

Rudi Simpson

Subject: FW: 23/01000/FUL - Altar Stones Lane - Highways / s106
Attachments: Altar Stones Lane - CTS calculations.xlsx; LCC Highways Response 21 March 2024.pdf; CTS Calculations table mark up.jpg

Importance: High

From: Chris Lindley
Sent: Thursday, March 28, 2024 11:18 AM
To: Laura Ashton <Laura.Ashton@hinckley-bosworth.gov.uk>
Cc: Emma Baumber2 <Emma.Baumber@hinckley-bosworth.gov.uk>; Ravi Dhir; Dale Radford; Matt
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Dear Laura

I refer to the latest LHA response and the calculation table you provided yesterday.

Many thanks for sending this additional information which we have considered with our team.

For completeness I re-attach the relevant documents.

Firstly, to re-cap paragraph 57 of the NPPF confirms the well-established tests in relation to planning obligations and confirms they must only be sought where all of the following are satisfied:

- 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.

We have considered the latest LHA response with these matters in mind. It will be for the Local Planning Authority to ultimately judge whether the request meets these requirements. However, in making the request, the Consultee (the LHA) should be mindful of its obligations to act reasonably, examples of which are set out in the Planning Practice Guidance (PPG) section relevant to Costs Awards in Planning Appeals. This has been confirmed to apply to statutory consultees such as a LHA. Whilst the PPG relates to an appeal situation, its guidance frames discourse through the determination of planning applications. I will not reproduce this here as I trust the LHA is aware of its obligations in this regard.

We provide our response to the latest LHA consultation through the headings provided below:

1 – The Materiality of Impact

For a financial contribution to be justified and make our development acceptable in planning terms the LPA should be satisfied that the development gives rise to a material, adverse impact on the relevant piece of infrastructure.

In this case it is defined by the LHA that the infrastructure is the 'Field Head Roundabout' which is deemed by be 'directly related', no other piece of infrastructure is identified by the LHA so this roundabout is the sole focus.

The latest LHA response quotes our highways evidence on the likely movements through the Field Head Roundabout. The LHA does not appear to dispute the figure provided as it has adopted it as part of its subsequent calculations.

However, in regard to the materiality of impact, it is important and quite telling that no comment or further engagement is offered by the LHA as to whether the additional movements are material and likely to result in an adverse impact which warrants mitigation.

Respectfully, this is not a reasonable position on the part of the LHA and makes it very difficult for the Local Planning Authority to form a robust position.

The provided table suggests that the development will result in a 1.7% increase in trips through the junction in question. Without a reasonable level of engagement with our evidence, it is therefore difficult to comprehend how such a small number could be concluded to represent a material impact.

2 – The Policy Approach

If the increase were indeed considered material (which we strongly assert it should not) no specific, policy-based trigger for requiring a development to contribute financially has been provided, this does not provide applicants with clarity and transparency when entering the planning process.

3 – The Necessity for the Contribution to Deliver the Identified Piece of Infrastructure

Thank you for providing the ‘CTS Calculations’ table.

We have interrogated this by looking at the schemes provided by the LHA where financial contributions have been secured through s106 to deliver financial contributions to the Field Head Roundabout. This has been done by looking at LHA consultation responses, committee reports, appeal decisions and s106 agreements on the Council’s website.

We comment as follows:

- These are all schemes which are significantly larger than this application. The scale of the contribution requested is not fairly and reasonably related in scale nor kind to the development proposed.
- A marked up copy of part of the table is attached, which suggests:
 - From the schemes approved (we have excluded refusals) some £2.17m appears to have been secured via s106 towards the Field Head roundabout improvements.
 - The cost of the scheme is said to be £1.75m, which suggests a sum of circa £420,000 has been secured over and above the scheme works cost at 25/10/2023.

This would indicate that in the event the contributions could be justified (which we suggest they could not), the monies sought in relation to our development could not lawfully be expended upon the Field Head Roundabout (as envisaged) as it would appear to be fully funded by other development and therefore a further reason whereby the contribution is not necessary to make the development acceptable in planning terms.

I trust this response is of use and we would be happy to further discuss this with yourselves and the LHA, perhaps given stage the scheme has reached a teams call or in person meeting would be appropriate.

Kind regards

Chris

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