purpose of Policy CT/4 because it maintains an adequate area of separation between Mountsorrel and Rothley. It is in this sense that Mr Rech's evidence argues for compliance with the purpose of Policy CT/4.

"7.32 The overall analysis of policy matters is carried out by Mr Stone. The primary purpose of the CT/4 is to keep settlements separate, and this is a desirable aspiration. It is my opinion that the careful design approach adopted by the appeal proposals meets that aspiration, and the Mountsorrel and Rothley maintain their individual identities following completion of the appeal development"³⁶

- 3.18 The arguments relating to why Mr Rech is right in this analysis falls to be considered below under Main Issue (iii). If that conclusion is right, i.e. there is no breach to the purpose of Policy CT/4 then the technical breach relating to the control mechanism ought to have little weight attached to it.

- 3.19 Three further points relating to the technical breach of the control mechanism are as follows:

- (i) the control mechanism fails the paragraph 215 test in the NPPF for reasons set out above; and
- (ii) whichever view is taken on the paragraph 49 "policy for supply of housing test" it is the fact that CBC desperately needs additional housing

³⁵ Mr Stone's Appendix 23 at paragraph 48

³⁶ Mr Rech's proof of evidence at paragraph 7.32

and this must be relevant when deciding what weight to attach to Policy CT/4;

- (iii) CBC has taken the view elsewhere that Policy CT/4 is a policy relevant to housing and that it is out of date
- (a) *"Whilst the proposal would therefore be contrary to the policy CT/1, CT/3 and CT/4 of the saved policies of the local plan, it is acknowledged that these policies in terms of their allocation of housing developments is (sic) out of date. ..."*³⁷
- (b) *"Jelson's Application – land off Halstead Road (P/13/1008/2), Mountsorrel the officer report to Plans Committee (12th September 2013) states 'In these appeals the Council has conceded in Statements of Common Ground policies that constrain housing (ST/1, CT/1, CT/2 and ST/2) are out of date'. Whilst the sites in question were not within an Area of Local Separation there is an acknowledgment that policies that constrain housing, which would include CT/4, where appropriate, are 'out of date'."*³⁸

3.20 It is trite law that to accord with the development plan a proposal does not have to comply with each and every policy or proposal therein. In this case only Policy CT/4 is alleged to be breached. If the breach is only technical as argued above, and if it is accepted that the purpose of ALS is preserved by the development then a strong case is made out that the proposal is consistent with the development plan, taken as a whole. Even if a contrary view were to be taken, the breach of Policy CT/4 has to be assessed in the context of paragraph 14 of the NPPF as required under Main Issue (ii) below.

Would the proposed development deliver a sustainable form of development?

3.21 Yes, it would. There are three dimensions to sustainable development as set out in the NPPF at paragraph 7. Mr Morley accepted all of the benefits identified in Mr Stone's Table at page 43 of his proof of evidence. The SoCG accepts that *"The site is in a sustainable location for housing development."*³⁹

(ii) Whether the proposed development is necessary to meet the housing needs of the Borough bearing in mind the housing land supply position

3.22 CBC's housing land supply is in crisis. It lies between 2.93⁴⁰ and 2.6 years.⁴¹ There is no good reason why the Sedgfield approach should not apply here. If there were a 10% non implementation discount as applied at Honeybourne⁴² and elsewhere these supply figures would be less. The annual requirement runs at over 1,000 homes.⁴³ The CS will not be adopted until October 2014 at

³⁷ APP8 page 20 3rd complete paragraph lines 1-3

³⁸ Mr Stone's proof of evidence paragraph 3.6

³⁹ INQ3 page 18 paragraph 7.1 (xvii)

⁴⁰ INQ3 page 15 paragraph 6.8

⁴¹ INQ3 page 22 paragraph 8.14

⁴² Mr Stone's Appendix 13

⁴³ INQ3 page 15 paragraph 6.8 - Annual requirement 1,014

the earliest – almost 1 year away. Mr Morley did not know if the CS would guarantee a 5 year supply when adopted. Mr Stone explained that large sites such as promoted in the emerging CS at Policy CS1⁴⁴ take between 18 months – 2 years to start delivering homes that can be occupied. In so far as the Site Allocations and Development Management Policies DPD will be expected to supplement the 5 year supply it will not be adopted until June 2015⁴⁵ and is already 8 months behind schedule.⁴⁶

- 3.23 Mr Morley accepted that until the Site Allocations and Development Management Policies DPD was adopted it was only through development control decisions such as this that an attempt can be made to achieve a 5 year housing land supply that paragraph 47 of the NPPF requires. Mr Stone's Appendix 18 includes the Council's Assessment of 5 Year Housing Land Supply as at 31 March 2013. At page 5 of that Assessment Figure 1 line c shows expected completions in CBC in 2013-2014 will total 536 homes. This is against an annual housing requirement of 1,014. From these figures it is clear that not much progress is being made.
- 3.24 All of these factors combine to create a compelling case for urgency of action and lend considerable weight to the merits of this proposal.
- 3.25 There is no doubt that paragraph 14 of the NPPF is engaged in this case because, as Mr Morley accepted in cross examination:
- (i) the housing policies of the CBCLP are "out of date" because the plan is 7 years beyond its intended life span;
 - (ii) in so far as Policy CT/4 restricts supply of housing it is "out of date" (as the Committee Report in APP8 accepts). This admission represented abandonment of what he said there at paragraph 8.3 of his proof of evidence;
 - (iii) Policy CT/4 is inconsistent with the cost benefit analysis in COLMAN and therefore fails the paragraph 215 test and is therefore "out of date" as far as paragraph 14 is concerned;
 - (iv) the saved policies of the CBCLP are "silent" within the meaning of paragraph 14 as to where the admitted housing need should be located: it only says where development cannot go;
 - (v) the emerging CS itself acknowledges that Policy CT/4 is "out of date" because it anticipates a review of its boundaries as part of the Site Allocations and Development Management Policies DPD;

"The retention of Areas of Local Separation will be balanced against the need to provide new development, including new homes, in the most sustainable locations."⁴⁷

⁴⁴ APP17 pages 31-32

⁴⁵ INQ3 paragraph 6.11

⁴⁶ Mr Morley in cross examination

⁴⁷ Mr Morley's Appendix 12 paragraph 7.15

- 3.26 Because paragraph 14 of the NPPF is engaged, the balance identified therein is required. Mr Stone has carried out that exercise and his Table demonstrates that the case in favour of the grant of planning permission is overwhelming.
- 3.27 It is admitted that no paragraph 14 footnote 9 "specific policies" apply to the site.⁴⁸
- 3.28 Release of this site is necessary to meet housing needs of the Borough.

(iii) The effect of the proposed development on the character and appearance of the area including the purpose and integrity of the Area of Local Separation;

- 3.29 The first point to note in this Main Issue is that the Inspector has included for consideration a matter which is not raised in the putative reason for refusal, namely the effect on the character and appearance of the area. Secondly, Mr Radmall accepted the factual reliability of the Landscape and Visual Appraisal (LVIA). Thirdly, this is not a valued landscape as set out in the NPPF. It is not a NPPF footnote 9 site, nor is it an Area of Particularly Attractive Countryside site and Rothley Parish Council does not object to its development.

Character of the Area

- 3.30 The purpose of analysis of the effect of development on the character of the area is to enable the NPPF paragraph 14 "adverse impacts"/"benefits" balancing exercise to be undertaken. Even if this assessment were to conclude that there were adverse impacts on the character of the countryside, that conclusion would represent an "adverse impact" in respect of the "environmental role" of sustainable development. That is far from an end to the matter as CBC appears to believe.
- 3.31 If that balance is carried out correctly the process should be as follows:
- (i) environmental benefits of the scheme should be identified;
 - (ii) environmental disadvantages should be identified;
 - (iii) benefits and disadvantages of the "social" and "economic" roles should be identified;
 - (iv) all factors at (i) – (iii) must be put into the balance as paragraphs 8 and 14 require.
- 3.32 Mr Radmall's evidence failed to follow this process. He reached the conclusion at (iv) without considering the social and economic roles. In this respect his approach is flawed. He also failed to take into account the environmental benefits identified in Mr Stone's Table at paragraph 43 of his proof:

- "- *Biodiversity Park*
- *Enhanced biodiversity within housing site*

⁴⁸ Mr Morley in cross examination

- *Provision of comprehensive accessible green infrastructure network protecting and enhancing existing landscape features*
- *Creation of new right of way connecting Rothley across to the Soar Valley*
- *Protections of ALS in perpetuity"*

Mr Morley accepted that each of these were relevant countervailing benefits to set off the loss of ALS and the landscape harm caused by loss of greenfield countryside.

- 3.33 The effect on the character of the area is essentially an issue for the Inspector rather than argument but
- (i) all of Mr Radmall's viewpoints were from Rothley where the Parish Council does not object to the development;
 - (ii) he agreed that the two alternative locations for housing development (on the ridge or adjacent to Homefield Lane) would be worse;
 - (iii) he admitted his photomontages had not taken into account planting proposals which in time would soften the appearance of the new development (as Mr Rech's Appendix 2 Figs 7 and 8: Aerial Perspectives demonstrate).
 - (iv) existing urban fringe uses, such as the nursery with its unattractive outside storage, detract from the character of the area.
- 3.34 Another factor is that the Site Allocations and Development Management Policies DPD will involve the potential for housing to be examined in this location. Any housing is bound to bring about change.
- 3.35 The scheme before the SoS is one which has emerged slowly and carefully and advice from the consultant to both Parish Councils, Mr Will Antill, has been taken on board. The scheme would bring about significant change but it has been carefully designed in terms of location to limit adverse effects. In particular
- (i) the site has remarkably limited visibility⁴⁹;
 - (ii) the built development avoids the ridge⁵⁰;
 - (iii) the long sections demonstrate that from Homefield Lane the built development avoids the skyline⁵¹ and the LVIA regards the residents of Homefield Lane as High Sensitivity⁵²;
 - (iv) the development accords with advice in Trent Valley Washlands Key Characteristics⁵³

⁴⁹ Mr Rech's Appendix 2 Fig 6

⁵⁰ Mr Rech's Appendix 2 Figs 3 and 4

⁵¹ Mr Rech's Appendix 6 Fig 3

⁵² LVIA page 25

- “- *Constant presence of urban development, mostly on valley sides, in places sprawling across the valley and transport corridors following the valley route;*
 - *Contrasts of secluded pastoral areas, with good hedgerow structure, and open arable with low hedges;* (It will be recalled that there is a net gain of hedgerows under the scheme APP15)
 - *Strong influence of riparian vegetation, where rivers are defined by lines of willow pollards and poplars;*” (features present in the Biodiversity Park which will be managed pursuant to the s106)”
- (v) the recreational opportunities created are consistent with the emerging CS aspirations for Green Infrastructure;⁵⁴
- (v) the Biodiversity Park and the Agricultural Areas are "locked in" by the S106 for as long as CBC regard these areas as being worthy of being kept free from development. So long as it does, no Inspector or Judge would release the land from the constraints which the S106 imposes.

