



Stevenage Borough Council

CIL COMPLIANCE STATEMENT

In respect of

Appeal by Hill Residential Ltd under S78 of the Town and Country Planning Act 1990 (as amended) against the decision of Stevenage Borough Council to refuse planning permission in respect of the Full application for the proposed demolition of existing office building (Use Class B1) and structures, and the construction of seven apartment buildings comprising 576 dwellings (Use Class C3) together with internal roads, parking, public open space, landscaping, drainage and associated infrastructure works.

Land West of Lytton Way, Stevenage, Hertfordshire, SG1 1AG

Insp Ref: APP/K1935/W/20/3255692

LPA Ref: 19/00474/FPM

July 2021

1. Introduction

1.1. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraphs 54-57 of the National Planning Policy Framework set the tests for planning obligations, specifically that a planning obligation may only constitute a reasons for granting permission for the development if the obligation is:

- 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.

1.2. The following information sets out the policy context and CIL Compliance to support the case that the planning obligations sought in respect of the appeal site for the following items meet the tests:

- Primary Education - £1,670,732 (the Council acknowledges that the applicant is proposing to either remove or reduce this figure to £907,676 – this CIL Compliance Statement seeks to justify the £1,670,732 figure)
- Car Club (Hybrid Electric Vehicles) - £22,547.33
- Travel Plan monitoring - £6,000
- NHS GP Provision - £81,538
- Monitoring Fee - £25,000 (£2,752.13 if no primary education fee is required)

2. Policy Context

Stevenage Borough Local Plan (2019):

- SP5: Infrastructure
- SP6 Sustainable Transport
- IT3: Infrastructure
- IT6: Sustainable Transport

2.1. Policy SP5 of the Local Plan states that the Council will grant permission where *“new development makes reasonable on-site provision, off-site provision or*

contributions towards (but not limited to) the following where relevant:...cycling and walking,...education,...health care facilities,...". Paragraph 5.44 of the Local Plan goes on to say that "Schemes which fail to make reasonable contributions will not be granted planning permission."

Stevenage Borough Developer Contributions Supplementary Planning Document (2021)

- 2.2. Paragraph 4.5 states that *"For individual planning proposals, a decision will need to be made by the planning authority, with input from HCC, whether a proposed development causes an impact [on HCC Services] that requires direct mitigation. Where the need for mitigation is demonstrated, developer contributions will be sought."* Paragraph 5.3 adds that *"As a starting point for strategic sites, and likely for large windfall sites, it is expected that the Council will seek to secure developer contributions towards...Affordable Housing, Primary Education, NHS GP Provision, Passenger transport, Travel Plans and Fire Hydrants."* More detail is given on each of these items in subsequent chapters of the SPD.

Stevenage Borough Community Infrastructure Levy Charging Schedule (2020)

- 2.3. Stevenage Borough Council adopted a CIL Charging Schedule in January 2020 and started implementing CIL on 1 April 2020. The Council identified an Infrastructure Funding Gap and demonstrated that CIL could help to reduce the gap.
- 2.4. Paragraph 5.1 of the Charging Schedule states *"CIL will not fully replace S106 obligations, they will work alongside one another. CIL is intended to provide infrastructure to support new development more generally and contributions are not tied to the location in which the development takes place, whereas S106 obligations are specifically required to make an individual planning application acceptable."*
- 2.5. The CIL CS contains several Charging Zones. The appeal site for West of Lytton Way is located in Zone 2: Everywhere Else and is subject to the following charges (subject to minor changes do to annual indexation):

Development Type	CIL rate (per square metre)	
	Zone 1: Stevenage Central, Stevenage West urban extension and North of Stevenage Extension	Zone 2: Everywhere else
Residential		
Market Housing	£40/m ²	£100/m ²
Sheltered housing ⁽¹⁾	£100/m ²	
Extracare housing ⁽²⁾	£40/m ²	
Retail development	£60/m ²	
All other development ⁽³⁾	£0/m ²	

- 2.6. The September 2019 changes to the CIL Regulations have enabled Councils to take both S106 contributions and CIL payments for the same piece of infrastructure. Following the update in late 2019 the National Planning Policy Guidance says:

Authorities can choose to pool funding from different routes to fund the same infrastructure provided that authorities set out in infrastructure funding statements which infrastructure they expect to fund through the levy.

This means that, subject to meeting the 3 tests set out in CIL regulation 122, charging authorities can use funds from both the levy and section 106 planning obligations to pay for the same piece of infrastructure regardless of how many planning obligations have already contributed towards an item of infrastructure.”

