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Ms S Taylor
Senior Planning Officer
Cherwell District Council
Bodicote House
Bodicote
BANBURY
OX15 4AA

Dear Ms Taylor

OUTLINE PLANNING PERMISSION FOR 850 UNITS AND SUPPORTING INFRASTRUCTURE. LAND NORTH EAST OF OXFORD ROAD WEST OF OXFORD CANAL AND EAST OF BANKSIDE BANBURY – 19/01047/OUT

I write with regard to the above planning application. Given the scale and significance of the proposal Thames Valley Police consider it appropriate that the developer should contribute towards the provision of infrastructure to mitigate the impact of the development.

Set out below is a formal justification for the contribution requested, followed by the request itself.

1. FUNDING OVERVIEW

National Funding

TVP receives 62% of its funding from central government and 38% from local taxation. Central government funding comprises of the Home Office Police Core Funding Settlement, the Department for Communities and Local Government (DCLG) Formula Funding, (together these are referred to as central government grant for the purposes of this submission) and Legacy Council Tax Grants (LCTG). LCTG are fixed and some elements of this are time limited, therefore, LCTG are not affected by variations in the funding formula.

The distribution of central government grant is calculated by the Police Relative Needs Formula. The first stage of the formula is to divide funds between the different activities that the police undertake. These activities, or workloads, can be broken down into five key areas:

- Crime (of which there are seven sub-categories)
- Incidents (e.g. public disorder)
- Traffic (e.g. assistance at road traffic accidents)

- Fear of Crime (e.g. public reassurance)
- Special Events (e.g. football matches)

A portion of total funding is also distributed according to population sparsity, to address the specific pressures created by the need to police rural areas.

The second stage is to divide funding for each of these workloads between the 43 local policing bodies of England and Wales. In order to do this, “workload indicators” are calculated to estimate how much work each police force is expected to have in each of the key areas compared to other forces. These estimates are calculated using socio-economic and demographic indicators that are correlated with each workload. Indicators of workload are used rather than data on actual recorded crime levels to account for known variations in recording practices, and the funding model has been designed to avoid creating any incentives for forces to manipulate the figures.

The formula consists of a basic amount per resident and a basic amount for special events, and top-ups for the five key areas, sparsity and area costs (which takes account for regional differences in costs).

The top-ups etc are weighted and use specific categories of population, rather than a straight forward population figure, to determine formula grant allocations, for example specific categories includes the population on various benefits, long-term unemployed, student housing, overcrowded households, hard pressed households, residents in terraced accommodation, the list goes on and includes, as mentioned above, sparsity.

Whilst the funding formula is influenced through the allocation of a basic amount per resident, this does not necessarily lead to an increase in central government grant to WP. Putting aside the time delays between recognising population growth and this being fed into the funding formula, the overall pot available to all forces through central government grant is limited and in fact declining as part of the Government’s fiscal policy. Therefore, changes in general population or the specific population categories do not increase the overall funding made available through central government grant, rather they would affect the relative distribution of grant between forces.

It is difficult to measure the exact change in TVP’s central government grant as a result of local changes in population; this would require complex modelling in the context of the entire funding formula model. However it can be stated with certainty that even if there was an increase in central funding as a result of the proposed development growth, this funding would be fully utilised in contributing to additional salary, revenue and maintenance costs (i.e. not capital items and not what is being claimed for here). This funding, therefore, would not be available to fund the infrastructure costs that are essential to support the proposed development growth. Put quite simply in order to achieve a balanced budget TVP cannot and will not factor in *potential* policing issues linked to housing growth at the cost of policing the here and now.

Local Funding

TVP (precepting body) places a demand or precept on the district and borough councils in its area (billing authorities) for a sum of money to be raised through the council tax. The amount to be raised is divided by the Council Tax Base (CTB) or number of households to arrive at an average Band D council tax, from which all other bands of council tax are determined. The growth in the council tax or the amount each household pays is decided by the Police and Crime Commissioner, having regard to the DCLG rules concerning the need to hold a local referendum where the proposed increase in the precept is above a prescribed threshold, currently 2%. The 2015 Comprehensive Spending Review and subsequent 2016/17 funding settlement imply that a 2% increase in council tax is required to **maintain real terms funding**. Following public consultation the Police and Crime Commissioner increased the precept by 1.99% thus ensuring that maintaining real terms funding was achieved.