3.36 The character and appearance of the area would change: that is inevitable as it is a greenfield site. Mr Morley has accepted that most of the 2,000 plus homes required to get up to a 5 year supply will need to be provided on greenfield sites. The change is therefore inevitable somewhere and acceptable here and is associated with important counterbalancing environmental benefits.

Effect on Purpose and Integrity of ALS

3.37 The question here is not whether the extent of the ALS would change — it obviously would — but rather what is the effect of that. Policy CT/4 is not a landscape quality policy and the Council accepts that a new road can be located within countryside locations (ALS) without affecting the importance of their openness as at Woodthorpe.⁵⁵

3.38 The relevant statistics are agreed and are set out in Mr Rech’s Note to the Inspector.⁵⁶ It is the fact that ALS are often narrow: the western part of the Mountsorrel/Rothley ALS is 100 m wide or less at its narrowest. The pinch point west of Mountsorrel Lane is about 150m wide.⁵⁷ There is no evidence that, at this distance, the ALS becomes ineffective. Consideration of the plans showing ALS elsewhere in Mr Rech’s Appendix 4 shows that ALS gaps are often narrow.

⁵³ LVIA page 13

⁵⁴ Mr Morley’s Appendix CBC12 paragraph 7.17 and Mr Rech in answer to Inspector’s question

⁵⁵ APP11 page 48

⁵⁶ APP19 Agreed dimensions and APP15: hedgerow lost and net gain overall

⁵⁷ Measured by Mr Rech

- 3.39 Most telling of all, the Committee Report for Land at Allendale Road took the view that a gap of 105-150m between the proposed development at the site and Woodthorpe Village was acceptable

*"... It is concluded therefore, that the settlement of Woodthorpe would be adequately protected by the proposal and that the integrity of the ALS would still be retained. ..."*⁵⁸

This gap was regarded by the Loughborough Local Plan Inspector as being incapable of reduction:

*"... the present gap represented the minimum necessary for the recognition of Woodthorpe as a separate and freestanding settlement. ..."*⁵⁹

The 1995 Study expressly accepted this assessment:

*"In line with the Inspector's findings following the Loughborough Local Plan Inquiry it is accepted that the gap presently defined between Woodthorpe and Loughborough is realistically the minimum that is acceptable to provide meaningful separation for Woodthorpe to remain as a freestanding settlement."*⁶⁰

It is impossible to understand how a very substantial reduction of such a sensitive gap can be regarded as acceptable yet a gap of 240m post development at the appeal site is not acceptable. This point is explored further in the costs application.

- 3.40 The gap on the eastern side post development would compare favourably with the gap on the western side in terms of width. Add to that the fact that only a small percentage of the ALS is lost to development. There is no objection to the northern cluster of housing.⁶¹
- 3.41 The only fair conclusion to reach is that, post development, there would remain a robust and adequate ALS between Mountsorrel and Rothley — and the Rothley Parish Council agrees with that assessment which is why it has chosen not to object.

(iv) Whether any permission should be subject to any conditions and, if so, the form these should take;

- 3.42 At the time of writing it is understood that these are agreed.

(v) Whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.

⁵⁸ APP11 page 48: 2nd and 3rd paragraphs

⁵⁹ Mr Rech's Appendix 4 paragraph 7.2

⁶⁰ Mr Rech's Appendix 4 paragraph 7.5

⁶¹ CBC closing submissions paragraph (f)

- 3.43 There are three planning obligations: (i) to CBC/LCC (ii) to the Police and Crime Commissioner for Leicestershire and (iii) to the NHS.

CBC/LCC

- 3.44 The Appellant accepts that these commitments are CIL compliant.

Police and Crime Commissioner for Leicestershire

- 3.45 The Inspector will note that in relation to the 200 + 130 = 330 homes at the Parkers' Sites⁶² the Police made similar requests. CBC came off the fence in that Committee Report and said the sums were not CIL compliant. It is simply unreasonable for the Parkers' developments to pay nothing to the Police and for this development to be required to pay over £100,000. The Coalville Inspector declined to find similar claims CIL compliant.⁶³

NHS

- 3.46 Whether this claim passes the CIL test depends entirely upon the acceptability of the "formula" approach. One can readily understand such an approach passing muster at a Charging Schedule Examination but here the claim is made in respect of (i) a surgery which has not got a "live" claim, (ii) where it is not known if any claim would succeed, nor (iii) the cost of any improvements which (iv) may or may not be approved by the NHS. There is also an issue that the capital sum paid would or may increase the capital value of the property in the Practice's hand for which the Appellant is not given any credit. This latter argument is not addressed by the Inspector in the Coalville Inspector's Report.

INTERESTED PERSONS

- 3.47 Much has been heard of the democratic process and of localism. Parish Councils represent grass roots localism and Rothley Parish Council has decided not to object to this scheme. This manifestation of localism has attracted bitter criticism but that is often what democracy entails: hard choices where the good of many sometimes comes at a cost of disadvantages to the few.
- 3.48 Granting of planning permission outside of the development plan process and its consistency with localism has been considered by the Courts. In TEWKESBURY,⁶⁴ Males J found that authorities which did not have a 5 year supply had to expect land releases outside of the development plan process. The criticism in terms of localism should not be of the developers but of CBC which, 8 years after the end date of its last plan, is still some way off having its emerging CS adopted. That process could be postponed if, as is the case in NW Leicestershire, the Examination reveals that the CBC CS has an inadequate housing provision.

⁶² APP8 and APP11

⁶³ CBC18: Inspector's Report paragraph 302

⁶⁴ APP5 paragraphs 49-52 and 72

3.49 Mountsorrel Parish Council does object but according to Mr Rech the visual impact of the development is less from that direction. One thing the long standing Chairman of the Parish Council was adamant about was the need for a new link road. Those who say it is not necessary do so for other than traffic reasons it would seem.

OVERALL CONCLUSIONS

3.50 This LPA is in housing crisis but is not doing enough to address the housing deficit. This development has very considerable benefits associated with it which are not disputed by Mr Morley. Any fair minded person looking at the plus – minus audit would conclude that the disadvantages have not outweighed the benefits.

3.51 The sole basis for refusal rests on the effect of this proposal on the ALS. That effect is acceptable in its own right for reasons given above. To regard the impact as so seriously adverse as to warrant refusal

(i) ignores the extent of the housing crisis;

(ii) ignores the other benefits associated with the scheme; and

(iii) creates a different standard for ALS distances at Mountsorrel – Rothley than CBC has accepted at a more sensitive location at Loughborough – Woodthorpe.

3.52 We ask you to recommend the grant of planning permission and we ask the SoS so to grant.

4. THE CASE FOR LEICESTERSHIRE COUNTY COUNCIL (LCC)

4.1 The County Council is a Rule 6 party at the Inquiry and a key provider of various items of social and other infrastructure. In that role, it has no objection in principle to the appeal proposals, but in the event that planning permission is granted, wishes to secure justified and otherwise appropriate financial contributions, by way of a Section 106 Planning Agreement (to which it is a signatory), towards the costs and provision of the necessary infrastructure.⁶⁵

4.2 LCC has an interest in contributions towards sustainable transport improvements and traffic calming measures, education and libraries. Aware of the responsibilities imposed by the CIL Regulations 2010, it has submitted suitably detailed and robust evidence to the Inquiry on all of these matters, providing an explanation of the statutory and policy basis for seeking contributions, the quantum of monies sought and details of the services and facilities which would be provided by LCC to serve the development.⁶⁶

4.3 LCC2 comprises two documents: one which sets out the public transport and traffic calming contributions and the second document sets out the key

⁶⁵ APP9

⁶⁶ LCC1, LCC2, LPA2 and APP9

requirements for an education and a library facilities contribution. LCC2 refers to both Government policy and to LCC's own adopted policies for planning obligations. Particular reference is made to Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) which states that a planning obligation may only constitute a reason for granting planning permission if the obligation is: necessary to make a development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development (the CIL tests). Document APP9 is the Deed of Agreement prepared under section 106 of the Town and Country Planning Act 1990 which would deliver the obligations entered into by the Appellant, the LPA and LCC if planning permission is granted for the proposed development.

- 4.4 There is also a Statement of CIL compliance with the CIL Regulations 2010 at LPA2. This is intended to assist the reader as it summarises how each of the obligations contained in the bilateral Agreement (APP9) complies with the legal requirements of Regulation 122 of the CIL Regulations 2010. It explains the quantum and the justification for seeking each contribution. Each contribution is listed in LPA2 as it appears in the Agreement.
- 4.5 In summary, a sum of £16,582 Additional Sustainable Transport Contribution is sought by LCC if any bus service is provided or diverted along the proposed link road within 5 years of first occupation of the final dwelling. A bus pass contribution of £650 per dwelling is sought for the provision of two bus passes and £52.85 per dwelling for the provision of a travel pack by LCC. The sum of £725,940.60 is sought as a contribution towards the provision by LCC of two new classrooms at the new school proposed in Rothley or any successor education facilities. The sum of £90,000 is sought as a contribution towards the traffic calming measures along Walton Way, Mountsorrel. The sum of £13,590 is sought as a contribution towards the provision of improved library facilities and stock at Rothley Library. Finally, a sum of £16,991 is sought towards improvements to encourage sustainable modes of travel including such as bus stop improvements, information display cases, a bus shelter and real time information.
- 4.6 All of the contributions which LCC has requested are therefore justified and reasonable in themselves and meet the requirements of the CIL tests. Insofar as the SoS is not satisfied that a contribution within the Agreement meets the requirements of the CIL Regulations, clause 1.2.10 of the Deed of Agreement (page 7) enables that provision to be severed from the Agreement without affecting the lawfulness of the remaining parts.

