LCC
DEVELOPER
CONTRIBUTIONS

Leicestershire
County Council

DEVELOPMENT
SERVICES
20 JUL 2010
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Planning Inspectorate
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Date: 7th July 2010
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Dear Sirs,

Town and Country Planning Act 1990 (As Amended)
Planning Reference No. 2009/00915/OUT
Planning Inspectorate Appeal Ref: APP/K2420/A/10/2127585/NWF
Appellant: John Knapp
Site: Land South of 26 -28 Britannia Road Burbage

I write on behalf of Leicestershire County Council in relation to the above planning appeal reference APP/G2420/A/10/2127585/NWF regarding the land South of 26 -28 Britannia Road Burbage for the proposed residential development (in outline) for 62 dwellings with associated access .

On the 7th January 2010 the County Council were notified by Hinckley & Bosworth Borough Council about the original planning application under the developer contribution protocol between the two respective councils. The majority of the County Council's responses were sent to the District Council on the 27th January 2010 about developer contribution requirements in relation to the proposed development.

I attach three copies of the planning appeal statement made by the County Council in relation to the developer contribution requirements made in respect of this planning appeal and application reference no. 2009/00915/OUT.

The planning statement has been prepared and provided by the County Council to support its case (in accordance with the requirements of the Planning Inspectorate) of the developer contributions requirements made originally in respect of the planning application the subject of this appeal.

Chief Executive's Department
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Leicestershire County Council

If considered appropriate by the District Council, a separate statement may be made in relation to the role of the County Council in respect of the strategic planning implications of the proposed development and these would be dealt with by separate evidence, as part of the District Council's own case.

The County Council consider that the developer contributions are reasonable and justifiable in relation to the scale and size of the particular development and would mitigate the impacts the proposed development would have in relation to the demands placed on its services and facilities requirements should the proposed development be granted planning permission at the appeal.

The County Council therefore request the Planning inspector take account of its representations and if in the event, that the inspector is mindful to uphold the appeal, adequate provision is made through a Section 106 Planning Agreement (or a unilateral undertaking) to ensure that adequate provision is made for the County Council's developer contributions and service requirements.

In addition I would be grateful if the Planning Inspectorate can send a copy of the decision letter to me.

Yours faithfully

Andrew Tyrer
Developer Contributions Officer
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LEICESTERSHIRE COUNTY COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY MR. JOHN KNAPP

WRITTEN REPRESENTATION

SITE AT BRITANNIA ROAD BURBAGE LEICESTERSHIRE

PINS REF: APP/K2420/A/10/2127585/NWF

APPEAL STATEMENT

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1.0 Introduction

1.1 This statement is in support of the view of Leicestershire County Council (LCC) that this proposed development should not be permitted in the absence of suitable and appropriate developer contributions being made in respect of an education contribution, civic amenity contribution and library facilities contribution. We have provided this statement to reflect the County Council justifications for its developer contribution requirements in respect of education, civic amenity and library facilities.

1.2 Leicestershire County Council were notified on 19th June 2010 by letter from Hinckley & Bosworth Borough Council about the appeal being lodged by Mr. John Knapp in relation to the refusal of planning permission by Hinckley & Bosworth Borough Council for the erection of 62 dwellings and associated access on land South of 26 -28 Britannia Road Burbage Leicestershire. The planning application was refused planning permission on the 23rd March 2010

1.3 Under the developer contributions consultation procedures between the County Council and the Borough Council, the County Council were notified by the Borough Council of the outline planning application (no. 09/00915/OUT) for the proposed development of 62 dwellings at land south of 26 to 28 Britannia Road Burbage on the 7th January 2010. The majority of the County Council developer contribution responses were sent to the Borough Council on the 27th January 2010. (see Appendix 1).

1.4 Whilst there is reference to the requirements of the contributions within the Hinckley & Bosworth Borough Council Planning appeal statement we consider the Planning Inspector should be provided with full details and justification for those contributions being sought by Leicestershire County Council.

1.5 To this end the County Council wishes to provide a fuller explanation and request the Planning Inspector gives the information consideration in determining the appeal.

