

Appeal by JA Pye (Oxford) Limited: Land south of Witney Road Long Hanborough

Appeal Ref: APP/D3125/W/15/3129767 & APP/D3125/W/15/3139807

Section 106 Town and Country Planning Act 1990, Community Infrastructure Levy Regulations Reg 122.

Commentary

The Planning Inspectorate Good Practice Advice Note 16/2010 – Submitting planning obligations suggests the following evidence is likely to be needed to assess whether financial contributions provided through a planning obligation meet the statutory tests in regulation 122:

1. the relevant development plan policy or policies, and the relevant sections of any SPD or SPG;
2. quantified evidence of the additional demands on facilities or infrastructure which are likely to arise from the proposed development;
3. details of existing facilities or infrastructure, and up-to-date, quantified evidence of the extent to which they are able or unable to meet those additional demands;
4. the methodology for calculating any financial contribution which is shown to be necessary to improve existing facilities or infrastructure, or provide new facilities or infrastructure, to meet the additional demands; and
5. details of the facilities or infrastructure on which any financial contribution will be spent

For ease of reference items 1 - 4 above are dealt with under the heading "Justification" and items relating to point 5 are noted under the heading "Planning Obligation".

It should be noted that West Oxfordshire District Council do not have an adopted Community Infrastructure Levy Delivery Schedule.

No.	Planning Obligation	Amount	Justification
1.	Library Contribution to expansion/improvement of North Leigh Library	£37,400	West Oxfordshire Local Plan 2011 Policy BE1 states that: <i>Development will not be permitted unless appropriate supporting transport, service and community infrastructure is available or will be</i>

provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or landowners in accordance with Government advice.

Paragraph 3.8 of the supporting text to this policy specifically names libraries as a service for which planning obligations may be sought.

The County Councils consultation response on the duplicate application, which is more up to date in this instance states that:

*“This development is served by North Leigh Library & Witney Library
This provision is significantly under-size in relation to its catchment population and this development will therefore place additional pressures on the library service.*

*Costs for improvements are based upon the costs of extending a library.
The costs of extending a library is £2,370 per m² at 1st Quarter 2012 price base; this equates to £65 (£2,370 x 27.5 / 1,000) per resident.*

This calculation is based on Oxfordshire County Council adopted standard for publicly available library floor space of 23 m² per 1,000 head of population, and a further 19.5% space is required for support areas (staff workroom, etc.), totalling 27.5 m² per 1,000 head of population.

The development proposal would also generate the need to increase the core book stock held by 2 volumes per additional resident. The price per volume is £10.00 at 1st Quarter 2012 price base; this equates to £20 per resident.

The contribution for the provision of library infrastructure and

			<p><i>supplementary core book stock in respect of this application would therefore be based on the following formula:</i></p> <p><i>£85 x 440 (the forecast number of new residents) = £37,400”.</i></p>
2.	<p>Primary Education Contribution To expansion of Hanborough Manor CE Primary School</p>	£625,428	<p>West Oxfordshire Local Plan 2011 Policy BE1 states that:</p> <p><i>Development will not be permitted unless appropriate supporting transport, service and community infrastructure is available or will be provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or landowners in accordance with Government advice.</i></p> <p>Paragraph 3.8 of the supporting text to this policy specifically names primary school provision as a service for which planning obligations may be sought.</p> <p>The County Councils consultation response on the application states that:</p> <p><i>“Hanborough Manor CE Primary School could grow to 1.5fe (form entry) if land were acquired adjacent to the school site. It currently operated as a 1 fe, and has a handful of surplus places in older year groups but more recently has been oversubscribed at Reception age.</i></p> <p><i>The school has a very limited ability to absorb any in-catchment area additional pupils and the Eynsham partnership of schools is operating very close to capacity and any new housing development in the area would be expected to contribute towards school expansion.</i></p> <p><i>As this school’s current capacity depends on temporary accommodation, this would need to be replaced with permanent to meet the needs of local</i></p>

			<p><i>population growth resulting from housing development, and contributions are sought towards the cost of this”.</i></p> <p>The response goes on to state that:</p> <p><i>“£625,428 Section 106 developer contributions towards the expansion of permanent primary school capacity serving this area, by a total of 54 pupil places. This is based on Department for Education (DfE) advice weighted for Oxfordshire, including an allowance for ICT and sprinklers at £11,582 per pupil place. This is index linked from 1st Quarter 2012 using PUBSEC Tender Price Index.”</i></p>
3.	Public Transport Contribution to bus services serving Long Hanborough	£169,000	<p>West Oxfordshire Local Plan 2011 Policy BE1 states that:</p> <p><i>Development will not be permitted unless appropriate supporting transport, service and community infrastructure is available or will be provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or landowners in accordance with Government advice.</i></p> <p>Paragraph 3.8 of the supporting text to this policy specifically names transport infrastructure and an improved network for public transport users as a service for which planning obligations may be sought.</p> <p>The increase in population in Long Hanborough will increase the demand to travel from this area to areas of employment and service provision at Witney and Oxford.</p> <p>The County Councils consultation response on the duplicate application, which is more up to date in this instance states that:</p>