5. THE CASE FOR THE POLICE AND CRIME COMMISSIONER FOR LEICESTERSHIRE (LP) (Rule 6 party)

- 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 1.2.10.⁶⁷ 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/13/2192131,⁶⁸ the contribution per dwelling amounted to approximately £300 whereas in the Land at Melton Road appeal APP/X2410/A/12/2173673,⁶⁹ 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 documentation⁷⁰ 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

⁶⁷ APP10

⁶⁸ LP3 - Mr Lambert's proof and Appendices

⁶⁹ Ibid.

⁷⁰ LP1-LP4

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 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.⁷¹
- 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 2010.⁷² The LPA has indicated that it is neutral in relation to the request.⁷³

⁷¹ LP4

⁷² APP10 Clause 1.2.10 page 6

⁷³ LPA2

6. INTERESTED PERSONS WHO APPEARED AT THE INQUIRY

- 6.1 **Mr David Allard** is the Chairman of Mountsorrel Parish Council (MPC). He said that for the last 40 years Mountsorrel has been a focus for growth but without the associated social infrastructure such as shopping and community facilities seen elsewhere in the Soar Valley. That growth has placed a disproportionate burden on the social infrastructure in the locality. The Rolls Royce factory and various shoe factories have disappeared leading to high levels of commuting. Most of this development has been on the south side of Mountsorrel.
- 6.2 He said the Quorn-Mountsorrel bypass was constructed in 1991 and since then traffic on Linkfield Road has grown considerably. There is a constant stream of traffic to the A6 on its way to Loughborough. There is an urgent need for a relief road. MPC is concerned about the settlements' identity and separation. It wants the relief road but not the development. The proposed development would only exacerbate the problems rather than improve the position. The MPC objects very strongly to the areas proposed for development.
- 6.3 **NHS England (Leicestershire and Lincolnshire)** is responsible for the provision of primary healthcare to serve residents in those areas. Since most new residents register with a GP practice, large new housing developments such as is proposed here would have a major impact on the capacity of GP practices to deliver healthcare.
- 6.4 The NHS request for S106 developer contributions relies on a Department of Health calculator to estimate the number of additional consultations that the scheme would give rise to, assuming a total scheme population of 605. In this case there are two GP practices in Mountsorrel. Out of the total patient list of both practices, Alpine House Surgery has 87.7% of the patients and Linkfield Road has 12.3% of the patients. Assuming the current ratio of patient registrations then the 605 new patients would be divided as follows: Linkfield Road - 74 new patients and Alpine House - 531 new patients. In this case it is possible to build additional capacity into the existing Alpine House Surgery to provide 2/3 consulting rooms plus associated space which would enable the NHS to handle the increasing workload. The total contribution requested by the NHS for this purpose is £111,095.82.
- 6.5 Document IP1 sets out the basis of the request in more detail. It explains that the NHS has limited resources to support investment in GP premises. The organisation is currently focusing on supporting an agreed investment plan which does not include the Mountsorrel practices. The proposed extension would need to be able to meet all of the current NHS standards for surgery premises. The indicative size of the premises requirements has been calculated based on typical sizes of surgery projects. The cost per sq m has been identified by a quantity surveyor experienced in health care projects. The NHS considers that the request is CIL-compliant and that the contribution would be delivered through a Deed of Unilateral Undertaking (APP13).
- 6.6 The Appellant does not accept that any part of the NHS requested contribution meets the tests of Regulation 122 of the CIL Regulations 2010.⁷⁴ The LPA has indicated that it is neutral in relation to the request.⁷⁵

⁷⁴ APP13 Clause 1.2.10 page 6

⁷⁵ LPA2 page 1

- 6.7 **Mr Julian Deeming** is a member of the Rothley Mountsorrel Greenbelt Preservation Group (RMGPG). The members of the RMGPG strongly object to the proposals and in particular about the loss of open land between Rothley and Mountsorrel. They oppose the development primarily because if it is allowed it would lead to the loss of the villages' individual community identities. The Group strongly agrees with the recommendation of CBC to not allow the development to proceed.
- 6.8 He said that the current ALS has been protected for the last 30 years and CBC is working to safeguard local community identity by seeking to continue this protection in the future through the emerging CS, a move which they collectively welcome.
- 6.9 He pointed out that the developers are suggesting that the degree of separation will not be significantly eroded by the proportion of land they plan to develop. However, any development which accommodates 250 houses cannot be deemed as insignificant and would inevitably reduce what is currently there. For local residents this is not small, it is a major change to the landscape and environment. Evidence of this can be found in the CBC evidence of Peter Radmall, which clearly states arguments which counter those put forward by the developers. Living in these villages puts local residents in a strong position to judge the impact on the communities.
- 6.10 He stated that the current ALS is important because it helps to define the villages and prevents the conurbation of this area, which increasingly threatens the local environment. The proposed area of development is vital green space and maintains the rural character of the villages providing opportunities for agriculture and wildlife habitat. This green space needs to be protected. This proposal would have a significant visual impact on the landscape especially along the ridgeline making this development visible from all directions, totally changing the vista and therefore the character of the environment. The fact that this area of land has not been altered by public access has helped to preserve both environment and community character.
- 6.11 He claimed that the RMGPG is hugely concerned by potential flooding on the site. Numerous photographs are available of flooding taking place well beyond the areas of flooding indicated within the plans. The majority of people who contacted CBC regarding the development were opposed to the proposal and despite the changes to the plans made by the developers, they remain opposed. Many people in these two communities do not want this development to happen and have been motivated to express their feelings through the democratic processes available. There would also be a loss of farmland.
- 6.12 He stated that the RMGPG remains unconvinced by arguments which claim to show the benefits of the proposed link road. They are hugely concerned about the visual impact of the road especially going over the ridgeline. With regard to the proposed Community Orchard he wondered who it is for, who would maintain it and who would have access to it? These questions have not been adequately answered. Currently swathes of the land have been allowed to over-grow due to lack of maintenance which is an indication of the care that the developers would take with the land in the village of Rothley.
- 6.13 He said that the wide, open spaces are a haven for wildlife, far more than indicated by the two day wildlife survey carried out on behalf of the

developers. The local ecosystem would be damaged by this development and he questioned whether the proposed new wildlife areas would be a benefit.

- 6.14 Mr Deeming urged the Inspector to follow the decision of local people, the Parish Council and the CBC and not allow this development to take place. Given the Government's localism agenda and the strength of local opposition these appeals should be dismissed and planning permission refused.
- 6.15 **Mr Kendall** is a member of Upper Mountsorrel Lane Residents' Association (UMLRA). The Group consists of about 40 households on Mountsorrel Lane and Badgers Bank. Mr Kendall confirmed that the Group is in complete agreement with all the points raised by RMGPG. Mr Kendall referred to the existing ribbon of development along Mountsorrel Lane and then to the appeal decision made in 1981 by Inspector D F Binnion. He quoted from paragraphs 16, 17 and 18 of the appeal decision.
- 6.16 Mr Kendall said that despite this ribbon of development the Inspector considered that the open countryside separating the two settlements is the dominant feature in the landscape, particularly viewed from the outskirts of Rothley. Situated just to the south of the ridge, the development, in particular the roofs, would be visible from the south and south east, despite the proposed landscaping. The shallow valley to the east of Mountsorrel Lane is pleasing in appearance and together with the ridge to the north it provides an emphatic visual and physical separation between Rothley and Mountsorrel.
- 6.17 Mr Kendall stated that the Inspector considered that the proposal, although small in area, would nevertheless have a significant adverse effect on the attractive character and appearance of an important area of open countryside between the two settlements. Furthermore, it seems that approval would make pressure for similar development on each side of Mountsorrel Lane leading in due course to the coalescence and detrimental to the character, form and appearance of Rothley and Mountsorrel.
- 6.18 Mr Kendall considered that the Appellant was retaining land to the east of the current appeal site for future housing development but it would not be developed for a further 20 years. He said that Rothley Parish Council may not oppose the development but the views of the Parish Council are certainly not the views of local residents. He claimed that applications made by the Appellant always seemed to be supported by the Parish Council but that applications made by any other major developer are opposed.⁷⁶ He asked that the appeal be dismissed and that planning permission be refused.
- 6.19 **Councillor Diane Wise** represents Rothley and Thurcaston. Her main concern relates to the loss of separation between Rothley and Mountsorrel. She said that in the past few years numerous planning applications have been allowed, mainly on appeal. This has resulted in the villages along the route of the A6 being almost merged into one long ribbon of development and the loss of integrity for all the villages. Despite Section 106 contributions the impact has been great, resulting in overcrowded schools, lack of sufficient health facilities and problems with the parking of cars on the inadequate road systems. If the

⁷⁶ See IP4

appeals are granted the separation between Rothley and Mountsorrel would be greatly reduced. This will again impact on the integrity of both villages. The appeals should be dismissed and planning permission refused.

7. Written Representations

- 7.1 A number of letters were received both before and during the Inquiry from local residents.⁷⁷ The vast majority of them object to the proposals, for much the same reasons summarised under the appearances by Interested Persons in the preceding section. No significant new matters are raised.

⁷⁷ See CBC02, CBC04 and INQ2
www.planningportal.gov.uk/planninginspectorate

8. CONCLUSIONS

[In this section the numbers in superscript refer to the earlier paragraph numbers of relevance to my conclusions.]

