

**WEST OXFORDSHIRE DISTRICT COUNCIL**

**The LPA's Comments relating to Compliance with  
Regulation 122(2) of the CIL Regs of its requested  
Affordable Housing, Financial Contributions**



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**WEST OXFORDSHIRE  
DISTRICT COUNCIL**

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**Appeal by  
Catesby Strategic Land Ltd**

**Against the Decision of West Oxfordshire District Council  
to Refuse Outline Planning Permission for:**

**Development of up to 134 Dwellings (Use Class C3)**

**including means of access into the site (not internal roads) and associated  
highway works, with all other matters (relating to appearance, landscaping,  
scale and layout) reserved (amended description) (amended plans) at**

**Land South of Burford Road,  
Minster Lovell**

**Appeal ref. APP/D3125/W/23/3331279**

**LPA Application ref. 22/03240/OUT**

**21 February 2024**

## List of Appendices (Bound separately)

- Appendix A1** The most recent “final” version of the S.106 Agreement, relating to the current appeal
- Appendix A2** Email from Murry Burnett, the District Council’s Strategic Housing & Development Officer, to Chris Wood dated 2 January 2024, relating to the current position of the CSBH Register
- Appendix A3** Memo from Rachel Biles, Strategic Projects Lead (Leisure) at West Oxfordshire District Council to Chris Wood, the LPA’s Senior Planning Appeals Officer dated 16 June 2023, relating to the basis of calculation of the contributions requested towards Formal Sporting Facilities (Sports Hall, Swimming Pool and Outdoor Pitch provision)
- Appendix A4a** 20 December 2022 Consultation Response from the Oxfordshire Clinical Commissioning Group (“OCCG”), as submitted in relation to the current appeal proposal at planning application stage
- Appendix A4b** *Oxfordshire Primary Care Estates Strategy 2020-2025*: Website Top Page, Summary and Full Document, as referred to in the OCCG consultation response to the application that is the subject of the current appeal (NB page 36 refers)
- Appendix A4c** July 2017 *Primary Care Estates* update document (S.5 on page 10 refers)
- Appendix A4d** Appeal Decision, the LPA’s Decision Notice and Part Plans for Appeal ref. APP/D3125/W/23/3315391, at Land east of Hill Rise, Woodstock Appeal, determined by Inspector Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC on 10 October 2023

## 1 **Introduction**

1.1 This Regulation 122(2) statement is provided by Chris Wood, the Senior Planning Appeals Officer for West Oxfordshire District Council as the local planning authority in this case (“the LPA”) in addition to my earlier Proof of Evidence dealing mainly with impacts of different kinds on the character and appearance of the site and nearby area, housing need and housing land supply (“HLS”); and policy compliance and other planning matters, including the overall balance(s).

1.2 It relates to appeal ref. APP/D3125/W/23/3331279 at Land South of Burford Road, Minster Lovell, made against the LPA’s decision to refuse planning application ref. 22/03240/OUT (“the appeal application”); seeking outline planning permission (with all matters except access reserved) for development described (as amended) as:

***Development of up to 134 Dwellings (Use Class C3)***

***including means of access into the site (not internal roads) and associated highway works, with all other matters (relating to appearance, landscaping, scale and layout) reserved (amended description) (amended plans)***

1.3 This appeal is being heard by way of a public inquiry that commenced on 13 February 2024.

1.4 The appeal application was refused for two reasons for refusal” (“RfRs”), the second of which (“RfR2”) stated:

**2 The applicant has not entered into a legal agreement or agreements to secure the provision of affordable housing, self build plots, biodiversity net gain or signposting to the Local Wildlife Site; or contributions to education, waste, public transport, sport and leisure, medical facilities, Village Hall, or children's play area.**

**The proposal conflicts with West Oxfordshire Local Plan 2031 Policies OS5, H3, H5, T1, T3, EH3, EH4, and EH5; and the relevant paragraphs of the National Planning Policy Framework.**

1.5 RfR2 thus refers to the need for ***a legal agreement or agreements to secure the provision of affordable housing, self build plots, biodiversity net gain or signposting to the Local Wildlife Site; or contributions to education, waste, public transport, sport and leisure, medical facilities, Village Hall, or children's play area.***

1.6 The appellant has sought to overcome these concerns by submitting a planning obligation, an approach I regard as appropriate in principle in relation to these types of essential infrastructure.

