

The Planning Inspectorate

COMMENTS ON CASE (Online Version)

Please note that comments about this case need to be made within the timetable. This can be found in the notification letter sent by the local planning authority or the start date letter. Comments submitted after the deadline may be considered invalid and returned to sender.

Appeal Reference: APP/C3105/W/22/3296229

DETAILS OF THE CASE

Appeal Reference

Appeal By

Site Address

SENDER DETAILS

Name

Address

Company/Group/Organisation Name

ABOUT YOUR COMMENTS

In what capacity do you wish to make representations on this case?

- Appellant
- Agent
- Interested Party / Person
- Land Owner
- Rule 6 (6)

What kind of representation are you making?

- Final Comments
- Proof of Evidence
- Statement
- Statement of Common Ground
- Interested Party/Person Correspondence

Other

COMMENT DOCUMENTS

The documents listed below were uploaded with this form:

Relates to Section: REPRESENTATION
Document Description: Your comments on the appeal.
File name: Buzz Bingo OCC Appeal Statement.docx
File name: OCC R122 Statement 21-04202-F.docx

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**OXFORDSHIRE COUNTY COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990**

Highway Statement of Case

Application by: Churchill Retirement Living Ltd
Parkside, Hampshire, BH24 3SG

Proposal: Redevelopment for 80 retirement living apartments including
Communal facilities, access, car parking and landscaping

Location: Former Buzz Bingo, Bolton Road, Banbury, OX16 5UL

Planning Inspectorate reference: APP/C3105/W/22/3296229

Cherwell DC reference:21/04202/F

**STATEMENT ON BEHALF OF THE LOCAL HIGHWAY AUTHORITY, OXFORDSHIRE
COUNTY COUNCIL to the Planning Appeal by Churchill Retirement Living Ltd.**

Presented by: Francis Hagan BSc (Hons), MSc (Eng.)
Transport Planner
Transport Development Control
Oxfordshire County Council
County Hall
New Road OX1 1ND

**Planning Application No. 21/04202/F: Former Buzz Bingo, Bolton Road, Banbury,
OX16 5UL**

24 May 2022

My name is Francis Hagan and I am a Transport Development Control Officer at Oxfordshire County Council. I have an honours degree in Business and Administration (Transport Option)

and a Master of Science (Eng.) degree in Transport. I have over 30 years of experience in Transportation Engineering and transport planning gained in both the public and private sectors in the UK and overseas. The evidence presented here is true to the best of my knowledge.

This Submission represents Oxfordshire County Council's statement of case for no objection to the above planning application subject to planning conditions detailed below. The County's statement relates County's position from the transport perspective regarding Appellant's appeal on the grounds non-determination of its planning application at the above site, by Cherwell District Council.

1) Introduction

Proposal

This application is for a development proposal comprising 80 Retirement Living apartments at the former Buzz Bingo, Bolton Road, Banbury.

The Appeal site is in a sustainable location with abundance of amenities situated within walking and cycle distances. For instance, the Castle Quay shopping centre (approximately 215m east), Market Place (approximately 180m directly southeast of the site) and Parsons Street shopping parade (approx.100m directly south of site). Footways exist on Bolton Road flanking the western side of internal access measuring 1.5m approx. and on both the northern and southern sides immediately outside the site access and towards the Castle Street junction. A pedestrian refuge island is located 100m northeast of the site (at the Bolton Road/Castle Street junction). Also, there is a signalised pedestrian crossing at the junction of Castle Street/Warwick Road/Southam Road/North Bar Street. In addition to the footways along the local highway network, the site is situated within proximity to a few Public Rights of Way (PRoW).