			<p><i>“Long Hanborough has good public transport links and is directly served by public transport with bus services to Witney, Woodstock and Oxford and as part of the development proposals it is proposed to provide bus stops in both directions with laybys within close proximity to the site access and a pedestrian crossing point on Witney Road to maximise the accessibility of these services. In this regard the site is well placed to access the rail station by public transport including cycling given the proposed footway and pedestrian crossing improvements.</i></p> <p><i>Furthermore, there is a range of local services which allows a proportion of alternative travel demand (other than the car) to/from the site to be met locally. The need to travel by car is reduced in this regard given the proposed adjacent improvements and the nearby facilities. In short the development does provide a safe and suitable access for all road users.</i></p> <p><i>Strategic plans exist to improve the bus service between Witney, Hanborough and Woodstock, to operate two times per hour. Furthermore, there is an aspiration to extend this service to Water Eaton (and possibly Headington) via Langford Lane and Kidlington.</i></p> <p><i>In terms of sustainability objectives the developer will be required to contribute £1000 per residential dwelling towards the cost of procuring additional bus services/journeys operating along the A4095 through Long Hanborough.</i></p> <p><i>The section 106 contribution from this site would assist in achieving this desired improved bus service and extended route towards Kidlington and beyond”.</i></p>
4.	The Bus Infrastructure Contribution	£20,000	<p>West Oxfordshire Local Plan 2011 Policy BE1 states that:</p> <p><i>Development will not be permitted unless appropriate supporting</i></p>

			<p><i>transport, service and community infrastructure is available or will be provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or landowners in accordance with Government advice.</i></p> <p>Paragraph 3.8 of the supporting text to this policy specifically names transport infrastructure and an improved network for public transport users as a service for which planning obligations may be sought.</p> <p>The contribution proposed would provide a physical bus stop infrastructure, including poles, flags, and shelters at locations agreed between the Developer and the Council on the A4095 adjacent to the site.</p> <p>The County Councils consultation response to the duplicate application states that the following contribution should be sought on bus infrastructure:</p> <p><i>“Section 106 contribution of £20,000 towards the cost of physical bus stop infrastructure, including poles, flags and shelters, assuming the hard-standing areas and connecting footways are provided through the section 278 arrangement.”</i></p> <p>The Section 278 Agreement covered the areas required by County Council and therefore the contribution of £20,000 is entirely appropriate.</p>
5.	Secondary Education Contribution towards expansion of Bartholomew School Eynsham	£721,235	<p>West Oxfordshire Local Plan 2011 Policy BE1 states that:</p> <p><i>Development will not be permitted unless appropriate supporting transport, service and community infrastructure is available or will be provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or</i></p>

			<p><i>landowners in accordance with Government advice.</i></p> <p>Paragraph 3.8 of the supporting text to this policy specifically names secondary school provision as a service for which planning obligations may be sought.</p> <p>The County Councils consultation response on the application states that:</p> <p><i>“Bartholomew School (an academy) is operating at capacity and regularly over-subscribed. Any housing development in the area would be expected to contribute towards expansion of the school's capacity. Planning for this expansion is already underway, and significant funding has been secured by the county council towards the necessary capital costs to supplement developer contributions”.</i></p> <p>The response goes on to state:</p> <p><i>“£721,235 Section 106 developer contributions towards the expansion of permanent secondary school capacity serving the area by a total of 41 pupil places (including five 6th form places). This is based on Department for Education (DfE) advice for secondary school extension weighted for Oxfordshire and including an allowance for ICT and sprinklers at £17,455 per pupil place and £18,571 per Sixth Form pupil place. This is index linked to 1st Quarter 2012 using PUBSEC Tender Price Index.”</i></p>
6.	Travel plan Monitoring contribution towards monitoring the travel plan for the site	£1,240	<p>West Oxfordshire Local Plan 2011 Policy BE1 states that:</p> <p><i>Development will not be permitted unless appropriate supporting transport, service and community infrastructure is available or will be provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or</i></p>