1.7 The most recently submitted “final” version of this S.106 agreement is with the Inspector but is exhibited as Appendix A1 to this document for ease of reference.

- 1.8 I will in this statement identify all the infrastructure referred to; and explain why I consider each to be necessary in planning terms and related to the proposal and discuss what is an “appropriate contribution”, as referred to in the Local Plan report.
- 1.9 The provision of affordable housing (“AH”), as required by policy H3 of the West Oxfordshire Local Plan 2031 (“the Local Plan”); and Custom/self-build housing, as required by Local Plan policy H5; some elements of biodiversity net gain (including signposting along footpaths that lead to the Pumping Station Meadow Local Wildlife Site (LWS)), as required by Local plan policy EW4; and maintenance of the public open space and communal areas are all to be met on site.
- 1.10 In addition, the LPA requested financial contributions relating to the additional burden expected to arise on local services and infrastructure across the SDA as a result of the needs of the new residents who would live in the new dwellings.
- 1.11 As regards these financial contributions, my main proof of evidence specified the various requests made (as was also done in the related committee report).
- 1.12 These included a range of requests from Oxfordshire County Council (“OCC” or “the County Council”) relating to Education; and Transport and Movement, on which OCC has already provided a “Regulation 122 statement”; and on which I will not in general comment in detail other than to confirm that in my opinion they are all required explicitly in the terms of Local Plan policy OS5; and that this requirement is reinforced at WIT6, which *inter alia* requires that *Proposals for development in the sub-area should be consistent with the strategy which includes: .....ensuring that new development makes appropriate and timely provision for essential supporting infrastructure, including new transport, education, health, green infrastructure and other community facilities in accordance with the IDP.*, which I understand are the subject of a separate Regulation 122(2) statement, on which I will not comment further here.

**5.69 OCC seek the following contributions:**

- Primary and nursery education: £ 755,120
- Secondary education: £ 805,752
- Special education: £ 71,793
- Household Waste Recycling Centres: £12,591
- Public transport services £158,620
- Public transport infrastructure £5000
- Travel Plan Monitoring £1558

**Please note, the figures for education and waste were updated since the May 30th Committee (to reflect the reduced housing numbers). However, the figures for transport related contributions are yet to be amended. Officers have requested updated figures from OCC and will update Members either through the late representations procedure or verbally at committee.**

OCC also require the Applicant to enter into S278 agreement(s) to mitigate the impact of the development as set out in their comment. This is to be secured by means of S106 restriction not to implement development until S278 agreement has been entered into.

1.13 However, in this document, I will comment on the following requests:

- A total of £377,967 off site contribution requested by the District Council towards leisure and sports facilities in the catchment area is required, comprising:
  - Sport Hall provision of £65,588 toward the cost of a replacement or improvement to Sports Halls in the catchment area.
  - Swimming pool provision of £72,519 towards the cost of a replacement or improvement to pools in the catchment area.
  - Outdoor pitch provision £239,860 towards improvements to pitch provision in the catchment area.
- The Parish Council have requested the following contributions:
  - Completion of the New Village Hall Project £400,000
  - New Tennis Court at Ripley Field £ 80,000
  - Expansion of Pre School facilities £ 70,000
  - Repair/re-instate River Bank along Wash Meadow £ 90,000
  - Renovation and re-modelling of Wash Meadow Pavilion £120,000
- The NHS are requesting £115,776.

1.14 In that context, I will set out why, in my opinion, each of the requested contributions satisfies each of the relevant tests set put in regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended, “the CIL Regs”).