- 8.1 Points (i) to (iii) set out at paragraph 1.4 above relate to the matters about which the SoS needs to be informed and cover the main considerations of prime significance in these appeals. The conclusions that follow are structured to address each of the points (i) to (iii) in turn. I then proceed to examine conditions in point (iv) that might be imposed should the SoS determine that planning permission should be granted and then the issue of planning obligations under s106 of the 1990 Act in point (v) before giving my overall conclusions and recommendations. ^[1.4]

Introduction

- 8.2 **Appeal A** relates to a site to the south of Mountsorrel and to the north of the village of Rothley. To the west is Mountsorrel Lane and to the east is Loughborough Road. The southern residential areas of Mountsorrel and sports pitches form the northern boundary of the site whilst the northern extent of the flood zone of Rothley Brook forms the southern boundary. Brooklea Nursery lies to the east between the site and Loughborough Road. To the west the site boundary extends to Mountsorrel Lane except where there are existing residential properties in the form of ribbon development and a cemetery. The land rises about 24m from Rothley Brook to the south of the site to the ridge line running east to west adjacent to the sports pitches of Rothley Sports and Social Club and then falls about 12m down to the rear of properties on Whatton Oaks. The site is a collection of fields of varying sizes separated by mature native hedges and trees. ^[1.7-1.10]

- 8.3 Appeal A was lodged with the SoS against non-determination of the application. The original application was submitted in outline form with all matters save for access reserved for future consideration. However, there were considerable discussions between the Appellant and the Council prior to the submission of this appeal to try and overcome the concerns of the Council. Section 6 of Mr. Morley's proof explains in more detail the changes that were made and the revised plans that were received by the Council. As a result of these various changes both parties have agreed that the description of the proposal in relation to Appeal A should be amended as follows:

"A hybrid planning application for a maximum of 250 dwellings, access, green infrastructure, a relief road, balancing ponds, public open space and demolition of barns." ^[1.15-1.16]

- 8.4 In the Wheatcroft case it was held that the decision maker could give permission for something different to that applied for provided, that the resultant development was not of a materially different character and no prejudice was caused to consultees. The main part of the test in judging whether or not the proposed development is 'substantially' different is whether prejudice is likely to be caused. Whilst the amendments to the scheme are of significance it cannot be argued that the development as a whole is substantially different than that which was applied for. Document APP20 explains that the changes are compliant with the Wheatcroft principles. I am

satisfied that interested persons have been notified and had the opportunity to express their views and there is no evidence of prejudice in this case.^[1.16]

8.5 It follows that Appeal A should be determined on the basis of the amended description and the revised plans. Document APP14 sets out the agreed list of revised plans for Appeal A and Document 16 sets out the agreed list of documents supporting this appeal. Appeal A proposal is described in more detail in Section 3 of the SoCG (INQ3). The most helpful plan is the Illustrative Masterplan P-A3. This indicates the areas proposed for a maximum of 250 dwellings, the proposed access via a link road, the proposed green infrastructure, balancing ponds, public open space and community orchard.^[1.17]

8.6 **Appeal B** relates to an area of land excluded from Appeal site A because of the risk of flooding. The site comprises trees, hedges, grassland and wetland habitat. The site falls within the Environment Agency's designated flood zones 2 and 3 and lies to the south of the proposed residential site in Appeal A. Appeal B was also lodged with the SoS against non-determination of the application. The original application was submitted in outline form with all matters reserved for future consideration. Like Appeal A this proposal was subject to discussions with the Council. Section 6 of Mr. Morley's proof explains in more detail the changes that were made and the revised plans that were received by the Council. As a result of these various changes both parties have agreed that the description of the proposal in relation to Appeal B should be amended as follows:

"Change of use from agricultural land to Biodiversity Park"^[1.11-1.12, 1.14-1.16]

8.7 In relation to Appeal B the proposal is also compliant with the Wheatcroft principles. I am satisfied that interested persons have been notified and had the opportunity to express their views and that there is no evidence of prejudice in this case. Document APP14 sets out the agreed list of revised plans for Appeal B and Document 16 sets out the agreed list of documents supporting this appeal. The Appeal B proposal is described in Section 3 of the SoCG (INQ4). The most helpful plan is the Illustrative Masterplan P-B3. This indicates that of the 6.6 hectares some 5.73 hectares would comprise the Biodiversity Park and the remainder would be green infrastructure. Pedestrian access to the site would be off Mountsorrel Lane to the west, Loughborough Road to the east and the proposed residential scheme to the north.^[1.16, 1.18]

8.8 The proposed development falls within the description at paragraph 10(b) of Schedule 2 of the 2011 EIA Regulations, being an urban development project on a site exceeding 0.5ha. No Screening Opinion was issued by the LPA. The SoS considered the matter and having taken into account the criteria in Schedule 3 to the above Regulations came to the view that the proposed development would not be likely to have a significant effect on the environment by virtue of factors such as its nature, size or location. Accordingly, in exercise of the powers conferred on the SoS by Regulations 12(1) and 6(4) of the above Regulations, the SoS issued a Screening Direction on 12 September 2013 to the effect that this development is not EIA development. I agree that the proposed development is not EIA development and therefore it does not require the submission of an Environmental Statement.^[1.19]

8.9 The Council resolved that planning permission would have been granted against non determination for the Biodiversity Park (Appeal B) subject to conditions. The matters in dispute relate to Appeal A.^[1.14] I shall therefore start with **Appeal A** and deal with compliance with the development plan and sustainable development principles:

Issue (i) The extent to which the proposed development is consistent with the development plan for the area and would deliver a sustainable form of development;

8.10 The statutory development plan for the area includes the saved policies of the Charnwood Borough Council Local Plan 2004 (CBCLP). A list of the relevant policies is set out in the SoCG for each site. A copy of the Saving Letter dated 21 September 2007 and the detailed wording of all the policies is also included on the file. The CBCLP saved policies will remain in place until they are formally superseded by the Council's CS and other development plan documents. However, it is noteworthy that the Core Strategy (CS) is still at a relatively early stage and its adoption is not anticipated until October 2014. A Site Allocations and Development Management Policies DPD is likely to be adopted some time after that in June 2015.^[1.20, 2.43-2.44, 3.1-2]

8.11 The parties agree the relevant policies in the SoCGs. The policies are summarised in paragraphs 1.22 – 1.27 of my Report and there is no need to repeat them here. The Council acknowledges that the CBCLP is time expired and that its housing policies are out of date. However, it argues that the saved CBCLP countryside policies, in particular Policy CT/4 referring to ALS, remain relevant and retain the full weight of development plan policy. The Appellant maintains that the CBCLP was only intended to make provision for development needs up to 2006. It is argued that the "Saving Letter" dated 21 September 2007 saved a variety of policies but did so subject to two caveats: (i) saved policies would be replaced "promptly" – this was important for CBC as the plan was already a year past the end date of 2006; and (ii) policies were adopted "some time ago" in 2004. Hence, the Appellant argues that only due weight not full weight should be afforded to relevant policies.^[2.1, 2.18, 3.2]

8.12 I accept that the caveats referred to by the Appellant have a direct relevance to the application of the development plan in this case. The NPPF and the "Saving Letter" are material considerations and paragraph 215 of the former advises that from March 2013 onwards due weight should be given to relevant policies in existing plans according to the degree of consistency with the NPPF. It is necessary to test the consistency of the saved policies with the NPPF.^[3.3-3.7]

8.13 Only one development plan policy is raised by CBC in the putative reason for refusal: Policy CT/4: Area of Local Separation (ALS). The policy cross-refers to Policy CT/1 in terms of restricting the type of development that might be allowed. For any such types of potentially acceptable development identified in Policy CT/1 to be acceptable they must also meet the criteria in Policy CT/4. This is the control mechanism of Policy CT/4. However, the purpose of Policy CT/4 is to secure effective separation and to prevent settlements merging with each other.^[3.8]

8.14 The NPPF contains many references to the need to conserve and enhance the natural environment and one of its core principles is that planning should

recognise the intrinsic character and beauty of the countryside (paragraph 17). It stresses the continuing need to protect valued parts of the countryside from development, including through plan-making, which may (paragraph 157) "indicate broad locations for strategic development on a key diagram and land use designations on a proposals map." Paragraph 157 goes on to say that Local Plans should also identify land where development would be inappropriate, for instance because of its environmental ... significance. Elsewhere paragraph 76 refers to the scope for designating land as Local Green Space.^[2.14-2.15]

- 8.15 Both main parties rely on various Inspectors' appeal decisions/SoS decisions and High Court judgments. The Council refers to a 1980 appeal decision on the southern part of the site, the 2000 Local Plan Report together with decisions at East Goscote, Coalville and Peggs Green. It is argued that these decisions fly in the face of the position advanced by the Appellant at the Inquiry. The Appellant refers, amongst others, to decisions at Knowstone (Colman), Coalville, Cotswold and Sapcote.^[2.5, 2.8, 2.15- 2.17, 3.9, 3.13, 3.16]
- 8.16 The case of Colman identifies the consequences of paragraph 215 of the NPPF in decision taking at appeal. In that case Parker J characterised the relevant policies in this way: "*These policies are, in my view, on their own express terms very far removed from the 'cost/benefit' approach of the NPPF.*" If this "cost/benefit" approach is applied to Policy CT/4, it is found somewhat wanting as its central intention and its control mechanism is to avoid anything other than the development identified in Policy CT/1 being brought forward in the ALS. However, the purpose of the policy is consistent with the NPPF because all parties to the Inquiry agree that, in principle, that it is a sound planning aspiration to seek to maintain separation of settlements.^[3.9-3.10]
- 8.17 Therefore, I agree with the Council that Policy CT/4 does not clearly conflict with the NPPF and I give it due weight, even though the NPPF does not specifically refer to ALS. But that does not mean that all land within existing ALS in the Borough should be permanently sterilised from development; instead, I consider that each case for development within an ALS should be considered on its merits. Policy CT/4 cannot be given full weight because it represents an outright ban on open market housing within the ALS, without the possibility of any countervailing benefit outweighing the prohibition.^[2.15, 3.11]
- 8.18 This analysis is also helpful in deciding how the question in paragraph 49 of the NPPF must be answered, namely: is Policy CT/4 a "relevant policy for the supply of housing"? There are two conflicting High Court judgments in this respect: Coalville and Cotswold. The approaches of the two judges are apparently irreconcilable. However, the paragraph 49 decision is not central to this case because the paragraph 215 Colman test of consistency with the NPPF must be undertaken independently of the paragraph 49 question whether or not Policy CT/4 is a policy for the supply of housing. In this case it has been accepted by CBC that for 5 reasons the paragraph 14 presumption exists. The Appellant does not need therefore to rely on the test in paragraph 49 to enjoy the presumption in favour of development in paragraph 14 of the NPPF.^[3.12-3.14]
- 8.19 If a choice were essential, which it is not, the SoS is invited to prefer the approach in Cotswold because the control mechanism in Policy CT/4 is clearly very relevant to the supply of housing: it represents an absolute ban on open

market housing in the ALS. The effect of Policy CT/4 is therefore very relevant to the supply of housing. The approach taken in Coalville is correct to point out that paragraph 49 of the NPPF is within the housing section. However, that section presumes that there will be adequate housing provision in the plan. This is clearly not the case here and paragraph 49 needs to be read with this in mind. Furthermore, the limits to development and ALS (and Green Wedge) boundaries were all drawn in the CBCLP 2004 reflecting housing needs up to 2006 only. Housing needs are obviously greater in 2013 and the emerging CS acknowledges that the ALS boundaries will have to be redrawn as part of the Site Allocations and Development Management Policies DPD process. This also serves to demonstrate the direct link between ALS and provision of housing.^[3.15]

