

Planning Inspectorate,  
Room 3/J,  
Temple Quay House,  
2, The Square,  
Temple Quay,  
Bristol BS1 6PN.

Cherry Tree Cottage,  
West Addebury,  
Banbury,  
Oxon OX17 3EU.  
13th January '19.

Appeal ref: APP/C3105/W/18/3216992

Dear Sir/Madam,

In addition to my previous letters of objection, I wish to make the following points concerning the Appeal against Refusal, OS Parcel 9100 Adjoining and East of Last House Adjoining and North of Berry Hill Road Addebury; these being based on the character and appearance of this part of the village.

- In general there has been scant regard for maintaining the character and appearance of this part of the village. The density of building is completely out of keeping with those in Berry Hill Road.

Only a token consideration has been given to the importance of the views across the fields to the church - highlighted in Cherwell District Council's Conservation Report.

- The proposed footpath, though functional, is so wide, it is not in keeping with those within the village. Visually it would not rest well in Berry Hill Road.

- The location of the crossing in Horn Hill Road is a further example of a lack of attention to detail. This is a dangerous point where both driver and pedestrian have limited vision (ie a blindspot) and would not need to be here. It also lies in the Conservation Area in front, directly, of listed buildings thus negatively affecting the character and appearance.

It seems to me that so little care and thought has been given to this proposal and therefore urge you to overturn it.

Yours faithfully,

## 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/18/3216992**

#### DETAILS OF THE CASE

Appeal Reference	APP/C3105/W/18/3216992
Appeal By	HOLLINS STRATEGIC LAND LLP
Site Address	Land off Berry Hill Road Adderbury OX17 3HF(nearest) Grid Ref Easting: 446930 Grid Ref Northing: 234886

#### SENDER DETAILS

Name	MR RICHARD OLIVER
Address	Oxfordshire County Council, County Hall New Road OXFORD OX1 1ND
Company/Group/Organisation Name	Oxfordshire County Council

#### 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

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

<b>Location:</b>	OS Parcel 9100 Adjoining And East Of Last House Adjoining And North Of Berry Hill Road Adderbury
<b>Planning Ref:</b>	17/02394/OUT
<b>Appeal Ref:</b>	APP/C3105/W/18/3216992
<b>Proposal:</b>	Outline planning permission for up to 55 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road.
<b>Date:</b>	22/01/2019

**1. INTRODUCTION**

- 1.1. Oxfordshire County Council (OCC) considers that the proposed development of up to 55 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 requirements for contributions towards primary & nursery education, secondary education, public transport services, public transport infrastructure, public rights of way and also justification for an administration & monitoring fee.
- 1.2. This statement supplements the formal responses by OCC dated January 2018 and subsequent responses dated April 2018 and May 2018 to the consultation by Cherwell District Council (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:

	<b>Contribution</b>	<b>Indexed-linked</b>
<b>Primary &amp; Nursery Education</b>	£463,980	2Q 2017
<b>Secondary Education</b>	£282,175	2Q 2017
<b>Public Transport Services</b>	£55,000	1Q 2018

<b>Public Transport Infrastructure</b>	£10,000	1Q 2018
<b>Public Rights of Way</b>	£20,000	1Q 2018

*Table 1: Infrastructure Contributions*

- 2.2. **Administration and Monitoring Fee** £2,000
- 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 Inquiry/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:
- The locations of the development (by district).
  - The scale and dwelling mix of development
  - An allowance for attendance of children at non-state funded schools
- 3.2. The contributions below are based on Oxfordshire's Strategic Housing Market Assessment (SHMA) :
- 7 x one bed dwellings
  - 14 x two bed dwellings
  - 24 x three bed dwellings
  - 10 x four bed dwellings
- 3.3. It is estimated that the proposed development would generate a net increase of 144 additional residents including:
- 16.84 primary school pupils
  - 11.84 secondary school students (including 1.56 sixth formers), and
  - 4.25 Nursery Pupils

## **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 S86)
- 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 94 of the National Planning Policy Framework (NPPF)** states it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

**Paragraph 92 of the NPPF** states to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.

**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.”

#### 4.3. Primary Education - £463,980 index linked from 2Q 2017 using PUBSEC Tender Price Index, towards the expansion of nursery and primary provision at Christopher Rawlins Primary School

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

Christopher Rawlins CE (VA) Primary School in Adderbury was previously a 1 form entry school, providing 210 primary places (30 places per year) plus a nursery. Due to the cumulative effect of planned and permitted housing development in the area the school expanded to 1.5 form entry from September 2017 and numbers on roll are forecast to grow rapidly. The school's expansion also has increased the number of nursery places provided from 40 part-time equivalent to 52 part-time equivalent (i.e. 12 more part-time equivalent places or 6 more full-time equivalent places.) This expansion meets the need of already permitted developments and enables the expected pupil generation from this proposed development to be accommodated,

and is therefore necessary to make this proposed development acceptable.