## 2 **The CIL Regs and Reg 122 (2)**

2.1 With regard to the provisions of the Community Infrastructure Levy Regulations 2010 (as amended, “the CIL Regs”), I note that (as confirmed *inter alia* at paragraph 57 of the NPPF) and section 23b of the PPG”, as last updated 15 March 2019, including paragraph 02 Reference ID: 23b-001-20190325), CIL Reg 122 (2) requires that a planning obligation may only constitute a reason for granting planning permission for a development if it is all of the following:

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

### **Limitation on use of planning obligations**

122.—(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.

(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

(3) In this regulation—

“planning obligation” means a planning obligation under section 106 of TCPA 1990 and includes a proposed planning obligation; and

“relevant determination” means a determination made on or after 6th April 2010—

- (a) under section 70, 76A or 77 of TCPA 1990(1) of an application for planning permission which is not an application to which section 73 of TCPA 1990 applies; or
- (b) under section 79 of TCPA 1990(2) of an appeal where the application which gives rise to the appeal is not one to which section 73 of TCPA 1990 applies.

### 3 **Affordable Housing**

- 3.1 The requirement for affordable housing (“AH”) is set out in Local Plan policy H3, with the appeal site lying in the medium value area of the District where 40% on-site provision is required.
- 3.2 I would further emphasise that even though some housing proposals provide higher proportions of AH than required (and I am aware of several medium sized schemes in the District where 100% AH has been provided), in practice, the application of policy H3 to large schemes represents the principal means of achieving significant amounts of AH within the District.
- 3.3 I also note that paragraph 34 of the NPPF, in discussing *Development contributions* (and with applicability to financial contributions discussed elsewhere in this statement), *Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.*
- 3.4 Similarly, paragraph 63 states *Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless: a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and b) the agreed approach contributes to the objective of creating mixed and balanced communities*
- 3.5 In this case, the planning obligation deals with AH in the first part of Schedule 2 (including provisions dealing with First Homes); and the detailed wording of this section has been agreed with the District Council’s Housing and Development Officer Murry Burnett, who provided the District Council’s consultation response at application stage.
- 3.6 I therefore consider that the tests for necessity, being related to the development and being reasonable in scale and kind are established through compliance with policy H3.

#### **4 Custom and Self-Build housing**

- 4.1 Policy H5, **Custom and self-build housing** requires custom and self-build housing (“CSBH”) to be provided in the following terms:

*In order to address the need for custom and self-build housing, the Council will require **all housing developments of 100 or more dwellings to include 5% of the residential plots to be serviced and made available for this purpose.** This can include the partial completion of units to be made available for self-finish.*

NB providing CSBH is also a legal responsibility on LPAs under the SBCH legislation/ regulations.

- 4.2 I read this as confirming that on-site serviced plots are required by Policy H5, which in my opinion also establishes this requirement as being related to the current appeal proposal and reasonable in scale and kind (policy H5, with full supporting text is at pages 60-61 of the Local Plan).
- 4.3 The appellant intends to achieve full compliance with this policy, as set out in the second part of Schedule 2 of the S.106 agreement; and indeed, relies on compliance with this policy as a planning benefit that it considers weighs in favour of the proposal.
- 4.4 I am pleased that the appellant agrees that compliance with policy H5 is necessary in planning terms, reflecting my opinion on the matter, noting also that a recent email from the District Council’s Strategic Housing & Development Officer Murry Burnett (see Appendix A2 to this evidence) confirms that the register for Custom and self-build housing (“CSBH”) indicates that demand across the District is high (at the last count the SBCH Register was 365 for the District, with 188 in total identifying either Witney or Hailey as an area of interest) so that I regard provision of H5-compliant CSBH plots as *necessary* in planning terms.
- 4.5 As noted elsewhere, meeting the demand for SBCH plots is also a statutory requirement to which other Inspectors have given weight.
- 4.6 I therefore consider that the tests for necessity, being related to the development and being reasonable in scale and kind are established through compliance with policy H5.