2) Consultation response history and current position

The submitted Application was assessed by OCC's Transport Officers and a response was sent to the Cherwell District Council on 18/01/2022 with comments summarised as follows:

- **Trip generation** – The Transport Officer questioned why the multimodal trips was not provided in support of the Application
- **Vehicle access and pedestrian route connectivity** – concerns raised at pre-application stage had been addressed by the Applicant.
- **Car parking** – information was requested on how overspill parking will be accommodated, the need to make parking provision for disabled parking, taxi's, Emergency and Service vehicles etc. and provision of electric vehicle charging points within the proposed parking layout.
- **Cycle parking** -details of secure cycle parking facilities for residents, staff and visitors was requested and are now acceptable.
- **Refuse and servicing** -concerns were raised by Transport Officer regarding the carriageway being too narrow at the car park gate entrance area to accommodate the movement of refuse vehicles (drawing no.536.0037.003 Rev. C) and details regarding the standing area for refuse vehicles was requested.
- **Footway improvements**-The response made clear the need for additional dropped kerbs and tactile pavement for the safety of pedestrians within proximity of the Application site.

3) Remaining concerns

To sum up, the remaining concerns relate to the need for the applicant to improve passage of refuse vehicles within the proposed car park and for the additional safety measures for pedestrian movements in the vicinity of the appeal site. These remaining concerns can be addressed in our view through planning conditions

- i) Dropped kerbs and access improvement works will be required South west of the site at location shown below; it will require a Section 278 application to facilitate these improvement works to North Bar Street.



- ii) Access works and provision of dropped pedestrian crossings will be required to enable access to the southern entrance



4) Proposed planning conditions & reasons

Conditions

- **Car Park Layout Plan**

Prior to commencement of the development, a Car Park Layout Plan detailing the layout of the car parking area shall be submitted to, and approved by, the Local Planning Authority. The Car Park Layout Plan must be set out so that all car parking spaces meet the minimum dimensions of 5m(L) x2.5m(W) required (Oxfordshire Street Design Guide) and can be safely and easily accessed. The Car Park Layout Plan should demonstrate the capability of accommodating the associated car parking manoeuvres within the car park.

Reason: in the interest of highway safety.

Cycle Parking

Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development

Reason: To encourage the use of sustainable modes of transport by residents, visitors and staff.

Access improvements

Prior to the commencement of the development hereby approved, full details of the highway design improvements to the existing vehicular access shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to first occupation the improvements to the existing vehicular access shall be delivered in accordance with the approved details.

Reason: in the interest of Highway Safety

Footway improvements

Prior to implementation details of footway improvement works to be delivered on North Bar Street and Bolton Road shall be submitted to and approved by the Local Planning Authority. These works shall include dropped kerbs to provide access onto existing footway in South Bar Street and dropped kerb crossings at the site access junction on Bolton Road. The development shall not be occupied until the approved works have been completed.

Reason: Interest of Highway and pedestrian Safety

Green Travel Plan

Green Travel Plan prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" (and its subsequent amendments) shall be submitted to and approved in writing by the Local Planning Authority prior to the first use or occupation of the development hereby permitted. The approved Green Travel Plan shall thereafter be implemented and operated in accordance with the approved details.

Reason: In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Government guidance contained within the National Planning Policy Framework.

Construction Traffic

All construction traffic serving the development shall enter and leave the site through the existing vehicle access from Bolton Road.

Reason - In the interests of highway safety and to safeguard the amenities of the occupants of the adjacent dwellings during the construction period and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

