

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

Location:	OS Parcels 6741 And 5426 West Of Cricket Field North Of Wykham Lane Bodicote Oxfordshire
Planning Ref:	15/01326/OUT
Appeal Ref:	APP/C3105/W/17/3172731
Proposal:	Up to 280 dwellings (including 30% affordable housing), introduction of structural planting and landscaping, formal and informal public open space and play areas, surface water flood mitigation and attenuation, new priority junction arrangements to White Post Road, creation of section of spine road to link Bloxham Road with White Post Road as well as creation of 34 space car park and other associated ancillary works. All matters reserved except for access.
Date:	25/09/2017

1. INTRODUCTION

- 1.1. Oxfordshire County Council (OCC) considers that the proposed development of up to 280 dwellings, 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 S106 requirements.
- 1.2. This statement supplements the formal responses by OCC dated August 2015 and March 2016 to the consultations by Cherwell District Council on this application (CDC).
- 1.3. 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	Price Base
Primary School Infrastructure	£1,953,744	4Q 14
Primary School Land	£153,750	November 2016

Secondary School Infrastructure	£1,430,582	4Q 14
Secondary School Land	£146,250	November 2016
Special Educational Needs	£63,241	4Q 14
Strategic Transport Contribution	£275,662	July 2011
Bus Service Contribution	£280,000	October 2014
Bus Infrastructure Contribution	£34,230	November 2016
Rights of Way contribution	£28,600	November 2014
Travel Plan Monitoring Contribution	£1,240	October 2014

Table 1: Infrastructure Contributions

- 2.2. Administration and Monitoring Fee £3,750
- 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.
- 2.4. The County Council has, in identifying the various contributions associated with this proposed agreement sought to avoid exceeding the limit of five obligations to a type of infrastructure or infrastructure project to comply with the requirements of the CIL Regulations 2010 - Reg 123 (3). A further, up-to-date, statement on compliance with Regulation 123(3) will be provided at the Hearing.

3. Population Assessment

- 3.1. Contributions are assessed in accordance with the population likely to be generated by the proposed development, and the likely demands that this additional population would place on local infrastructure and services. Such assessment is made using the county's population forecasting tool, which uses the results of the 2008 Oxfordshire Survey of New Housing to generate a population profile of new development, taking into account:
- a) The locations of the development (by district)
 - b) The scale and dwelling mix of development
 - c) An allowance for attendance of children at non-state funded schools
- 3.2. The contributions detailed below are based on the following notified dwelling mix:
- 4 x one bed dwellings
 - 81 x two bed dwellings
 - 112 x three bed dwellings
 - 83 x four bed + dwellings
- 3.3. It is estimated that the proposed development would generate a net increase of 753 additional residents including:
- 93 primary school pupils
 - 74 secondary school students (including 10 sixth formers), and
 - 1.8 pupils with special education needs

4. EDUCATION CONTRIBUTION

4.1. Policy: Education

Education authorities have statutory duties to

- Ensure sufficient school places (The Education Act 1996 S14)
- Increase opportunities for parental choice (S2 of the Education and Inspections Act 2006 inserts sub-section 3A into S14 of the Education Act 1996)
- Comply with any preference expressed by parents provided compliance with the preference would not prejudice the provision of efficient education or the efficient use of resources (School Standards and Framework Act 1998 S6)
- Ensure fair access to educational opportunity. (S1 of the Education and Inspections Act 2006 inserts sub-section 1(b) into S13 of the Education Act 1996)

4.2. Relevant Policies:

*Paragraph 72 of the **National Planning Policy Framework (NPPF)** states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities and that local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, giving great weight to the need to expand or alter schools to meet the needs of communities*

*Paragraph 70 of the **NPPF** states that planning decisions should plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of the communities and residential environments and to deliver the social, recreational and cultural facilities and services the community needs.*

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.”

Policy Banbury 17: South of Salt Way – East of the adopted Cherwell Local Plan 2011-31

Infrastructure Needs

Education – an on-site primary school. Contributions will also be sought towards provision of secondary school places. Land also needs to be reserved to meet town wide secondary school needs.

4.3. Primary School Infrastructure - £1,953,744 to be index linked from 4Q2014 using PUBSEC Tender Price Index, towards a new primary school on Land South of Salt Way

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

The County Council has a statutory duty to ensure that sufficient places are available within their area for every child of school age whose parents wish them to have one; to promote diversity, parental choice and high educational standards; to ensure fair access to educational opportunity; and to help fulfil every child’s educational potential.

As a result of local population growth, including housing development, the county council identified an emerging shortage of primary school places in Banbury. In response, it has already initiated a strategic programme of expansion of primary school capacity, through both extensions of existing schools and new schools within larger strategic sites. Without this programme, there would already be a shortage of primary school places in Banbury, before future housing growth is taken into account.

The scale of the proposed south of Salt Way developments (Banbury 16 & Banbury 17) requires that south of Salt Way (Banbury 16 & Banbury 17) provides a new primary school of an appropriate size as part of this strategic programme.

In line with policy Banbury 17 an on-site primary school is proposed as part of application (14/01932/OUT) for up to 1,000 homes. Contributions towards the cost of the new school have been secured from the permitted development on the Banbury 16 allocation (14/01188/OUT). This development is also required to contribute towards the cost of the new school. The estimate pupil generation from the sites contributing towards the need for the new primary school is:

Application Ref	Estimated Primary Pupil generation
A: 14/01932/OUT (school site host)	293
B: 15/01326/OUT (this site)	93
C: 14/01188/OUT (permitted – Banbury 16)	99
Total (A+B+C)	485

Oxfordshire County Council’s policy on spare school places as stated in its annual Pupil Place Plan is to maintain a percentage of spare places across primary school provision to cater for unforeseen changes due to population fluctuations and market forces e.g. parental preference. These rates are defined as 8% in urban settings and 12% in rural settings.

