

## PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE

**TUESDAY 8 JULY 2014**

**1.30 PM**

**Bourges/Viersen Rooms - Town Hall**

### AGENDA

Page No

1. **Apologies for Absence**

2. **Declarations of Interest**

At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification" that has been disclosed to the Solicitor to the Council.

Members must also declare if they are subject to their party group whip in relation to any items under consideration.

3. **Members' Declaration of intention to make representations as Ward Councillor**

4. **Minutes of the Meeting Held on 22 April 2014** 5 - 16

5. **Development Control and Enforcement Matters**

5.1 **11/01921/WCMM - Eyebury Quarry, Eyebury Road, Eye, Peterborough** 17 - 34

5.2 **13/01222/MMFUL - Eyebury Quarry, Eyebury Road, Eye, Peterborough** 35 - 52

5.3 **13/01225/MMFUL - Eyebury Quarry, Eyebury Road, Eye, Peterborough** 53 - 70

5.4 **13/01562/WCMM - Dogsthorpe Landfill Site, Welland Road, Dogsthorpe, Peterborough** 71 - 84



There is an induction hearing loop system available in all meeting rooms. Some of the systems are infra-red operated, if you wish to use this system then please contact Philippa Turvey on 01733 452460 as soon as possible.

5.5	<b>14/00371/HHFUL - 158 Chestnut Avenue, Dogsthorpe, Peterborough</b>	<b>85 - 90</b>
5.6	<b>14/00731/FUL - Land Adjacent to 1 Regency Way, Peterborough</b>	<b>91 - 112</b>
5.7	<b>14/00903/WCPP - Longthorpe Memorial Hall, 295 Thorpe Road, Peterborough</b>	<b>113 - 124</b>
<b>6.</b>	<b>Peterborough Draft Developer Contributions Supplementary Planning Documents (SPD)</b>	<b>125 - 216</b>

#### **Emergency Evacuation Procedure – Outside Normal Office Hours**

*In the event of the fire alarm sounding all persons should vacate the building by way of the nearest escape route and proceed directly to the assembly point in front of the Cathedral. The duty Beadle will assume overall control during any evacuation, however in the unlikely event the Beadle is unavailable, this responsibility will be assumed by the Committee Chair.*

#### **Committee Members:**

Councillors: C Harper (Chairman), L Serluca (Vice Chairman), Casey, P Hiller, N North, Stokes, N Shabbir, S Martin, D Harrington and C Ash

Substitutes: Councillors: B Rush, Sylvester and B Saltmarsh

Further information about this meeting can be obtained from Philippa Turvey on telephone 01733 452460 or by email – [philippa.turvey@peterborough.gov.uk](mailto:philippa.turvey@peterborough.gov.uk)

**CASE OFFICERS:**

Planning and Development Team: Nicholas Harding, Lee Collins, Andrew Cundy, Paul Smith, Mike Roberts, Louise Lewis, Janet MacLennan, Astrid Hawley, David Jolley, Louise Lovegrove, Vicky Hurrell, Amanda McSherry, Sam Falco, Matt Thomson, Chris Edwards, Michael Freeman

Minerals and Waste: Theresa Nicholl, Alan Jones

Compliance: Nigel Barnes, Anthony Whittle, Karen Cole, Julie Robshaw

**NOTES:**

1. Any queries on completeness or accuracy of reports should be raised with the Case Officer or Head of Planning, Transport and Engineering Services as soon as possible.
2. The purpose of location plans is to assist Members in identifying the location of the site. Location plans may not be up-to-date, and may not always show the proposed development.
3. These reports take into account the Council's equal opportunities policy but have no implications for that policy, except where expressly stated.
4. The background papers for planning applications are the application file plus any documents specifically referred to in the report itself.
5. These reports may be updated orally at the meeting if additional relevant information is received after their preparation.

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**MINUTES OF AN EXTRAORDINARY MEETING OF THE PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE  
HELD AT THE TOWN HALL, PETERBOROUGH ON 22 APRIL 2014**

**Members Present:** Councillors Serluca (Chairman), Harper (Vice Chairman), Hiller, North, Casey, Sylvester, Todd, Harrington and Lane.

**Officers Present:** Vicky Hurrell, Principal Development Management Officer  
Theresa Nicholl, Development Management Support Manager  
Sarah Hann, Acting Senior Engineer (Development)  
Jez Tuttle, Senior Engineer (Development)  
Darren Sharpe, Natural and Historic Environment Manager  
Jim Daley, Principal Built Environment Officer  
Ruth Lea, Lawyer Growth Team  
Pippa Turvey, Senior Governance Officer  
Gemma George, Senior Governance Officer

**1. Apologies for Absence**

An apology for absence was received from Councillor Shabbir.

**2. Declarations of Interest**

Councillor North declared his predetermination on item 5.3. Councillor North confirmed that he would retire to the public gallery for the discussion of that item.

Councillor Todd raised a non-pecuniary interest in item 5.1 and 5.2, due to the applications being located within the Councillor's ward area.

**3. Minutes of the Meetings held on 8 April 2014**

The minutes of the meeting held on 8<sup>th</sup> April 2014 were approved as a correct record, subject to the following amendments:

- The removal of Councillor Todd from the list of attendees;
- The inclusion of Councillor Shabbir's apology for absence; and
- The inclusion of the reasons for the decision for minute no. 7.

**4. Development Control and Enforcement Matters**

**4.1 14/00043/M4FUL – Dodson House, Fengate Peterborough, PE1 5FS**

The planning application was for the change of use of the existing building at Dodson House, Fengate to provide a Household Waste Recycling Centre and for the retention of the Waste Electronic and Electrical Equipment (WEEE) re-use facility and the offices. In order to facilitate this development, alterations to the vehicular access were proposed as well as alterations to the building and on site infrastructure.

The key issues to be considered were the change of use to Household Waste Recycling

Centre (HWRC), traffic, transport and parking issues, visual appearance / street scene, impacts on surrounding users (e.g. noise, visual, lighting), air quality / dust, health and safety, and drainage.

It was officer's recommendation that planning permission be granted, subject to conditions.

The Development Management Support Manager provided an overview of the application and raised the following points:

- The proposed facility would replace that currently situated at Dogsthorpe.
- Proposed HGV access would be from Fourth Drove, public access would be via ramp access off Fengate.
- Alterations to the building would be minimal, including altering the door size and demolishing the single storey extension.
- Acoustic fencing would be erected to protect the small business units on Dodson Way.
- Access and car-parking space would be shared with adjacent facilities, and were considered sufficient.

Mr Martin Pollard, Agent, addressed the Committee and responded questions by Members. In summary the key points highlighted included:

- The proposals were in line with Peterborough City Council's Waste 2020 programme.
- Current facilities were not built for modern capacity and had a slow turnaround.
- The proposal would have a number of benefits, including use of an existing building in an established industrial site and co-location with other waste management facilities.
- The applicants had consulted with officers and the public to ensure the proposal was in accordance to Council policies.
- Separate containers would be provided for different types of recycling and then sorting mechanically. As such, physical handling of any waste would be minimal.

A motion was proposed and seconded to agree that permission be granted, as per officer recommendation. The motion was carried unanimously.

**RESOLVED:** (unanimous) that planning permission is **GRANTED** subject to the conditions set out in the report.

### **Reasons for the decision**

The proposed development was both acceptable in principle and in respect of the issues set out above. Where further detail was required this could be dealt with by the imposition of conditions. The development complied with the relevant policies of the development plan and there were no material considerations which weighed against the proposal. In accordance with Section 38(6) of the Town and Country Planning and Compensation Act and with advice contained in the National Planning Policy Framework, as the development accorded with an up to date Local Plan, it should be approved.

## **4.2 14/00069/WCMM – Grosvenor Resources Ltd, Fourth Drove, Fengate, Peterborough**

The previously permitted scheme, and that which had been implemented, was that

granted under 12/01409/WCMM for an Energy from Waste Facility with a maximum throughput of 85,000 tonnes per annum.

The planning application was for several amendments to the approved scheme, including the widening of the existing access off Fourth Drove, changes to internal roadways and vehicle routing, changes to internal pedestrian routing and car parking, relocation of the weighbridge and office, water tank, cycle and smoking shelters, a new coach drop off point, new fencing and gate arrangements and removal of on street parking currently provided on Fourth Drove. These changes were necessary in order to provide a shared HGV access and egress for both the Energy from Waste (EfW) facility and the proposed HWRC off Fourth Drove and to enable staff and visitor parking to be provided on the neighbouring site and where the proposed HWRC would be. The staff and visitor vehicular access/egress would be off Dodson Way.