Without this additional accommodation, Oxfordshire County Council would not have been able to meet its statutory school sufficiency duty in this area, including meeting the needs generated by this proposed development.

The necessary additional accommodation has now been completed and developer contributions are required retrospectively towards the expanded Christopher Rawlins CE Primary School.

**(b) Directly related to the development**

Christopher Rawlins Primary School is located in Adderbury and is the catchment primary school for this 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 primary & nursery pupil places arising from the development. It is estimated that the proposed development would generate an additional 21.09 primary & nursery school pupils (16.84 primary + 4.25 nursery).

The cost estimate for the expanded school is £2,442,000 providing an additional 105 primary school places and an addition 6 full-time nursery places.

This equates to a cost per pupil for the additional accommodation of £22,000 (£2,442,000 ÷ 111)

The Primary & Nursery Contribution from this development is therefore:

£22,000 (cost per pupil) x 21.09 (the forecast number of new primary & nursery school pupils) = **£463,980**

As this figure is based on costs as at 2Q 2017 this amount is to be index linked using the PUBSEC Tender Price Index

This contribution is based on the anticipated number of new primary & nursery school pupils arising from the proposed development and the cost per pupil of providing additional accommodation. It is therefore proportionate to the scale of the proposed development.

**4.4. Secondary Education - £282,175 index linked from 2Q 2017 using PUBSEC Tender Price Index, towards secondary school provision at The Warriner School, Bloxham**

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

Expansion of secondary school capacity in the area is necessary as a direct result of housing development. This area feeds to the Warriner School, which currently has a

capacity of 1300 places, and as of May 2018 had 1323 pupils on roll. Pupil numbers at the school are forecast to increase.

If the Warriner School is not expanded, children who would otherwise have attended the school would be displaced to other schools in nearby Banbury. Some of these schools currently have spare places, but these places will be filled as a result of the population growth which is already evident in the local primary schools. Secondary school capacity in Banbury will also need to be expanded as these higher pupil numbers feed through, and therefore should the schools also be required to accommodate growth as a result of housing development in this area, the scale of expansion would be greater as a consequence.

Expansion of secondary school capacity at both the Warriner School and at schools in Banbury is therefore necessary to ensure the needs of the current and future populations can be met, and to ensure the council can meet its statutory duty to ensure sufficient school places. Contributions are sought towards the expansion of the Warriner School, where a capital project is underway to increase its capacity to 1,600 in September 2019.

**(b) Directly related to the development**

The Warriner School in Bloxham is the catchment secondary school for this 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 & sixth form places arising from the development. It is estimated that the proposed development would generate an additional 10.28 secondary (11-15) pupils and 1.56 sixth form pupils.

The relevant cost multipliers for extensions to secondary schools in Oxfordshire are £23,708 per child for secondary school (11-15) extensions and £24,652 per sixth form student at 2Q 2017 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:  
 $(£23,708 \times 10.28 \text{ (the forecast number of secondary school pupils)}) + (£24,652 \times 1.56 \text{ (the forecast number of sixth form pupils)}) = \mathbf{£282,175}$

As this figure is based on costs as at 2Q 2017 this amount is to 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.



## **5. TRANSPORT CONTRIBUTIONS**

### **5.1. Relevant Policies**

#### **National Planning Policy Framework**

Paragraph 108 of the NPPF sets out that it should be ensured that:

“Appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; safe and suitable access to the site can be achieved for all users; and 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.

Paragraph 109 sets out that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

Paragraph 111 states that:

“All developments that will 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) [adopted in September 2015]**

#### **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.

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.”

Cherwell Local Plan Policy SLE 4: Improved Transport and Connections:

“The Council will support the implementation of the proposals in the Movement Strategies and the Local Transport Plan to deliver key connections... New development in the District will be required to provide financial and / or in-kind contributions to mitigate the transport impacts of development.”

**5.2 Public Transport Service Contribution - £55,000 index-linked from Q1 2018 using RPI-x towards enhancement of public transport services serving the site. Pump priming of bus services on the A4260.**

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

National and local planning policy states that developments should be located where they have access to high quality public transport.