To mitigate the impact of all three sites a minimum of a 2.5Form Entry (525 places) school is required. This development is required to contribute towards the cost of providing a 2.5 FE primary school in line with its expected pupil generation.

(b) Directly related to the development

This contribution is towards the cost of providing a new primary school to serve the Banbury 17 strategic housing allocation.

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

Contributions are assessed based on a direct assessment of likely demand for primary pupil places arising from the development. It is estimated that the proposed development would generate 93 primary school pupils.

The estimated cost of a 2.5 form entry primary school, delivering 525 places, is £11,029,408 at 4th Quarter 2014 prices, equivalent to £21,008 per pupil place.

The proportionate Primary School Infrastructure Contribution from this development is:

£21,008 (cost per pupil) x 93 (the forecast number of new primary school pupils) = **£1,953,744**

As this figure is based on costs as at 4Q2014 this amount would be index linked using the PUBSEC Tender Price Index

This contribution is based on the anticipated number of primary school pupils arising from the proposed development and the cost per pupil of providing the mitigating infrastructure. It is therefore proportionate to the scale of the proposed development.

4.4. Primary School Land £153,750 to be Index linked from November 2016 using the RPIX index

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

As set out above to mitigate its impact on primary education this development is required to contribute towards the cost of delivering a new primary school on the Banbury 17 strategic housing allocation (South of Salt Way East). The new school is proposed as part of application (14/01932/OUT) for up to 1,000 homes. As well as a contribution toward the build cost of the school a contribution towards the cost of the additional land needed as a result of this proposal is required.

The Oxfordshire County Council's (OCC) standard school site areas are as follows:

Size of School	Number of pupils aged (4-10)	Site area
1.5 FE	315	1.81 hectares
2 FE	420	2.22 hectares
3 FE	525	3.01 hectares

There is no approved County standard for a 2.5FE school as it is county policy to seek a 3FE size site for a 2.5FE school to allow for future expansion.

The estimated pupil generation of 293 pupils from the school site host development (14/01932/OUT) would be accommodated within a 1.5FE school. Heads of terms have been agreed with the school host site developer for them to provide 1.81 hectares of land at nil cost to the county council.

The combined pupil impact of the host development and one of either this application (15/01326/OUT) or the Banbury 16 permission (14/01188/OUT) would create the

need for a 2FE School (2.22 hectares). The combined impact of all three sites would generate the need for a 2.5FE school for which OCC would require a 3.01 hectare site which provides sufficient land for up to a 3FE school.

This application is required to provide the cost of OCC purchasing 0.41 hectares of land from the school host developer to either allow to school to expand to up to 2FE or if the Banbury 16 allocation is also building out to contribute towards the cost of OCC obtaining sufficient land for a 2.5FE school.

(b) Directly related to the development

This contribution is towards the cost of OCC purchasing additional land to enable to pupils expected to be generated by this proposal to be accommodated in the proposed new primary school for Land South of Salt Way.

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

This development creates the need for a contribution to allow OCC to purchase 0.41 hectares of land from the school site host developer to allow the proposed new primary school to accommodate the estimated pupils generated by this application.

OCC has agreed head of terms with the host developer for a purchase price of £375,000 per hectare for the additional land required for the school above the 1.81 hectares they are providing at nil cost. This represents the minimum amount that the developer was willing to accept for the land.

The proportionate Primary School Land Contribution from this development is:

$$0.41 \text{ (hectares)} \times \text{£}375,000 \text{ (cost per hectare)} = \text{£}153,750$$

4.5. Secondary School Infrastructure - £1,430,582 to be index linked from 4Q 2014 using PUBSEC Tender Price Index, towards the expansion of Blessed George Napier

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

The County Council has a statutory duty to ensure that sufficient places are available within their area for every child of school age whose parents wish them to have one; to promote diversity, parental choice and high educational standards; to ensure fair access to educational opportunity; and to help fulfil every child's educational potential.

The Banbury/Bloxham area is currently served by: Blessed George Napier School, Banbury Academy, North Oxfordshire Academy, Science Studio School (14-19 only) and The Warriner School.

OCC has identified that the existing schools in the Banbury/Bloxham area will need to expand to meet the rising pupil numbers already in the town's primary schools. Prior to the expansion of The Warriner School, which is being implemented in phases from September 2017, the schools jointly offer 730 places per year group. These current combined admission numbers will be insufficient from 2018 onwards,

excluding the impact of new housing, as shown by the pupil census data below:

Year of secondary transfer	2017	2018	2019	2020	2021	2022
Current cohort size (Jan 2017 pupil census)	799	860	903	870	893	908
Assumed transfer cohort @90% retention*	719	774	813	783	804	817
Secondary places available prior to school expansions	760	760	760	760	760	760
Predicted spare places (+) or deficit (-)	41	-14	-53	-23	-44	-57
Percentage spare places (+) or deficit (-)	5.4%	-1.8%	-6.9%	-3.0%	-5.8%	-7.5%

* Recent trends have been for 90% of Banbury/Bloxham primary school pupils to transfer to one of the Banbury/Bloxham secondary schools. This transfer rate may change over time, depending on patterns of school preference.