- 2.7. This gives further certainty to Local Authorities that they can secure financial contributions through S106 agreements to mitigate site specific harm in addition to collecting CIL receipts to be spent more generally on infrastructure across the borough.

3. CIL Compliance

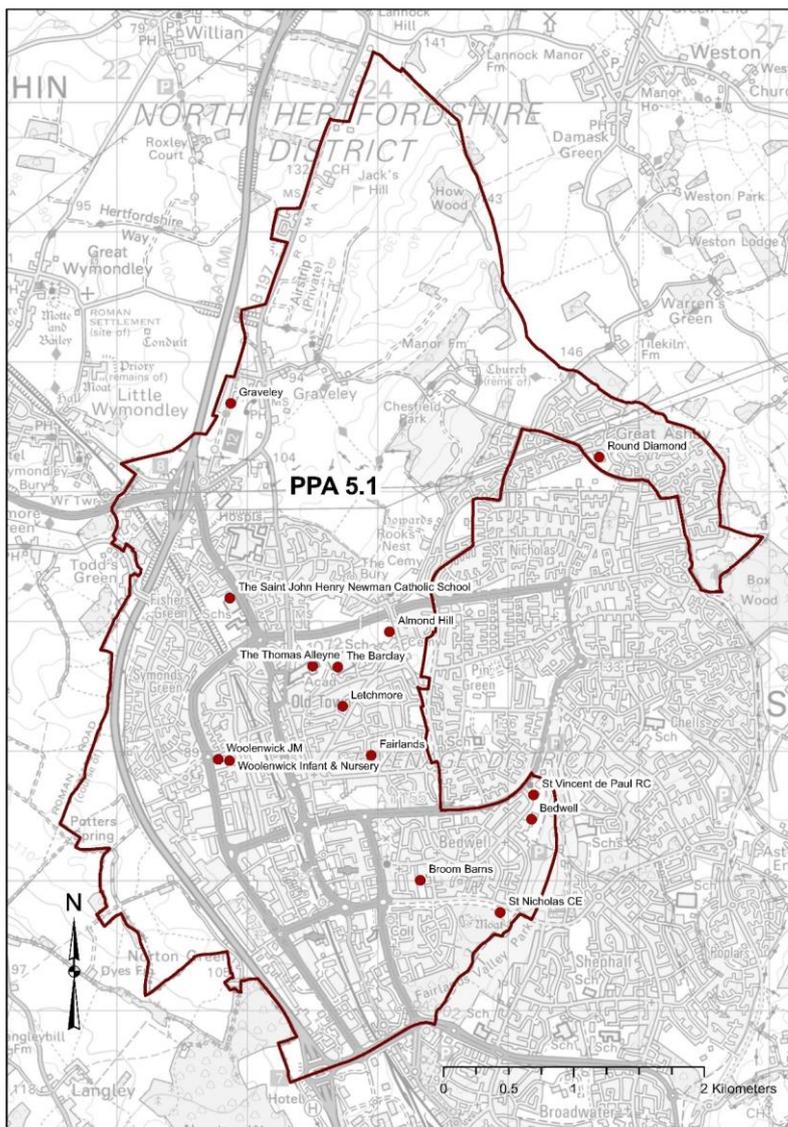
PRIMARY EDUCATION

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

- 3.1. There is a capacity constraint within the local education provision within ready access to this proposed site, such that there is insufficient spare capacity within the

schools close to the development site to mitigate the impact arising from the development.

- 3.2. Hertfordshire County Council forecasts primary education demand by Primary Planning Area (PPA). Stevenage is split into planning areas and the relevant planning area for the Land West of Lytton Way development site and the town centre area is 5.1 Stevenage North West, which has eleven primary schools (including two infant and junior schools).



- 3.3. The closest existing primary schools to the Land West of Lytton Way development site are Fairlands Primary School (0.5 mile walking distance), Letchmore Infants

School (0.6 mile walking distance), Woolenwick Infant and Junior School (0.7 mile walking distance) and Broom Barns Primary School (1 mile walking distance). Historically, all these schools have been full at Reception, although there is some space in Reception in this current academic year. When looking specifically at the Stevenage North West PPA, latest data of pre-school aged children obtained from GP registrations (Spring 2021 data) indicates more 0-4 year olds residing in this area than the number of reception places available.