Paragraph 110 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) [adopted in September 2015] includes the following policies:

**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.*

Currently the S4 service only operates one bus per hour between Oxford and Banbury. To make it attractive for journeys to work, leisure, etc, a more frequent service is required. Therefore, Stagecoach are increasing the bus service between Oxford and Banbury to two buses an hour.

Without a more frequent service, it is very unlikely that users that have the choice of travelling by private car, would choose to travel by bus. To reduce the impact on Banbury and the surrounding villages road network, it is vital that public transport modal share is boosted. Therefore, this development should contribute towards improving the frequency of operation of the bus service.

The bus service contribution is therefore essential to adhere to the principle of 'presumption in favour of sustainable development' at the heart of the National Planning Policy Framework and is a requirement under policies in Oxfordshire County Council's Fourth Local Transport Plan.

#### **(b) Directly related to the development**

The policies outlined above identify the requirement for the development to be served by a frequent, reliable and efficient public transport service. The contribution sought is required in order to provide such a service in line with these policies.

An effective bus service is required to offer residents of the proposed development a realistic alternative to the car, particularly for longer distance journeys where walking or cycling may not be a realistic option.

The S4 service passes along Oxford Road, linking Oxford and Banbury via the A4260. With the provision of new bus stops, it would directly serve this development.

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

The contribution requested is based on a pro-rata share for the number of

proposed dwellings in the development, and represents a proportionate amount towards the delivery of an improved bus service between Oxford and Banbury which will also serve the development. This contribution is in keeping with other comparable sized developments in nearby villages such as Bodicote and Deddington.

The cost of the additional service is £800,000. This provides for two additional vehicles all-day on the route at £400,000 each, which would result in 2 buses per hour between Bambury, Deddington and Oxford.

Each bus is estimated to cost £400,000 to procure, based on four years of declining pump-priming (year 1 at £160,000, year 2 at £120,000, year 3 at £80,000, year 4 at £40,000 followed by year 5 and subsequent years as commercially viable.

The sum requested is based on a rate of £1,000 per dwelling, and is sought at the same rate from all developments served by the bus routes on the A4260 on a fair and equitable basis.

The figure is directly related to the cost of providing an appropriate level of public transport service for new developments on the A4260 corridor and as such is considered to be fair and reasonably related in scale to the development.

**5.3 Public Transport Infrastructure Contribution - £10,000 index-linked from Q1 2018 using Baxter towards bus stop infrastructure including: Provision of two sets of two bus stop pole and premium route standard flags, and a bus shelter. £4,000 will be transferred to the Adderbury Parish Council as a commuted sum for maintenance of the shelter.**

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

The provision of suitable bus stop infrastructure is required in order to meet the policy requirements set out under the justification statement for the 'Public Transport Service Contribution' set out above.

The contribution is necessary to enable the County Council to provide a bus shelter, bus flagpoles at new stops on the A4260. Although the S4 is an existing bus route, there are no bus stops near the development site. Bus stops need to be provided within a reasonable walking distance of the development site, to encourage the use of public transport, and to cater for residents who cannot walk far and rely on public transport to access vital services. Without this important infrastructure, walking and waiting requirements would discourage public transport use.

The provision of bus shelters is necessary to enhance the attractiveness of a service of this frequency.

**(b) Directly related to the development**

See comments on the justification statement for the 'Public Transport Service Contribution' set out above.

The provision of bus stop infrastructure is necessary to provide the development with a suitable public transport service, as required under policy.

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

The figure is directly related to the infrastructure and maintenance costs for bus stop pole and flag units, bus shelters and maintenance. Each bus stop pole and premium route standard flags, and a bus shelter is £3000 plus £2000 commuted sum for maintenance, for two bus stops totals £10,000. These figures are taken from a schedule of prices which are applied across the County.