A strategic programme of expansion of secondary school places is therefore necessary to meet the needs of the existing population, and further additional capacity will be needed to meet the needs of housing development, and make it acceptable in planning terms.

Banbury Academy and North Oxfordshire Academy have advised OCC that they do not, at this time, wish to consider expansion. The Space Studio School does not serve the whole secondary age range.

The Warriner School has brought forward the first phase of implementation of its expansion, increasing by one form of entry on 2017 and another form of entry in 2018.

Beyond 2018, further secondary school expansion is required. The next phase of secondary school capacity growth in this area is planned for Blessed George Napier School, towards which contributions from this application are sought.

Blessed George Napier Catholic School has a capacity of 847 pupils, and as of January 2017 the school had a total of 85 pupils on roll. The current intention is for the school to grow by 2 forms of entry, which would increase the capacity of the school to 1,200 places. This development is required to contribute towards the cost of expanding Blessed George Napier school in line with its pupil generation.

(b) Directly related to the development

Blessed George Napier is the closest Secondary School to the proposed development.

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

Contributions are assessed based on a direct assessment of likely demand for secondary pupil places arising from the development. It is estimated that the

proposed development would generate 74 secondary school pupils (including 10 sixth form pupils).

The relevant cost multipliers for extensions to secondary schools in Oxfordshire are £19,158 per child for secondary school (11-15) extensions and £20,447 per sixth form student at 4Q 2014 prices. These are based on Department for Education advice for secondary school extensions, weighted for Oxfordshire and include an allowance for ICT and sprinklers.

The Secondary School Contribution from this development is therefore:

$(£19,158 \times 64 \text{ (the forecast number of secondary school pupils)}) + (£20,447 \times 10 \text{ (the forecast number of sixth form pupils)}) = \mathbf{£1,430,582}$

As this figure is based on costs as at 4Q2014 this amount would be index linked using the PUBSEC Tender Price Index

This contribution is based on the anticipated number of secondary school pupils arising from the proposed development and the cost per pupil of providing the mitigating infrastructure. It is therefore proportionate to the scale of the proposed development.

4.6. Secondary School Land Contribution - £146,250 to be index linked from November 2016 using the RPIX index towards the cost of land to expand Blessed George Napier School

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

In line with the adopted Cherwell Local Plan Policy Banbury 17 land for secondary education purposes needs to be reserved from this allocation. To allow Blessed George Napier to expand to a capacity of 1,200 places (an additional 353 places) a total of 1.855 hectares of playing field land is required to be reserved on the 14/01932/OUT application area. This land is required to allow Blessed George Napier to meet the Building Bulletin 103 (BB103) site area for a 1,200 place school

This development (15/01326/OUT) is required to contribute towards the secondary school land required to enable Blessed George Napier Secondary School to expand in line with its pupil generation.

(b) Directly related to the development

Blessed George Napier is the closest Secondary School to the proposed development.

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

Contributions are assessed based on a direct assessment of likely demand for secondary pupil places arising from the development. It is estimated that the proposed development would generate 74 secondary school pupils (including 10 sixth form pupils).

The additional 1.855 hectares of land will enable Blessed George Napier to expand by 353 places. This development is required to contribute in line with its pupil generation towards the secondary school land required to enable Blessed George Napier Secondary School to expand. This equates to 0.39 hectares $((1.855/353) \times 74)$.

OCC has agreed head of terms with the host developer for a purchase price of £375,000 per hectare for the additional school land required. This represents the minimum amount that the developer was willing to accept for the land.

The proportionate Secondary School Land Contribution from this development is:

0.39 (hectares) x £375,000 (cost per hectare) = **£146,250**

4.7. Special Educational Needs- £63,241 index linked from 4Q 2014 using PUBSEC Tender Price Index, towards the expansion of Frank Wise School

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

There is an insufficiency of capacity for Special Educational Need (SEN) provision across Oxfordshire and within Banbury itself to meet the needs of the growing population. Demands arising from further residential development will need to be addressed. SEN contributions will be used on establishments serving, and thus directly related to, the area of the development. For Banbury developments, the nearest such provision is Frank Wise School (in Banbury) where the council has recently delivered a £1.8m project to replace 24 places currently provided in temporary classrooms as well as provide 8 additional places for growth.

Despite the recent expansion Frank Wise School is still operating at capacity. Options are being assessed for the further expansion of the school. This development is required to contribute towards the expansion of Frank Wise School.

(b) Directly related to the development –

Frank Wise School is the nearest SEN school to this development

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

Section 106 developer contributions towards the expansion of permanent Special Educational Needs school capacity are calculated in line with the expected increase in SEN pupil numbers, based on 1.11% of school pupils attending SEN schools. The figure of 1.11% is derived from pupil census data on pupils attending Oxfordshire mainstream and SEN schools. It is estimated that the proposed development would generate 1.8 SEN pupils.

Expansions of SEN schools are estimated to cost £35,134 per pupil place (4Q 14 prices).

The SEN contribution sought is calculated as follows:

1.8 (number of SEN pupils) x £35,134 (cost per SEN pupil place) = £63,241

This contribution is based on the anticipated number of SEN pupils arising from the proposed development and the cost per pupil of providing the mitigating infrastructure. It is therefore proportionate to the scale of the proposed development.