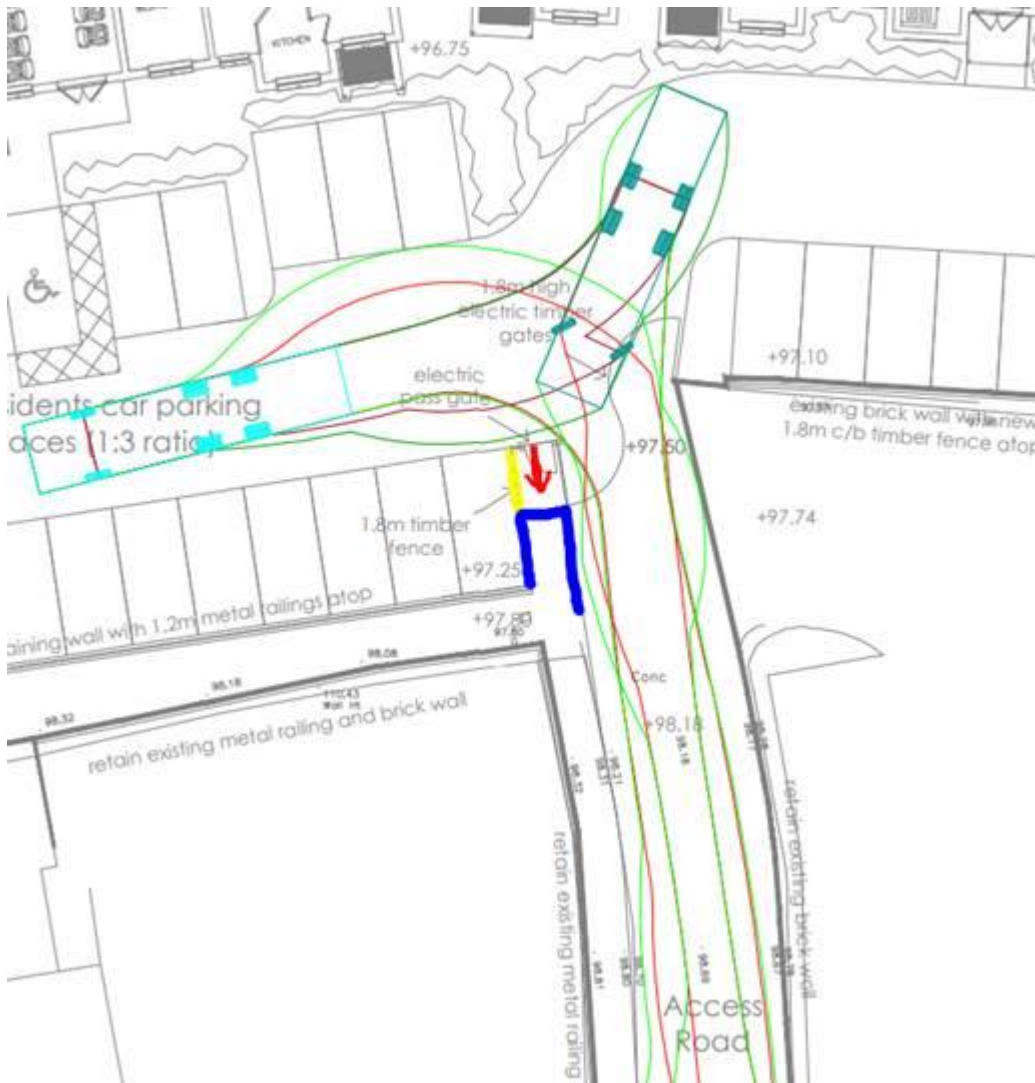
- **Delivery and Servicing Plan**

Prior to first occupation of the development, a Delivery and Servicing Plan should be submitted to and approved in writing by the Local Planning Authority.

Thereafter, during the operation of the development, all delivery and servicing shall be conducted in accordance with the approved Plan.
Reason: In the interests of highway safety.

5) Example of what would be considered suitable to discharge the conditions

OCC's primary concern relates to the on-site manoeuvring of refuse vehicles in relation to the submitted revised parking layout plan (drawing no.536.0037.003 Rev D)
The extract of the drawing below shows that manoeuvring can be done in theory albeit that the vehicle is effectively touching some of the boundaries and would likely be very difficult in reality. This constraint could be overcome by moving the end of the footway (and access gate) back slightly (sketched below). This would have the added benefit of allowing the adjacent 1.8m fence to be lowered or removed to provide visibility of pedestrians entering the car park area. This would be one example, there other minor amendment options that could be made to accommodate it.