The proposed design changes included the repositioning of doors, reduction in the diameter of the main chimney stack from 2.5 to 1.55 metres, increase in the height of the administration block from 13.1 to 14.5 metres, relocation of tanks, change to roof cladding from Kingspan to Tata Roofdek, internal changes to office block arrangement and introduction of additional equipment and amendment to the pipe bridge to the Air Cooling Condensers.

The main considerations were whether the changes to the proposed design and layout (including access arrangements) of the EfW facility were acceptable in comparison to the approved scheme and in accordance with the development plan and other material considerations, and any other issues and / or changes that had arisen in terms of policy and / or physical works since the last application was approved that needed to be taken account of (e.g. conditions that have been discharged).

It was officer's recommendation that planning permission be granted subject to the signing of a legal agreement and conditions.

The Development Management Support Manager provided an overview of the application and raised the following points:

- The alterations applied for were in relation to access and minor design changes.
- There would be no changes to the through put of the facility.
- The removal of the on street parking provided along Fourth Drove would be necessary and the applicants were intending to apply for a traffic order to such an effect.
- The current permission at the site was subject to a Section 106 Agreement. If permission were to be granted for this application, a new Agreement would need to be signed.

Mr Martin Pollard, Agent, addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- The applicants had carried out an addendum to the Environmental Statement and no issues had been raised.
- Concerns regarding the increase in through put on the site were unfounded.
- In relation to air quality, as through put would be unchanged, emissions from the chimney would remain the same. The proposed scheme would provide less traffic movement than the current planning permission on the site and, accordingly, car emissions would be less than currently possible.

In response to a question, the Acting Senior Engineer (Development) advised that Fourth Drove was an adopted road.

A motion was proposed and seconded to agree that permission be granted, as per officer recommendation. The motion was carried unanimously.

**RESOLVED:** (unanimous) that planning permission is **GRANTED** subject to the signing of a **LEGAL AGREEMENT** and the conditions set out in the report.

### **Reasons for the decision**

The in principle issues had been previously accepted and the proposed changes did not warrant a re-visit of these issues. The applicant had provided an addendum to accompany the previous Environmental Assessment which adequately covered any changes to the environmental assessment of the scheme as a result of the changes to layout and design. The previous Environmental Statement with the addendum adequately demonstrated that with mitigation the proposal would not have significant impacts on the environment that would warrant refusal of the proposals. The main area of change was transport due to the alteration in access arrangement. The Highway Authority raised no objection subject to conditions and the proposal accorded with policy CS32 of the Core Strategy. In all other respects the proposal complied with the adopted Development Plan policies as set out above and did not conflict with the NPPF or the advice contained in the recently published Planning Practice Guidance. The application was therefore recommended for approval subject to revised conditions and the entering into of a legal agreement in respect of hydrological monitoring.

### **4.3 14/00072/OUT – Land at Alwalton Hill, East of the A1 and South of Fletton Parkway, Peterborough**

Councillor North retired from the discussion.

The planning application was for the development of warehousing and distribution (B8) units with ancillary office space with a maximum total floorspace of 168,958 square metres, together with access roads, parking, service areas, utility infrastructure, and landscaping

The main consideration was that the site had an extant outline planning permission for up to 172,000 square metres floorspace for B8 uses. The only substantive change to the scheme was the increase in buildings heights from 14.8 metres to 20 metres with the exception of zone 1 where building heights would remain at 15 metres.

It was officer's recommendation that Committee approved the increase in building height with the Director of Growth and Regeneration be given authority to grant planning permission subject to the signing of the S106 and necessary conditions, subject to satisfactory assessment of the Environmental Statement.

The Principal Development Management Officer provided an overview of the application and raised the following points:

- Outline planning permission for an increased height would allow for greater flexibility.
- With advances in stacking technology, greater height would be considered the norm.
- A new visual assessment had been carried out in support of the application. Whilst the taller buildings would be more visible from some view points than the consented scheme it was not considered that the visual impact would be

unacceptable, particularly when balanced against the economic benefits of the scheme.

Mr David Shaw, Agent, addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- The scheme was proceeding, with £10 million of investment going into the site already.
- Not all the buildings would be 20 metres in height. The height of each building would depend on the purchasers and would be subject to a reserved matters planning application.
- Any paint treatment of the buildings would depend on the height each building was.

A motion was proposed and seconded to agree that the permission be granted, as per officer recommendation. The motion was carried unanimously.

**RESOLVED:** (unanimous) that:

1. The increase in building height be approved; and
2. Authority to grant planning permission subject to the signing of the S106 and necessary conditions, subject to satisfactory assessment of the Environmental Statement be given to the Director of Growth and Regeneration.

### **Reasons for the decision**

Subject to the imposition of conditions and the signing of a S106 Agreement, the proposal was acceptable having been assessed in the light of all material considerations, including weighting against relevant policies of the development plan and specifically:

- The build out of the consented scheme for this site (under outline permission 09/00346/OUT) would result in a complete change to the character of the existing site and a development which, in view of the ground levels, can be seen from outside of the site. It is acknowledged that 20 metre high buildings on the site would be more visible from some viewpoints than the consented 15 metre high buildings, however the additional impact is not considered significant. In addition, this is an allocated employment site and the National Planning Policy Guidance places strong emphasis upon supporting economic growth. There are no areas of best landscape adjoining the site and it would not result in any unacceptable harm to the Schedule Ancient Monument to the south west or surrounding Conservation Areas. The visual impact of the buildings is therefore considered to be acceptable in accordance policies CS16 and CS17 of the Adopted Core Strategy.
- The taller buildings would not result in any unacceptable impact upon Orton Pit SSSI/SAC in terms of shading. Neither is it considered that the proposal would have any unacceptable adverse impact upon any other species. It would result in some additional shading of Awalton Woodland but this is not considered to be significant and new landscaping forms part of the scheme. The development is, therefore, considered to be acceptable in accordance with policy CS21 of the Adopted Core Strategy, Section 11 of the National Planning Policy Framework' and policy PP16 of the adopted Planning Policies DPD.

#### **4.4 14/00197/R3FUL – St Peters Arcade, St Peters Road, Peterborough**

Councillor North returned to the discussion.

The planning application sought permission for the erection of clear glazed screens at either end of the St Peters Arcade to afford the Arcade some protection in inclement weather for the public and the businesses therein. The screens would, in effect, narrow down the width of the entrances at either end of the Arcade to 2 metres and the height of the entrances to 2.8 metres. The proposed glazing screens would have the City Armorial on them.

The main considerations included the impact of the proposal upon the character and appearance of the Arcade and the streetscene and the impact of the proposal upon the passage of people through the Arcade.

It was officer's recommendation that planning permission be granted subject to conditions.

The Principal Development Management Officer provided an overview of the application and raised the following points:

- The application site was part of a building of local importance and within the City Centre Conservation Area.
- The proposal would improve the environment of the Arcade and its attractiveness thereby helping to maximize the use of this heritage asset.
- It was considered that the proposal would result in less than substantial harm to the Conservation Area and that the limited harm which would be caused would be outweighed by the benefits which would result.
- The 2 metre wide access which would be retained was considered sufficient.
- There was an established right of way through the Arcade. The alternations to the width of this right of way as a result of the scheme would need to be dealt with under separate legislation.

Members debated the planning application and raised the following points regarding the proposals:

- Concern was expressed as to whether the screens would be subject to vandalism.
- The proposal would be aesthetically pleasing and positive steps should be taken to improve the City.
- The proposal had no practical merit, would restrict access and would cause damage to an historic building.
- Concern that the proposal may make the arcade more attractive to the homeless.

The Growth Team Lawyer advised the Committee that an informative could be added on to any permission granted, explaining the Committee's desire for shatter proof glass. However, it was clarified that the scheme would need to meet Building Control standards and this was not a matter which was therefore within the remit of the Committee. The Committee needed to consider the application that was in front of them. It was further clarified, in response to questions raised, that responsibility for insurance was not a planning consideration.

A motion was proposed and seconded to agree that permission be granted, as per officer recommendation. The motion was carried five to three.