- 8.20 At first blush the proposals are contrary to Policy CT/4 of the CBCLP. However, if the matter is considered more closely it quickly becomes apparent that the proposal would maintain an adequate area of separation between Mountsorrel and Rothley. The ALS have a strategic role and are intended to act as small, open, rural buffers whose main purpose is to prevent neighbouring settlements from merging or coalescing. If that analysis is correct and there is no breach to the purpose of Policy CT/4 then the technical breach relating to the control mechanism ought to have little weight attached to it. This needs to be examined under Main Issue (iii).^[3.18]
- 8.21 Plainly the control mechanism under Policy CT/4 fails the paragraph 215 test in the NPPF for reasons set out above and cannot be given full weight. Furthermore, whatever view is taken on the paragraph 49 "policy for supply of housing test" it is the fact that CBC desperately needs additional housing and this must be relevant when deciding what weight to attach to Policy CT/4. It is noteworthy that CBC has taken the view elsewhere that Policy CT/4 is a policy relevant to housing and that it is out of date.^[2.29, 3.19]
- 8.22 To accord with the development plan a proposal does not have to comply with each and every policy or proposal therein. In this case only Policy CT/4 is alleged to be breached and the proposed development would accord with a host of other policies subject to conditions. If the breach is only technical as argued above, and if it is accepted that the purpose of ALS is preserved by the development then a strong case is made out that the proposal is consistent with the development plan, taken as a whole. Even if a contrary view were to be taken, the breach of Policy CT/4 has to be assessed in the context of paragraph 14 of the NPPF as required under Main Issue (ii) below.^[3.20]
- 8.23 The main parties agree that the proposed development would deliver a sustainable form of development. There are three dimensions to sustainable development as set out in the NPPF at paragraph 7. Mr Morley accepted all of the benefits identified in Mr Stone's Table at page 43 of his proof of evidence. The SoCG accepts that the appeal site is in a sustainable location for housing development.^[3.21]
- 8.24 In relation to Issue (i) I conclude that the proposal would accord with a very wide range and a large number of development plan policies but it would not be consistent with a strict interpretation of Policy CT/4 of the CBCLP. The saved policies including Policy CT/4 still merit due weight as development plan policies. Although there would be some conflict with this policy, this, for the

reasons stated above, would be limited. The proposed development would accord with the 3 dimensions to sustainable development set out in paragraph 7 of the NPPF.

Issue (ii) Whether the proposed development is necessary to meet the housing needs of the Borough bearing in mind the housing land supply position;

- 8.25 Plainly CBC's housing land supply is in crisis. It lies between 2.93 and 2.6 years. There is no good reason why the Sedgefield approach should not apply here. If there were a 10% non implementation discount as applied at Honeybourne and elsewhere these supply figures would be less. The annual requirement runs at over 1,000 homes. The emerging CS will not be adopted until October 2014 at the earliest – almost 1 year away. Mr Morley did not know if the CS would guarantee a 5 year supply when adopted. Mr Stone explained that large sites such as promoted in the emerging CS at Policy CS1 take between 18 months – 2 years to start delivering homes that can be occupied. In so far as the Site Allocations and Development Management Policies DPD will be expected to supplement the 5 year supply it will not be adopted until June 2015 and is already 8 months behind schedule.^[3.22]
- 8.26 Mr Morley accepted that until the Site Allocations and Development Management Policies DPD was adopted it was only through development control decisions such as this that an attempt can be made to achieve a 5 year housing land supply that paragraph 47 of the NPPF requires. Mr Stone's Appendix 18 includes the Council's Assessment of 5 Year Housing Land Supply as at 31 March 2013. At page 5 of that Assessment Figure 1 line c shows expected completions in CBC in 2013-2014 will total 536 homes. This is against an annual housing requirement of 1,014. From these figures it is clear to me that not much progress is being made.^[3.23]
- 8.27 All of these factors combine to create a compelling case for urgency of action and lend considerable weight to the merits of this proposal. There is no doubt that paragraph 14 of the NPPF is engaged in this case because, as Mr Morley accepted, the housing policies of the CBCLP are "out of date" because the plan is 7 years beyond its intended life span. He also accepted that in so far as Policy CT/4 restricts the supply of housing it is "out of date" (as the Committee Report in APP8 accepts). This admission represented the abandonment of what he said there at paragraph 8.3 of his proof of evidence.^[3.24-3.25]
- 8.28 In my view, Policy CT/4 is inconsistent with the cost benefit analysis set out in the Colman case. It fails the paragraph 215 test and is therefore "out of date" as far as paragraph 14 is concerned. The saved policies of the CBCLP are "silent" within the meaning of paragraph 14 as to where the admitted housing need should be located: it only says where development cannot go. Moreover, the emerging CS itself acknowledges that Policy CT/4 is "out of date" because it anticipates a review of its boundaries as part of the Site Allocations and Development Management Policies DPD.^[3.35]
- 8.29 Because paragraph 14 of the NPPF is engaged, the balance identified therein is required. Mr Stone has carried out that exercise and his Table at paragraph 43 of his proof demonstrates that the case in favour of grant of planning

permission is overwhelming. The SoS should also be aware that no paragraph 14 footnote 9 "specific policies" apply to the site.^[3.26-3.27]

- 8.30 On the second issue I conclude that the release of this site is necessary to meet housing needs of the Borough.

Issue (iii) The effect of the proposed development on the character and appearance of the area including the purpose and integrity of the Area of Local Separation;

- 8.31 It is common ground that if the appeal succeeds there would be a reduction in openness. The minimum length of the separation would fall from about 800m to 240m. By building up to 250 dwellings on a greenfield site, the proposed development would clearly affect the existing ALS between Mountsorrel and Rothley and the character of the appeal site would be radically changed. The appeal site is relatively well contained. There is consequently a limited visual envelope within which the effects of potential development may be experienced. However, as can be seen from the representative viewpoints, there would be significant visibility of the new development from the existing settlement edges along Mountsorrel Lane, Oldfield Lane, Halywell Nook and further to the south east, at Homefield Lane, beyond the Rothley Brook. Furthermore, operational development in the form of the proposed new relief road would connect Mountsorrel Lane and Loughborough Road across the ALS.^[2.31-2.34, 3.37, 6.9, 6.15, 6.19, 7.1]
- 8.32 However, in my opinion, there are several reasons for thinking that the impact of the development on the ALS would be quite limited and not very harmful - much less fatal - to its overall purpose, integrity or character. First, the main built component of the proposed development would extend Rothely in a primarily eastward direction out from Mountsorrel Lane, contained to the north by Rothley Cemetery. This would mirror the westerly most extent of the village towards The Ridings. The retained ALS distance between the northern edge of the expanded Rothley would be entirely consistent with the separation which exists to the west of Mountsorrel Lane at its narrowest point. However, in the case of the proposed development, the sense of separation is reinforced by the more prominent ridge so the level of harm arising from landscape and visual matters is no more than limited in overall terms.^[2.31, 2.38-2.39, 3.35, 6.9, 6.15, 6.19, 7.1]
- 8.33 Secondly, I accept that the designated ALS referred to in Policy CT/4 covers a total of 121.4 hectares and was defined in 1995. It encompasses all the undeveloped land extending west from the A6 Quorn - Mountsorrel Bypass across to The Ridings on the edge of Swithland, merging with the Ridgeway Separation Area. However, it is noteworthy that the residential component of the appeal proposals would account for only 6.8% of this total combined ALS. Even taking the eastern area of the ALS in isolation (59.7hecatres) the proposed development would account for only 14% of the area leaving 86% free from residential development. In short, only a small percentage of the total ALS would be lost to development.^[3.38, 3.40]
- 8.34 Thirdly, it is clear that CBC and many local people, including members of RMGPG, UMLRA, MPC, Councillor Wise and others, greatly value this green area of open countryside and want to preserve its status as ALS which has protected it hitherto from development. Whilst I appreciate that the appeal site is considered attractive at a local level it is also true that it has never been

designated as a result of its perceived landscape character or quality. It consists primarily of grazing pasture subdivided by a comparatively intact hedgerow framework. The existing settlement edges provide the context to the north, west and south with the A6 corridor and employment zones to the east and the Soar valley floodplain beyond. Topographically, the bulk of the site comprises the south facing valley slopes of the Rothley Brook. It is significant that the appeal site was not included within the Areas of Particularly Attractive Countryside designations as defined in the CBCLP. It is not a valued landscape as set out in the NPPF and it is not a NPPF footnote 9 site.^[3.29]

- 8.35 Fourthly, the master plan has been sensitively designed to ensure that the built development components can be successfully assimilated into the local landscape context in a manner which is consistent with the key characteristics of the national character area known as the Trent Valley Washlands and the key characteristics of the local assessment – the Rothley Brook Character Area. Specifically this includes retention of a broad area of green separation utilising the higher land along the southern fringe of Mountsorrel and avoiding built development on the ridge. At its narrowest point, a gap of 240m between new built development is maintained. It also includes retention of the Rothley Brook within the proposed Biodiversity Park, thus protecting a second broad area of green separation along the Homefield Lane edge of Rothley. At its narrowest point this is 330m wide.^[3.32]
- 8.36 Importantly, containment of the residential development would be within existing field compartments, subdivided by retained hedgerows forming greenways. Built development would be on the valley slopes which is identified as being characteristic of the Trent Washlands and the Rothley Brook Character Areas. The long sections demonstrate that from Homefield Lane the built development would avoid the skyline. Although there would be 10 new openings created in the existing hedgerows and the removal of a length of 250m it is fair to report that as part of the mitigation 1km of new hedgerow would be planted along the relief road and the new access road serving the northern boundary of the main housing area.^[2.36, 3.35]
- 8.37 The creation of a very robust and well connected green infrastructure framework reinforcing and enhancing the existing network of hedgerows with new woodland planting would also be in accordance with the specific management guidelines for the Rothley Brook Character Area. In my view, this would ensure that there would be a strong layering effect of natural vegetation filtering views of settlement edges. The delivery of the Biodiversity Park under Appeal B and the comprehensive green infrastructure framework would also bring significant recreational and wildlife benefits which are consistent with the emerging CS aspirations for green infrastructure.^[3.35]
- 8.38 Finally, the Council expresses concern about the location of the relief road on the ridge which I agree is the most visually prominent part of the site. However, I note that the detailed design of the relief road includes significant areas of new planting, the use of shallow cutting and carefully designed lighting of very high environmental quality in order to minimise disruption. The design has also been agreed with the County Highways Authority. In my view the road can be sensitively assimilated and would be perceived by users as a semi-rural route for the majority of its length. Whilst I accept that the proposed housing could be adequately accessed from Mountsorrel Lane it is also true that the new road would bring benefits to existing residents in the

area and enjoys the support of the MPC. The SoS should note that Policy CT/4 is not a landscape quality policy and that any harm arising from its location in the ALS would be mitigated in perpetuity by the operation of the s106 Agreement which would keep the adjoining land in agricultural use. [2.31, 2.40-2.42, 3.47, 6.9, 6.15, 6.19, 7.1]

- 8.39 For all those reasons on the third main issue I conclude that the proposed development would not significantly harm the character and appearance of the area or undermine the planning purpose or overall integrity of the wider ALS. The countervailing environmental benefits more than outweigh the loss of ALS and the limited landscape harm caused by the loss of green field land.