There is potential for the council tax yield to increase simply through a growth in the CTB. However, it should be noted that the CTB is reduced for discounts and exemptions provided

under the Local Council Tax Benefit Scheme (LCTBS) and may also be affected by collection rates. Therefore, a growth in households might not lead to a growth in council tax yield where those households benefit under the LCTBS.

Savings

Despite modest increases in the Council Tax yield TVP has continued to make significant saving in terms of its spending. Over £87m worth of savings have been made by the force over the last 6 years, including £15.6m worth of savings in 2016/17. The Force are also committed to and have budgeted for a further £10.5m worth of savings for the period 2019/20 whilst at the same time seeking to reduce crime.

Capital Funding

Central government funding for investment in capital infrastructure takes the form of a Home Office Grant. This grant makes up a small part of the overall funding for the Capital Programme, which relies essentially on borrowing and one-off receipts generated through the sale of buildings.

Home Office capital grant is cash limited and has been reduced through a combination of the austerity measures and the requirement to fund national projects such as the new National Police Air Support (NPAS) service and the response to the heightened terrorist threat.

Home Office capital grant provides general funding towards the Capital Programme it is not available to fund specific local police infrastructure required to police areas of new development. The grant is not affected by movements in the local population of CTB; therefore, any local capital investment creates an additional financial burden on which will be funded through reserves or borrowing.

Other Factors

Policing bodies are funded outside of the Business Rates Retention scheme. Therefore, TVP does not benefit from growth in local businesses that might accompany a growth in the population and the number of households, in the same way as other local authorities in the area might. However, a growth in local business places demand on police services.

Conclusion on Funding

Like many other public sector organisations, TVP have seen a real terms reduction in grant funding, which has necessitated changes to the policing model. At the same time the demands placed on the police service increases, whilst the service has to deal with the changing nature of crime at both the national and local level, for example, at this time cyber-crime, child sexual exploitation and terrorism are areas of particular concern.

Whilst the Chancellor's announcement in November 2015 changed the emphasis away from austerity and provided protection of police funding this is reliant on the maximum permissible increase in the precept increasing and does not allow room for growth. The Chancellor's statement re-emphasises the Government's commitment to protect the public and protect the overall spending envelope for the police, while finishing the job of police reform. It is clear that the Government believes that there are further efficiencies to be made from improved and better use of IT, from greater collaboration between forces and with other public services and from improving workforce productivity. The Government states that it trusts that Police and Crime Commissioners and Chief Constables will do everything in their power to drive those efficiencies, safeguard the quality of policing and continue to reduce crime. Whilst the alliance is well placed to meet these challenges this is a challenge.

Increases in local population and the number of households do not lead directly to an increase in central government grant. Whilst there might be growth through the council tax generated by an increase in the CTB, this funding would not be available to fund the infrastructure that would be required to effectively police the proposed areas of new development.

Therefore it is necessary to secure Section 106 contributions for infrastructure, due to the direct link between the demand for policing services and the changes in the operational environment beyond our control i.e. housing growth and the subsequent and permanent impacts it has upon policing.

Securing modest contributions means that the same level of service can be provided to residents of new development as it is to existing residents and without compromising frontline services. The consequence of no funding is that existing infrastructure will eventually become stretched to breaking point, and none of the communities TVP will serve will receive adequate policing.

Whilst national and local funding will continue to cover salary and maintenance costs, there would be insufficient funding to provide the infrastructure required for officers to carry out their jobs effectively. TVP consider that these additional infrastructure costs arise directly as a result of the development proposed and that funding for the police under Section 106 is both necessary and justified.

2. POLICY POSITION

Cherwell District Council's Local Plan (re-adopted December 2016) recognises the need to support public services to ensure the delivery of sustainable new communities/ Policy BSC9 associated paragraph B.153 identifies the Police as one such Public service.

Reference is also made at paragraph C.126 of the Council's Sustainable community strategy. It specifically recognises the desire to reduce crime and the fear of crime in Banbury.