**RESOLVED:** (five voted in favour, three voted against) planning permission be **GRANTED** subject to the conditions set out in the report.

**Reasons for the decision:**

Subject to the imposition of conditions and the signing of a S106 Agreement, the proposal was acceptable having been assessed in the light of all material considerations, including weighting against relevant policies of the development plan and specifically:

- the proposal would provide increased protection for the tenants and the patrons of the Arcade from inclement weather, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011);
- the design, appearance and location of the screens was considered appropriate for their purpose and would not result in unacceptable harm to the appearance of the Arcade, in accordance with paragraphs 131 and 134 of the National Planning Policy Framework (2012), Policies CS16 and CS17 of the Peterborough Core Strategy DPD (2011), Policies PP2 and PP17 of the Peterborough Planning Policies DPD (2012) and emerging Policy CC3 of the Peterborough City Centre DPD (Submission Version) (2014); and
- whilst the screens would result in the narrowing of a rights of way at either end of the Arcade, the proposed width of 2 metres would not significantly compromise the accessibility to users, in accordance with Policy PP12 of the Peterborough Planning Policies DPD (2012).

Consideration of the planning application does not grant permission for any change to the highway rights through the Arcade which will have to be subject to a separate legal process, which will include public consultation.

#### **4.5 TPO 2013\_08 – Woodland to the North of 1 Linden Close, Barnack**

Officers had served a provisional Tree Preservation Order (TPO) 8\_2013 Woodland to the north of 1 Linden Close, Barnack, following a request from a local resident who was concerned about the potential loss of the woodland. Following the public consultation period, objections had been raised.

The main considerations included whether the woodland was worthy of inclusion into a TPO in terms of public visual amenity value, condition and health, and whether the proposals were reasonable and justified having regard to any representations received.

It was officer's recommendation that the recommends that the TPO be confirmed.

The Natural and Historic Environment Manager provided an overview of the application and raised the following points:

- 46 letters of support had been received, along with three letters of objection, including the Parish Council.
- The site was originally allocated for development, but this allocation had been removed.
- Although the woodland in question was considered immature, the relevant legislation provided for the preservation of amenity in the long term.
- The TPO was served pro-actively, in response to a legitimate request.
- The presence of a TPO would not prevent management of the site.

Mrs Joy Lee, Site Owner, addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- The confirmation of the TPO would be grossly unfair and an infringement of her rights.
- The adjoining land to the site was compulsorily purchased and the gap was left to provide access.
- Mrs Lee was told that the site would be purchased, but no further action was taken.
- The land was not managed because Mrs Lee believed that it was to be developed.
- In 2005 a TPO was served on one Walnut tree. No further notification was made of any further TPO's being served.
- All a TPO would do would be to prevent development.
- The majority of the woodland consisted of Sycamore trees, which were universally removed.
- The woodland was home to mainly compost heaps and litter.

Mrs Mary Vincent, a local resident, addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- The TPO would apply to the woodland as a whole, not specific trees.
- The site was of historic value, as part of the original Grange estate.
- Hedgehogs, deers and owls had all been sighted in the woodland.
- The site was not a nuisance, but an asset.
- The site was not maintained and this was more of an issue than any compost heaps that were present.
- The majority of local residents would look to protect the woodland, however the option of purchasing the site had never been considered.
- There was no fear of anti-social behavior on the site.

The Natural and Historic Environment Manager clarified that a planning application for the site could be submitted and would be considered on its merits. Certain trees could be selected for removal however policies were in place to retain trees of value.

Members debated the planning applications and raised the following points regarding the proposals:

- It would be regrettable to lose the woodland site.
- The presence of wildlife was impressive and should be enjoyed.
- The proposal clearly had significant local support.
- The owner was in an unfortunate situation where obligations would be placed on them because of what local residents desired.

A motion was proposed and seconded to agree that the TPO be confirmed, as per officer recommendation. The motion was carried six to one, with one abstention.

**RESOLVED:** (six voted in favour, one voted against, one abstained from voting) that the Tree Preservation Order be confirmed.

**Reasons for the decision:**

- The woodland offered public visual amenity value and it was considered that the loss would be of detriment to the greater public and the landscape in this location.

- The City Council should seek to protect any trees that are considered to be under threat and worthy of retention in line with the formally adopted Trees and Woodlands Strategy.
- The woodland could provide 50 yrs + visual amenity value based on its current condition.

The meeting was adjourned for ten minutes.

## 5. The Orton Longueville Conservation Area Appraisal

The Committee received a report which provided an update on the outcome of the public consultation on the Draft Orton Longueville Conservation Area Appraisal and Management Plan and sought the approval of the Orton Longueville Conservation Area Appraisal and Management Plan.

It was officer's recommendation that the Committee noted the outcome of the public consultation on the Orton Longueville Conservation Area Appraisal and supported the adoption of the Orton Longueville Conservation Area Appraisal and Management Plan as the Council's planning guidance and strategy for the Orton Longueville Conservation Area.

The Principal Built Environment Officer provided an overview of the application and raised the following points:

- It was not proposed to extend the Conservation Area boundary.
- The village possessed an historic core and a special character, including woodland, grounds and avenues.
- Seven comments were received from the public consultation and the Appraisal was amended where necessary.
- A management plan would be put in place to preserve and enhance the area, working alongside the Woodland Trust.
- Information leaflets would be circulated to local residents.

Comments and responses to questions raised by the Committee were as follows:

- Ward Councillors believed the report captured the character of the village.
- 'Visit Peterborough' would be made aware of the points of interest Orton Longueville had to offer.
- Councillors and residents appreciate the work put into the Appraisal.

It was noted that the Parish Council was thankful to the Principal Built Environment Officer for all the work he had undertaken.

**RESOLVED** that:

1. The outcome of the public consultation on the Longthorpe Conservation Area Appraisal be noted; and
2. The adoption of the the Orton Longueville Conservation Area Appraisal and Management Plan as the Council's planning guidance and strategy for the Orton Longueville Conservation Area, be supported.

**Reasons for the decision:**

Adoption of the Orton Longueville Conservation Area Appraisal as the Council's planning guidance and strategy for the Area would:

- fulfill the Local Planning Authorities obligations under the Planning (Listed Buildings & Conservation Areas) Act 1990 to prepare and publish proposals for the preservation and enhancement of Conservation Areas.
- provide specific Conservation Area advice which would be used as local design guidance and therefore assist in achieving the Council's aim of improved design standards and the delivery of a high quality planning service.
- have a positive impact on the enhancement of the Conservation Area by ensuring that new development in the historic environment was both appropriate to its context and of demonstrable quality.

## **6. Three Month Appeal Performance**

The Committee received a report which outlined Planning Service's performance at appeals and identified if there had been any lessons to be learnt in terms of the appeal outcomes. The aim was intended to help inform Committee when undertaking future decisions in order to potentially reduce costs.

The Principal Development Management Officer provided an overview of the application and raised the following points:

- 48 Hall Lane, Werrington – The Committee overturned an officer recommendation and the appeal was allowed.
- 237 Lincoln Road – An appeal against a delegated officer decision was allowed.
- 70 – 80 Storrington Way, Werrington – The Committee overturned an officer recommendation and the appeal was dismissed. Costs were awarded in this instance, as the Inspector determined that officers had not provided the Committee with sufficient information.
- 37 Lavington Grange, Parnwell – An appeal against a delegated officer decision was allowed.
- 26 Apsley Way, Longthorpe – The Committee overturned an officer recommendation and the appeal was dismissed.

Members debated the report and commented on the Storrington Way application, highlighting the importance of investigating the instance and ensuring that it was not repeated.

In response to a question raised the Principal Development Management Officer clarified that, under the new rules, the Planning Inspector could award costs, even if they were not applied for. As such, the reference within the report to 'No' related to instances where costs were neither applied for nor awarded and 'Refused' related to instances where costs were applied for but not awarded.

**RESOLVED:** that the Committee noted past performance and outcomes.

## **7. Planning Compliance Quarterly Report on Activity and Performance**

The Committee received a report which outlined the Planning Service's planning compliance performance and activity which identified if there were any lessons to be learnt from the actions taken. The aim was for Committee to be kept informed of future

decisions and potential to reduce costs.

