SUPPLEMENTARY STATEMENT
THE COUNCIL'S APPROACH TO DEVELOPERS' CONTRIBUTIONS

APPLICATION: O/16/78314 – The Piggeries, Allington Lane, West End

DEVELOPMENT: Outline application for the redevelopment of existing agricultural site to light industrial uses (use class b1b, b1c) and general industrial (b2). Detailed matters to consider: access only (access to be provided from Allington lane)

1.0 Introduction

1.1 When determining planning applications, the Borough Council needs to take into account all material considerations, including the provision of infrastructure necessary to support development and the reasonable need arising directly from the development proposed.

1.2 The purpose of this statement is to set out the Council's approach to requesting developers contributions in the context of the development the subject of this appeal.

2.0 Statutory Context

2.1 Section 106 of the Town and Country Planning Act 1990 establishes the statutory framework for developer contributions through the use of planning obligations. An obligation may:

- be unconditional or subject to conditions;
- impose any restriction or requirement in 106(1) (a) to (c) for an indefinite or specified period (thus enabling, for instance, an obligation to end when a planning permission expires);
- provide for payments of money to be made, either of a specific amount or by reference to a formula and require periodical payments to be paid indefinitely or for a specific period.

2.2 The Community Infrastructure Levy Regulations 2010 (SI 2010/948) as amended by the Community Infrastructure Levy (Amendment) Regulations 2011 (2011/987) require under Regulation 122 that 3 tests are met if they are to constitute a reason for granting permission. They must be:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the development
- fairly and reasonably related in scale and kind to the development.

2.3 These tests are repeated in paragraph 204 of the Government's National Planning Policy Framework (March 2012).

3.0 Local Plan Context

3.1 The Eastleigh Borough Local Plan Review (2001-2011) includes Saved Policy 191.IN, which states:

> *"Appropriate proposals for development will be permitted provided that the developer has made arrangements for the provision of the infrastructure, services, facilities and amenities directly made necessary by the development or has made arrangements to contribute towards the early improvement of existing infrastructure, services, facilities and amenities, the need for which will increase as a direct result of the development proposed."*

3.2 Saved Policy 25.NC relates to biodiversity and states:

> *"Development which will adversely affect a habitat or feature of importance for wild fauna or flora will not be permitted, unless it can be demonstrated to the satisfaction of the Council that:*
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> *i. The benefits of the development outweigh the adverse impacts;*
> *ii. The adverse impacts are unavoidable; and*
> *iii. Appropriate measures are taken which would mitigate or compensate for any adverse impacts."*

3.3 Saved Policies 100.T and 101.T in respect of transport considerations state:

100.T:

> *"Development which accords with other relevant policies of this Plan will be permitted provided it meets all the following criteria:*
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> *i. it is, or could be well served by public transport, cycling and walking;*
> *ii. fit includes measures that minimize its impact on the existing transport network;*
> *iii. that where a large number of journeys are likely to be generated, the development is located to minimize travel demand and provide a choice of transport mode; and*
> *iv. that where appropriate a Transport Assessment in accordance with the thresholds set out in Table B of the Hampshire Parking Strategy and Standards is included with the proposals.*

101.T:

> *"Development which results in additional traffic on the local road network greater than the levels of growth permitted by the RTRA targets for the Borough of Eastleigh will:*
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> *i. only be permitted if the Council is satisfied that there is a proven need for the development in the location proposed and;*
> *ii. be subject to the provision of contributions towards the implementation of the Local Transport Plan and/or other transport proposals set out in*

this local plan. Any such contributions will be set at a level appropriate to the scale and impact of the development."

3.4 The Council's Submitted Eastleigh Borough Local Plan (2011-2029) also includes equivalent provisions. However, given this Plan is not being taken forward, with the Council instead developing an emerging Local Plan to cover the period of 2011-2036, extremely weight can be afforded to it. For the purposes of completeness, however, it includes the following policies:

3.5 Policy DM37 - Funding infrastructure

"Development will be permitted provided that the developer has made arrangements for the provision of or for contributions to the improvement of any infrastructure, services, facilities or amenities necessitated by the development proposed, by means of either:

i. a planning obligations agreement under section 106 of the Town and Country Planning Act 1990, and/or

ii. when the relevant arrangements are in place in the borough, the Community Infrastructure Levy under the Planning Act 2008."

3.6 DM9 – Nature conservation:

"Development which is likely to adversely Development which is likely to adversely affect the integrity of an international or European nature conservation site will not be permitted. Development which is likely to have a direct or indirect adverse effect on a Site of Special Scientific Interest (SSSI) will not be permitted, unless the Borough Council is satisfied that the reasons for the development clearly outweigh the harm to the nature conservation value of the site. Development will not be permitted if it is likely to have a direct or indirect adverse effect on a Site of Importance for Nature Conservation (SINC) or Local Nature Reserve as shown on the policies map (or on a more recent plan provided by the Hampshire Biodiversity Information Centre), or on protected or priority habitat or species, or on any other feature of importance for wild fauna and flora, unless it can be demonstrated to the satisfaction of the Borough Council that:

i. the benefits of the development clearly outweigh the adverse effects on the nature conservation value of the site;
ii. the adverse impacts are unavoidable; and
iii. measures can be taken to mitigate or, if this is not possible, compensate for the adverse effects, such that the development will result in at least no net loss of biodiversity.