5. TRANSPORT CONTRIBUTIONS

Relevant Policies:

Highway improvement schemes

Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan 2015-2031 (LTP4)

Policy BAN 6

Where schemes are needed to mitigate one particular development, the developer will be expected to deliver the infrastructure directly, or provide funding for the scheme. Where a scheme is required due to the impact of more than one development, each developer will be expected to make a contribution proportional to the scale of their impact. This will include contributions towards infrastructure improvements set out in Cherwell District Council's Infrastructure Delivery Plan for Banbury, as well as bus service enhancements and infrastructure improvements.

Policy BAN 1

We will seek opportunities to deliver transport schemes which will support the regeneration and growth of Banbury to 2031 and protect the historically sensitive areas of the town through:

...

- Bridge Street/ Cherwell Street eastern corridor improvements

Public transport

National Planning Policy Framework

Paragraph 35 of the NPPF states that "developments should be located and designed where practical to... give priority to pedestrian and cycle movements and have access to high quality public transport facilities..."

Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan 2015-2031 (LTP4)

Policy 3

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.

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

Policy 34

Oxfordshire County Council requires the layout and design of new developments to proactively encourage walking and cycling, especially for local trips, and allow developments to be served by frequent, reliable and efficient public transport. To do this, we will:

- secure transport improvements to mitigate the cumulative adverse transport impacts from new developments in the locality and/or wider area, through effective travel plans, financial contributions from developers or direct works carried out by developers;
- identify the requirement for passenger transport services to serve the development, seek developer funding for these to be provided until they become commercially viable and provide standing advice for developers on the level of Section 106 contributions towards public transport expected for different locations and scales of development.....

Banbury Area Transport Strategy

Paragraph 34: Developments are also required to provide modern bus stop infrastructure, including shelters and Real Time Information, to enhance access to the public transport network.

Rights of Way improvements

Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan 2015-2031 (LTP4)

Policy BAN4

We will work closely with Cherwell District Council and other strategic partners, and developers to provide facilities for pedestrians and cyclists and we will work to fill in the gaps in the walking and cycling network, including Public Rights of Way.

Travel Planning

National Planning Policy Framework

Paragraph 36 of the NPPF states that "A key tool to facilitate this (more use of sustainable transport) will be a Travel Plan. All developments which generate significant amounts of movement should be required to provide a Travel Plan.

Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan 2015-2031 (LTP4)

Policy 34 (see above)

Also paragraphs 138, 150, 158, 232

5.1 Strategic Transport Contribution - £275,662 index-linked from July 2011 towards improvements at the A4260 Upper Windsor Street/ A4260 Cherwell Street /Swan Close Road junction.

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

This scheme forms part of the Bridge Street/Cherwell Street Eastern Corridor improvements that are part of the Banbury Area Transport Strategy in the Oxfordshire Local Transport Plan (Policy BAN 1).

Traffic from the site would distribute northwards via this key corridor and through this junction, which is shown to be significantly over capacity by the end of the plan period. Whilst the severe impact here cannot be solely attributed to this development, the strategic contribution is required to mitigate the cumulative impact of planned growth.

(b) Directly related to the development

There are limited routes to the north of the town, where the bulk of the town's employment lies, and to the M40 for work-related trips beyond Banbury. Traffic from the development is shown to distribute via these routes. Improvements on these routes would directly benefit the development's residents travelling to and from work.

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

The contribution requested is based on a scale set out in the Cherwell Planning Obligations Draft Supplementary Planning Document (July 2011), which provides a contribution rate towards general transport and access impacts. Contributions have been secured from other developments in Banbury based on this scale, which is related to the size of the development and the demands it would place on the network.

The following formula has been used to calculate the contribution toward the Banbury Area Transport Strategy:

The Transport Infrastructure means the formula Matrix"
 $£(Ax 442) + (B X 638) + (C X 994) + (D X 1 ,336)$

When

A means the number of 1 Bedroomed Units

B means the number of 2 Bedroomed Units

C means the number of 3 Bedroomed Units

D means the number of 4 Bedroomed Units

5.2 Bus Service Contribution - £280,000, or £1000 per dwelling index-linked from October 2014 towards pump priming a new bus service through the development

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

A frequent bus service connecting residents to employment and local services is required to provide suitable access for residents without a car, and to mitigate the traffic impact of the development by providing a credible alternative to the car for local journeys.

The contribution is required towards the pump priming of a new bus service that would run through the adjacent site from Bloxham Road once the link road is complete, connecting the site with Banbury Town Centre.

(b) Directly related to the development

The new service would pass through the development on the link road, with stops within easy walking distance for all its residents.

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

A new bus service is proposed, to serve the BAN 17 area, along the link road. Experience with routes B1 and B2 strongly suggests that the round-trip time for this route would be greater than 30 minutes. This would require 2 vehicles and would operate a 20 minute frequency on a 40 minute round-trip schedule.

The cost of establishing a two bus operation, to provide a 20 minute frequency service, is estimated to be £1.44 million for a period of 8 years.

Each new vehicle introduced on a new-development route away from existing bus corridors such as this is estimated to cost £720,000 (2016) to procure, over an eight-year contract

Year 1	£160,000
Year 2	£140,000
Year 3	£120,000
Year 4	£100,000
Year 5	£80,000
Year 6	£60,000
Year 7	£40,000
Year 8	£20,000
Year 9	commercially viable.

This table reflects a theoretical model where a bus operator tenders a ‘nil revenue’ for year 1, and then assuming an increasing passenger income of £20,000 per annum. Actual tender submissions will differ – however, this is a professional estimate of the cost per bus, in a situation where a new development is being built out, slowly.