6. Planning obligations

In terms of the off-site Section 278 works which include works to provide tactile pavement and dropped kerb crossing points, we are satisfied that these can be secured via a planning condition.

Should the Inspector be minded to allow this appeal, we respectfully request an obligation to pay a monitoring fee of £1,558 (RPIx Dec 2021) to cover the Highway Authority's costs of monitoring the Travel Plan.

Conclusion.

Following the submission of additional information during the planning consultation, OCC as Highway Authority considers that the remaining points regarding improvements (i) to footway close to the above site; and (ii) to the development's parking layout to ease movements of Refuse Vehicles can be addressed by planning conditions.

This OCC Statement of Case covers the planning conditions, the rationale/reasoning for those conditions and mitigation measures required to make the development acceptable in transport terms.

**OXFORDSHIRE COUNTY COUNCIL'S
REGULATION 122 COMPLIANCE STATEMENT**

Location: Former Buzz Bingo, Bolton Road, Banbury OX16
5UL

Planning Ref: 21/04202/F

Appeal Ref:

APP/C3105/W/22/3296229

Proposal:

Redevelopment for 80 retirement living apartments
Including communal facilities, access, carparking
and landscaping

Date: 18/05/2022

1. INTRODUCTION

- 1.1. Oxfordshire County Council (OCC) considers that the proposed development of 80 retirement living flats is unacceptable without an agreement under Section 106 of the Town and County Planning Act 1990 (S106) which is required to mitigate the demands which will be placed on infrastructure and services as a result of the development. This statement by OCC provides the justification for its requirements for contributions towards travel plan monitoring and also justification for an administration & monitoring fee.
- 1.2. R122(2) of the Community Infrastructure Levy (CIL) regulations 2010 (as amended) introduced three tests for S106 agreements which must apply if a planning obligation is to constitute a reason for granting planning permission. It should be, 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. The purpose of this statement is to show that the requested contributions comply with the requirements of the three tests.

2. INFRASTRUCTURE CONTRIBUTIONS:

- 2.1. OCC considers that the development would have a detrimental impact on the local services it provides unless the contributions sought are provided as set out below:

Contribution Type	Contribution Amount	Indexed-linked
Travel Plan Monitoring	£1,559	December 2021

- 2.2. **Administration and Monitoring Fee:** £125

- 2.3. The above contributions save for the Administration and Monitoring Fee are to be indexed-linked to maintain the real values of the contributions so that they can in future years deliver the same level of infrastructure provision as currently required.

3. TRANSPORT CONTRIBUTION

3.1. Relevant Policies:

National Planning Policy Framework, July 2021

The Government's planning policies relating to accessibility, transport and highways are set out in Section 9 of the National Planning Policy Framework (NPPF). The relevant sections of the NPPF which support the provision of transport contributions for this Planning Appeal are set out below.

i. Paragraph 104

Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

- (a) the potential impacts of development on transport networks can be addressed;
- (b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated
- (c) opportunities to promote walking, cycling and public transport use are Identified and pursued.
- (d) the environmental impacts of traffic and transport infrastructure can be Identified, assessed and taken into account- including appropriate opportunities for avoiding and mitigating any adverse effects, and for for net environmental gains; and
- e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes and contribute to making high quality places.

ii. Paragraph 105

The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making

iii. Paragraph 110

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- (a) appropriate opportunities to promote sustainable can be or have been taken-up, given the type of development and its location.
- (b) safe and suitable access to the site can be achieved for all users; and
- (c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree

iv. Paragraph 112

- (a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use.
- (b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport.
- (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

v. Paragraph 113

- All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

Oxfordshire County Council Policy

Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan 2015-2031 (LTP4), Adopted 2015 & Updated to 2031