Furthermore the Council's adopted Developer's Contributions Supplementary Planning Document (February 2018) specifically recognises the need for new developments to contribute to a 4range of Police Infrastructure (paragraphs 4.68 - 4.73)

“..the Council will ensure that new developments, area renewal and town centre expansions are safe places to live, work and visit by using tools such as ‘secured by design’ and by requiring provision of appropriate community safety and police infrastructure where required.”

Para 4.68

Section 216 of the Planning Act 2008 provides a list of “*infrastructure*” but is clear that the list is non-exhaustive and that “*infrastructure*” is not a narrowly defined term. That fact is demonstrated by the use of the word “*includes*” prior to the list being set out. In our view, there is no difficulty in the proposition that contributions towards Police infrastructure can be within the definition of infrastructure for the purposes of the 2008 Act. Infrastructure is not limited to buildings. In the context of the police's infrastructure the kind of items which could be funded includes equipment such as vehicles and bicycles, communications technology and surveillance infrastructure all of which have been accepted as appropriate items of infrastructure to be delivered via S106 Agreements as set out in the appeals referenced below.

The national planning policy position to support the request set out below exists in the NPPF (revised February 2019). The NPPF confirms that sustainable development means securing a safe environment through the delivery of social infrastructure needed by communities. In this respect, paragraph 20 specifically states polices should deliver development that makes sufficient provision for security infrastructure. Paragraphs 16, 26, 28, 32 and 38 collectively envisage this being delivered through joint working by all partners concerned with new developments.

This is expanded on in chapter 8 of the NPPF which sets out the need for development to deliver “**healthy and safe communities**” and states that planning policies and decisions should ensure that

“that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion”

Decision makers should promote public safety and security requirements by using the most up to date information available from the police; who are essential local workers providing an acknowledged “front line” service to the public, according to Annex 2 of the NPPF.

Regulation 122 is reflected in the NPPF and it is necessary to consider the three tests in both. It cannot be disputed that additional population will cause additional demands on policing. In respect of the ‘necessary’ test, it is explained in this letter why the police seek contributions and the difficulties associated with funding new infrastructure items in response to growth in residential development which places additional demand on police resources.

This policy support has been upheld on numerous occasions at various appeals, including within TVP’s administrative area I would particularly highlight a recent appeal decision for a scheme in Benson (**APP/Q3115/A/14/222595**). In their assessment of the requests submitted for developer contributions, the Inspector commented (paras 51 -52);

51. The necessity, relevance and proportionality of these and the other elements of the planning agreement are set out in three documents submitted to the Inquiry. They (include)... a letter from Simon Dackombe Strategic Planner, Thames Valley Police. With one exception these provide convincing (and undisputed) evidence that the obligations comply with regulation 122 of the CIL regulations.

52. The exception is that part of the contribution sought for policing which relates to the training of officers and staff. Whereas all the other specified items of expenditure relate to capital items which would enure for the benefit of the development, staff training would provide qualifications to the staff concerned and would benefit them but these would be lost if they were to leave the employ of the police and so are not an item related to the development. I therefore take no account of this particular item in coming to a decision on the appeal. This does not, however, invalidate the signed agreement.

The submission set out below is based on the same methodology put before, and accepted by the Inspector above, in line with the Inspectors comment requests for contributions towards training have now been omitted (see section below).

The methodology utilised by TVP and other Police Force’s in formulating their requests has been subject to examination at a number of appeals by other forces and found to be entirely acceptable,

Land at Melton Road Appeal **APP/X2410/A/12/2173673**

para. 291 accepted that:

“the introduction of additional population and property to an area must have an impact on policing, in the same way as it must on education and library services for example,”

and went on to conclude:

“Moreover, it also seems to me that the twelfth core planning principle of the Framework, that planning should... “take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs”, can only be served if policing is adequate to the additional burdens imposed on it in the same way as any other local public service. The logic of this is inescapable. Section 8 of the Framework concerns the promotion of healthy communities and planning decisions, according to paragraph 69, should aim to achieve places which promote, inter alia, “safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.”

The Secretary of State decisions on 14 January 2016 relating to The Asps (**APP/T3725/A/14/2221613**) in Warwick District establish the principle of police contributions within Warwickshire, confirm the methodology for calculating contributions, and determine that such contributions are consistent with CIL Regulations 122 and 123.