In determining planning applications, the Borough Council will:

a. seek opportunities to create or enhance habitats and features of nature conservation interest, having regard to local geodiversity and soils;

b. have regard to the need to protect, and opportunities to enhance the Priority Biodiversity Areas and the Priority Biodiversity Links set out in the Council's Biodiversity Action Plan 2012-2022; and
c. require mitigation measures in connection with new residential development as identified by the Solent Disturbance and Mitigation Project unless it can be demonstrated to the satisfaction of the Borough Council that individually, or in combination with others, the development is not likely to have significant adverse impacts on the integrity of the Solent European marine sites.

3.7 Policy DM23, General development criteria – transport

"All new development must have safe and convenient access to the highway network and make provision for access to, and by, other transport modes including public transport and cycle and pedestrian routes. Access arrangements to the highway network must:

i. meet national and local guidance and standards;

ii. not cause or increase danger to road users; and

iii. be provided without unacceptable environmental impact.

All new development will be assessed to establish whether it should contribute to off-site improvements to transport infrastructure in accordance with Hampshire County Council's Transport Contributions Policy, to the extent that these are necessitated by the development and proportionate to the scale of development.

Development proposals in excess of those outlined in appendix B of the DfT 'Guidance on Transport Assessment' that will generate vehicle movements likely to have an adverse impact on traffic conditions beyond the immediate vicinity of the development site must be subject to Transport Assessment and will be required to incorporate and implement mitigation measures such as Travel Plans to reduce car use.

New development intended to serve or accommodate large numbers of people will only be permitted in locations that as well as having adequate road access, are or can be served by means of transport other than the private car, including bus, train, cycle and pedestrian access."

3.8 The Council adopted a Supplementary Planning Document (SPD): *"Planning Obligations"* and associated Background Paper in July 2008. This stemmed from the policies of the adopted Eastleigh Borough Local Plan Review 2001-2011 (Adopted May 2006), Government guidance in Circular 05/2005 *Planning Obligations* and best practice guidance from the DCLG and Audit Commission. The SPD provides additional guidance on the legal and policy basis for negotiating planning obligations, increases developers' awareness of planning obligations and contributions and provides transparency to the process of negotiations.

3.9 The Council is satisfied that the SPD requirements are also compliant with the three CIL Regulation 122 and NPPF tests detailed above.

3.10 The raft of adopted and draft planning policy demonstrate that the obligations sought are necessary to meet the additional need for infrastructure provision as a result of the new development proposed, thus meeting the CIL Reg 122 test of necessity in planning terms.

3.11 The following sections detail the exact contributions required and the projects towards which the funds would be directed, which are directly relevant and proportionate to the appeal application.

4.0 Contributions

4.1 Transport / Sustainable Transport / Traffic Regulation Order

The Policy basis for the requirement of Transport contributions is contained within 100.T and 101.T of the adopted Local Plan.

4.2 Eastleigh Borough Council has adopted the methodology and standard charges which were introduced by Hampshire County Council in September 2007. The indexation base date was updated in April 2009.

The formula proposed by Hampshire County Council was based on the transport impact of each development in accordance with Circular 05/2005 and now CIL Regulation122. The basic measurement of transport impact is quantified by the net increase in the number of multi-modal trips that a development is expected to generate. A financial value is then attached to each multi-modal trip with the financial values per trip having been derived from the known costs of providing transport infrastructure required to serve new development.

4.3 The figures for employment uses are set out within Appendix 3 of Hampshire County Council's Transport Contributions Policy. This document is available on the County Council's website at: http://www3.hants.gov.uk/transport_contributions_policy.pdf with the relevant extract being included below:

B - Employment	Cost per Trip (£)		Multi-Modal Trips (per 100sqm)	Cost per 100 sqm (£)
B1 Business	230		18.7	4301
B2 General Industry	230		7.5	1725
B8 Warehouse & Distribution	230		9.4	2162

4.4 In accordance with Hampshire County Council's methodology, the proposed development would be expected to make a contribution towards Transport Improvements and Sustainable Transport measures. These will be used to mitigate for the additional transport needs and burden imposed on the existing network by the development as well as seek to improve sustainable modes of transport for its users or occupants through

minimising the need for people to travel by private car; improving accessibility and the provision for cycling and walking; and improving the public transport system.

4.5 Within the Transport Assessment submitted within the planning application (section 4.5), a comprehensive trip rate calculation is provided. This suggests that:

- For the level of B1(b) / B1(c) / B2 development being proposed, the associated trip rate would be 260 trips per day.
- Existing on-site uses equate to 20 multimodal trips per day.
- The overall generated trips would be 240 multimodal trips.

4.6 Set against the base contribution figure of £230 per trip as set out above and within the Hampshire County Council Transport Contributions Policy, this would equate to a required contribution of £55,200 (£230 x 240 multimodal trips). This figure would then be subject to index linking from the base date of April 2009 to the date of payment.