			<p><i>landowners in accordance with Government advice.</i></p> <p>Paragraph 3.8 of the supporting text to this policy specifically names transport infrastructure and an improved network for public transport users as a service for which planning obligations may be sought.</p> <p>Oxfordshire County Council's response on the second application application, which is more up to date in this instance, states that:</p> <p><i>"A Travel Plan monitoring fee of £1,240 will be required to cover the on-going monitoring of the travel plan for a period of 5 years post final occupation of the residential element of the site".</i></p>
7.	Sport and Recreation Contribution Towards Hanborough playing fields	£187,590	<p>West Oxfordshire Local Plan 2011 Policy BE1 states that:</p> <p><i>Development will not be permitted unless appropriate supporting transport, service and community infrastructure is available or will be provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or landowners in accordance with Government advice.</i></p> <p>Paragraph 3.8 of the supporting text to this policy specifically names provision of amenity open space and play areas together with commuted sums for maintenance as a something for which planning obligations may be sought.</p> <p>WODC Sports in their consultation response to the initial application, as noted within the Officer's Report to Committee dated 2 March 2015, state that £187.590 is required for offsite sports and recreational provision within the catchment.</p>
8.	Provision of a Local Equipped Area for	£71,916	West Oxfordshire Local Plan 2011 Policy BE1 states that:

	Play		<p><i>Development will not be permitted unless appropriate supporting transport, service and community infrastructure is available or will be provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or landowners in accordance with Government advice.</i></p> <p>Paragraph 3.8 of the supporting text to this policy specifically names provision of amenity open space and play areas together with commuted sums for maintenance as a something for which planning obligations may be sought.</p> <p>The contribution proposed will provide a Locally Equipped Area of Play and the payment of monies to Hanborough Parish Council for maintenance of said Locally Equipped Area of Play.</p>
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The following non-financial obligations are also offered:

1.	Land for playing field for Hanborough Manor CE Primary School	n/a	<p>West Oxfordshire Local Plan 2011 Policy BE1 states that:</p> <p><i>Development will not be permitted unless appropriate supporting transport, service and community infrastructure is available or will be provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or landowners in accordance with Government advice.</i></p> <p>Paragraph 3.8 of the supporting text to this policy specifically names primary school provision as a service for which planning obligations may be sought.</p> <p>Oxfordshire County Council's response on the application states that:</p>
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“From its starting point of 1 form entry (admission number 30, total capacity 210), adding two classrooms to the school would allow it to increase its admission number to 40, and total capacity to 280. While this would be sufficient for the proposed housing development in isolation, given the existing underlying pressure on capacity, and taking into account extant permission for application 14/1102/P/OP (64 dwellings east of Church Road, Long Hanborough) it is not expected to be sufficient to meet the combined local need. It is therefore expected that a third additional classroom will be needed, bringing total capacity up to 315 (equivalent to an admission number of 45).

Hanborough Manor Primary School’s total site area just meets the minimum size recommended in the Department for Education’s Building Bulletin 103 for a 1 form entry school. It would clearly be below the recommended minimum size for a larger school.

To facilitate the necessary expansion of the school, an agreement therefore would need to be reached to secure sufficient and satisfactory additional usable site area for the school to allow it to expand in line with the proposed scale of this development. The Planning Statement accompanying this application states that a new playing field will be provided for the school. To be acceptable, this would need to accommodate (at a minimum) a primary school playing field approx. 110m² x 76m², which meets the County Council’s required standards, and additional informal play areas to a maximum total supplementary site area of 13000m² subject to feasibility. The playing field would need to be secured for sole use by the school; be of close proximity to the school site (to avoid time being wasted in walking back and forth); and have a safe, surfaced, lit path linking to the main school site. The County Council’s Developer Guidance for schools provides guidance on County Council

			<p><i>standards. Further work needs to be completed to finalise the requirements for this provision, but the school, and the academy trust, has indicated that subject to the details, this would be a satisfactory method of adding to the school's operational site area.</i></p> <p><i>In order to provide sufficient certainty that such a playing field could be delivered, any s.106 agreement for the Witney Road development would need to include a provision whereby the applicant developer would need to have secured the land & planning permission for the playing fields in order to mitigate the impacts of the development on necessary education place provision. The land would need to be free of costs to the public purse."</i></p>
2.	S 278 covering highway works in the vicinity of the site	n/a	<p>The works outlined in the S278 agreement comprise those listed in paragraph 1.49 of the planning obligation with Oxfordshire County Council.</p> <p>West Oxfordshire Local Plan 2011 Policy BE1 states that:</p> <p><i>Development will not be permitted unless appropriate supporting transport, service and community infrastructure is available or will be provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or landowners in accordance with Government advice.</i></p> <p>Paragraph 3.8 of the supporting text to this policy specifically names transport infrastructure as a use for which planning obligations may be sought.</p> <p>Oxfordshire County Council's response states that:</p> <p><i>The proposals include a new access junction with the A4095 Witney Road</i></p>