		Count of Pre-school aged cohort and the year they would seek a Reception place			
PPA	Reception places available	2021/22	2022/23	2023/24	2024/25
5.1	421	466	444	461	445

- 3.4. It also shows that the existing numbers in each pre-school aged cohort are fairly consistent across the next four years; the population is not reducing in size and as such, additional yield from new housing will add further demand on places in the area.
- 3.5. The current pupil forecast (summer 2020/21) for the Stevenage North West PPA is shown below.

5.1 Stevenage North West										
School Code	School Name	Places Available	Actuals				Forecast			
			2020-21	2017-18	2018-19	2019-20	2020-21	2020-21	2021-22	2022-23
2109	Letchmore Infants' and Nursery School	90	89	88	89	87				
2110	Fairlands Primary School	90	85	88	90	76				
2169	Broom Barns Community Primary School	30	30	29	30	30				
2188	Bedwell Primary School	45	33	25	29	29				
2406	Woolenwick Infant and Nursery School	60	60	60	59	60				
3018	Graveley Primary School	16	8	16	16	10				
3369	St Nicholas CoFE (VA) Primary School and Nursery	30	27	30	30	29				
3977	Saint Vincent de Paul Catholic Primary School	60	58	55	59	57				
Total Year R Pupil Demand			390	391	402	378	388	388	390	377
Total Year R Places Available		421					421	421	421	421
Surplus or Shortage of Year R Places (No.)							33	33	31	44
Surplus or Shortage of Year R Places (%)							7.8%	7.8%	7.4%	10.5%
Surplus or Shortage of Year R Places (FE)							1.1	1.1	1.0	1.5

- 3.6. The forecast above shows surplus capacity of between 7% and 10%. Fluctuations in demand are expected as the population ebbs and flows, and the county council would always plan for a small level of surplus to allow for both these fluctuations in demand and parental preference. Not all unfilled school places should be considered “surplus”. The National Audit Office recognises that some spare school capacity is necessary to provide some flexibility for parental preference. The 2013 National Audit Office report Capital Funding for New School Places confirms that the Department for Education (DfE) considers it “reasonable for authorities to aim for between 5 and 10 per cent primary surplus to allow them some opportunity to respond to parental choice” (paragraph 1.17) and that 5% is “the bare minimum needed for authorities to meet their statutory duty with operational flexibility, while enabling parents to have some choice of schools” (paragraph 1.16).
- 3.7. Whilst the forecast does demonstrate a limited surplus of places forecast within the Stevenage North West PPA, this forecast demand does not take account of the full level of housing growth proposed within the Stevenage Borough Council Local Plan beyond immediate new development.
- 3.8. The primary forecasts are based on actual children and therefore only project four years into the future. These forecasts are informed by the numbers of pre-school aged children registered with GP surgeries as living in the area and take account of historic migration patterns. They also take account of an assumed pupil yield arising from new housing anticipated to be approved and built and occupied within the forecast timeframe. As a result, they do not capture in full the significant scale of proposed or planned housing growth beyond this period or the anticipated pupil demand from it.
- 3.9. A total of 1,268 new dwellings are included in the PPA 5.1, within the summer term 2020 primary forecast, assumed to be built out and occupied by 2025. The following proposed housing sites are included within the current primary forecast:

Proposed housing development included in Summer 2020 primary forecast in 5.1 PPA	Number of dwellings
Park Place (17/00846/FP)	9
Matalan (14/00559/OPM)	526

Six Hills House (16/00482/FPM)	64
85-103 Queensway (18/00393/CPA)	2
85-103 Queensway (18/00390/FP)	8
85-103 Queensway (18/00386/CPA)	11
85-103 Queensway (18/00268/FPM)	94
Land North of Stevenage	160
Land west of North Road	30
Longfield Fire & Rescue service (12/00547/OPM)	95
Town Centre Stevenage (07/00810/OP)	120
Other single or small developments (total)	149
TOTAL	1,268

3.10. There are circa 5,000 new homes proposed in the immediate area local to the Land West of Lytton Way development. The table below includes known new development sites with planning permission, current planning applications as well as proposed site allocations.