1.6 In preparing paragraphs 4, 5 and 6 of this statement I have relied heavily on advice and guidance from colleagues in the County Council's Children and Young Peoples Service (education), Libraries and Information Service, and Waste Management Team respectively.

1.7 The following paragraphs provide an overview of the development contributions policies and procedures of the County Council and separate detailed evidence will be provided by other expert witnesses where necessary. Relevant documents and plans in respect of this particular planning appeal statement are attached.

2.0 Policy Context

2.1 Relevant national, regional and local planning guidance in relation to this statement are - the Town and Country Planning Act 1990 (As Amended); Circular 05/2005–Planning Obligations, Section 122 of the Community Infrastructure Levy Regulations; the East Midlands Regional Plan and LCC's Statement of Requirements for Developer Contributions in Leicestershire.

2.2 The Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) established the statutory framework for developer contributions in the form of Section 106 Planning Obligations.

2.3 Government Guidance contained in *Circular 05/2005 Planning Obligations* is of relevance to the implementation of the Act. A planning obligation must be

- relevant to planning
- necessary to make the proposed development acceptable in planning terms
- directly related to the proposed development

- fairly and reasonably related in scale and kind to the proposed development and
- reasonable in all other respects

2.4 Furthermore recent regulations in Regulation 122 of the Community Infrastructure Levy Regulations 2010 place three tests on a statutory basis and a planning obligation must be :-

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

2.5 New development can have a positive effect on an area providing new homes, new jobs and economic prosperity. However new development can place additional pressures on existing resources and infrastructure such as schools, community and leisure facilities, transport infrastructure health services and local ecology.

2.6 Developer contributions are intended to ensure that developers make appropriate provision to mitigate any losses as a result of development. They are also intended to bring a development in line with the objectives of sustainable development as described in relevant local regional or national planning policies.

2.7 Furthermore developer contributions are required to supply additional facilities and services that are needed as a result of a new development. The developer contributions should be proportionate and appropriate to resolve the impacts and are required to meet the local services and infrastructure needs as a result of a new development and are not to be used to resolve existing problems.

2.8 The types and scale of contributions required should be related to the impact of proposed development on local services, infrastructure and resources. The proposed development of 62 dwellings at Britannia Road Burbage would be a net increase in housing figures for the County and would have an impact on services and infrastructure in the local area.

2.9 This is in view of the previous Government's policy to encourage housing growth to meet the projected increase in households through proposals in the East Midlands Regional Plan (March 2009) to 2026. Table one below illustrates the Regional Housing Provision for the Leicester & Leicestershire Housing Market Area (LLHMA). In the Borough of Hinckley & Bosworth there is an annual apportionment from 2006 of 450 with a total housing provision 2006-2026 of 9.000.

2.10 Table 1 below shows the total housing provision figures that the local planning authorities should plan for over the plan period of the Regional Plan. Local planning authorities can test higher numbers in their development plan documents provided that they are consistent with the principles of sustainable development set out in PPS1 and tested through sustainability appraisal.

	Annual Apportionment from 2006	Total Housing Provision 2006-2026
Leicester & Leicestershire HMA	4,020	80,400
Leicester	1,280	25,600
Blaby	380	7,600
Charnwood	790	15,800
Harborough	350	7,000
Hinckley & Bosworth	450	9,000
Melton	170	3,400
NW Leics	510	10,200
Oadby & Wigston	90	1,800

Table One: Leicester & Leicestershire HMA Housing Provision figures (source East Midlands Regional Plan March 2009)

2.11 Government Circular 05/2005 makes it clear that where a proposed development would if implemented create a need for a particular facility that is relevant to planning but cannot be required through the use of planning conditions it is usually reasonable for planning obligations to be secured to meet the needs. For example if a proposed development would give rise to the need for additional or expanded community infrastructure for example a new school or classroom which is necessary in planning terms and not provided for in an application it might be acceptable for contributions to be sought towards this additional provision through planning obligation.

2.12 The Circular also encourages local authorities to prepare and publish planning obligations policies/guidance to provide as much evidence as possible particularly matters which would be covered by planning obligations and factors to be taken into consideration the scale and form of contributions.

2.13 Formulae and standard charges are encouraged to be used by local authorities where applicable as part of their framework for negotiating and securing planning obligations. These can assist in speeding up the planning obligations process and provide transparency and help to show indicative figures for contributions in advance. The use of developer contributions guidance also assists in the accountability and scrutiny of contributions and how they are spent.