The appeal decision to The Asps included the following:

“Police - As set out in the CIL Compliance Schedule, the appellant is not satisfied that the arrangement is CIL compliant, with the Council being of the view that insufficient evidence was available to come to an informed view on the matter. However, no evidence was before the Inquiry to support these concerns. Having had sight of the Schedule, Warwickshire Police and West Mercia Police submitted further correspondence on the matter, dated 10 April 2015. They demonstrate that the arrangement has been arrived at after careful analysis of the current and planned levels of policing in the area. With reference to existing local deployment reflecting actual policing demands and local crime patterns”

APP/F2415/A/12/2179844 Land north of Bill Crane Way, Lutterworth, Leicestershire

27. Whilst the Council and the County Council confirmed that the terms of the submitted UU were acceptable, the appellant questioned whether the contribution in respect of policing was compliant with the tests set out in the CIL Regulations. The appellant suggests that there is no evidence that the proposed development would result in a need for increased police resources. It is also argued that there should be no automatic assumption that the development should bear the cost of the provision of additional policing since the anticipated growth of such costs in this area could have been budgeted for and the new residents will generate Council Tax revenue.

29. The written evidence submitted by Leicestershire Police detailed the impact the proposed development would have on policing, forecasting the number of potential incidents and the anticipated effect this would have on staffing, accommodation, vehicles and equipment. In view of the requirement of national planning policy to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life, it is considered that, on the evidence before me, a contribution towards policing is necessary to make the development acceptable in planning terms.

30. Whilst the additional staff, accommodation, vehicles and equipment detailed by the Police could not be regarded as being for the exclusive use of the development, they would be necessary to provide for the effective policing of and to attend incidents on the site. In addition the number of staff and level of resources required to police the development has been based on the number of incidents estimated to be generated by the site.

Finally the matter of Police Infrastructure being a lawful recipient of S106 Monies, was subject to a recent High Court Judgement handed down by Mr Justice Green in the case of **Jelson Limited (Claimant) vs Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council (see attached)**.

Jelson were appealing to the High Court against the decision of a Planning Inspector to refuse planning permission for 73 homes (see attached). The case revolved around a dispute over the calculation of the 'Full Objectively Assessed Need' for housing.

Of note however, Jelson also objected in the case to making a Section 106 contribution to Leicestershire Police, on grounds that such contributions did not comply with the CIL Regulations.

Jelson's arguments against the police contribution are contained in paragraphs 73 – 76 of the attached High Court judgement. In essence, Jelson argued that the Planning Inspector had not properly assessed the evidence submitted by Leicestershire Police. Had the Inspector done so, she would have rejected Leicestershire Police's Section 106 contribution request.

The High Court rejected all of Jelson's arguments, as detailed in paragraphs 77 – 81 of the attached judgement. In summary, the reasons for this were as follows:

1. It was unreasonable to have expected the Inspector to undertake a more detailed analysis of the submissions from Leicestershire Police than she had done.
2. The request made by Leicestershire Police was clear, with the contributions requested properly allocated to specific projects.
3. The police evidence comprehensively demonstrated and evidenced the impact caused by the development and why the infrastructure types (and contributions) identified would mitigate this.
4. In view of the above, the Inspector could have made no other reasonable choice but to award the requested Section 106 contribution to Leicestershire Police.

Overall, this recent judgement from the High Court confirms that Section 106 contributions to the police service are fully compliant with the CIL Regulations. Taken with the various Secretary of State and Planning Inspectorate decisions that also find in favour of the police, this body of cases makes the acceptability of the principle of such contributions irrefutable.

FORMAL ASSESSMENT AND REQUEST

In assessing the impact of planned growth in Cherwell District TVP has assessed the cumulative impact of growth against the need to provide additional infrastructure. In undertaking this assessment the following key points are set out;

At present the Cherwell Local Police Area (within which the site lies) has a population of approximately 141,900 and 56,700 households. based on 2011 Census information

At present this population generates an annual total of 32,871 incidents that require a Police action. These are not necessarily all “crimes” but are calls to our 999 handling centre which in turn all require a Police response/action. Effectively therefore placing a demand on resources.

The accompanying ES states that the proposed development of 850 units would have a population of 2006 (at 2.36 per unit). Applying the current ratio of “incidents” to population then the development would generate an additional 467 incidents per year for TVP to deal with.