Site name	Number of dwellings
Sites with planning permission granted	
Park Place (16/00511/FPM)	202
Matalan (14/00559/OPM)*	526
Six Hills House (16/00482/FPM)*	64
85-103 Queensway (18/00268/FPM)*	94
7 The Forum (19/00647/FPM)** excl. studio flats	249
SG1 (19/00743/FPM)** excl. BtR/studio flats	1,470
Sites with planning application submitted	
Kings Court, London Road (19/00684/FPM)	71
Land West of Lytton Way / ICON (19/00474/FPM)	556
Maxwell Road (19/00062/OPM)	88
No planning application submitted as yet	
Marshgate Car Park (19/00540/PREAPP)	300
77 - 83 Queensway (19/00546/PreApp)	96
60a-80 Queensway (pre-app)	40

Stevenage Central (Leisure Park) Local Plan allocation	1,000
11 The Forum (pre-app)	196
Brent Court (pre-app)	78
TOTAL	5,030

** Included in HCC's primary pupil forecast (summer 2020)*

*** Subject to completion of a S106 Legal Agreement*

- 3.11. Only three developments within the table above are included in the primary pupil forecasts (Matalan (14/00559/OPM), Six Hills House (16/00482/FPM), 85-103 Queensway (18/00268/FPM)). None of the additional pupil yield from other development is taken account of within the primary forecasts. This scale of new housing from over 5,000 new dwellings is anticipated to yield cumulatively over 2.5 forms of entry (fe) of additional demand for primary school places. This level of anticipated demand cannot be accommodated within the current surplus available places in the existing schools and therefore additional capacity is required to ensure every child is able to access a local school place.
- 3.12. The closest existing primary schools to the development at Land West of Lytton Way (i.e. those described at paragraph 3.3 above) are full or have little spare capacity and cannot be relied upon to meet the pupil yield arising from all the new housing proposed in and around Stevenage town centre.
- 3.13. Based on forecast impact and insufficient spare capacity within the schools the failure to mitigate against the yield arising from the development at Land West of Lytton Way would result in a detrimental impact on education provision in this area such that it would be contrary to Policy SP5 'Infrastructure' and Policy IT3: 'Infrastructure' of the adopted Stevenage Borough Council Local Plan 2011-2031 (adopted May 2019).
- 3.14. Through the robust process of analysing the capacity of primary schools close to the development and the fact that there is insufficient spare capacity to mitigate the level of children arising from this development Hertfordshire County Council has clearly demonstrated that the primary education contribution is **necessary to make the development acceptable in planning terms.**

b) Directly related to the development

- 3.15. Hertfordshire County Council's strategy to mitigate the additional pupil demand arising from the new developments in the area, including the development at Land West of Lytton Way, is to establish a new 2fe primary school within Stevenage town centre. The requirement for this school, and the need for it to serve the wider Stevenage town centre area is set out within Policy TC2: 'Southgate Park Major Opportunity Area' of the adopted Stevenage Borough Council Local Plan (adopted May 2019). Policy TC2 states:

"Within the Southgate Park Major Opportunity Area, as defined on the Policies map, planning permission will be granted for:

e. A new primary school on the Eastgate car park"

- 3.16. Furthermore, paragraph 7.26 of the adopted Stevenage Borough Council Local Plan (adopted May 2019) states that the purpose of this new primary school is to mitigate the additional growth within Stevenage town centre and the wider area:

"A new primary school, in a suitable urban (as opposed to edge-of-town) form, will be located on the Borough Council's current Southgate car park to serve the needs not only of the new Southgate Park residents but also of the larger new residential community proposed in and around Stevenage Central."

- 3.17. The development at Land West of Lytton Way is approximately 0.8 mile walking distance from the site for the new primary school. It is therefore a reasonable mitigation project to apply to the development at Land West of Lytton Way and the primary education contributions which are sought.
- 3.18. The mitigation project for this development is the proposed new 2fe primary school in Stevenage town centre, the requirement for which is set out within Policy TC2: 'Southgate Park Major Opportunity Area' of the adopted Stevenage Borough Council Local Plan (adopted May 2019). At approximately 0.8 mile walking distance, the site for the new primary school is close to the development at Land

West of Lytton Way and therefore, through allocating the primary education contribution to this project, Hertfordshire County Council has demonstrated that use of the primary education contribution is on a mitigation project which is **directly related to the development**.

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

3.19. A primary education contribution of £1,670,732 is sought from the Land West of Lytton Way development. This is fairly and reasonably related in scale and kind to the development for the following reasons.

3.20. In order to calculate the primary education contribution, firstly, the level of primary education yield needs to be established, for which Hertfordshire County Council has developed a 2011 census-based model (known as the Hertfordshire Demographic Model). Development specific outputs from the Hertfordshire Demographic Model are further controlled to on-the ground development average mainstream pupil yield observations. This is based on recent and substantial pupil yield administrative census information which provides a robust data set and is as advised in paragraph 8 of the Department for Education (DfE) guidance (Securing developer contributions for education, November 2019):

“Pupil yield factors should be based on up-to-date evidence from recent local housing developments, so you can forecast the education needs for each phase and type of education provision arising from new development.”