The Principal Development Management Officer provided an overview of the application and raised the following points:

- 198 live cases, 11 enforcement notices served, eight enforcement notices complied with and one prosecution for breach of a TPO.
- 99% of service requests were acknowledged within three working days, above the target.

In response to a question raised the Principal Development Management Officer explained that, although enforcement officers had warrant cards, sometimes access could not be gained. In these situations officers can approach the Magistrates Court for a warrant and, if necessary, police support.

**RESOLVED:**

The Committee noted past performance and outcomes.

As it was her last Planning and Environmental Protection Committee meeting, the Chairman thanked Councillor Todd for her nine years' service to the Committee.

Chairman  
1.30pm – 4.05pm

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**LOCATION PLAN 11/01921/WCMM**  
Eyebury Quarry Eyebury Road Eye Peterborough PE6 7UQ

**Scale NTS    Date 25/6/2014    Name LG    Department Planning Services**

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## Planning and EP Committee 8 July 2014

**Application Ref:** 11/01921/WCMM

**Proposal:** Section 73 application for non-compliance of conditions C2, C3, C9, C19 and C41 of planning permission 05/00353/MMFUL to extend the period for extraction for 5.5 years, and to amend the method of working, restoration and planting details, and noise and dust schemes at Tanholt Farm, Eye

**Site:** Eyebury Quarry, Eyebury Road, Eye, Peterborough  
**Applicant:** CEMEX UK Operations Ltd

**Agent:**  
**Referred by:** Director of Growth and Regeneration  
**Reason:** Major application with potential for impact on the environment  
**Site visit:** 10.01.2012

**Case officer:** Mrs T J Nicholl  
**Telephone No.** 01733 454442  
**E-Mail:** theresa.nicholl@peterborough.gov.uk

**Recommendation:** **GRANT** subject to the signing of a **LEGAL AGREEMENT** and relevant conditions

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### 1 Description of the site and surroundings and Summary of the proposal

#### The Overall Site and Development Proposal

This site forms part of the wider Eyebury quarry and landfill site. The former is operated by Cemex UK Ltd (the applicant for the current proposals), the latter is operated by Biffa Ltd. They share a single point of vehicular access off Eyebury Road, Eye. Cemex has submitted three applications as follows;

11/01921/WCMM - application to vary conditions attached to 05/00353/MMFUL to allow continued extraction for 5.5 years and to amend the method of working, restoration and planting details, noise and dust schemes

13/01222/MMFUL - full application to retain the aggregate processing plant, stocking area, lagoons and internal haul roads

13/01225/MMFUL - full application for proposed extraction of sand and gravel as an extension to the existing quarry on adjacent land, with restoration to agriculture, nature conservation and recreational uses.

All three applications form one "project" for the purposes of Environmental Assessment (ES). The development is Environmental Impact Assessment (EIA) development under Schedule 1, part 19 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 because the total site area (of all three application sites) exceeds 25 hectares. As such the submission of an ES was mandatory. The submitted ES covers the whole project area.

The project area (sites) lie approximately 0.5 km southeast of the edge of Eye Village. Cats Water Drain runs roughly north/south to the east of the site - the lagoons/lakes will eventually discharge to the drain (there is an existing discharge point from the processing lagoons). Eye 3 Footpath/Bridleway which is also part of the Green Wheel traverses the site from east to west

between the proposed extraction areas and the processing/lagoon area. Eye 1 footpath branches off in a northwest direction towards Eye Village and it runs between the proposed extraction areas. It is proposed to temporarily divert this footpath until the site is restored when it will be reinstated. The nearest residential properties are Tanholt Farm (just to the east of proposed phases 6 and 7 - the site will be returned to the farmer for use once restored, and Tanholt Cottages which lie just to the west of Tanholt Farm (accessed off a track from Eyebury Road which is part of the Green Wheel route).

There are high pressure gas pipelines (National Grid) which run in a roughly north east - south west direction. These pass through the north east part of the site and also run beneath the existing vehicular access. No extraction will take place in the vicinity of these pipelines.

At present there are no permissions in place that enable continued extraction and processing at the site because the previous permissions expired; the permission granted for extraction in phases 1-5 under 05/00353/MMFUL expired in July 2012 (but the current application to vary conditions attached to this permission was submitted prior to this expiry). In summary, all three applications seek to continue the use of the existing haul road, processing and lagoon area, complete the extraction in phases 4/5 and open up the new extraction areas in phases 6 and 7. The whole area will be restored to a largely water environment comprising "conservation" and "fishing lakes" with wet and dry woodland planting and a small area to the northeast of the extraction areas which shall be returned to agriculture. As the restoration is to a water environment it is proposed to have a long term aftercare/management period. More detail on each of the applications will be provided below and in the other accompanying reports. Although the applications seek to continue to extract for a further 5.5 years, the applicant has recently indicated that it is the intention to extract all the remaining reserves this year to serve the Whittlesey Embankment flood defence project being managed by the Environment Agency.

### **This application site proposal**

Application 11/01921/WCMM proposes to vary conditions C2, C3, C9, C19 and C41 attached to the previous permission (05/00353/MMFUL) to enable extraction from phases 4 and 5 to be completed and the site to be restored to two angling/conservation lakes and a match fishing lake. A separate application will be required for public use/business use of the proposed fishing lakes as this will require assessment of the traffic and other matters associated with such a use (including access which is outside this site area). Condition 2 permitted extraction for 6 years (this period expired in July 2012), condition 3 refers to the approved plans, condition 9 required submission of a noise monitoring scheme, condition 19 required submission of a landscaping scheme and condition 41 required the submission of a dust management scheme. Revised plans and schemes have now been submitted and so if these are acceptable the conditions will require amendment to reflect this. The remaining conditions will also be reviewed and amended where necessary to reflect the current situation.

The application site area (the red line) covers all 7 extraction phases but the previous permission only granted extraction in phases 1-5 with soil bunds being stored in phases 6-7. This application would, if permitted, allow completion of extraction in phases 4/5 (1-3 are already extracted). A separate full application is submitted for phases 6 and 7.

The site is shown as an existing quarry on the minerals consultation area plan M9X within the Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals DPD.

## 2 Planning History

Reference	Proposal	Decision	Date
05/00353/MMFUL	Proposed sand and gravel extraction with restoration to agriculture, nature conservation and recreational uses	Permitted	11/07/2006

## 3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

### National Planning Policy Framework (2012)

**Paragraph 14** – there is a presumption in favour of sustainable development which means approving development proposals that accord with the development plan without delay

**Paragraphs 135 – 136** – the effect of development on a non-designated heritage asset should be taken into account in determining an application. Local Planning Authorities should be certain a development will go ahead before permitting loss of a heritage asset.

**Paragraph 144** – In granting planning permission for mineral development, Local Planning Authorities must ensure there are no unacceptable adverse effects on the natural or historic environment, human health or aviation safety and take into account the cumulative effect of multiple impacts from individual sites or a number of sites locally. Restoration and aftercare shall be provided at the earliest opportunity.

### Technical Guidance to the National Planning Policy Framework 2012

Provides technical advice as to how to deal with dust, noise and aftercare schemes

### Cambridgeshire & Peterborough Mineral and Waste Core Strategy DPD (2011)

#### **MW01 - Strategic Vision and Objectives for Sustainable Minerals Development**

In delivering the growth agenda there will be an increase in the use of recycled secondary aggregates and a preference in these over land won minerals, however, where this is not practicable a steady supply of mineral from the Plan area will be maintained. Limestone only exists in the Peterborough area and extraction will continue thought the Plan period. In order to avoid reserves becoming exhausted, new sites will need to be identified and brought forward if they meet environmental criteria. Major infrastructure projects will be facilitated by the supply of mineral and in the case of the A14 improvements, by borrowpits close to the scheme. Mineral safeguarding and consultation areas will be identified to avoid needless sterilisation and prejudice to future mineral extraction. As extraction progresses across the area it will help deliver other objectives through restoration including increased biodiversity, amenity and recreational use. The natural and historic environment will continue to be protected with increased emphasis on operation practices which contribute towards addressing climate change and minimise the impact of such development upon communities. (Policy CS1 sets out a list of strategic objectives to support this vision; those of relevance will be discussed in the body of the report).

#### **MW25 - Restoration and Aftercare of Mineral and Waste Management Sites**

Minerals workings and waste management sites will be restored to a beneficial afteruse with aftercare arrangements. Restoration proposals will be considered on a site by site basis but must meet the criteria set out in the policy.