This £720k per bus for new developments has been widely used in the ‘Science Vale’ area of Oxfordshire, in negotiations for new developments in the Didcot and Wantage area.

The £280,000 contribution requested equates to £1,000 per dwelling, which has been secured from other developments in the Bodicote and Adderbury areas and is being requested from the adjacent site in Banbury 17.

5.3 Bus Infrastructure Contribution - £34,230 using RPIX Price Index from November 2016 to provide bus stop infrastructure on Oxford Road, White Post Road, and within the development

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

The bus infrastructure, comprising flagpoles and timetable cases, shelters and Real Time Information displays are required to make the bus service comfortable and convenient to use, and to ensure that residents are aware of it. Real Time information promotes user confidence in bus services, making it more likely that people will choose to travel by bus. This level of infrastructure is required to make the bus service a credible alternative to the car.

The infrastructure would be required at two pairs of stops within the development on the link road. To cover the interim period before the link road is complete and residents would need to walk to existing bus stops, infrastructure is also required at two bus stops on Oxford Road and two on White Post Road.

(b) Directly related to the development

The stops would be adjacent to and within the development and would serve its residents and employees directly. The stops on Oxford Road are within walking distance and provide access to the strategic inter-urban service between Oxford and Banbury.

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

Contribution is calculated as follows:

- Shelters – 2 no. on site and 1 no. on White Post Road @ £8,230 each = £24,690
- Flagpole and information cases – 4 no. on site and 2 no. on Oxford Road @ £1090 each = £6,540, plus hardstandings on Oxford Road £3,000

5.4 Rights of Way contribution - £28,600 index-linked from November 2014 towards improvements to off-site rights of way in the vicinity of the development:

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

Improvements to Banbury Bridleway 45, Bodicote Bridleway 11, Bodicote footpath 16, and Salt Way

The improvements are required to provide additional connectivity for residents to the surrounding countryside and villages, thereby encouraging sustainable travel and healthy lifestyles, as well as to improve existing routes to cope with the additional volume of use that the development will generate.

Banbury Bridleway 45 – this runs from the Salt Way to the A4260 Oxford Road,

providing access towards Sainsburys and the Horton Hospital, and is currently a mixture of grass and stone. The contribution would be towards subsurfacing and asphaltting, together with a spray and chip finish as used for the Salt Way. This will enable year round use by more people, including cyclists and equestrians. The contribution is not only required to deal with the increased volume of use from the development, but also to mitigate the traffic impact of the development by providing a key sustainable transport link to local facilities.

Bodicote bridleway 11 –The contribution would be towards the creation of an additional off-road footpath link to give access from the site to the Bodicote cemetery and the permissive path to Bodicote village.

Banbury Restricted Byway 41 (Saltway) –the route will be significantly impacted by this proposal and will need improvement to its surface condition, overall width and general amenity. A crossing of the route will also be required to connect the secondary school with the new sports pitches on Banbury 17.

(b) Directly related to the development

The improvements would directly benefit the residents of the development as they link the development to the wider rights of way network and are within walking distance of the site.

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

The contribution is directly related to the estimated cost of carrying out the works. A proportional contribution, based on the number of dwellings, will be requested from the adjacent proposed development off White Post Road

5.5 Travel Plan Monitoring Contribution - £1,240 Indexed from October 2014 to cover the cost of monitoring of Travel Plans for the residential development and B2/B8 sites for a period of 5 years after the occupation of the site.

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

NPPF Paragraph 36 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 which includes the following activities:

- review 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.

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.

The government's Good Practice Guidance has been archived but has not been superseded with any other guidance on the practicalities of implementing travel plans. The county council's own published guidance: Transport for new developments; Transport Assessments and Travel Plans, also includes the 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 31 hours of officer time at £40 per hour. Total £1240. Note that this is considered a fair rate, set to include staff salary and overheads alone.

6. ADMINISTRATION AND MONITORING FEE

- £3,750

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

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 the County Council entering into Section 106 Agreements in order to mitigate the impact of development on the infrastructure for which the County Council is responsible. The County Council 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.

The County Council considers that in so far as an obligation is “necessary” to make a development acceptable in planning terms, then the monitoring of that same obligation is also “necessary” in order to ensure that it is being complied with, and that to conclude otherwise is irrational. This is because if compliance with the obligations in a section 106 agreement is not ensured, then the agreement will be ineffective in making the development acceptable in planning terms. Indeed, this reasoning formed the basis of the advice in the now-withdrawn Circular of July 2006, to the effect that local planning authorities should monitor compliance with planning

obligations to ensure that the development “contributes to the sustainability of the area”.

In a recent recovered appeal¹, the Secretary of State endorsed the Inspector’s conclusion at paragraph 163 of his report that contribution towards administration and monitoring costs would be compliant with the CIL tests, as follows: “[The Secretary of State] considers that the other contributions considered at IR155-161 and 163 would fairly and reasonably relate to the scale of the proposal and would accord with the tests in paragraph 204 of the Framework.”

Indeed the inspector also concurred with the argument that, once it is accepted that an obligation is necessary as a matter of planning judgement, then the proper costs of administering that obligation cannot rationally be found to be unnecessary in planning terms simply because the administration is a function of the local authority. The relevant case is Recovered appeal: Highworth Road, Faringdon, Oxfordshire SN7 7EG (DCLG ref): APP/V3120/A/13/2210891, 19 February 2015) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/405445/15-02-19_DL_IR_Highworth_Road_2210891.pdf

(b) Directly related to the development

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 the County Council are complied with. As such, the admin/monitoring fee is directly related to the development, as it is the obligations arising from that development which are administered and monitored by the team which is funded from that fee.