3.21. Applying the Hertfordshire Demographic Model to the Land West of Lytton Way development results in a primary education yield of 0.36FE being calculated to arise from this development.

3.22. The DfE guidance (Securing developer contributions for education, November 2019) is clear that when calculating the cost of education provision the assumed cost of mainstream school places should be based on the national average costs published in the DfE school place scorecards (paragraph 15 of Securing developer contributions for education, November 2019):

“We advise that you base the assumed cost of mainstream school places on national average costs published in the DfE school place scorecards.”

- 3.23. Therefore, when calculating financial contributions towards the provision of new schools Hertfordshire County Council utilises the DfE scorecard costs.
- 3.24. Based on the, current, 2019 DfE Scorecard the cost of a new 2fe primary school (including nursery provision) is £9,228,600 (based on costs as of 1Q2020). This cost is based on 450 places available at a new 2fe primary school multiplied by the £20,508 cost per place for a new primary school as set out in the DfE Scorecard.
- 3.25. 0.36FE (primary yield arising from the Land West of Lytton Way development) is 18% of the capacity of a new 2fe primary school (0.36FE/2FE). Therefore, the primary education contribution (which includes the cost of nursery provision at the new primary school) which is sought from this development is £1,661,148 (£9,228,600 x 18%). This is based on costs as of 1Q2020 (BCIS All in TPI) so indexation will need to be applied from this date.
- 3.26. Furthermore, it is recognised that although the land for the primary school is part of the SG1 development site (planning permission 19/00743/FPM), the need for the school also arises from other development sites in the area, which includes the development at Land West of Lytton Way. The preferred approach is for the primary education contributions paid by the other sites in the area to be increased by the relative % of the primary school land costs. Therefore, it is reasonable that proportionate land costs are also applied to the primary education contribution sought from this development. This results in an additional contribution of **£9,584**.
- 3.27. Therefore, the total financial contribution request for primary education mitigation sought from this development is **£1,670,732** (£1,661,148 + £9,584) (based on costs as of 1Q2020 – BCIS All in TPI, indexation to be applied).
- 3.28. Through the application of the up to date DfE scorecard costs and use of the Hertfordshire Demographic Model to ensure that the contribution is proportionate to the level of impact arising from the development, HCC has demonstrated that the

requested financial contribution of £1,670,732, towards primary education mitigation, **is fairly and reasonably related in scale and kind to the development.**

- 3.29. The Government is clear that S106 obligations can be sought if they meet these statutory tests. It has clearly been demonstrated above that the primary education obligations do comply with the statutory tests, as set out within Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the National Planning Policy Framework, and therefore should be secured.

CAR CLUB (HYBRID ELECTRIC VEHICLES)

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

- 3.30. The proposed scheme is located in a highly sustainable location close to the town centre with good links to employment, public transport, retail and leisure opportunities. The scheme proposes to make improvements to walking and cycling links and provides policy-compliant levels of cycle parking.

- 3.31. The development proposes to provide lower than maximum levels of car parking spaces which, whilst promoting alternative sustainable forms of transport and benefitting the design of the scheme compared to increased levels of parking, requires alternatives which enable residents not to need their own car on-site. As such, the developer has proposed to fund two hybrid electric cars for use by residential members of a car club. This will ensure vehicles are available for those who do not own their own car, and as hybrid/electric engines have a reduced impact on carbon and pollution emissions compared to their petrol/diesel alternatives, are considered a sustainable form of transport.

b) Directly related to the development

- 3.32. The Travel Club, comprised of two hybrid electric vehicles, will be used solely by residents of the proposed scheme and will help to ensure that residents without their own car have a sustainable form of transport should they need to undertake a

journey they cannot do so by other sustainable forms of transport (train, bus, bike, walking etc).

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

- 3.33. The financial contribution has been calculated to meet the cost of two hybrid/electric vehicles of an appropriate size and specification for a car club for this development.

TRAVEL PLAN MONITORING

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

- 3.34. The appellant has submitted a Residential Travel Plan which aims to reduce trips associated with the development, identifying a range of initiatives supplemented by targets. A Travel Plan is necessary to support sustainable travel within Stevenage, in accordance with Policy IT4: Transport Assessments and Travel Plans of the Local Plan.