#### **MW32 - Traffic and Highways**

Minerals and Waste development will only be permitted where it meets the criteria set out in this

policy.

### **MW33 - Protection of Landscape Character**

Minerals and Waste development will only be permitted where it can be assimilated into the local landscape character in accordance with the Cambridgeshire Landscape Guidelines, local Landscape Character Assessments and related SPDs.

### **MW34 - Protecting Surrounding Uses**

Mineral and waste management development will only be permitted where it can be demonstrated (with mitigation where necessary) there is no significant harm to the environment, human health or safety, existing or proposed neighbouring land uses, visual intrusion or loss of residential/other amenity.

### **MW35 - Biodiversity and Geodiversity**

Mineral and waste management development will only be permitted where there will likely be no significant adverse effect on local nature conservation or geological interest. Where it is demonstrated there are overriding benefits to the development compensation and/or mitigation measures must be put in place. Proposals for new habitat creation must have regard to the Peterborough Biodiversity Action Plan and supporting Habitat and Species Action Plans.

### **MW36 - Archaeology and the Historic Environment**

Minerals and waste development will not be permitted where there is an adverse effect on a designated heritage asset, historic landscape or other historic asset of national importance and/or its setting unless substantial public benefits outweigh the harm, or any significant adverse impact on a site of local architectural, archaeological or historical importance. Development may be permitted where appropriate mitigation measures are in place following consideration of the results of prior evaluation.

### **MW37 - Public Rights of Way**

Minerals and waste development will only be permitted where permanent or temporary diversions of public rights of way are adversely affected if appropriate alternatives are provided. Proposals should, where practicable, provide for the enhancement of public rights of way.

### **MW39 - Water Resources and Water Pollution Prevention**

Mineral and waste management development will only be permitted where it is demonstrated there is no significant adverse impact or risk to;

- a. Quantity or quality of groundwater/water resources
- b. Quantity or quality of water enjoyed by current abstractors unless alternative provision is made
- c. Flow of groundwater in or near the site

Adequate water pollution control measures will need to be incorporated.

### **MW41 - Ancillary Development**

Proposals for ancillary development will be considered against the policies of the development plan and will be restricted to the life of the existing operations. Permanent facilities may be acceptable where it is demonstrated the criteria of this policy can be met.

## **Cambridgeshire and Peterborough Minerals and Waste Development Plan Site Specific Proposals DPD 2012**

The site is identified as an existing mineral site within a larger mineral and waste site and is within a mineral consultation area (SSP M9X)

## **Peterborough Planning Policies DPD 2012**

The Presumption in Favour of Sustainable Development – the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

**Community Infrastructure Levy (CIL) Regulations 2010**  
**Paragraphs 203-205 of the National Planning Policy Framework: Planning Conditions and Obligations:**

Requests for planning obligations whether CIL is in place or not, are only lawful where they meet the following tests:-

- (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.

In addition obligations should be:

- (i) relevant to planning;
- (ii) reasonable in all other respects.

Planning permissions may not be bought or sold. Unacceptable development cannot be permitted because of benefits/inducements offered by a developer which are not necessary to make the development acceptable in planning terms. Neither can obligations be used purely as a means of securing for the local community a share in the profits of development.

#### **4 Consultations/Representations**

**Transport & Engineering Services (25.09.13)**

No objections subject to the existing restrictions on traffic generation being brought forward onto this consent. Support use of the routing agreement.

**Rights of Way Officer (21.03.14)**

The Public Right of Way Diversion looks reasonable. It will need to be reinstated when the quarry is restored.

**Landscape Architect (Enterprise) (03.03.14)**

No objections - Does not appear to have significant landscape effects

**Pollution Team (23.04.14)**

Recommend that conditions regarding noise and dust attached to previous permission 05/00353/MMFUL be re-applied

**Wildlife Officer (30.05.14)**

Remains disappointed that the smaller shallower pond feature in the previous restoration scheme and suitable for Great Crested Newts has been removed from the scheme. The larger south-eastern lake is described as "angling/conservation" lake but is described as having a biodiversity goal. Angling and biodiversity lakes can be two very different things. Recommend that a habitat monitoring scheme be secured.

**Archaeological Officer (04.03.14)**

The proposed extraction and restoration works appear to have no adverse impact on the archaeological features to be preserved in situ.

**English Heritage (21.02.14)**

The application should be determined in accordance with national and local policy guidance and on the basis of PCC's specialist conservation advice.

**Environment Agency (05.03.14)**

No objection. Suggest that the noise monitoring scheme (condition 9) is updated.

**Natural England - Consultation Service (03.03.14)**

Refer to our standing advice regarding protected species. The Council should be satisfied that restoration proposals deliver BAP habitat and species targets, including net gain for biodiversity where possible.

**National Grid (20.02.14)**

Due to the presence of National Grid apparatus in the vicinity of the site, the operator should contact National Grid prior to any works taking place to ensure the apparatus is not affected by the works.

**Eye Parish Council (27.09.13)**

No comments

**Local Residents/Interested Parties**

Initial consultations: 74

Total number of responses: 1

Total number of objections: 1

Total number in support: 0

**Representations**

One representation has been received from a nearby resident who refers to continued problems with reversing beepers coming from Eyebury. No objection is raised to further extraction but would object to further landfilling.

**5 Assessment of the planning issues**

**Consideration**

The key issues are as follows;

1. The principle of the development
2. Transport/traffic/Access
3. Visual appearance
4. Noise/impact on neighbours
5. Dust
6. Archaeology
7. The proposed restoration scheme/Ecology, landscaping and drainage.
8. Other issues (soils, hydrology during excavation, pipelines)
9. Conclusion

**Principle of the development**

The site has previously been granted planning permission for extraction and is shown as an existing quarry in the Cambridgeshire and Peterborough Minerals and Waste Site Allocations DPD. The principle of mineral extraction has already been established and so in this regard the proposed variation of conditions to the 2005 permission to allow extraction in phases 4-5 to be completed with a revised restoration scheme is acceptable.

**Transport/traffic/access**

The application proposes to use the existing site access off Eyebury Road and to use existing haul roads. The previous application was subject to a legal agreement (S106) which restricts the total

number of lorry movements in and out of the site (for Cemex and Biffa) to 450 movements per day - that's 225 in/225 out. The applicant proposes to work within this limit and to include this clause in the new legal agreement that will be required should planning permission be granted.

A transport statement was submitted with the application/environmental statement which sets out that the site will be worked out over the next 6.5 years (although this was written 3 years ago and the site will be worked out more quickly than this) and that traffic levels generated will be well below the historic traffic levels at the site. The same operating hours would be worked i.e. 0700 to 1800 Monday to Friday and 0700 to 1300 on Saturdays and that peak hour traffic on the main routes and junctions closest to the site would not be significantly affected.

The Highway Authority has not objected to the application.

Recently, the applicant has advised that rather than extracting the remaining reserve over the next 6.5 years (timescale is now out of date in any event), it is the company's intention to extract all the remaining reserve this year in order to fulfil the need for as raised material to serve the Whittlesey Washes embankment project. However, the applicant advises that the maximum lorry movements i.e. 450 per day previously agreed, will not be exceeded. There are approximately 80,000 tonnes of material remaining in phases 4/5.

Extraction from phase 4 continued last year and the material was taken to the embankment project. (Officers advised Cemex that the operations continued at their risk and if complaints were received we would investigate and take appropriate action). The only complaints we received related to lorries using Willow Hall Lane as a short cut. This matter was raised with Cemex and was largely resolved (except for the occasional lorry still using Willow Hall Lane). A further factor to take into consideration is the commencement of development at Willow Hall Lane Quarry which is accessed off the B1040 (between Thorney and Whittlesey) and the potential for this quarry to serve the Whittlesey Embankment project.

Policy CS32 of the Minerals and Waste Core Strategy (MW Core Strategy) states that development will only be permitted where any associated increase in traffic would not cause unacceptable harm to the environment, road safety or residential amenity. The policy also states that binding agreements covering lorry routing arrangements may be sought.