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

The County Council considers that its fee is fairly and reasonably related in scale and kind to the development.

To calculate these fees the County Council 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, the

County Council 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. It is relevant to note that the team costs, (against which the current fees were assessed) were established when there were only two officers in the Planning Obligation Team. There are now five officers. The team is therefore now bigger than when the fees were originally calculated. Nevertheless, the monitoring/administration fees have not been increased since they were first established in 2007.

The monitoring fee as calculated is reviewed prior to the completion of a s106 agreement/ UU to ensure it reflects the number, level and complexity of the obligations within the s106 agreement.

Further justification for the administration and monitoring fee is set out in Annex 1.

Annex 1

Oxfordshire County Council Admin Fee Statement

Planning Appeal Ref: APP/C3105/W/17/3172731
OS Parcels 6741 And 5426 West Of Cricket Field North Of Wykham Lane
Bodicote Oxfordshire

1. This note provides detailed justification for the administration fee and covers the High Court decision on the case between Oxfordshire County Council v Secretary of State for Communities and Local Government and others¹ which was on the issue of Administration & monitoring fees and the County Council's assessment of how this will apply to the s106 agreement/Unilateral Undertaking (UU) to be submitted as part of the present appeal.
2. The first point to note from the decision is that whilst the Council is disappointed in the decision, Mrs Justice Lang does not state that monitoring & administration fees are not capable of being compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010. In paragraph 52 she says the test of 122 of the CIL Regulations "*requires an assessment as to what is, or is not, acceptable in planning terms, which is quintessentially a matter of planning judgement*". This is supported by her comments at paragraph 55 where she said the Inspector's decision in the Adderbury Court decision "*was an exercise of planning judgement on his part*". Accordingly, the local planning authority and Inspectors in appeals are required to exercise their planning judgement in all other cases and so may equally decide that monitoring fees are Regulation 122 compliant.
3. In paragraph 53 the judge states that how the costs of the administration and monitoring of a Section 106 agreement were to be met "*was plainly a relevant consideration in deciding whether or not a contribution to those costs was needed, in order to make the development acceptable*".

¹ Case ref: (*Oxfordshire County Council v Secretary of State for Communities and Local Government and others* [2015] EWHC 186 (Admin)).

4. In comparison to the present case, the Council considers that it is important to note the comments of Mrs Justice Lang in paragraph 54 about the fact that the Adderbury case involved only two contributions, both of which were payable prior to the commencement of the development. The judge noted that they “*did not require on-going management or maintenance*”. She then goes on to state that “***In these circumstances (my bold), I consider that the Inspector was entitled to conclude that a contribution towards the administration and monitoring costs was not “necessary” to make the development acceptable on planning terms***”.
5. It is the County Council’s position that for any s106 the decision maker may exercise their planning judgement to say monitoring/administration fees are necessary. However, where a Section 106 agreement is more “complicated” and so requires on-going management or maintenance, numerous staged payments, post-agreement calculation of/reassessment of contributions or involves the supply of benefits in kind, then this case supports the assessment that an administration/monitoring fee can be determined to be “necessary”.
6. Although at the time of writing the proposed Unilateral Undertaking is yet to be finalised, there is a draft in circulation. The UU is expected to contain the following provisions:-

Contributions towards:

- i. Primary School Infrastructure payable in two instalments;
- ii. Primary School Land payable in one instalment;
- iii. Secondary School Infrastructure payable in two instalments;
- iv. Secondary School Land payable in one instalment;
- v. Special Educational Needs payable in one instalment;
- vi. Strategic Transport Contribution payable in two instalments;
- vii. Bus Service Contribution payable in one instalment;
- viii. Bus infrastructure Contribution payable in two instalments;
- ix. Rights of Way Contribution payable in one instalment;
- x. Travel Plan Monitoring payable in one instalment

7. The above demonstrates that this is a complicated agreement which will require close monitoring of trigger points for 10 contributions payable over 14 instalments, post agreement recalculation of contributions (in line with actual mix of dwellings built), calculations for these payments applying three different indices (of which one is a composite index) and collection of payments. There is also expected to be provisions in the UU regarding delivery of the spine road that will require monitoring.
8. The County Council also considers that it is important for the Inspector to be fully appraised as to the work that the s106 monitoring team have to carry out generally following the entering into of a s106 agreement because this covers not only monitoring and collection of funds but also allocation to provide the necessary mitigating measures.
9. The Infrastructure Funding section of the Council comprises two teams. One of which comprises officers who negotiate with applicants and their agents/consultants with respect to infrastructure and contributions the County Council considers are necessary to meet the impact arising from new development in the county (no fees are requested with respect to this part of the section); the other of which is the Planning Obligations Team. This is a dedicated team of five full time equivalent staff who manage and administer Section 106 obligations for the County Council. Their work includes updating and maintaining a set of planning obligation databases which hold comprehensive details as to each and every planning obligation given to and by the County Council since 1982. In designing its monitoring systems the Council took into account the advice in Circular 05/05 Planning Obligations and the Planning Obligations: Planning Guidance of July 2006 (now both withdrawn, but attached at section 1 of the attachments which advised that s106 agreements will require monitoring by local planning authorities and recommended the use of standardised systems, for example, IT databases, in order to ensure that information on the implementation of planning obligations is readily available to the local authority, developer and members of the public.