2.14 In Leicestershire the SRDCL is the adopted County Council policy on contributions which provides guidance to developers on the likely levels and types of contributions that may be required. Furthermore it provides a procedural framework for developer contributions between the County Council and the District Councils.

2.15 Furthermore the County Council maintains and manages a record of its developer contributions payments through a database – the Section 106 Corporate database. This provides accountability and transparency in respect of the spending of contributions in accordance with the requirements of the County Council developer contributions policy and the planning obligations made within individual Section 106 Planning Agreements/Unilateral Undertakings.

Regional Policy

2.16 The East Midlands Regional Plan, adopted on 12th March 2009, is the Regional Spatial Strategy for the East Midlands. It sets out a broad long term development strategy for the East Midlands (2001-2026) including the scale and distribution of new housing and priorities for the environment, transport, infrastructure, economic development, agriculture, energy, minerals and waste treatment and disposal. It

provides the regional context within which local authorities develop their own planning policies and makes decisions on individual planning applications.

2.17 It replaces previous policies saved from the Leicestershire, Leicester and Rutland Structure Plan (2005). Policy 57 - Regional Priorities for Implementation, Monitoring and Review states;-

Local Authorities should work with developers, statutory agencies and other local stakeholders to produce delivery plans outlining the infrastructure requirements needed to secure the implementation of Local Development Documents. These should include guidance on the appropriate levels of developer contributions, and the mechanisms for securing the delivery of such contributions.

The Statement of Requirements for Developer Contributions in Leicestershire (SRDCL).

2.18 The County Council adopted its original supplementary planning guidance in March 2001 (Appendix 2) and established the protocol for consultation between the County and the District Planning Authorities. The guidance was updated in the light of changes in circumstances, revised calculations and experience in 2005/06 (Appendix 3). This included a period of consultation with a broad range of bodies and related organisations prior to the reviewed guidance being adopted in December 2006 (see Cabinet report/minutes in Appendix 4).

2.19 The SRDCL has subsequently been subject to an interim review to take account of revised standards/formulae. The latest review took place in December 2007 (Appendix 5). The document sets out the likely levels and types of contributions required towards County Council services and infrastructure in relation to new development.

2.20 The SRDCL provides a consistent approach across the County in relation to developer contributions for County Council services and infrastructure. It is intended that the SRDCL should be adopted by each Local Planning Authority in Leicestershire in support of its own supplementary guidance for its own services.

2.21 In appropriate cases this statement will form a material consideration in the determination of planning applications and could form the basis for grounds for refusing a planning application if the requirements are not met. In some instances, it may be possible to make development proposals acceptable through the use of planning conditions (see Circular 11/95). Where this is not the case, it might be possible to make development acceptable through the use of planning obligations (in accordance with the appropriate regulations e.g. Circular 05/2005).

2.22 The SRDCL gives an indication of the level of contributions developers would be expected to make. However all contributions will be assessed on a site by site basis directly related to an individual proposal. The SRDCL should be used as a guide. Some of its content may not be relevant for all proposals and in certain circumstances additional or alternative elements may need to be addressed. Detailed discussion as to the precise nature of the appropriate contributions may need to be undertaken.

2.23 The level of contributions may change as a result of, for example, inflation and other factors such as legislation, government advice, adoption of new development plans, experience gained through negotiation and securing agreements. The criteria for individual services are reviewed annually normally with effect from 1st April. The SRDCL can be updated accordingly and more substantial reviews will be undertaken when necessary. It is proposed to undertake a review the SRDCL in late 2010.

3.0 The County Council Developer Contributions Requirements

3.1 The County Council is seeking developer contributions in respect of education, library facilities and civic amenity and believe these contributions can be justified in line with the foregoing policies. A key reason for refusal of the planning application no: 09/00915/OUT was based on Highway grounds and the County Council Local Highways Authority (LHA) will be submitting a separate statement in relation to those matters. The LHA statement will include suggested appropriate highways/transportation measures either through conditions or contributions in the event the appeal is upheld. The Appellant has

submitted with their appeal statement a Unilateral Undertaking and the indication is that they have agreed to payment of the education contribution, civic amenity contribution and library facilities contribution.