Issue (iv) whether any permission should be subject to any conditions and, if so, the form these should take;

- 8.40 A list of suggested conditions for Appeal A was discussed at the Inquiry at a round table session. These conditions were subsequently revised and document APP22A represents a high level of agreement between the Appellant and CBC as to the conditions which should be imposed in the event that planning permission is granted. I have considered the suggested conditions in the light of the tests of Circular 11/95. [3.42]

- 8.41 Conditions 1-4 are necessary to ensure that the development will not start until all reserved matters are approved and that the development should be carried out in accordance with the revised plan for the link road. Condition 5 relates to the submission of a phasing scheme and is necessary to ensure that all elements of the scheme are carried out in a timely manner. Conditions 6-8 relate to drainage matters and are necessary to ensure that the site can be properly drained without flooding. Condition 9 is necessary to ensure a satisfactory development of the site. Condition 10 is necessary to ensure that a detailed ground investigation is undertaken together with details of any remediation strategy to avoid pollution of ground and surface waters. Conditions 11-13 relate to landscaping and are necessary in the interests of visual amenity. Conditions 14 -15 relate to open space and play provision and are necessary to ensure a satisfactory development. Condition 16 relates to the closure of existing accesses and is necessary in the interests of highway safety. Condition 17 relates to the provision of public art and is necessary to ensure a satisfactory development in the interests of visual amenity. [3.42]

Issue (v) whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.

- 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: Schedule 1, additional sustainable transport improvements, bus pass, travel pack, education, highways, libraries and sustainable transport contributions; Schedule 2, affordable housing; and Schedule 3, Open Space. Document LPA2 is a statement which has been agreed by the Appellant, the LPA and LCC. It provides a summary of the obligations contained in the Agreement and how each complies with the legal requirements of Regulation 122 of the CIL Regulations 2010. All of these contributions were discussed at the Inquiry. I consider that all of the provisions

of the s106 Agreement are necessary. They meet the 3 tests of Regulation 122 of the CIL Regulations 2010 and the criteria in paragraph 204 of the NPPF. I accord the s106 Agreement significant weight and I have had regard to it as a material consideration in my conclusions. ^[3.44, 4.1-4.6]

- 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 (LP) and NHS England (Leicestershire and Lincolnshire). The Appellant is not satisfied that these contributions are CIL compliant. The LPA has indicated that it is neutral in relation to both requests. Both Unilateral Undertakings were discussed at the Inquiry in relation to their CIL compliance. ^[3.45, 5.1-5.12]
- 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 the 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 the LP, provides a statement of compliance with the CIL Regulations 2010. ^[3.45, 5.1-5.12]
- 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. ^[3.45, 5.1-5.12]
- 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 Regulations 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. ^[3.45, 5.1-5.12]
- 8.47 APP13 is a signed and completed s106 Unilateral Undertaking, dated 13 December 2013, between the Appellant, the LPA and NHS England (Leicestershire and Lincolnshire). The sum of £111,095.82 is sought by the NHS to provide for an extension to the Alpine House Surgery, 86 Rothley Road, Mountsorrel. The contribution request is based on current capacity issues at the surgery. It is calculated on the basis of an indicative size of premises and recent new surgery projects. Whilst I accept that the proposed development could result in an increased patient population and patient consultations, I am not persuaded by a claim that is entirely based on a 'formula' approach. The claim is made in respect of a Mountsorrel surgery which is not included in the agreed GP premises investment plan and therefore there is no 'live' scheme to support the claim. Moreover, the precise cost of any improvements is not known or whether any claim for funding would be approved by the NHS. There is also an issue in relation to the capital sum that would be paid and whether, or not, that may increase the capital value of the premises and how the Appellant would be credited for this. I agree with the Appellant that the basis for making the request, in terms of internal decision making procedures

remain somewhat obscure and the total sum cited is not sufficiently clearly related to the proposed development. Overall, I consider that the basis of the request is not adequately justified. I therefore find that this Undertaking does not meet the tests of Regulation 122 of CIL Regulations and I have not taken it into account in this appeal.^[3.46, 6.3-6.6]

Overall Conclusion on Appeal A

- 8.48 The proposed development would have a somewhat harmful effect on the purpose and integrity of the ALS. However, this harm would be limited and would not be sufficient to undermine its continuing planning function or to cause the coalescence of Mountsorrel and Rothley. There would be some slight harm to be weighed in the overall planning balance. The proposed development is not consistent with a strict interpretation and application of Policy CT/4 of the CBCLP and there would be some limited conflict with this policy. However, due to its accordancy with all other policies, I consider there is no overall conflict with the development plan. However, even if a contrary view were to be taken, the breach of Policy CT/4 has to be assessed in the context of the balancing exercise required by paragraph 14 of the NPPF.
- 8.49 The NPPF at paragraph 49 advises that policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five year supply of deliverable housing sites. In this case there is no disagreement about the matter. As the SoCG confirms there is only 2.6 years supply of housing land and these figures do not allow for a non-implementation discount. One of the main purposes of the NPPF is to stimulate the delivery of housing nationally and particularly in those areas where there are demonstrable shortfalls. The housing policies of the CBCLP are therefore clearly out of date. In my view, this significant shortfall in the Borough's housing land supply is an important factor which counts strongly in favour of the appeal scheme.
- 8.50 The balancing exercise carried out by the Appellant at page 43 of Mr Stone's proof is compelling. It demonstrates that the case in favour of granting planning permission is overwhelming. The proposed development would deliver tangible benefits in the form of much needed market and affordable housing (30%) in an accessible location adjacent to both Rothley and Mountsorrel. Both settlements are recognised as service centres in the emerging CS. The site is well related to facilities and would further support the development of economic and social capital in the locality. The proposed relief road and traffic calming would be beneficial and the overall environmental benefits would be significant with enhanced biodiversity and new pedestrian and cycle links. In all circumstances the development represents a suitable and sustainable development where other material considerations clearly outweigh the limited development plan conflict.

Appeal B – Land off Mountsorrel Lane, Rothley

- 8.51 The Council resolved that planning permission would have been granted against non determination for the Biodiversity Park subject to conditions. The Council considers that Appeal B is acceptable on its own terms and in the event that planning permission is granted for Appeal A the Council agrees that Appeal B should be allowed also.^[1.14, 2.1]

- 8.52 The submitted documents and plans provide what works are envisaged for this site. The proposal is to maintain the area as informal open space with a footpath network linking Mountsorrel Lane in the west, the sports field to the south (Homefield Lane), Loughborough Road to the east and the proposed residential development to the north. The footpath onto Loughborough Road would involve the removal of some trees to allow access and a suitable visibility splay.^[1.16, 1.18]
- 8.53 Document CBC04 provides details of the responses from statutory consultees and other responses. The central issue is whether a biodiversity park is considered acceptable in this location. Management and enhancement of the Biodiversity Park would safeguard biodiversity interests in the local area, limit the impacts of development on biodiversity in the surrounding environment and provide opportunities to create new habitats. The proposal would benefit both existing local residents and those who would move to the area if permission is granted for the proposed residential development immediately to the north of this appeal site.^[1.14, 2.1]
- 8.54 A list of suggested conditions for Appeal B was discussed at the Inquiry at a round table session. These conditions were subsequently revised and document APP22B represents a high level of agreement between the Appellant and CBC as to the conditions which should be imposed in the event that planning permission is granted. I have considered the suggested conditions in the light of the tests of Circular 11/95. All of the conditions are necessary to ensure that the appearance of the completed development is satisfactory and will be assimilated into its surroundings.^[3.42]

Overall Conclusion on Appeal B

- 8.55 The proposal is wholly in accordance with the provisions of the NPPF and the aforementioned policies of the CBCLP, which in this instance are in accord with the NPPF, and there are no other material considerations which indicate planning permission should not be granted.

9. RECOMMENDATIONS

- 9.1 I recommend that Appeal A be allowed and planning permission be granted subject to conditions.
- 9.2 I recommend that Appeal B be allowed and planning permission be granted subject to conditions.