Oxfordshire County Council's proposed transport solutions for Oxfordshire up to 2031 are set out in LTP4. The relevant policies of LTP4 which support the provision of transport contributions for this Planning Appeal are set out below

i. Policy 03

Oxfordshire County Council will support measures and innovation that make more efficient use of transport network capacity by reducing the proportion of single occupancy car journeys and encouraging a greater proportion of journeys to be made on foot, by bicycle, and/or by public transport.

ii Policy 07

Oxfordshire County Council will work with operators and other partners to enhance the network of high quality, integrated public transport services, interchanges, and supporting infrastructure, and will support the development of quality Bus Partnerships and Rail Partnerships, where appropriate.

iii Policy 17

Oxfordshire County Council will seek to ensure through cooperation with the districts and city councils, that the location of development makes the best use of existing and planned infrastructure, provides new or improved infrastructure, and reduces the need to travel and supports walking, cycling and public transport.

Also paragraphs 138,150,158,232 of the *Oxfordshire County Council's Fourth Local Transport Plan 2015-2031 (LTP4)* requires all developments which generate significant amounts of movement should to provide a Travel Plan.

Policy INF 1 (Infrastructure) of the adopted Cherwell Local Plan 2011-31 states that *“Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.”*

i

The Cherwell Local Plan 2011-2031, Part 1 85 Section B - Policies for Development in Cherwell Delivering development seeks to reduce the need to travel and encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars

Policy Banbury 8: Bolton Road Development Area states as one of the key site design and place shaping principles, the requirement for Pedestrian and cycle linkages that enable a high degree of integration and connectivity with existing networks, particularly between Parsons Street, North Bar Street and Castle Street integrating these areas through well considered connections, building configuration and public realm. And the need for transport assessment and Travel Plan to accompany development proposals in the area.

3.2. Travel Plan Monitoring contribution - £1,558 to be index-linked from December 2021 RPI-x towards the provision of cost of monitoring of Travel Plan

(a) Necessary to make the development acceptable in planning terms

Travel Plan Monitoring Contribution - £1558, Indexed from December 2021 to cover the cost of Travel Plan monitoring for the development for a period of 5 years after the occupation of the site.

The NPPF, in paragraph 113 states that all developments which generate significant amounts of movement should be required to provide a Travel Plan.

The travel plan aims to encourage and promote more sustainable modes of transport with the objective of reducing dependence upon private motor car travel and so reducing the environmental impact and traffic congestion. A travel plan is required to make this development acceptable in planning terms and is to be secured by condition.

A travel plan is a 'dynamic' document tailored to the needs of residents and requires an iterative method of re-evaluation and amendment. The county council needs to carry out biennial monitoring over five years of the life of a Travel Plan.

Government guidance, 'Good Practice Guidance: Delivering Travel Plans through the Planning Process' states that: 'Monitoring and review are essential to ensure travel plan objectives are being achieved. Monitoring for individual sites should ensure that there is compliance with the plan, assess the effectiveness of the measures and provide opportunity for review....Monitoring must be done over time – it requires action and resources.'

In accordance with this Guidance, it is the view of the County Council that without monitoring the travel plan is likely to be ineffective. Therefore, monitoring of the travel plan is required to make the development acceptable in planning terms requirement for monitoring.

Further, the Good Practice Guidance states that 'local authorities should consider charging for the monitoring process and publish any agreed fee scales'.

Section 93 of the Local Government Act 2003 gives the power to local authorities to charge for discretionary services. These are services that an authority has the power, but not a duty, to provide. The travel Plan Monitoring Fee is set to cover the estimated cost of carrying out the above activities and is published in the county council's guidance: 'Transport for new developments; Transport Assessments and Travel Plans'.

As with most non-statutory activities, councils seek to cover their costs as far as possible by way of fees. This is particularly required in the current climate of restricted budgets. Without the fees the council could not provide the resource to carry out the activity, as it is not possible to absorb the work into the general statutory workload. In the case of travel plan monitoring, the work is carried out by a small, dedicated Travel Plans team.