## 5 **Sports Halls, Swimming Pools and Outdoor Sports Contributions**

5.1 As set out in a memo dated 16 June 2023 from Rachel Biles the District Council's Strategic Projects Lead (Leisure), which for ease of reference is at Appendix A3, sport and recreation contributions are requested in respect of *Sports Hall*, *Swimming Pool* and *Outdoor Pitch* provision.

5.2 In all cases, the amounts requested use a formula from Sport England that relates to the expected number of new people in the LA area, which is expected to be 322 (applying an average household size for the area of 2.4 to the 134 proposed dwellings).

5.3 **The Sports Hall contribution** is then calculated as £65,588, based on the need to provide 0.09 badminton courts (this figure having been assessed using the District Council's Facility Planning Models) and applying Sport England's latest costings:

### *Sports Hall provision*

There are six sports halls within Sport England's 20 minute drive time catchment area to Minster Lovell, although of these four relate to educational stock, the nearest is Windrush Leisure Centre which is classified as aging stock and is also nearing Sport England's recommended capacity of 80%, at 71% and second is Carterton Leisure Centre which is at 65% capacity.

With the additional 134 dwelling in the Minster Lovell the Sports Facility Calculator (SFC) suggests the development will generate a need of an additional 0.09 badminton courts.

A need has been highlighted in the Council's FPM to look into a development plan for the future of the current main sports hall at the Windrush Leisure Centre. This is required due to the centres age and also the need to cater for increased demand in the area, including from housing growth in the catchment area

Based on Sport England's latest costings the SFC estimates that the cost of providing the identified need of 0.09 badminton courts is £65,588.

5.4 **The Swimming Pool contribution** is assessed as £72,519, using the Sports Facility Calculator to derive a need for an additional 3.42m<sup>2</sup> of swimming pool water space and applying Sport England's latest costings:

### *Swimming pool provision*

At present there is two indoor pools within the 20 minute drive time catchment area. The pool at the Windrush Leisure Centre was built in 1975 therefore is classified as an aging facility.

With the additional 134 dwelling in Minster Lovell the Sports Facility Calculator (SFC) suggests the development will generate a need of an additional 3.42 square meters of water space.

Based on Sport England's latest costings the SFC estimates that the cost of providing for the identified need of 3.84 square meters of water space is £72,519.

5.5 **The Outdoor Pitch contribution** is then calculated as £239,860, based on the cost per person of providing football pitches at a rate determined from the average size of a football pitch and the recommended amount of formal play space per 1,000 population, as set out below:

*Outdoor pitch provision*

Based on the cost of provision and future maintenance of football pitches (the cheapest form of outdoor sports facility) over a 15-year period at the Fields in Trust standard of 1.6ha per 1,000 population.

A football pitch of 0.742ha, a provision cost of £105,000 (Sport England Facility Costs third Quarter 2022) and a commuted maintenance cost of £240,975 per pitch (Sport England Life Cycle Costings Natural Turf Pitches second Quarter 2021), would equate to £746,038 per 1,000 population or £1,790 per dwelling (at an average occupancy of 2.4 persons per dwelling).

Based on Sport England Facility costs and lifecycle costings the cost for providing the required playing pitch provision is £239,860.

5.6 In this overall context, I consider that the Sport and Recreation contributions requested complies with the three tests in CIL Reg. 122 for the following reasons:

- **They are *necessary in planning terms***, primarily because:
  - Sport and Recreation in its many form (including football swimming and badminton are among the most popular and most generally accessible forms of exercise for people of all ages and abilities) is recognised within the NPPF and in many other areas of national government policy within and outside planning as providing many direct and/or indirect health benefits and a greater sense of place and community;
  - Sport can in particular improve people's physical and mental health, their quality of life; and can reduce their need for healthcare;
  - It can thus have social and economic benefits;
  - Sport and recreation contributions are supported in the NPPF (see paragraphs 88(d), 96(c), 97(a), 102, 103 and 193) and the PPG; and
  - They are also supported by Local Plan policy EH5, relating specifically to ***Sport, recreation and children's play*** (as well as the more broadly based policy OS5, dealing with ***Supporting Infrastructure***) of the adopted Local Plan 2011-2031, both of which are described in Chris Wood's PoE to this inquiry.
  - The specific project(s) towards which the Outdoor Pitch contribution would be directed are likely to be large scale projects such as additional football pitches that will use combined contributions from multiple large developments within the appropriate catchment (based on evidence that shows people are typically prepared to drive for 20 minutes to access formal sports facilities such a football pitches);
  - Conversely, the Sports Hall and Swimming Pool contributions are justified specifically regarding lack of existing capacity and specified projects needed to increase capacity to take account of the additional demand likely to arise from the appeal proposal.
- **They are *directly related to the development***, primarily because:
  - The need arises from the new dwellings and the increased demand for additional/enhanced offsite formal sport facilities that is likely to be generated as a direct result;

- Noting that football pitches are often accessed by people living some distance from the pitches, it seems to the LPA that many residents at the proposed new housing development would be likely to use the facilities (sport and recreation, including recreational play) that it is intended to provide/ enhance;
- Similarly, demand for sports halls and swimming pools are likely to arise from a wider catchment area – although in this case, the sports hall and swimming pool are in Witney.
- **It is *fairly and reasonably related in scale and kind to the development***, primarily because:
  - The contributions requested have been arrived at by applying a standard calculation, with the amount required directly related to the number of dwellings and calculated with reference to the standard tools available at the Sport England website.
  - A similar approach is taken by many other LPAs across the country and is consistent with government advice from many sources.

5.7 As such, and because I also consider that the amounts requested are reasonable in general terms; I regard these contributions as fully compliant with CIL Reg. 122.

5.8 I note that the District Council did not request an offsite informal play contribution, principally because (as I understand it) it regards the proposed equipped area for play (“LEAP”); and the other play area and opportunities for recreation that would be available nearby within the wider village.

5.9 I therefore consider that the tests for necessity, being related to the development and being reasonable in scale and kind are established through Local Plan and national policy.

## **6 Public Health Contributions sought by the NHS Oxfordshire CCG**

6.1 The S.106 planning obligation includes defines Primary Care Contribution in Schedule 2 as follows:

*a contribution of one hundred and fifteen thousand seven hundred and seventy six pounds (£115,776.00) Index Linked for utilisation by the Care Board for the alteration of existing surgeries or capital projects to existing surgeries at Bampton Surgery, Broadshires Health Centre, Burford Surgery, Charlbury Surgery or at Windrush Health Centre*

6.2 The NHS Oxfordshire Clinical Commissioning Group (“OCCG”) is described on its website as *the organisation that plans, buys and oversees health services for more than 700,000 people living in Oxfordshire..... working with .....local people, local GPs, hospital clinicians and other partners, including local government and the voluntary sector.*

6.3 Its consultation response provided at application stage is at Appendix A4a for ease of reference.

6.4 This 20 December 2022 response states *inter alia* that

- The Local Primary Care Network is the Eynsham and Witney Primary Care Network, which comprises 4 GPs surgeries (3 in Witney, 1 in Eynsham)
- The nearest is the Windrush Health Centre [located in the centre of Witney]
- The optional secondary Local Primary Care Network is the Rural West Primary Care Network comprises 4 more dispersed surgeries but includes the Broadshires Health Centre in Carterton GPs surgeries (3 in Witney, 1 in Eynsham)
- It calculates predicted population increase as 336 based on 140 dwellings and an average of 2.4 people per dwelling [NB this would equate to 321.6 people for a 134 dwelling scheme]
- It identifies capacity issues as “significant”, with *Insufficient Consulting rooms to cope with increased population growth as a direct result of the increase in dwellings*
- It comments additionally that: .