4.0 Justification for the Education Contributions

4.1 The appeal application assumes the construction of 62 new dwellings. The development, if allowed, will inevitably put pressure on existing community services within the area, in this case the Upper school is predicted to be full and forecast to remain so and the increased need would not exist but for the development. In light of the nature and scale of the development, the requirement to pay a financial contribution towards education provision is considered reasonable in all respects.

4.2 The need for additional school places arising out of new development is determined by the County Council which has its own standards with regard to the relationship between new housing and the number of school age children that this is likely to produce.

4.3 The County Council standards are found in its adopted Statement of Requirements for Developer Contributions in Leicestershire (SRDCL) (interim revised version December 2007). For ease of reference a copy is attached at Appendix 5.

4.4 When calculating the number of pupils arising from new housing, the Leicestershire pupil product ratio for the number of pupils per 2 bedroom plus house is primary = 0.24 places per dwelling and Secondary = 0.2 places per dwelling.

4.5 The cost of providing these additional places is calculated by multiplying the number of additional places required, by the Department of Children Schools and Families cost multiplier for Leicestershire. At a price base of April 2009 this is currently £12,099 per primary school pupil place and for the upper school sector it is

currently £18,355 per upper school pupil place. The cost relates to the provision of additional places in the existing school.

4.6 At the time the planning application was submitted the County Council made its original request for an education contribution towards additional primary provision and upper school provision as both these education sectors were full to capacity and forecast to remain so at the time the original planning application was submitted. However since then, the latest pupil projections as of June 2010, there is no longer a need for a primary school sector contribution. There remains a requirement for an education contribution for the upper school age group. Statistical evidence is provided to support the case, where necessary.

Primary School

4.7 The site falls within the catchment area of Burbage Infant & Junior School. At the time the planning application was submitted the County Council sought a contribution of £180,048.00 towards the primary school sector based on pupil projections at that time. However since the original requirement there is currently no longer a contribution required for the primary school sector based on the latest pupil projections as at June 2010. It is considered the school will be able to accommodate the additional primary school places generated by the proposed development.

Upper School

4.8 The site falls within the catchment area of John Cleveland College upper school. (see map no. 1). Based on current pupil projections the school is at operational capacity and would be unable to accommodate the additional pupils arising from the proposed development. The school has a net capacity of 1662 pupils and 1789 pupils are projected on the role in 2012. These projections are revised annually. Should the proposed development proceed statistically an extra 7 upper school places would be required (see table no. 1).

4.9 In order to provide the additional upper school places anticipated by the proposed development the County Council is requesting a contribution for the Upper School sector of £113,832.00. This contribution would be used for the purpose of providing the additional upper school places generated by the proposed development.

5.0 Justification for the Library Contribution

5.1 The appeal application assumes the construction of 62 new dwellings. The development if allowed will put pressure on the existing community services within the area including increased demand on the existing library facilities. The increased need would not exist but for the development. In light of the nature and scale of the development the requirement to pay a financial contribution towards library facilities is considered to be reasonable.

5.2 The library contribution is calculated using the standards/formulae contained within the SRDCL (Interim revised version December 2007).

5.3 An indicative schedule of accommodation in relation to the outline planning application was available and for the proposed development the provision of the contribution would be calculated using the following figures:-

1 bedroom houses @ £27.18 per house

14 x 2 bedroom houses @ £54.35 per house

48 x 3/4/5 bedroom houses @ £63.41 per house

1 bedroom apartments @ £27.18 per apartment

2 bedroom apartments @ £54.35 per apartment

3/4/5 bedroom apartments @ £63.41 per apartment

The total library facilities contribution is £3,800.00. The contribution is based on the scale of the proposed development in relation to the additional users of the nearest existing library facilities which would be generated by the proposed development.

5.4 Based on the national performance indicator NI9 'Use of Libraries by Adults (latest figures Oct 08 – Oct 09) approximately 48% of all adults in Leicestershire have used a public library in the past 12 months. This figure would be significantly higher if children were included. Use is defined as information seeking, study support, recreational browsing internet access as well as borrowing books. It is estimated that a development of 62 dwellings as proposed would generate an additional 75 plus users of the library services.