10. The County Council enters into between 70 and 100 planning obligations a year including both Section 106 agreements and Unilateral Undertakings. For ease of use, I refer to all such documents as “Agreements” with “Obligation” referring to the individual undertakings in the corresponding Agreements. These Agreements can be anything from a simple undertaking to pay a 3-figure sum for particular works, to a complex Agreement comprising tens of million pounds of contributions, arrangement to transfer land to the County Council, the delivery of works and the protection of land against certain activities. The Planning Obligations Team monitors each and every one of these Agreements and all of the Obligations 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. The total annual value of these Agreements over the last 6 financial years has varied from £9.5 million in 2011 at the height of the recession, to £59 million in 2008/09. Each year the County Council receives in payments related to extant Agreements in the region of £10 million per year. It is the Planning Obligations Team which carries out all of the work recording Agreements and Obligations, calculating and collecting payments, and thereby enabling appropriate projects to be delivered. They also monitor the corresponding obligations to ensure that non-financial obligations on both the developer and the County Council are complied with. Detail as to the work that the Planning Obligations Team does is set out in detail in the paragraphs below.

11. The Planning Obligations Team operates 3 databases recording all necessary information. Using an excel spread sheet, the Planning Obligations Team gives each Agreement a unique code and against them they record the date, the parties, the location, the parish and details of the agreement type. An extract from that database is attached at section 2 of the attachments. The geographical area to which each Agreement applies is also plotted on the Council's GIS mapping system. Thus the Planning Obligations Team can quickly confirm which Agreement and hence which Obligations will be relevant in respect of newly constructed housing estates, where the names of new roads often bear no relation to the name of the development site.

12. The second database is called ORBIT: Obligations Recorded By Individual Terms. This contains full details of every Obligation relevant to the County Council within each Agreement, regardless of whether that Obligation is owed to the County Council or by the County Council. The purpose of this is to monitor subsequent compliance with each and every Obligation and to ensure payments and compliance with obligations can be sought as they fall due. In respect of financial Obligations, ORBIT contains details of the principal sum due, any indexation, the trigger date for payment, the relevant clause of the Agreement so that if there is any query as to the terms this can quickly be checked, the long stop date on which unspent money is due to be paid back to the original payer or developer, records of every invoice issued, and the date invoices are paid. Without the information recorded in ORBIT the Council would not be able to confirm that the proposed appropriate mitigation, considered necessary at the time planning permission is issued, is provided. An extract from ORBIT showing an example of the information that is held in respect of each Agreement is attached at section 3 of the attachments.
13. ORBIT also records the nature of information that the Developer is obliged to provide to ensure compliance, for example, when a particular number of occupations is reached etc. There are also separate records detailing Obligations relating to physical works, Travel Plan Information, and details of minerals aftercare Obligations, all of which require a level of practical monitoring on site to ensure these are met and complied with.
14. The third set of databases maintained by the Planning Obligations Team are the service area spread sheets. These hold all the information regarding Obligations by reference to the relevant service areas e.g. education, libraries, highways. This enables, for example, the Education directorate to understand what money is available, for which projects, and when that money must have been spent. By holding the information centrally the Planning Obligations Team can work to ensure that the necessary mitigation measures are appropriately delivered.

15. The combined effect of the databases operated by the Planning Obligations Team enables the County Council to follow a contribution from an Agreement through to a specific scheme, or to track backwards from a scheme to the relevant Agreement. This allows the Council to produce End of Year Balance Sheets which provide a CIPFA compliant audit trail and an extract of an End Year Balance sheet is attached at section 10 of the attachments. The databases also ensure the appropriate amounts, with or without the addition of indexation due to be called for/paid, are calculated in advance of issuing an invoice; an example of the calculation sheets is attached at section 11 of the attachments along with the corresponding invoice.
16. The work carried out by the Planning Obligations Team arises solely as a result of the County Council entering into Section 106 Agreements in order to mitigate the impact of development on the infrastructure for which the County Council is responsible. For example, a developer providing additional new housing may provide contributions towards primary education infrastructure to mitigate the impact of an increase in the number of pupils in the area where the local primary school would not otherwise have room for them. A developer might also provide funding for highway projects in order to mitigate the impact of this development on the local highway network. Thus the money is to be spent 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 but for the need for Section 106 Obligations associated with the development to mitigate the impact of developments.
17. Accordingly, the County Council charges an administration/monitoring fee towards funding this team of officers. The team costs (against which the current fees were assessed) were established when there were only two officers in the Planning Obligation Team. There are now five officers. To work out the fees to be charged the County Council 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, we 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 team is now bigger than when the fees were originally calculated however, the monitoring/admin fees have not been increased since they were first established in 2007.

18. The County Council considers that the monitoring fee is compliant with Regulation 122 as it is directly related to the additional work required to ensure compliance with all aspects of the Section 106 agreement for that site. The nature, scale and extent of the Obligations set out in the agreement require the County Council to provide resources to deal with this work and the monitoring fee goes some way to funding those necessary resources. This Section 106 management work is required solely as a result of the development and the Section 106 agreement which is considered necessary to make that particular development acceptable. The contributions paid to the County Council are to provide the necessary mitigation and do not include any element of administration costs which the Council necessarily incurs in order to “deliver” the funding for these mitigation measures. The use of any portion of the contributions to fund the necessary administration would reduce the amount available to provide the necessary mitigation, and could compromise the Council’s ability to provide that mitigation. This would be particularly challenging in respect of the monitoring of non-financial obligations where this would require the diversion of funds from other Council budgets.