In total Cherwell area is served by; (all figures = FTE)

- 124.3 Uniformed Officers – a mixture of Patrol and Neighbourhood
- 21 PCSO’s.
- 11 CID Officers.
- 9.25 Dedicated staff

Central staffing provision is provided and drawn upon when required – this ranges from support functions (HR, IT, etc) to operational functions (SOCO, Forensics, Major Crime Unit) these services are provided force wide. Again utilising the ratio of current staff/officers to the projected additional demand then the development would generate the following additional requirements.

Total Additional LPA Officers Required	1.76
Total Additional PCSO	0.30
Total Additional Officers	2

In order to mitigate against the impact of growth TVP have calculated that the “cost” of policing new growth in the area equates to **£91,349.50** to fund the future purchase of infrastructure to serve the development.

The contribution represents a pooled contribution towards the provision of new infrastructure to serve the site and surrounding area. The pooling of contributions towards infrastructure remains appropriate under the terms of the CIL Regs, up until the relevant Local Authority has adopted CIL, whereby pooling will be limited to 5 S106 Agreements (subject to other regulatory tests).

The contribution will mitigate against the additional impacts of this development because our existing infrastructures do not have the capacity to meet these and because like some other services we do not have the funding ability to respond to growth.

The contribution requested will fund, in part, the following items of essential infrastructure and is broken down as follows;

STAFF SET UP

The basic set up costs of equipping and training of staff;

OFFICER/PCSO	
Uniform	£873
Radio	£525
Workstation/Office (2:1 ratio)	£1508
TOTAL	£2906

On the basis that the development generates 0.78 uniformed officers (including PCSO’s) the set up costs equate to **£5812 (2906 x 2)**.

TVP would use this contribution in the following way;

Funding the set up costs of two officers who would form part of the neighbourhood team dealing with the area.

VEHICLES

The purchase of vehicles including response and neighborhood patrol cars and bicycles. The (three year lifetime) capital costs of these items are;

- Patrol Vehicle – **£42,300**
- PCSO Vehicle - **£25,960**
- Bicycles - **£800**

Current fleet deployment within Cherwell administrative area (therefore serving 56,700 households) is broken down as follows;

- Patrol Vehicle – 18
- PCSO Vehicle - 12
- Bicycles – 15

This equates to a cost of £19.13 per household. Accordingly therefore in order to maintain this level of provision the development would generate a required contribution of **£16,260.50 (19.13 x 850)**,

TVP would use this amount as one of five pooled contributions towards the purchase of one Patrol vehicle with the remaining balance being provided from TVP's budget.

MOBILE IT

Provision of mobile IT capacity to enable officers to undertake tasks whilst out of the office, thus maintaining a visible presence. Cost of each item = £4250, therefore for this development (which generates 0.78 additional uniformed officers, the cost would be **£8500 (4250 x 2)**.

TVP would use this contribution towards the purchase of 2 further tablets/laptops with associated software and licences.

ANPR CAMERAS

Automatic Number Plate Recognition (ANPR) Cameras. The number and location of cameras is driven by the scale, location and road network in the area. In this instance it is considered inappropriate to request a contribution towards the provision of an ANPR as the surrounding area is already well served by such facilities.

PREMISES

At present within the Cherwell area Policing is principally delivered from premises at Banbury and Bicester, with a number of smaller satellite offices also serving the area. On the whole TVP maintain full capacity of accommodation for staff and officers, with any additional capacity delivered via new works to provide floorspace.

Each new officer/member of staff is allocated 16.88sqm of floorspace (workstation, storage, locker room etc) at a cost of £1800per sq m. This is a derived cost of adaptation/new build (TVP operate an estate policy of delivering new accommodation principally through the adaptation of existing buildings as opposed to new build at a 90:10 ratio. Applying this ratio his development will generate 0.78 officers the cost is **£260,768 (16.88 x 1800 x 2)**

This contribution would be used as one of 5 towards the provision of additional floorspace through adaptations, alterations or replacement of to serve the additional officers and staff generated by this development.

For clarification this response is solely linked to the impact of the development upon TVP's infrastructure requirements. You may receive a separate response from TVP's Crime Prevention Design Advisor relating to detailed matters of the design and layout of the proposals.

As always I am more than happy to discuss the content of this submission with yourself and the applicant.

Yours sincerely



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