			<p><i>via a priority T-junction with a ghost island arrangement. In line with Policy T2 measures are proposed to protect, improve and extend facilities for cyclists and pedestrians within and to/from the site to the adjacent highway network. A new 2m wide footway will be created along the site frontage from the site access to the existing footway along the southern side of Witney Road that will also connect the development to the proposed pedestrian crossing.</i></p> <p><i>The application site benefits from good pedestrian and cycle links to/from the village. In this location the highway is lit and subject to a 30mph speed limit. Along the northern side the footway has been upgraded to a shared pedestrian/cycle path which runs the full length of Long Hanborough to the railway station.</i></p> <p><i>The proposed new access is immediately east of the current terminal of the 30mph / 40mph speed limit – it is recommend that the 30mph limit is extended to the west by approx. 70m to where the taper for the proposed right turn lane starts - presumably the widening of the road for the right turn lane will mean that much of the existing gateway feature with red surfacing / dragons teeth is in any case going to be removed/relocated as part of the scheme proposals (within a section 278 agreement under the Highways Act 1980).</i></p> <p><i>It is considered necessary to provide a signaled pedestrian crossing i.e. Toucan as part of the development scheme given the amount of pedestrians/cyclists attracted to/from the site at peak times, as there is a shared use cycle track on the north side of the A4095. Although, the refuge as shown (provided it is at least 2m wide, to accommodate cyclists) will in practice give a fairly good level of service to both pedestrians and cyclists”.</i></p>
3.	35% Affordable Housing (73%	n/a	West Oxfordshire Local Plan 2011 Policy BE1 states that:

	affordable rent, 27% shared ownership)		<p><i>Development will not be permitted unless appropriate supporting transport, service and community infrastructure is available or will be provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or landowners in accordance with Government advice.</i></p> <p>Paragraph 3.8 of the supporting text to this policy specifically names affordable housing as something for which planning obligations may be sought.</p> <p>35% affordable housing will be provided by the mechanisms established within the Unilateral Undertaking. This differs from that established within H11 of the adopted Local Plan 2011, however, this difference is supported by a Viability Assessment and is considered as appropriate.</p>
4.	Doctors' surgery- option to Eynsham Medical Group	n/a	<p>West Oxfordshire Local Plan 2011 Policy BE1 states that:</p> <p><i>Development will not be permitted unless appropriate supporting transport, service and community infrastructure is available or will be provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or landowners in accordance with Government advice.</i></p> <p>Paragraph 3.8 of the supporting text to this policy specifically names health care provision as a service for which planning obligations may be sought.</p> <p>The Eynsham Medical Group in their consultation response on the application dated 17.9.14 stated that: <i>'Since its initial opening [the surgery] has been enlarged several times, leaving no room for further</i></p>

expansion....The surgery is already full to capacity, with three of its consulting rooms all in use for face-to-face consultations for nearly 95% of the working week, these rooms being used for administrative purposes for much of the remaining time. At an average occupancy of 2.5 to 3 persons per dwelling, the proposed development would increase the population by between 400 and 500 persons, who would all be likely to look to the local surgery for their medical care.... We understand the need for additional housing nationally and in West Oxfordshire, but do not feel that development of this scale is reasonable without significant investment in the medical facilities. As stated earlier, there is no scope to expand the existing Long Hanborough Surgery further and the only realistic option would appear to be for the developer to provide a suitable location and building to shell standard at no cost to the medical practice.'

In a response to a request from West Waddy ADP to NHS Property Services for their opinion, Mark Adams, Planning Assistant of NHS Property Services corroborated these comments, stating that: *'Long Hanborough is at full capacity and cannot absorb the growth resulting from this development. The growth would necessitate recruiting additional GP / Nurse and back office resource and the premises do not have the space to be able to accommodate the additional personnel... The Long Hanborough site would need to be extended in order to accommodate additional patients, but there is no scope to do so. The building has already been extended once, in the 1990's. At the time, the practice originally put in a planning application for a ground floor extension, but this was refused planning consent as the extension would have used up a portion of the car park and further reduced the number of car parking spaces (which was already limited at the time). Consequently, the practice had to build upwards and added a first floor extension. Therefore, the building cannot be extended again and even if it*

			<i>could, it is highly unlikely it would gain planning consent due to the parking restrictions.'</i>
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