Given the new information concerning (a) the intended extraction of all remaining reserves in one year, (b) potential for cumulative impacts with lorry routing and traffic with Willow Hall Quarry and (c) potential for complaints from local residents who live on potential "rat runs", it is considered that any permission granted must be subject to a legal agreement which secures the following;

- Total daily lorry movements for Cemex and Biffa not to exceed 450
- For lorries/material destined for the Whittlesey Embankment Project an agreed lorry route which only uses the "A" roads from Parnell Way i.e. Eye Road/Frank Perkins Parkway, A605, A141, A47, A1139
- For any other business conducted by Cemex, a lorry route which avoids Willow Hall Lane

The above routes would ensure that Willow Hall Lane is not used as a short cut and similarly the B1040 cannot be used - this is already permitted to be used by Willow Hall Quarry traffic which exits onto the B1040. The Highway Authority supports this stance. Subject to such an agreement which secures this, it is considered that in highway terms the proposal will be acceptable and will comply with policy CS32.

With regard to the proposed footpath diversion, the Rights of Way Officer has confirmed that the proposed diversion route appears to be sensible. The applicant would need to apply for a temporary footpath diversion order. The application complies with MW Core Strategy policy CS37 which requires temporary routes to be provided where the development will adversely affect the permanent use of public rights of way. This will only be required to be undertaken ahead of

phases 6 or 7 commencing and these phases are subject to a separate application under 13/01225/MMFUL.

## **Visual Appearance**

The applicant has submitted a Landscape & Visual Impact Assessment as part of the ES. The site lies within landscape character area 5 "Peterborough Fen Fringe" and sub area 5b "Eye Fen Fringe" as set out in the Peterborough Landscape Character Assessment published May 2007. The area is characterised by a gently undulating landform slightly higher than the fen, isolated residential properties and farmsteads, evidence of former extraction and a landfill site, medium hedgerows and open historically cultivated land extending east up to Catswater Drain.

The wider site is already characterised by man-made features via the existing quarry works and landfill site and the plant site area which contains typical processing plant and machinery and silt lagoons. Soil bunds screen Tanholt Farm. The majority of the site area covered by this application has already been stripped and worked. (the two new phases 6 & 7 are immediately to the west of the already worked areas).

Policy CS33 of the MW Core Strategy states that Mineral development will only be permitted where it can be demonstrated that it can be assimilated into its surroundings and local landscape character. Policy CS34 is concerned with protecting surrounding uses including visual intrusion.

It is considered that the extraction of mineral will not cause visual harm over and above that already accepted at the site i.e. as it is already a quarry. The quarry is highly visible from the public footpaths that cross the site but it is also screened from the Green Wheel route to a good degree by trees and hedges. The other footpath which runs along the extraction area will be diverted temporarily until the site is restored. Soil bunds will continue to protect Tanholt Farm, though mainly for acoustic purposes they also help to screen the visual appearance of the quarry. There are no other properties close enough to the site to be affected by visual intrusion.

The proposed restoration scheme will include a series of lakes, features which are not naturally common within the landscape, except for the silt lagoons. However the lakes, would not significantly alter the topography of the area in the way that a domed profile infill would. Importantly the lakes will be interspersed and surrounded by planting which will assimilate them into the landscape.

The Council's Landscape Architect has not raised objections.

It is considered therefore, that the visual appearance of the development is acceptable and in compliance with policies CS33 and CS34 of the MW Core Strategy.

## **Noise/Impact on neighbours**

A Noise Assessment and Noise Monitoring Scheme (2013) have been submitted as part of the ES. The scheme sets out that noise limits (dB LAeq, T) shall be applicable at the following properties during site operating hours;

Tanholt Farm	55
Willow Hall Farm	48
Caravan Park, Eye	51
Eye Village	54
Eyebury Cottages	50
Tanholt Farm Cottages	46

The scheme sets out what will happen with regard to routine monitoring and in the event of a complaint to the Local Planning Authority. In this case if the matter is more than a single event, the source of the noise will be identified and additional monitoring undertaken at the above monitoring sites to see if noise levels are being breached. If so, the particular operation causing the problem

shall cease until it has been remedied.

Policy CS34 of the MW Core Strategy is concerned with protection of surrounding uses which includes residential amenity. The Technical Guidance to the National Planning Policy Framework (NPPF) gives specific advice in relation to noise and mineral planning. This states that subject to a maximum of 55dB(A)LAeq, 1 hr (free field), the mineral planning authorities should aim to establish a noise limit at the noise sensitive property that does not exceed background level by more than 10dB(A). Although where this is not achievable the maximum limit (55) should be applied. For temporary periods of up to 8 weeks in any year the increased temporary daytime limits should not exceed 70dB(A) LAeq 1 hr (free field).

### **Dust**

A dust monitoring scheme has been submitted with the application as part of the ES. Dust emanating from quarry operations has the potential to be a nuisance to nearby residents or at worst a possible health risk. Policy CS34 of the MW Core Strategy states that development will only be permitted where it is demonstrated there is no significant harm to human health or loss of residential amenity. The Technical Guidance to the NPPF provides specific advice with regard to dust emissions and how to carry out dust assessments and mitigation procedures.

The submitted scheme adheres to this advice. The Pollution Control Officer has raised no objections in this regard. The application is therefore acceptable subject to a suitable condition requiring implementation of the submitted scheme.

### **Archaeology/heritage assets**

The site does not contain designated heritage assets such as scheduled monuments or listed buildings. The quarry does contain archaeological features which are not designated and would be destroyed in the areas where extraction will be taking place. Archaeological investigation has taken place on this site (phases 1-5) in accordance with a Written Scheme of Investigation (WSI) submitted to satisfy the requirements of the 2005 permission and the work was carried out by Cambridge Archaeology Unit. The NPPF (paragraph 135) states that where a non-designated heritage asset will be directly affected by development, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Policy CS36 of the MW Core Strategy states that where mineral sites are permitted on sites of local archaeological importance, satisfactory mitigation should take place which could be preservation in situ and/or archaeological investigation and publication of the results.

To date archaeological investigation has been carried out to the satisfaction of the Council's archaeologist. Although the previous WSI was written in 2006, the Council's archaeologist has confirmed the scheme is still relevant and should be adhered to in phases 6 & 7. With regard to phases 4 & 5 the archaeological investigations have been completed in accordance with the scheme. The exception is with regard to three "wateringholes" which were discovered during 2013 which shall be preserved in situ following consultation with English Heritage and the Council's archaeologist. Although investigations are complete in phases 4 & 5, the results still need to be published.

The application is therefore acceptable subject to a condition which requires the development to proceed in accordance with the WSI.

### **The Proposed restoration scheme/landscaping/ecology/drainage**

The restoration scheme approved under 05/00353/FUL was based on provision of a water environment with woodland planting belts around the lakes. The proposed restoration scheme provides larger more irregularly shaped lakes and correspondingly less planting (in terms of plant numbers).

Policy CS35 of the MW Core Strategy states that development may be permitted subject to

compensation and/or mitigation measures including biodiversity creation and/or enhancement measures which must be put in place and managed. Regard must be had for the Biodiversity Action Plans (BAP) and supporting habitat and species plans.

Policy CS25 requires mineral workings to be restored in a phased manner to a beneficial after use with aftercare arrangements. It refers to schemes assisting with biodiversity enhancement and BAP targets.

These policies are in conformity with advice set out in the NPPF Technical Guidance.

We asked the applicant to justify why a lesser amount of planting would be acceptable, how the scheme complied with the above policy and to demonstrate how the hydrology of draining one lake to another by gravity fed outlets and then finally discharging to Cat's Water Drain would work (it was not clear on the initial submission). We also spoke with the Environment Agency and the Council's Drainage Team in this regard.

The applicant has submitted additional information to support the ES and a Long Term Management/Aftercare report which sets out the aims of the scheme with regard to providing areas of BAP habitat including grassland, wet and dry woodland and reed swamp to attract BAP priority species of mammals, invertebrates and insects. As the restoration scheme is proposing a water environment, long term management of 25 years is required and will be secured through a S106 legal agreement which shall bind the developer to the provisions set out in the Long Term Management/ Aftercare Report 2014.

The Council's Wildlife Officer recommends securing the long term management scheme by condition (it would need to be by legal agreement) and has raised some concerns about the dual use of some of the lakes for fishing purposes and conservation purposes. A separate planning application would be required to use the lakes for fishing on any public/commercial basis and so management of the lakes in this regard would need to be assessed as part of that consideration and whether such a use is compatible with the biodiversity aims of this restoration scheme.