19. The S106 monitoring fee is charged on Agreements at a stepped/sliding scale, increasing as the amount of contributions and number of payments increase. This is because as the value of the financial and non-financial obligations increases and the number of required payments increases, the complexity of the corresponding monitoring is also likely to increase. As such, the monitoring fee is considered to be reasonable in scale and kind. The monitoring fee as calculated is reviewed to ensure it reflects the number, level and complexity of the obligations within the S106 agreement/UU.

20. It is considered that insofar as the contributions are necessary then ensuring the money is received and allocated for mitigating measures is also necessary to satisfactorily address the impacts of the development. The management of the agreement arises directly out the need for the agreement and there is no other reason for the Council to incur these operating costs. It is therefore appropriate that these additional costs arising solely as a result of a Section 106 agreement are met by the developer; costs which are necessary to manage and monitor the agreement in order that development mitigation can be delivered for that site. As such, not only are the costs necessary but they are directly related to the site/development in question.
21. The monitoring/administration fee is ring-fenced to pay for the long-term funding of the Planning Obligations Team, the loss of these contributions has a direct impact on the Council's ability to monitor s106 obligations and deliver the necessary mitigating infrastructure.

Recent appeal decisions

Appeal Ref: APP/V3120/A/13/2210891

LAND OFF HIGHWORTH ROAD, FARINGDON

Date of decision: 19 February 2015

Inspector's conclusion:

"163. Lastly, OCC sought a contribution of £5,000 towards OCC's costs of monitoring and administering the s106 agreement. The appellants argued that the contribution was not necessary to make the development acceptable in planning terms, that the applicant had paid a fee for the determination of the application, and that there is no justification for additional internal or external resources. Although administration is a function of local government, monitoring all s106 planning obligations throughout the County must place an extra burden on the authority with its associated costs. OCC submitted copies of two separate opinions on this matter from Ian Dove QC60. He advised that, once it is accepted that an obligation is necessary as a matter of planning judgement, then the proper costs of administering that obligation cannot rationally be found to be unnecessary in planning terms simply because the administration is a function of the local authority. I am persuaded by this

opinion and conclude that the administration fee of £5,000.00 would be compliant with the CIL tests. There is no merit in the appellants' argument that a planning fee has been paid, as the fee is paid to the District Council, irrespective of whether there is an obligation.

Secretary of State Comments:

"28. The Secretary of State agrees with the Inspector's assessment at IR155-163 of the Section 106 Planning Agreement. For the reasons given he agrees that all of the contributions would be CIL compliant, with the exception of the £10,000 sought by Oxfordshire County Council towards the cost of maintaining public rights of way which he agrees would not be CIL compliant ((IR162). He considers that the other contributions considered at IR155-161 and 163 would fairly and reasonably relate to the scale of the proposal and would accord with the tests in paragraph 204 of the Framework.

Appeal Ref: APP/D3125/W/15/3005737

Burford Road, Witney, Oxford OX28 6DJ

Date of decision: 24th August 2016

Inspector's conclusion:

"241. It is the function of the County Council to administer, monitor and enforce planning obligations. In this case the proposed development is of a significant scale in terms of the number of dwellings and the consequential extent of the contributions required. It would be necessary to administer and monitor, including enforcement if necessary, the terms of the agreement, particularly as some contributions do not fall to be payable until after commencement, at a particular stage in the development. Therefore, I consider the required fee to be necessary, in order to make the development acceptable."

Secretary of State Comments:

21. The Secretary of State has considered the Inspector's assessment of the planning obligations to both the Council and Oxfordshire County Council as submitted to the Inquiry (IR232-241), and he is satisfied that these Unilateral

Undertakings comply with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework.”

Appeal Ref: APP/D3125/W/15/3136376

Land South of New Yatt Road, North Leigh, Oxfordshire OX29 6TN

Date of decision: 02 November 2016

“93. There was lengthy dispute at the Inquiry as to whether the monitoring contribution met the tests and I am mindful of legal judgment in relation to this matter. However, it was common ground that the case in point leaves it to the decision maker to come to a view on whether or not such contributions meet the relevant tests, and different Inspectors have come to different conclusions in various appeal decisions on the basis of the evidence and arguments presented to them.

94. In this instance, I accept the County Council’s argument that the monitoring of the relevant UU is integral to ensuring its effective implementation. The sums involved are not enormous, but that is not the point. There are a number of obligations with a range of trigger points and index linking clauses and I accept that some degree of oversight would be required to monitor them appropriately to ensure that they achieve that which is expected of them. This being so, I find that the contribution sought meets the relevant CIL regulation tests in this instance.”

Appeal Ref: APP/Q3115/W/16/3165351

CABI International, Nosworthy Way, Mongewell, Wallingford, Oxfordshire

Date of decision: 31st August 2017

“89. Administration and monitoring fees are included, which would be payable to both the district and county councils. Some obligations would be fairly straightforward and relate to one-off payments. However, there are others that would be more complicated and involve ongoing work that would go beyond the normal development management duties that the respective councils would be expected to undertake. I have had regard to all the evidence, including the Oxfordshire County Council High Court judgement and the submitted appeal decision relating to land

north of 12 Celsea Place, Cholsey. I am satisfied that in this case there is justification for the two payments.”

End.

26 September 2017.