5.5 The appeal site is within 0.6 kilometres of Burbage Library (see Map no.2). Leicestershire Library Services currently uses a standard of 150 square meters of public space for community libraries. The current Burbage Library building is relatively old and is at capacity for the existing population with an existing public space of 85 square metres.

5.6 The scale of the proposed development would potentially increase the number of users of the library by approximately 75 plus users. This development would create additional demands on the capacity of the local library service which would not be able to be met by the nearest existing library facilities at Burbage. The current standard of provision of books per 1000 population is 1,115 (1.1 book per resident). The Leicestershire Small Area Population and Household Estimate 2001-2004 shows Burbage has a population of 14,650. The current level of book stock at Burbage Library is around 8,500 which falls below the standard at approximately 0.5 books per resident.

5.7 The library at Burbage currently generates around 27,000 book borrowing issues a year from an active borrowing base of approximately 4,000 residents. The library is undersized for the population it currently serves and is within a site which is constrained and prevents external extension. However there would be an opportunity to re-configure the internal spaces to create a more useable space to enhance the Burbage Library to provide for the potential increase in users and capacity which could be created by the proposed development. The contribution would be used to facilitate these works.

6.0 Civic Amenity Contributions

6.1 The Leicestershire Municipal Waste Management Strategy (2006) objectives, priorities and targets focus on sustainable waste management and use of resources. One aim is manage waste in accordance with a hierarchy of prioritising re-use, recycling and composting of waste in order to conserve energy and resources. In light of this new developments should be provided with easy, convenient and accessible methods of waste management and recycling.

6.2 The need for additional civic amenity (CA) capacity arising out of new development is determined by the County Council which has its own standards with regard to the assessment of the capacity of the nearest CA site/s, its relationship with the new proposed development and the increased waste likely to be generated by each additional household.

6.3 The County Council standards are found in its Statement of Requirements for Developer Contributions in Leicestershire (SRDCL) (interim revised version December 2007). When calculating the increased capacity for Civic amenity and mitigating the impacts of new housing development the Leicestershire County Council civic amenity ratio in this particular case is £45.40 per additional dwelling.

6.4 The cost of providing the additional capacity is calculated by multiplying the number of additional dwellings, (each additional net dwelling is claimed), by the cost multiplier for Leicestershire Civic Amenity contributions rates for the Barwell CA site at a price base of April 2009 this is £45.40 per dwelling which for 62 dwellings equals £2,815 (rounded up to the nearest Pound). Theses relate to the provision of increased capacity at the Barwell Civic Amenity site which is the nearest civic amenity site to the development.

6.5 Generally any new development which generates an increase in household waste and the size and scale of this proposed scheme of 62 dwellings will have an impact on the finite capacity of the nearest/convenient civic amenity site which is at Barwell (See Map no.3). This is over 3 miles from the site of the appeal. In 2008/09 each household in Leicestershire delivered on average approximately 0.340 tonnes of municipal waste to a civic amenity site. On this basis the proposed development of 62 dwellings would generate over 21 tonnes of additional civic amenity waste at the Barwell Civic Amenity Site.

.6.6 The Barwell Civic Amenity site in 2008/09 accepted over 9,900 tonnes of waste. The proposed development of 62 houses would be likely to generate on average a 0.21% increase in waste being taken to the Barwell Civic Amenity site. Increasing waste inputs will lead to additional pressure in handling and storing the waste at the civic amenity site and ensuring high levels of separation of material for recycling is achieved.

6.7 In order to provide the additional civic amenity site capacity anticipated by the proposed development, the County Council is requesting a contribution for the extension of the Barwell Civic Amenity Site of £2,815 required to enable the Civic Amenity Site at Barwell to be able to serve the additional dwellings which the development proposes.

7.0 Legal Agreement

7.1 Securing relevant developer contributions in relation to new development is integral in ensuring the necessary infrastructure is provided to mitigate the impacts of new development. To date a Unilateral Undertaking has been signed by the Appellant. In accordance with the guidance in Circular 05/2005 the County Council are seeking financial contributions in the form of a Section 106 agreement to cover:-

a) payment of an education contribution of £113,832.00
b) payment of a civic amenity contribution of £2,815
c) payment of a library facilities contribution of £3,800

7.2 It is noted that the Appellant has agreed to pay the financial contribution in a) to c) above. In addition any Highways or sustainable transport measures required as financial contributions or 'works in kind' will be dealt with under a separate statement by the County Council as Local Highways Authority.