Harold Stephens

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Jack Smyth of Counsel Instructed by Mr Richard Thurling, Head of Strategic Support, Charnwood Borough Council

He called Mr Michael Morley BSc (Hons) Dip TP MRTPI
Mr Peter Radmall MA BPhil MLI

FOR THE APPELLANT:

Mr Jeremy Cahill QC Instructed by Mrs Lizzie Marjoram Messrs Bird, Assisted by Nina Pindham Wilford and Sale, Solicitors, Loughborough

He called Mr Phil Rech BA (Hons) BPhil LD CMLI
Mr Paul Stone BSc (Hons) Dip TP MRTPI

FOR LEICESTERSHIRE COUNTY COUNCIL: (a Rule 6 party)

Ms Nisha Varia Solicitor with LCC

She called Andrew Tyrer BA (Hons) MSc MRTPI Developer Contributions Officer, LCC
Sharon Townsend - Strategic Officer Children & Young Peoples Services (CYPS) (Education) LCC
Steve Kettle - Moderning Service Manager, Adults & Communities (Library services) LCC
Younus Seedat - Senior Engineer, Highways Service, LCC

FOR THE POLICE AND CRIME COMMISSIONER FOR LEICESTERSHIRE: (a Rule 6 party)

Mrs Thea Osmund-Smith of Counsel

She called Mr Michael Lambert Dip TP MRTPI

FOR MOUNTSORREL PARISH COUNCIL

Mr David Allard Chairman of the Parish Council

INTERESTED PERSONS:

Mrs Amanda Anderson NHS England (Area Team) Leicestershire and Lincolnshire

Mr Julian Deeming Rothley – Mountsorrel Greenbelt Preservation Group

Mr David Kendall Upper Mountsorrel Lane Residents' Association
Councillor Diane Wise Local Councillor for Rothley and Thurcaston

INQUIRY DOCUMENTS

- INQ1 Notification Letter
- INQ2 Written representations submitted following the issue of the SoS's Direction to recover the applications
- INQ3 Statement of Common Ground Appeal A
- INQ4 Statement of Common Ground Appeal B

ADDITIONAL DOCUMENTS SUBMITTED ON BEHALF OF CHARNWOOD BOROUGH COUNCIL

- LPA1 T/APP/5302/A/81/131/G6 Appeal decision map
- LPA2 Statement of Compliance with CIL Infrastructure Regulations 2010
- LPA3 Charnwood Borough Council SPD Section 106 Developer Contributions
- LPA4 Closing Submissions
- LPA5 Costs Submissions

ADDITIONAL DOCUMENTS SUBMITTED ON BEHALF OF THE APPELLANT

- APP1 Updated light spillage diagram - 11 December 2012
- APP1A Email from LCC to William Davis Ltd's traffic consultants BWB Consulting re. Mountsorrel Lane, Rothley Street Lighting - 11 December 2013
- APP2 Appellant's representations in relation to objection to emerging CS - 19 July 2013
- APP3 Plan 7 and Plan 8 relating to William Davis' previous application
- APP4 Cotswold DC v SSCLG, Fay and Son Ltd/Cotswold D.C. v SSCLG, Hannick Homes and Developments Ltd [2013] EWHC 3719 (Admin)
- APP5 Tewkesbury BC v SSCLG, Comparo Ltd, Welbeck Strategic Land LLP [2013] EWHC 286 (Admin)
- APP6 Land at Willow Meadow Farm, Ashbourne, Derbyshire Dales DC Appeal Decision APP/P1045/A/13/2195546 - 9 October 2013
- APP7 Land off Barford Road, Bloxham, Cherwell DC – SoS decision 23 September 2013
- APP8 Land north of Ling Road, Committee Report - 8 January 2013
- APP9 Section 106 Agreement between Adrian Clarke, Rodney Clarke, Andrew Terence Clarke and Stephen Robert Clarke, William Davis Ltd, Charnwood Borough Council and Leicestershire County Council
- APP10 Section 106 Unilateral Undertaking between Adrian Clarke, Rodney Clarke, Andrew Terence Clarke and Stephen Robert Clarke, William Davis Ltd, the Council of the Borough of Charnwood and the Police and Crime Commissioner for Leicestershire
- APP11 Land west of Allendale Road, Loughborough, Leicestershire - Committee Report - 8 January 2013
- APP12A Agreed amendment to description of development - Appeal A -12 December 2013
- APP12B Agreed amendment to description of development - Appeal B - 12 December 2013
- APP13 Section 106 Unilateral Undertaking between Adrian Clarke, Rodney Clarke, Andrew Terence Clarke and Stephen Robert Clarke, William Davis Ltd, the Council of the Borough of Charnwood and the NHS England (Leicestershire and Lincolnshire)
- APP14 List of plans for both Appeal A and Appeal B -12 December 2013
- APP15 Note regarding loss of hedgerows - 11 December 2013

- APP16 List of documents for both Appeal A and Appeal B -12 December 2013
- APP17 Core Strategy Key Diagram
- APP18 Overlay Diagram (Allendale Road development and Area of Separation)
- APP19 Note regarding Schedule of Agreed Distances and Areas between the Appellant and Charnwood Borough Council - 12 December 2013
- APP20 Statement of compliance with Wheatcroft principles
- APP21 Note regarding statistics
- APP22A List of Suggested Conditions for Appeal A
- APP22B List of Suggested Conditions for Appeal B
- APP23 Opening Statement
- APP24 Closing Submissions
- APP25 Costs Submissions

ADDITIONAL DOCUMENTS SUBMITTED BY LEICESTERSHIRE COUNTY COUNCIL

- LCC1 Rothley new school site diagram
- LCC2 Proof of evidence of Andrew Tyrer with Appendices

ADDITIONAL DOCUMENTS SUBMITTED BY LEICESTERSHIRE POLICE

- LP1 Melton Borough Council Core Strategy: Inspector's Conclusions
- LP2 Statement of compliance with CIL Regulations 2010
- LP3 Mr Lambert's Proof of evidence and Appendices
- LP4 Mr Lambert's letter dated 14 November 2013 amending the total sum sought in respect of Police vehicles
- LP5 Closing submissions

INTERESTED PERSONS' DOCUMENTS

- IP1 Statement by Amanda Anderson on behalf of Leicester, Leicestershire County and Rutland PCT Cluster - October 2012
- IP2 Statement by Julian Deeming on behalf of Rothley-Mountsorrel Greenbelt Preservation Group
- IP3 Statement by David Kendall on behalf of Upper Mountsorrel Lane Residents' Association
- IP4 Upper Mountsorrel Lane Residents' Association leaflet
- IP5 Extracts from "Rothley: Then and Now"
- IP6 Statement by Diane Wise, Councillor for Rothley and Thurcaston
- IP7 Email from NHS England (Leicestershire and Lincolnshire) regarding Deed of Unilateral Undertaking - Land off Mountsorrel Lane, Rothley - 12 December 2013

ANNEX - RECOMMENDED CONDITIONS

APPEAL A - Appeal Ref: APP/X2410/A/13/2196928

Time limit Full application

- 1) Insofar as this decision grants full planning permission for the relief road as indicated in the application, the development, hereby permitted, shall be begun not later than 2 years from the date of this permission.

Details of road

- 2) The development of the relief road shall be carried out only in accordance with the details and specifications included in the submitted application, as amended by the revised drawings Nos. NTT/2033/HD/104 rev P3, NTT/2033/HD/104 rev P4, NTT/2033/HD/105 rev P4, NTT/2033/HD/106 rev P4, NTT/2033/HD/100 P11, NTT/2033/008 rev P2 showing the layout and design of the relief road.

Reserved matters

- 3) Insofar as this decision grants outline planning permission for those parts of the development other than the relief road, details of the layout, scale, appearance, access, landscaping and proposed ground levels and finished floor levels of all buildings (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins, in accordance with the phasing scheme as agreed under condition No. 5 below and the development shall be carried out as approved.

Reserved matters time limit

- 4) The application(s) for approval of reserved matters shall be made within three years of the date of this permission and the development shall be begun not later than two years from the final approval of the last of the reserved matters.

Phasing

- 5) No development, including site works, shall take place until a phasing scheme in respect of the relief road, pedestrian/cycle access routes to the site, public open space, recreational, children's play areas, Biodiversity Park and the residential areas has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed phasing scheme.

Drainage

- 6) No development, including site works, shall take place until details of the disposal of foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is brought into use.

- 7) No development, including site works, shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year critical storm plus an appropriate allowance for climate change will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
- details of how the scheme shall be maintained and managed after completion
 - sustainable drainage techniques or SuDS incorporated into the design in line with The SUDS manual C697. A development of this type should incorporate at least two treatment trains.
 - details to show the outflow from the site is limited to the maximum allowable rate, i.e. greenfield site run-off
 - design details of the proposed balancing ponds, including cross-sections and plans. This includes all connections to any receiving watercourse.
- 8) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Revision B and the mitigation measures detailed within the FRA produced by BWB Consulting and dated March 2013.

Construction method and tree/hedge protection

- 9) No development, including site works, shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:-
- (i) the routing of construction traffic;
 - (ii) the times of construction work;
 - (iii) the parking of vehicles of site operatives and visitors;
 - (iv) loading and unloading of plant and materials;
 - (v) storage of plant and materials used in constructing the development
 - (vi) measures to control the emission of dust and dirt (including a scheme for wheel cleaning) during construction to ensure that the highway is kept free of mud, water and stones;
 - (vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - (viii) measures to protect the trees and hedges to be retained on the application site during the duration of the construction works;
 - (ix) measures to protect the wildlife habitats and wildlife corridors during the duration of the construction works.

Land contamination

- 10) No development, including site works, shall take place until a Phase II ground investigation has been undertaken to establish the full nature and extent of

any contamination of the site and the results of the investigation together with details of any remediation strategy necessary to render the site safe shall be submitted to the Local Planning Authority for their assessment and written approval. Any remediation works required by the approved strategy shall be carried out in accordance with the approved remediation strategy.

Landscaping

- 11) No development in any phasing as agreed under condition 5, including site works, shall take place until a landscaping scheme for the respective phase, to include those details specified below, has been submitted to and agreed in writing by the Local Planning Authority:
 - (i) the treatment proposed for all ground surfaces, including hard areas;
 - (ii) full details of tree planting;
 - (iii) planting schedules, noting the species, sizes, numbers and densities of plants;
 - (iv) finished levels or contours;
 - (v) any structures to be erected or constructed;
 - (vi) functional services above and below ground; and
 - (vii) all existing trees, hedges and other landscape features, indicating clearly those to be removed.

- 12) The landscaping schemes for the development shall be fully completed, in accordance with the details agreed under the terms of condition No. 11, in the first planting and seeding seasons following the first occupation of any part of the development or in accordance with a programme previously agreed in writing by the Local Planning Authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.

- 13) No development, including site works, shall take place until a Green Infrastructure Biodiversity Management Plan, including long term design objectives, management responsibilities and maintenance schedules, including ecological measures for all landscape areas, other than domestic gardens, has been submitted to and agreed in writing by the Local Planning Authority. The agreed Green Infrastructure Biodiversity Management Plan shall then be fully implemented.

Recreation

- 14) The details to be submitted in accordance with condition No. 3 shall include open space/children's play area provision at a rate of 200 square metres per 10 dwellings of which 75 square metres per 10 dwellings must include play equipment.