The travel plan monitoring fee is therefore required to make the development acceptable in planning terms, because it enables the monitoring to take place which is necessary to deliver an effective travel plan.

(b) Directly related to the development

The travel plan is a document that is bespoke to the individual development, reflecting the site's current and predicted travel patterns, opportunities for sustainable travel, and targets for improving the proportion of sustainable travel associated with the site.

Therefore, the monitoring that will be charged for will be specific and relevant to this site alone

(c) Fairly and reasonably related in scale and kind to the development

The fees charged are for the work required by Oxfordshire County Council to monitor travel plans related solely to this development site. They are based on an estimate of the officer time required to carry out the following activities:

- review the survey data produced by the developer
- compare it to the progress against the targets in the approved travel plan and census or national travel survey data sets
- agree any changes in an updated actions or future targets in an updated travel plan.

Oxfordshire County Council guidance – ‘Transport for new developments: Transport Assessments and Travel Plans’ sets out fees according to the size of the development.

The estimate is based on three monitoring and feedback stages (to be undertaken at years 1, 3 & 5 following first occupation), which would require an expected 51 hours of officer time at £30.54 per hour. Total £ 1,558. Note that this is considered a fair rate, set to include staff salary and overheads alone.

4. OCC ADMINISTRATION AND MONITORING FEE = £125

Regulation 122 (2A) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) now makes it clear that a monitoring fee can be charged to monitor planning obligations provided:

- (a) the sum to be paid fairly and reasonably relates in scale and kind to the development; and
- (b) the sum to be paid to the authority does not exceed the authority's estimate of its cost of monitoring the development over the lifetime of the planning obligations which relate to that development.”

The fee meets these tests because:

In order to secure the delivery of the various infrastructure improvements, to meet the needs arising from development growth, OCC needs to monitor Section 106 planning obligations to ensure that these are fully complied with. To carry out this work, the County Council has set up a Planning Obligation Team and so charges an administration/monitoring fee towards funding this team of officers. The work carried out by the Planning Obligations Team arises solely as a result of OCC entering into Section 106 Agreements in order to mitigate the impact of development on the infrastructure for which OCC is responsible. OCC

then has a resultant obligation to ensure that when money is spent, it is on those projects addressing the needs for which it was sought and secured. The officers of the Planning Obligation Team would not be employed to do this work were it not for the need for Section 106 Obligations associated with the development to mitigate the impact of developments.

OCC has developed a sophisticated recording and accounting system to ensure that each separate contribution (whether financial or otherwise), as set out in all S106 legal agreements, is logged using a unique reference number. Systematic cross-referencing enables the use and purpose of each contribution to be clearly identified and tracked throughout the lifetime of the agreement.

This role is carried out by the Planning Obligations Team which monitors each and every one of these Agreements and all of the Obligations within each Agreement from the completion of the Agreement, the start of the development through to the end of a development and often beyond, in order to ensure complete transparency and financial probity. It is the Planning Obligations Team which carries out all of the work recording Agreements and Obligations, calculating and collecting payments (including calculating indexation and any interest), raising invoices and corresponding with developers, and thereby enabling appropriate projects can be delivered. They also monitor the corresponding obligations to ensure that non-financial obligations, on both the developer and OCC are complied with.

To calculate fees OCC has looked at the number of Agreements signed in a year, the size and nature of the various Obligations in those Agreements, and how much work was expected in monitoring each Agreement. From this, OCC has calculated the structure/scale of monitoring fees that would cover the costs of that team. This was then tested to see whether or not the corresponding fees associated with X number of agreements at Y contributions, would be sufficient to meet the costs; the answer was yes.

The monitoring fee will be reviewed once the number of planning obligations is confirmed including the number of associated triggers to ensure that the fee meets the tests of Reg 122 (2A).