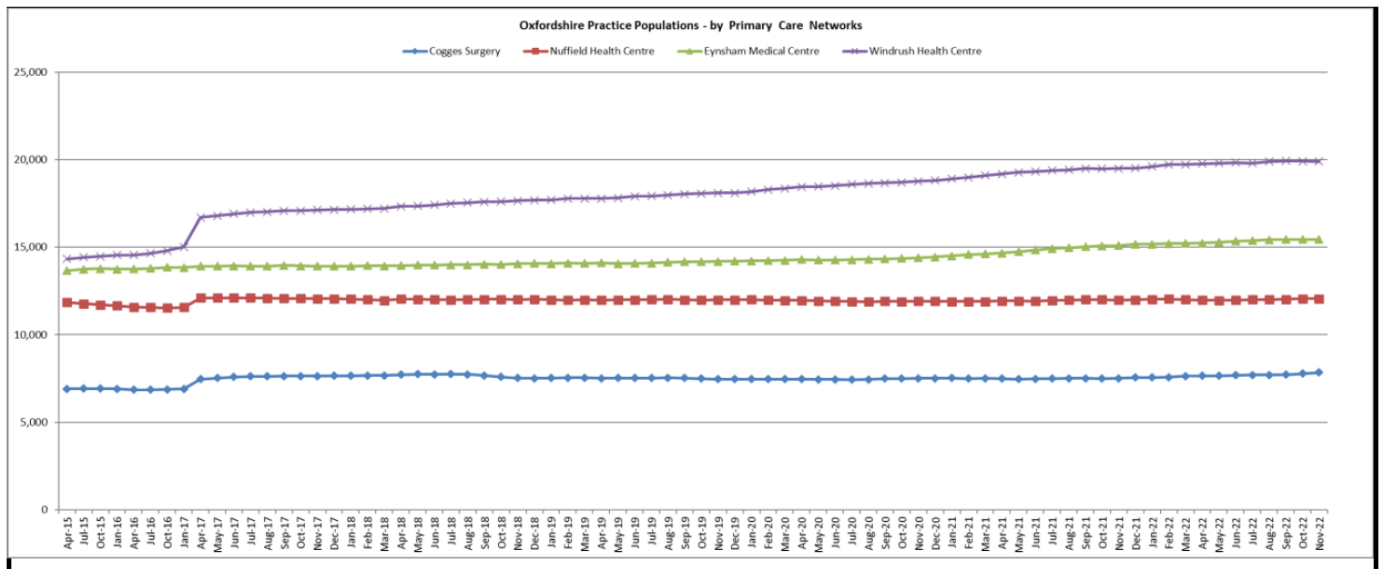
***This PCN area is already under pressure from nearby planning applications, and this application directly impacts on the ability of the Windrush Medical Practice surgery in particular, to provide primary care services to the increasing population.***

***Primary Care infrastructure funding is therefore requested to support local plans to surgery alterations or capital projects to support patient services.***

***The funding will be invested into other capital projects which directly benefit this PCN location and the practices within it if a specific project in the area is not forthcoming.***

- It concludes that a S.106 or CIL contribution is required, identifying a total amount requested as £120,960 [Again, this is based on 140 dwellings and for the amended 134 dwelling scheme, this has been reduced proportionately to £115,776.00, as stated in the S.106].

- 6.5 The consultation response finally exhibits a graph showing practice populations for all four surgeries in the Witney and Eynsham local primary care network between April 2015 and November 2022, showing that all four surgeries have stable or increasing populations:



- 6.6 I read this together as clearly indicating that the proposed dwellings would place an additional burden on local healthcare services and would potentially lead to a situation where without additional provision, OCCG would not be able to provide adequate healthcare to future residents of the proposed dwellings in the appeal site and/or the wider population in the local primary care network.
- 6.7 In short, I read this as confirming that an appropriate level of developer contribution is **necessary** in planning terms.
- 6.8 I also consider it clear that the requested contributions are directly related to the appeal proposal, as the need for additional capacity would arise directly as a result of the additional residents.
- 6.9 Finally, as regards the level of contribution required, the OCCG response refers to OCCG policy document link: <https://www.oxfordshireccg.nhs.uk/about-us/primary-care-estates-strategy-2020-25.htm>, a link that leads to the agreed *Oxfordshire Primary Care Estates Strategy 2020-2025*.
- 6.10 This document is exhibited in full at Appendix A4b for reference if necessary; but I have set out below what I believe is the most relevant part of this document (on page 36) as:



The average occupancy of 2.4 persons is used in the initial health calculation until such time as the size of the units are confirmed at which point the final costs/health calculation would be confirmed. For example if the proposal was for a 400 dwelling development the initial calculation would be –

2.4 persons x 400 dwelling units x £360\* = £345,600.

When the size of the units is confirmed the table below is used:

| Size of unit | Occupancy assumptions based on size of unit | Health need / sum requested per unit |
|--------------|---|--------------------------------------|
| 1 bed unit   | 1.4 persons                                 | £504 per 1 bed unit                  |
| 2 bed unit   | 2.0 persons                                 | £720 per 2 bed unit                  |
| 3 bed unit   | 2.8 persons                                 | £1,008 per 3 bed unit                |
| 4 bed unit   | 3.5 persons                                 | £1,260 per 4 bed unit                |
| 5 bed unit   | 4.8 persons                                 | £1,728 per 5 bed unit                |

\*Note the £360 sum is index linked so will rise with inflation as the SDP ages.

OCCG have reviewed the £360 per person and are confident that this is a robust figure having analysed two recent projects in Buckinghamshire that are commencing shortly.

The £360 per person is calculated on a cost of GP development that includes land, build costs, professional fees and VAT.

- 6.11 As I understand it, the £360 per person referred to above is drawn from a July 2017 *Primary Care Estates* update document (exhibited here as Appendix A4c), which states:

**5. Primary care health needs as a result of housing developments**

NHS Property Services has recently advised West Kent Clinical Commissioning Group that the sum to be requested for health under S106 should be based on a calculation consisting of occupancy x number of units in the development x £360, as set out below. It would be reasonable to assume that the same calculation could be used for Oxfordshire.

| Size of unit | Occupancy assumptions based on size of unit | Health need / sum requested per unit |
|--------------|---|--------------------------------------|
| 1 bed unit   | 1.4 persons                                 | £504 per 1 bed unit                  |
| 2 bed unit   | 2.0 persons                                 | £720 per 2 bed unit                  |
| 3 bed unit   | 2.8 persons                                 | £1,008 per 3 bed unit                |
| 4 bed unit   | 3.5 persons                                 | £1,260 per 4 bed unit                |
| 5 bed unit   | 4.8 persons                                 | £1,728 per 5 bed unit                |

NHS Property Services also advised that if the planning application doesn't specify the unit sizes in the proposed development, the average occupancy of 2.4 persons is used in the initial health calculation until such time as the size of the units are confirmed at which point the final costs/health calculation would be confirmed. For example if the proposal was for a 400 dwelling development the initial calculation would be – 2.4 persons x 400 dwelling units x £360 = £345,600.

- 6.12 Noting also that the *Oxfordshire Primary Care Estates Strategy 2020-2025* confirms that this 2017 estimate of £360 per person has been reviewed and remains a robust figure having analysed two

*recent projects in Buckinghamshire that are commencing shortly*, I therefore consider the amount requested to be derived from government advice and related to the cost per person and number of persons per dwelling for the detailed and outline units and as such reasonable in scale.

- 6.13 This then equates to  $\text{£}360 \times 2.4 = \text{£}864$  per average unit; so that the original estimated figure of  $\text{£}120,960$  is based on  $140 \text{ dwellings} \times \text{£}864$ , adjusted to  $\text{£}115,776$ , based on  $134 \text{ dwellings} \times \text{£}864$ .
- 6.14 I further note that this basis of calculating the appropriate contribution was agreed at a recent appeal at Land east of Hill Rise Woodstock appeal (see full decision at Appendix A4d), which also concluded that the requested contribution met the other CIL tests:

96. In schedule 3, the community contribution obligation would be used to engage new residents with the existing community and help to integrate the development as required by LP Policy EW4. The health contribution obligation would be used to enhance the primary care network in the local area. This would accord with LP Policy OS5 which requires new development to contribute towards supporting infrastructure. The outdoor pitch contribution obligation and

- 6.15 As such, as regards the Regulation 122 tests, I conclude from the above that the contribution meets the tests in the terms set out in the consultation response.