- 15) The details to be submitted in accordance with condition No. 3 shall include open space provision for recreational use by adults, youth and for general amenity purposes.

Existing accesses

- 16) No development, including site works, shall take place until all existing vehicular accesses to the site have been identified and details submitted to and approved in writing by the Local Planning Authority to show how and when the accesses that are to become redundant as a result of this proposal shall be closed permanently and the existing vehicular crossings reinstated.

Public Art

- 17) No development, including site works, shall take place until a scheme of public art within the built fabric of the development, including its future management and a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be fully implemented in accordance with the agreed timetable.

Archaeology

- 18) No development, including site works, shall take place until the applicant or developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been previously submitted to and agreed in writing by the Local Planning Authority, and no development shall take place except in accordance with the approved details.

RECOMMENDED CONDITIONS

APPEAL B - Appeal Ref: APP/X2410/A/13/2196929

- 1) The development, hereby permitted, shall be begun not later than 3 years from the date of this permission.
- 2) The use hereby permitted shall not commence until a landscaping scheme, to include those details specified below, has been submitted to and agreed in writing by the Local Planning Authority:
 - (i) the treatment proposed for all ground surfaces, including hard areas;
 - (ii) full details of tree planting;
 - (iii) planting schedules, noting the species, sizes, numbers and densities of plants;
 - (iv) all existing trees, hedges and other landscape features, indicating clearly those to be removed.
- 3) The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting and seeding seasons following the commencement of the use or in accordance with a programme previously agreed in writing by the Local Planning Authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.
- 4) The use hereby permitted shall not commence until a Green Infrastructure Biodiversity Management Plan, including long term design objectives, management responsibilities and maintenance schedules for the area, has been submitted to and agreed in writing by the Local Planning Authority. The agreed landscape management plan shall then be fully implemented.



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Publication Draft Representation Form 2014

For Official Only	
Person ID	
Rep ID	

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Warwickshire Direct Warwick, Shire Hall, Market Square, Warwick
Warwickshire Direct Kenilworth, Kenilworth Library, Smalley Place, Kenilworth
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Finham Community Library, Finham Green Rd, Finham, Coventry

Where possible, information can be made available in other formats, including large print, CD and other languages if required. To obtain one of these alternatives, please contact 01926 410410.

Part A - Personal Details

1. Personal Details*

2. Agent's Details (if applicable)

* If an agent is appointed, please complete only the Title, Name and Organisation boxes below but complete the full contact details of the agent in section 2.

Title	Mr		
First Name	Andrew		
Last Name	Morgan		
Job Title (where relevant)	Estate Strategic Planner		
Organisation (where relevant)	Warwickshire Police and West Mercia Police		
Address Line 1	Estate Services HQ		
Address Line 2	Hindlip Hall		
Address Line 3	PO Box 55		
Address Line 4	Worcester		
Postcode	WR3 8SP		
Telephone number	01905 332885		
Email address	andrew.morgan.60139@westmercia.pnn.police.uk		

3. Notification of subsequent stages of the Local Plan

Please specify whether you wish to be notified of any of the following:

The submission of the Local Plan for independent examination	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Publication of the recommendations of any person appointed to carry out an independent examination of the Local Plan	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
The adoption of the Local Plan.	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

For Official Use Only

Person ID:

Rep ID:

Part B - Your Representations

Please note: this section will need to be completed for each representation you make on each separate policy.

4. To which part of the Local Plan or Sustainability Appraisal (SA) does this representation relate?

Local Plan or SA:	<input type="text" value="Local Plan"/>
Paragraph Number:	<input type="text" value="1.30 (k)"/>
Policy Number:	<input type="text"/>
Policies Map Number:	<input type="text"/>

5. Do you consider the Local Plan is :

5.1 Legally Compliant?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
5.2 Complies with the Duty to Co-operate?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
5.3 Sound?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

6. If you answered no to question 5.3, do you consider the Local Plan and/or SA unsound because it is not:

(please tick that apply):

Positively Prepared:	<input type="checkbox"/>
Justified:	<input type="checkbox"/>
Effective:	<input type="checkbox"/>
Consistent with National Policy:	<input type="checkbox"/>

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Rep ID:

7. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to cooperate, please also use this box to set out your comments.

Please see the enclosed sheets.

Continue on a separate sheet if necessary

8. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the test you have identified at 7. above where this relates to soundness. (Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Not applicable.

Continue on a separate sheet if necessary

Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage. **After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.**

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No, I do not wish to participate at the oral examination

Yes, I wish to participate at the oral examination

10. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Whilst we consider that these representations present our case fully, we would be prepared to participate at the examination should the Council and/or the Inspector consider this beneficial to proceedings.

Continue on a separate sheet if necessary

Please note: This written representation carries the same weight and will be subject to the same scrutiny as oral representations. The Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

11. Declaration

I understand that all comments submitted will be considered in line with this consultation, and that my comments will be made publicly available and may be identifiable to my name/organisation.

Signed:

Andrew Morgan

Date :

26 June 2014

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Part B - Your Representations

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4. To which part of the Local Plan or Sustainability Appraisal (SA) does this representation relate?

Local Plan or SA:	<input type="text" value="Local Plan"/>
Paragraph Number:	<input type="text" value="6.3"/>
Policy Number:	<input type="text"/>
Policies Map Number:	<input type="text"/>

5. Do you consider the Local Plan is :

5.1 Legally Compliant?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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5.3 Sound?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

6. If you answered no to question 5.3, do you consider the Local Plan and/or SA unsound because it is not:

(please tick that apply):

Positively Prepared:	<input type="checkbox"/>
Justified:	<input type="checkbox"/>
Effective:	<input checked="" type="checkbox"/>
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Andrew Morgan

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* If an agent is appointed, please complete only the Title, Name and Organisation boxes below but complete the full contact details of the agent in section 2.

Title	Mr		
First Name	Andrew		
Last Name	Morgan		
Job Title (where relevant)	Estate Strategic Planner		
Organisation (where relevant)	Warwickshire Police and West Mercia Police		
Address Line 1	Estate Services HQ		
Address Line 2	Hindlip Hall		
Address Line 3	PO Box 55		
Address Line 4	Worcester		
Postcode	WR3 8SP		
Telephone number	01905 332885		
Email address	andrew.morgan.60139@westmercia.pnn.police.uk		

3. Notification of subsequent stages of the Local Plan

Please specify whether you wish to be notified of any of the following:

The submission of the Local Plan for independent examination	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Publication of the recommendations of any person appointed to carry out an independent examination of the Local Plan	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
The adoption of the Local Plan.	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

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Rep ID:

Part B - Your Representations

Please note: this section will need to be completed for each representation you make on each separate policy.

4. To which part of the Local Plan or Sustainability Appraisal (SA) does this representation relate?

Local Plan or SA:	<input type="text" value="Local Plan"/>
Paragraph Number:	<input type="text" value="1.6 and 1.7"/>
Policy Number:	<input type="text"/>
Policies Map Number:	<input type="text"/>

5. Do you consider the Local Plan is :

5.1 Legally Compliant?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
5.2 Complies with the Duty to Co-operate?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
5.3 Sound?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

6. If you answered no to question 5.3, do you consider the Local Plan and/or SA unsound because it is not:

(please tick that apply):

Positively Prepared:	<input type="checkbox"/>
Justified:	<input type="checkbox"/>
Effective:	<input type="checkbox"/>
Consistent with National Policy:	<input checked="" type="checkbox"/>

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Person ID:

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7. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to cooperate, please also use this box to set out your comments.

Please see the enclosed sheets.

Continue on a separate sheet if necessary

8. **Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the test you have identified at 7. above where this relates to soundness. (Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.**

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11. Declaration

I understand that all comments submitted will be considered in line with this consultation, and that my comments will be made publicly available and may be identifiable to my name/organisation.

Signed:

Andrew Morgan

Date :

26 June 2014

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Publication Draft Representation Form 2014

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1. Personal Details*

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The adoption of the Local Plan.	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

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Person ID:

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Part B - Your Representations

Please note: this section will need to be completed for each representation you make on each separate policy.

4. To which part of the Local Plan or Sustainability Appraisal (SA) does this representation relate?

Local Plan or SA:	<input type="text" value="Local Plan"/>
Paragraph Number:	<input type="text" value="1.40, 1.42 and 1.52"/>
Policy Number:	<input type="text"/>
Policies Map Number:	<input type="text"/>

5. Do you consider the Local Plan is :

5.1 Legally Compliant?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
5.2 Complies with the Duty to Co-operate?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
5.3 Sound?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

6. If you answered no to question 5.3, do you consider the Local Plan and/or SA unsound because it is not:

(please tick that apply):

Positively Prepared:	<input type="checkbox"/>
Justified:	<input type="checkbox"/>
Effective:	<input type="checkbox"/>
Consistent with National Policy:	<input type="checkbox"/>

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Not Applicable.

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10. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

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11. Declaration

I understand that all comments submitted will be considered in line with this consultation, and that my comments will be made publicly available and may be identifiable to my name/organisation.

Signed:

Andrew Morgan

Date :

26 June 2014

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Publication Draft Representation Form 2014

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Part A - Personal Details

1. Personal Details*

2. Agent's Details (if applicable)

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Last Name	Morgan		
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Person ID:

Rep ID:

Part B - Your Representations

Please note: this section will need to be completed for each representation you make on each separate policy.

4. To which part of the Local Plan or Sustainability Appraisal (SA) does this representation relate?

Local Plan or SA:	<input type="text" value="Local Plan"/>
Paragraph Number:	<input type="text" value="1.55 - 1.59"/>
Policy Number:	<input type="text"/>
Policies Map Number:	<input type="text"/>

5. Do you consider the Local Plan is :

5.1 Legally Compliant?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
5.2 Complies with the Duty to Co-operate?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
5.3 Sound?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

6. If you answered no to question 5.3, do you consider the Local Plan and/or SA unsound because it is not:

(please tick that apply):

Positively Prepared:	<input type="checkbox"/>
Justified:	<input type="checkbox"/>
Effective:	<input checked="" type="checkbox"/>
Consistent with National Policy:	<input checked="" type="checkbox"/>

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Andrew Morgan

Date :

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Paragraph Number:	<input type="text"/>
Policy Number:	<input type="text" value="Overarching Policy SC0: Sustainable Communities"/>
Policies Map Number:	<input type="text"/>

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