With regard to the hydrology of the restoration scheme, we are satisfied following advice from the Council's Drainage Team, that the gravity fed system can work as long as maintenance of the inlet and outlet pipes is undertaken as part of the long term management of the project. No objections have been received from the Environment Agency or the Internal Drainage Body. The EA is satisfied that the scheme does not present a risk with regard to flooding. The proposal is therefore acceptable with regard to policies CS25 and CS35 of the MW Core Strategy.

## **Other Issues**

### **Soils**

Topsoil and subsoil will be stored in managed bunds around the extraction areas and Tanholt Farm. Two large areas of soil will be stored to the north east of the excavation area in phases 4 & 5 between the limit of excavation and the location of the gas pipelines (but not over the pipelines). The soil will be re-used in the wider restoration scheme. Soils will be stored in accordance with standard practice and in accordance with policy CS38 which requires the sustainable use of soils especially where that soil falls within agricultural grades 1, 2 and 3a. Approximately 45% of the soil is grade 3a, the remainder being of lower grade. The majority of the site is not to be restored to agriculture but nevertheless it is still important to retain the integrity of the soils and to use them for a beneficial purpose in the restoration scheme as far as possible. Suitable conditions regarding soil handling and storage will be imposed.

### **Hydrology during excavation**

The applicant states that the excavation will take place as follows;

*Dewatering is carried out in order to facilitate the extraction of mineral. The dewatering pump is currently located in the southern end of phase 4 and will follow the extraction phases. The water is pumped to the worked-out phases 1 - 3, from where it is subsequently pumped to the lagoon system to the south of the quarry. Water is discharged to Cat's Water at National Grid Reference TF 2420 0149 in accordance with environmental permit number EPR/XP3898VA. Dewatering water is used in the washing plant and recycled via the feeder lake and clean water lagoon. There will be no significant changes to water management with future working of the site.*

There have been no problems with regard to dewatering of the worked out phases and no objections have been received from the EA or Internal Drainage Body (IDB). A permit is required from the IDB to discharge water into Cat's Water Drain. We are satisfied that this aspect of the proposal is acceptable.

### **Gas Pipelines/National Grid**

We have received a standard type response from National Grid with regard to the proposals and proximity to the gas pipelines. However, the proposals have no further impact on the pipelines than the previously approved development. The proposed vehicular entrance to the site remains the same as it has for many years. The submitted plans clearly show a stand-off is to be maintained with regard to extraction areas. We have attempted on several occasions to discuss the issues with National Grid and have offered to take a representative to the site to show the situation on the ground. We have not received a response. It is our opinion that the proposals will not further impact National Grid's apparatus and that the developer is aware of the presence of the pipelines and has a responsibility to contact National Grid should any issues arise.

## **6 Conclusions**

The application is considered to be acceptable having regard to the policies of the development plan and all other material considerations subject to the imposition of conditions and the entering into by the applicant of a legal agreement (as set out above). All of the matters raised within the Environmental Assessment have been taken into account and following receipt of further information requested by the officers, the environmental assessment and proposed mitigation is acceptable and will not result in significant adverse effects. The development will continue to be monitored by the Senior Minerals and Waste Officer and the submitted schemes together with the conditions and legal agreement are robust enough to enable sufficient enforcement if required, both during excavation and through the delivery of the restoration scheme and long term aftercare. The proposal therefore accords with policies CS1, CS25, CS32, CS33, CS34, CS35, CS36, CS37, CS39 and CS41 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy, policy SSP M9 of the Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals DPD and policy PP1 of the Peterborough Planning Policies DPD. There is no reason not to approve the application in line with Section 38(6) of the Planning and Compulsory Purchase Act.

## **7 Recommendation**

The Director of Growth and Regeneration recommends that planning permission is **GRANTED** subject to the signing of a **LEGAL AGREEMENT** and the following conditions:

- C 1 The development hereby approved shall not obstruct the alignment of public right of way, shown as no.IN01 on drawing nos. E6A-A. The route of the right of way passing through the application site shall be retained.  
Reason: To order to protect and safeguard the amenity of the area, in accordance with policy CS37 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C 2 The extraction of the sand and gravel hereby approved shall be for a limited period of 4 years at the end of which mineral extraction operations shall cease and the site shall be restored in accordance with the Conditions attached to this permission. In the event that mineral extraction operations shall cease prior to this period the site shall be restored within 12 months of cessation of mineral extraction in accordance with the Conditions attached to this permission.  
Reason: To ensure a timely restoration allowing beneficial restoration in accordance with policy CS25 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C 3 The development hereby permitted shall be carried out in accordance with the following plans;  
Location Plan TF2301\_CAW\_D\_180614 dated June 2014  
Site Plan TF2301\_CAW\_D\_051211\_A\_1 dated December 2011  
Method of Working, drawing reference P8/1283/3E dated Jan 2009  
Method of Working, drawing reference P3/1283/16B dated Dec 2004  
Wateringhole Areas, drawing reference, EYE\_D\_PWJ\_160913A dated Sept 13  
Proposed Guttled Quarry Configuration, drawing reference EYE\_D\_PWJ160913b dated Sept 13  
'Longterm Management / Aftercare' document dated June 2014 and drawing Restoration Planting Detail and revised Contours, reference P3/1283/19/C  
Haul Routes drawing ref. CE2120/01  
Reason: To clarify what is hereby approved.
- C 4 The operations authorised, required or associated with the development hereby approved shall only be carried out between the following times:-  
7.00 - 18.00: Monday to Friday  
7.00 - 13.00: Saturdays  
and at no other time or on Sundays or Public Holidays  
Reason: To minimise disturbance to residential or rural amenity from the development in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and waste Core Strategy.
- C 5 Except for temporary operations, the noise levels due to operations at the site, shall not exceed the relevant criterion limit specified below for each noise sensitive location;
- Eye Village 54dB LAeq, 1 hour (free field)
  - Willow Hall Farm 48 dB LAeq 1 hour (free field)
  - Tanholt Farm 55 dBLAeq 1 hour (free field)
  - Caravan Park, Eye 51 dB LAeq 1 hour (free field)
  - Eyebury Cottages 50 dB LAeq 1 hour (free field)
  - Tanholt Farm Cottages dB LAeq 1 hour (free field)

The noise monitoring shall be carried out in accordance with the methodology set out in the Scheme of Noise Monitoring (included in the Environmental Statement at Appendix 5).

All plant and equipment shall be fitted with white noise warning devices maintained in good working order.

Reason: To ensure that operations are carried out in a manner which will safeguard the amenity of the area and minimise disturbance to adjacent land users in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C 6 For temporary operations which shall include site preparation, site stripping and restoration, and screen bund formation and removal and any other temporary activity as may be agreed in advance of works taking place with the Mineral Planning Authority, the free field noise level due to operations at the nearest point to each dwelling shall not exceed 70 dB LAeq,1hour(free field). Temporary operations shall not take place for more than eight weeks in any continuous 12 month period for work affecting any noise sensitive property identified in condition 6. Five days written notice shall be given to the Mineral Planning Authority in advance of the commencement of any temporary operation.

Reason: To ensure that operations are carried out in a manner which will safeguard the amenity of the area and minimise disturbance to adjacent land users in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C 7 Dust mitigation and monitoring shall be carried out in complete accordance with the Dust Monitoring Scheme (included in the Environmental Statement at appendix 6). Dust mitigation includes the availability at all times of a water bowser to dampen down all internal haul roads and operational areas as necessary during dry weather conditions, and the sheeting of all lorries removing excavated minerals from the site with a diameter less than 75mm.

Reason: In order to protect the amenity of adjacent occupiers in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C 8 All vehicular access to the site shall be achieved solely via the existing haul road and quarry access off Eyebury Road.

Reason: In the interests of highway safety in accordance with policy CS32 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C 9 Notwithstanding the provision of the Town and Country Planning Act (General Permitted Development) Order 1995 (or any Statutory Instrument revoking and re-enacting that Order), no fixed plant, machinery or buildings connected with the extraction, processing or restoration shall be erected or placed on the site without the prior written approval of the Mineral Planning Authority.

Reason: To ensure that the operations are carried out in a manner which will safeguard the amenity of the area and to minimise disturbance to adjacent land users in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C10 No floodlighting shall be installed within the site unless in accordance with a scheme to be submitted to and approved in writing beforehand with the Local Planning Authority.