- 3.35. The appellant's Residential Travel Plan must be implemented prior to occupation of the site, as secured by draft planning condition. Travel Plans set targets over a number of years and therefore must be monitored over a prolonged period. Monitoring is carried out by the Highways Authority (Hertfordshire County Council) who sought the monitoring fee to enable them to undertake their monitoring responsibilities.

b) Directly related to the development

- 3.36. Proper independent monitoring is necessary to ensure each Travel Plan provides the appropriate mitigation. The associated fee to cover the costs of monitoring will be spent monitoring this specific development and will look to assist in mitigation the traffic impact of this development. As such, the obligation is considered directly related to the development.

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

- 3.37. The Highways Authority charges a set fee of £6,000 for monitoring Travel Plans (or sometimes £6,000 per phase if part of a multi-phase development). This amount is considered fair and reasonable for the appellant's scheme.

NHS GP PROVISION

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

- 3.38. Policy SP5: Infrastructure sets out that all development will be expected to contribute fairly towards the demands it places on health facilities either by way of on-site provision, off-site provision or a financial contributions toward off-site facilities.

- 3.39. The development does not provided health facilities on- or off-site and the NHS considered that a financial obligation would be appropriate.

b) Directly related to the development

- 3.40. The scheme will place a direct demand on local GP facilities within borough due to an increase in people registering with GP practices. There is limited capacity at the existing GP practices in Stevenage, particularly nearby to the development site. The NHS provided information of two appropriate potential expansion schemes to nearby practices which will be implemented to meet future additional demand.

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

- 3.41. The size of the financial contribution was negotiated during the original determination of the application following a disagreement in methodology of how to calculate future demand placed on GP services specifically from this new scheme.

- 3.42. The NHS initially requested a financial payment based on a calculation of 2.4 people living in each flat creating 1,382 new patient registrations. Upon discussion, a contribution was agreed to take into account that among the biggest drivers of household formation are people living longer and downsizing, and that a significant number of new homes house people already living within the area, who will already be registered with a GP. As such, the applicant proposed that whilst there will be an increase in households, a significant number are meeting a decline in household

size and that only 20% of the household growth is from new households. In view of this, the applicant contends that only 20% of the contribution towards GP provision is required and are therefore prepared to pay 20% of the requested contribution. This amounts to £81,538.00 and is considered acceptable by the Council.

MONITORING FEE

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

3.43. There is a need to monitor the Section 106 to ensure monies are received when triggers are met, are subsequently spent on the delivery of the necessary infrastructure, and that public records are kept and maintained accurately. This monitoring is undertaken by the Council and can be a time-consuming task which for large schemes can remain ongoing for the best part of a decade depending on progress with a scheme and the agreed triggers.

b) Directly related to the development

3.44. Paragraph 036 Reference ID: 23b-036-20190901 (revision date: 01 09 2019) states that authorities can charge a monitoring fee through Section 106 agreements to cover the cost of monitoring and reporting and that fees can be a fixed percentage of the total value of the section 106 agreement. Fees must be proportionate and reasonable and authorities could consider setting a cap to ensure that any fees are not excessive. This is the approach the Council has taken to setting S106 monitoring fees.

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

3.45. The Council's approach to setting monitoring fees is included with the Developer Contributions SPD. In line with the PPG, the Council charges a fixed percentage of 2.5% of the total of the unindexed financial obligations secured through the S106, or £70 (whichever is higher) with a maximum cap of £25,000.

3.46. If the outcome of the appeal is that an obligation related to primary education is required, the total financial obligations secured through the S106 will be over £1,000,000 and therefore the monitoring fee will be the maximum cap of £25,000.

- 3.47. If the outcome of the appeal is that no payment towards primary education is required, the total of the undisputed contributions is £110,085.33 so the monitoring fee would be calculated at £2,752.13.
- 3.48. These two alternatives are considered fair and reasonable in scale to the proposal.

4. Community Infrastructure Levy

- 4.1. In line with the CIL Regs 2010 (as amended) the development will be liable to pay a CIL charge. This will be based on the net increase in GIA and the Council will consider any requests for exemptions and/or relief as required.
- 4.2. The final liability and exemptions/relief will be confirmed only after a decision notice has been issued and a planning permission exists. However, early discussions between the appellant and the Council suggest the CIL liability will be approximately £4.3 million. However the final charge will depend on issues yet to be confirmed such as the commencement date and amount of affordable housing.