7.3 The justification of the requested developer contributions for the County County as required by Regulation 122 of the Community Infrastructure Levy Regulations 2010 are indicated in the following paragraphs.

Contributions to be sought:-

- education
- civic amenity
- library facilities

Key Policy Context

7.4 The key policy context for the above contributions are:-

The East Midlands Regional Plan Policy 57 - Regional Priorities for Implementation, Monitoring and Review states;-

Local Authorities should work with developers, statutory agencies and other local stakeholders to produce delivery plans outlining the infrastructure requirements needed to secure the implementation of Local Development Documents. These should include guidance on the appropriate levels of developer contributions, and the mechanisms for securing the delivery of such contributions

Leicestershire County Council - *The Statement of Requirements for Developer Contributions in Leicestershire December 2006 (interim review version December 2007) Copy attached as Appendix no.* .

Hinckley & Bosworth Adopted Core Strategy (December 2009)

Spatial Objective 6: Infrastructure Provision

To ensure that development contributes to the necessary infrastructure required by new development, through provision of new, or where appropriate, enhancement of existing infrastructure (for example through appropriate developer contributions).

7.5 The County Council consider the justification for the aforementioned contributions as detailed in paragraphs 4 and 5 and 6 above are in accordance with the tests in Regulation 122.

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

Education	Necessary because of the policies referred to and because of the additional demands that would be placed on the local educational infrastructure/services as a result of the proposed development.
Civic Amenity	Necessary because of the policies referred to and because of the additional demands which would be placed on the local civic amenity infrastructure/services as a result of the proposed development.
Library Facilities	Necessary because the policies referred to and because of the additional demands which would be placed on the local library infrastructure/services as a result of the proposed development.

(b) Directly Related to the development

Education	To address the demand arising from the development and to provide for infrastructure/services for local education services which would likely to be used by the residents of the proposed development
Civic Amenity	To address the demand arising from the development and to provide for infrastructure/services for local civic amenity which would likely to be used by the residents of the proposed development.

Library facilities	To address the demand arising from the development and to provide for infrastructure/services for local library facilities which would likely to be used by the residents of the proposed development.

(c) Fairly and Reasonably related in scale and kind to the development

Education	Due to the scale of the development proposed and to accord with the thresholds identified in adopted policies and to meet the additional demands that would be placed on the education infrastructure/service and would arise due to the proposed development.
Civic Amenity	Due to the scale of the development proposed and to accord with the thresholds identified in adopted policies and to meet the additional demands that would be placed on the civic amenity infrastructure/service and would arise due to the proposed development.
Library Facilities	Due to the scale of the development proposed and to accord with the thresholds identified in adopted policies and to meet the additional demands that would be placed on the library facilities infrastructure/service and would arise due to the proposed development.

8.0 Conclusions

8.1 We invite the Inspector to conclude in the light of the evidence that, if in the event the appeal is upheld The County Council contributions for education, library facilities and civic amenity are justified, that they are proportionate and appropriate in relation to the scale of the proposed development.

8.2 The developer contributions should be secured by a binding Planning Obligation.

Document List

- Government Office for the East Midlands – East Midlands Regional Plan (March 2009);
- Leicestershire County Council - Cabinet Report 21st November 2006
- Leicestershire County Council - Minutes of the Meeting of the Leicestershire County Council 6th December 2006;
- Leicestershire County Council - Statement of Requirement for Developer Contributions in Leicestershire (SRDCL) March 2001;
- Leicestershire County Council - Statement of Requirements for Developer Contributions in Leicestershire (SRDCL) December 2006;
- Leicestershire County Council - Statement of Requirements for Developer Contributions in Leicestershire(SRDCL) (interim review version December 2007)
- Office of the Deputy Prime Minister(ODPM) – Circular 05/2005 Planning Obligations
- CLG – Regulation 122 of the Community Infrastructure Levy Regulations 2010.