4.7 The following are a list of the schemes that Hampshire County Council have advised that the financial contribution would be spent on in order to improve infrastructure and sustainable modes which are considered to comply with the CIL Reg 122 tests:

- Improvements to the Allington Lane / Fair Oak Road junction; and
- Pedestrian and cycle infrastructure on Allington Lane.

4.8 In addition to the above, Hampshire County Council have advised that a Traffic Regulation Order (TRO) will be required. This is required as any overspill parking from the development will occur onto Allington Lane. This Lane is not suitable for on-road parking due to the obstruction to the free-flow of traffic and onwards visibility that this would cause. As such, it is envisaged that yellow line parking restrictions would be put in place both along the extended frontage of the development, and around the access junction leading into the site to ensure the access remains clear and free of physical and visual obstructions.

4.9 A figure of £6,000 is required for the making and implementation of the TRO as set out in the Guidance Note for Developers produced by Hampshire County Council as the Highway Authority. This can be accessed on their website using the following link: http://www3.hants.gov.uk/tro-guidance.pdf

4.10 The Council considers that the provision of these transport infrastructure works, the impacts of the development on the highway network could be mitigated and the sustainability credentials of the development improved to a degree should the appeal be allowed.

4.11 **Great Crested Newt Mitigation**

4.12 As set out within Paragraphs 81-86 of the Council's Statement of Case, a contribution is required towards the funding of links and breeding ponds for Great Crested Newts within publically owned land.

4.13 The development lies within 480m of the Hog Wood Gravel Pits which are known to have small-population of Great Crested Newts within them, with good terrestrial connections

between this pond and the appeal site. The site has been shown, within the Ecological Survey accompanying the application, to have habitats which could support Great Crested Newt populations. This habitat will be lost to the appeal development and a contribution has been identified as a means of mitigating against this otherwise net loss in biodiversity.

4.14 A contribution of £10,000 is required which would fund the provision of a minimum of 3no. ponds to create a complex for Great Crested Newts within the adjacent Itchen Valley Country Park and thereafter the subsequent de-silting and maintenance of these ponds in order to ensure and sustain this ecological habitat.

4.15 In the absence of this contribution, the proposals would be in conflict with Saved Policy 25.NC of the adopted Local Plan which states that development which will adversely affect a habitat or feature of importance for wild fauna and flora will not be permitted, unless it can be demonstrated to the satisfaction of the Council that: (i) the benefits of the development outweigh the adverse impacts; (ii) the adverse impacts are unavoidable, and (iii) appropriate measures are taken which would mitigate or compensate for any adverse impact; as well as, Paragraphs 109 and 118 of the NPPF which require that when determining planning applications, local planning authorities aim to conserve and enhance biodiversity.

4.16 Solent and Southampton Water Special Protection Area is protected through the Conservation of Natural Habitats and Species Regulations 2010 which bring together the Habitats Directive (Council Directive 92/43/EEC) and Wild Birds Directive (2009/147/EC) into UK law. Local planning authorities have a legal duty to ensure that strategic plans and planning decisions will not result in adverse effects on the integrity of these European sites.

4.17 Planning applications are subject to a Habitats Regulation Assessment Screening Report assessing the impact of the development on European nature conservation designations such as the Solent SPA, for which Natural England is the authority providing sign off. Eastleigh Borough Council is part of the Solent Recreation Mitigation Partnership and has adopted the Interim Solent Recreation Mitigation Strategy to ensure that any in-combination recreational disturbance as a consequence of new housing developments can be appropriately mitigated.

4.18 The Interim Solent Recreation Mitigation Strategy (included as Core Document 1.58) contains a series of projects to mitigate against and reduce disturbance impacts on the Solent SPA and the Hamble estuary, contributions to the cost of which will be secured

from each new dwelling proposed. A ‘zone of influence’, based on visitor survey data, of approximately 5.6km from the Solent SPA is the area from which contributions would be taken. The cost of the projects required for mitigation have been totalled and the net cost has then been divided across the number of dwellings likely to come forward in the zone of influence.

4.19 The resulting charge is £181 per dwelling unit index linked from 1st February 2017. Since this charge is necessary to avoid an adverse impact on the integrity of a European site, by Regulation 61(5) of the 2010 Regulations, planning permission cannot be granted unless payment is secured.

4.35 **Off-Site Management of Pilands Wood SINC**

4.36 In order to control and mitigate the impact of increased recreational pressure from residents of the development on the nearby sensitive Pilands Wood SINC, the installation of fencing and control of invasive and non-native species would assist in reducing pressure and harmful impacts on the SSSI. These have been costed at £26,000 and the works would be implemented by EBC.

5.0 Conclusion

5.1 As set out above, the contributions sought are all compliant with the tests set out under section 106 of the 1990 Act and Regulation 122 of the CIL Regulations. In the event that a satisfactory Section 106 planning obligation is not completed by the time of the Hearing, the Council respectfully requests that the Inspector dismisses the appeal on the grounds of failure to provide the necessary, reasonable and proportionate planning obligations as supported by planning policy and CIL Regulations.