## **7 Provision and Maintenance of “Public” and Other Open Space within the Site**

- 7.1 The provisions of the planning obligation relating to controls over future management of the on-site public open space are set out in schedule 7, headed “Public Open Space”.
- 7.2 Irrespective of whether I think this space would be used to any significant degree by members of the public beyond residents of the new estate and/or their friends/ visitors, I consider that the open space within the site, including the local equipped area for play (“the LEAP”) and the areas of amenity landscaping are important to the character and appearance of the site and its usability for leisure purposes, including children’s play and short walks; and for access for some residents.
- 7.3 On this basis, I consider that inclusion within a planning obligation is a reliable way of ensuring effective provision and future maintenance of the large area of open space, including the LEAP.
- 7.4 I consider that this is necessary in planning terms under the requirements of policies OS2 and OS4 of the Local Plan and the requirements of the NPPF to achieve high quality, well designed and beautiful places, as set out in section 12 in particular (paragraphs 135, 136 and others apply).
- 7.5 I consider that it is clearly related to the development as it provides facilities for the benefit of future residents and although it does not require a financial contribution, I consider the implementation costs and the requirement for future maintenance in particular to be reasonable in scale and kind.

## **8 Contributions towards the Replacement of the Village Hall**

- 8.1 The S.106 agreement includes a contribution of £400,000 towards a new village hall.
- 8.2 As reported in my PoE, this contribution was considered necessary in the related committee report at paragraph 5.5 in the following terms:

***Officers consider the request for £400,000 for the New Village Hall Project to meet the tests, as it will aid community cohesion between the occupiers of the new homes and the existing community.***

***The applicant is willing to provide this funding and the £400,000 will be secured through the legal agreement.***

- 8.3 Noting that paragraph 5.76 of the report effectively concludes that the requests from the Parish Council relating to a tennis court and works to the Wash Meadow .....*are not considered to meet the tests as in conjunction with the £400,000 for the New Village Hall Project, results in a cumulatively unreasonable request.....* and the request for Pre School facilities is similarly rejected on the basis that *these are funded by the request from the County Council so the LPA cannot seek this twice*, I agree with this assessment in terms of necessity, given that the existing village hall is small and my view that the new residents would place an additional strain on community facilities.
- 8.4 As one of my main concerns in this case related to opportunities to integrate new and existing communities (as also encouraged in 96(a) of the NPPF) and given the recent significant expansion of the village at the Holloway Lane estate, I consider this to be even more important in this case.
- 8.5 The proposed improvements to the village hall are therefore in my opinion clearly necessary and related to the proposed development.
- 8.6 As regards the requirement for proposals to be related in scale and kind, it seems to me that the likely cost of the replacement of the village hall with a larger building suitable for providing community activities for the 50% would also require additional land.
- 8.7 In this context, the legal agreement relating to the 126-dwelling Holloway Lane estate contained a similar £300,000 "community facilities contribution" dedicated towards the provision/ improvement of sports facilities and/or community facilities within the parish of Minster Lovell that I understand the Parish Council has kept available to support this project.
- 8.8 Moreover, as this contribution was index-linked to the BCIS All-In tender price index, which I understand has risen by some 23.6% from Q2 2018 (being the quarter before the Holloway Lane S.106 agreement was signed) to Q4 2023, which combined with an increase in the number of dwellings of 6.3% give a 31.4% increase so that £400,000 is entirely consistent .
- 8.9 I understand that the Parish Council may wish to speak to this point but in my opinion, given the nature and scale of the project, the amount requested meets the Reg 122 test on this basis.