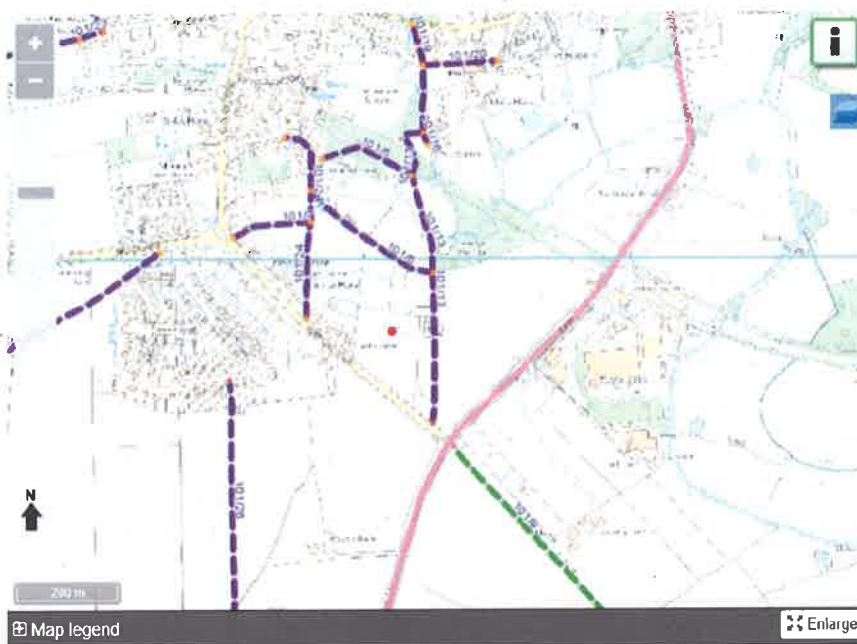
Any money remaining from the £10,000 after the infrastructure has been installed will be transferred to the Parish Council, which will assume responsibility for the on-going maintenance of the shelters.

**5.4 Public Rights of Way Contribution - £20,000 index-linked from Q1 2018 using Baxter towards improvements to public rights of way in the vicinity of the site to include access mitigation measures on the footpaths to east and north of the site (Adderbury Footpaths 13, 6, 5 and 24 and Bridleway 9). This would fund surface improvement, signing and furniture along the routes.**

Oxfordshire County Council's Countryside Access and Definitive Map and Commons Teams manage access to the countryside in Oxfordshire through the public rights of way and access land network. In addition to the statutory functions of recording, protecting and maintaining public rights of way, part of these teams' role includes securing mitigation measures from residential and commercial developments that will have an impact on the public rights of way and access land network in order to make those developments acceptable. The proposed measures also meet the aims and outcomes of the Oxfordshire Rights of Way Management Plan 2015-2025 ([www.oxfordshire.gov.uk/rowip](http://www.oxfordshire.gov.uk/rowip)).

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

There is expected to be an increase in the usage of the rights of way network to the north and south of the development site as a result of the proposed development, particularly to gain access along paths to the centre of Adderbury and to the countryside to the south of the site. OCC Countryside Access therefore seeks a contribution to mitigate the impact of increased usage of these routes.



### **(b) Directly related to the development**

The development site has been the subject of an assessment to both assess the current situation and look at how public use could be protected and enhanced. With the development site at the centre, the logical and realistic public rights of way network likely to be affected is considered along with the range of measures needed to provide mitigation against the impacts of the development.

The contribution would be spent on improvements to the public rights of way in the vicinity of the development in the impact area of the site. Primarily this is to improve and maintain the surfaces of routes to take account of the likely increase in use by residents of the development as well as new or replacement structures such as gates, bridges and seating, sub-surfacing and drainage to enable easier access, improved signing and protection measures.

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

The contribution sought is based on an assessment of likely costs for the specific measures intended. It is not based on a standard formula or a per-dwelling or per-area tariff system. The proposed off-site measures are in the form of a reasonable financial contribution to allow the Countryside Access Team to plan and deliver improvements with third party landowners in a reasonable time period and under the Rights of Way Management Plan aims.

The contribution would be spent on improvements to the public rights of way in the vicinity of the development in the impact area up to 2km from the site. Primarily this is to improve the surfaces of all routes to take account of the likely increase in use by residents of the development as well as new or replacement structures like gates, bridges and seating, sub-surfacing and drainage to enable easier access, improved signing and protection measures such as anti-motorcycle barriers. New

short links between existing rights of way may also be included.

Estimated contribution breakdown is as follows.

By activity

- Site surveys and assessments - 5%
- Habitat survey and mitigation - 5%
- Materials, plant & equipment - 70%
- Legal processes such as temporary works closure agreements - 5%
- Contract preparation & supervision - 5%
- Administration costs - 5%
- Contingency/Follow-up repair works - 5%

By Public Right of Way

- Adderbury Footpath 5 - 20%
- Adderbury Footpath 6 - 20%
- Adderbury Footpath 13 - 20%
- Adderbury Footpath 24 - 20%
- Adderbury Bridleway 9 - 20%

**6. ADMINISTRATION AND MONITORING FEE**

**- £2,000**

**(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 appeal<sup>1</sup>, 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 56 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/40544/5/15-02-19\\_DL\\_IR\\_Highworth\\_Road\\_2210891.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/40544/5/15-02-19_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 to ensure it reflects the number, level and complexity of the obligations within the s106 agreement.