Reason: In the interests of protecting the amenity of adjacent occupiers in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C11 Any fuel, oil or chemical storage above ground and re-fuelling facilities shall be sited on an impermeable base and bunded to at least 110% of the tank/drum capacity with a sealed drainage sump within the bunded area and no direct discharge to any water course, land or underground strata. All fill, drain and overflow pipes shall be within the bunded areas.

Reason: To protect the water environment in accordance with policy CS39 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C12 No stockpiles of mineral shall exceed an overall height of 7 metres.  
Reason: In the interests of protecting residential amenity in accordance with policy CALP12(D) of the Cambridgeshire Aggregates Local Plan.
- C13 Landscaping, aftercare and management shall be carried out in complete accordance with the 'Longterm Management / Aftercare' document dated June 2014 and drawing Restoration Planting Detail and revised Contours, reference P3/1283/19/C.  
Reason: To ensure the development will be appropriately assimilated into its surroundings and local landscape character, and provide appropriate biodiversity enhancement in accordance with policies CS33 and CS25 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C14 Plant or vehicle movement within the site shall be confined to clearly defined haul routes as depicted on 'Haul Routes' drawing ref. CE2120/01 dated May 06. No plant or vehicle shall cross topsoil and sub-soil except for the express purpose of soil stripping or replacement operations.  
Reason: In order to protect the soil resource of the site in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C15 The existing wheel washing facilities shall be retained, maintained in an operational condition and used by all Heavy Goods Vehicles exiting the site throughout the period of development. The surface of the access road shall be kept clean by regular mechanical sweeping.  
Reason: In the interests of highway safety in accordance with policy CS32 of the Cambridgeshire and Peterborough Minerals and Waste Core strategy.
- C16 No stored topsoil or sub-soil shall be removed from the site or the land edged blue on the approved location plan.  
Reason: In order to protect the soil resource of the site in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C17 Soil storage bunds shall be a maximum of 3m for top soil and 5m for subsoil. All soil storage bunds intended to remain in situ for more than 6 months or over the winter period shall be seeded with seedmix A22 or similar at a rate of 25g/m<sup>2</sup>. The emergent sward shall be mown or strimmed to a height of 50mm and subsequently to the same height every April / May and August / September unless growth rates or climate conditions indicate otherwise. Weed growth will be controlled through the appropriate use of herbicide and any failed areas will be cultivated and reseeded as above.  
Reason: To protect the existing soil resource and to ensure that the stored soils are kept free from weeds in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C18 The applicant shall give at least seven days and no more than twenty-one days written notice to the Mineral Planning Authority prior to the commencement of top soil or sub-soil stripping from any part of the site. Prior to the stripping of the soil any standing crop or vegetation shall be cut and removed from the site.  
Reason: To allow the Mineral Planning Authority to inspect the condition of the soils during soil stripping operations and to prevent the soils from becoming degraded in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C19 The soil handling methods shall be undertaken in strict accordance with the recommendations of the Soils and Land Classification report dated December 2004 included as Appendix 9 of the Environmental Statement.  
Reason: In order to protect the soil resource in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C20 Top soil and sub-soil stripping, movement and re-spreading shall only be carried out when the full depth of the soil to be handled is in a suitable dry and friable condition. Soils shall not be stripped, handled or re-spread between the months of October to March unless otherwise agreed in writing by the Mineral Planning Authority.  
Reason: To protect the existing soil resource on the site in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C21 Dewatering of the site shall be undertaken in accordance with the recommendations of the Report; "Mitigating the Impacts of Quarry Dewatering in Sand and Gravel Deposits", dated March 2007.  
Reason: To protect the water environment in accordance with policy CS39 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C22 No materials shall be imported into the site for processing, storage or restoration purposes.  
Reason: For the avoidance of doubt of the extent of the development and operations hereby permitted in accordance with policies CS32 and 34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C23 The development shall be carried out in complete accordance with the Scheme of Archaeological Works dated 30.05.06., including any post development requirements e.g. archiving and submission of final reports.  
Reason: To ensure that the impact of the scheme on the historic environment is mitigated in accordance with policy CS36 of the Cambridgeshire and Peterborough minerals and Waste Core Strategy.
- C24 Notwithstanding references to "fishing lakes" within the application, the lakes hereby approved as part of the restoration scheme shall not be used by members of the public for fishing nor shall they be used for any commercial fishing purpose unless a separate planning permission has first been obtained for such use(s)  
Reason: The submission does not include vehicular access for such uses and does not provide adequate information or assessments as to the potential effects on the highway, nearby residents or the biodiversity benefits of the restoration scheme.

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**LOCATION PLAN 13/01222/MMFUL**

Eyebury Quarry Eyebury Road Eye Peterborough PE6 7UQ

Scale NTS Date 25/6/2014 Name LG Department Planning Services

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## Planning and EP Committee 8 July 2014

**Application Ref:** 13/01222/MMFUL

**Proposal:** Retention of aggregate processing plant, stocking area, lagoons and internal haul roads

**Site:** Eyebury Quarry, Eyebury Road, Eye, Peterborough

**Applicant:** Cemex UK Operations Ltd  
Kirsten Hannaford-Hill

**Agent:**

**Referred by:** Director of Growth and Regeneration

**Reason:** EIA development

**Site visit:** 05.11.2013

**Case officer:** Mr A O Jones

**Telephone No.** 01733 454440

**E-Mail:** alan.jones@peterborough.gov.uk

**Recommendation:** **GRANT** subject to the signing of a **LEGAL AGREEMENT** and relevant conditions

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### 1 Description of the site and surroundings and Summary of the proposal

#### The Overall Development Proposal

This site forms part of the wider Eyebury quarry and landfill site. The former is operated by Cemex UK Ltd (the applicant for the current proposals), the latter is operated by Biffa Ltd. They share a single point of vehicular access off Eyebury Road, Eye.

Cemex has submitted three applications as follows;

- 1) 11/01921/WCMM – application to vary conditions attached to 05/00353/MMFUL to allow continued extraction for 5.5 years and to amend the method of working, restoration and planting details, noise and dust schemes
- 2) 13/01222/MMFUL – full application to retain the aggregate processing plant, stocking area, lagoons and internal haul roads
- 3) 13/01225/MMFUL – full application for proposed extraction of sand and gravel as an extension to the existing quarry on adjacent land, with restoration to agriculture, nature conservation and recreational uses.

All three applications form one “project” for the purposes of Environmental Assessment (ES). The development is Environmental Impact Assessment (EIA) development under Schedule 1, part 19 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 because the total site area (of all three application sites) exceeds 25 hectares. As such the submission of an ES was mandatory. The submitted ES covers the whole project area which is approximately 35 hectares.

The project area (sites) lie approximately 0.5 km southeast of the edge of Eye Village. Cats Water Drain runs roughly north/south to the east of the site – the lagoons/lakes will eventually discharge to the drain (there is an existing discharge point from the processing lagoons). Eye 3 Footpath/Bridleway which is also part of the Green Wheel traverses the site from east to west between the proposed extraction areas and the processing/lagoon area. Eye 1 footpath branches off in a northwest direction towards Eye Village and it runs between the proposed extraction areas.

It is proposed to temporarily divert this footpath until the site is restored when it will be reinstated. The nearest residential properties are Tanholt Farm (just to the east of proposed phases 6 and 7 – the site will be returned to the farmer for use once restored, and Tanholt Cottages which lie just to the west of Tanholt Farm (accessed off a track from Eyebury Road which is part of the Green Wheel route).

There are high pressure gas pipelines (National Grid) which run in a roughly north east – south west direction. These pass through the north east part of the site and also run beneath the existing vehicular access. No extraction will take place in the vicinity of these pipelines.

At present there are no permissions in place that enable continued extraction and processing at the site because the previous permissions expired; the permission granted for extraction in phases 1-5 under 05/00353/MMFUL expired in July 2012 (but the current application to vary conditions attached to this permission was submitted prior to this expiry). In summary, all three applications seek to continue the use of the existing haul road, processing and lagoon area, complete the extraction in phases 4/5 and open up the new extraction areas in phases 6 and 7. The whole area will be restored to a largely water environment comprising “conservation” and “fishing lakes” with wet and dry woodland planting and a small area to the northeast of the extraction areas which shall be returned to agriculture. As the restoration is to a water environment it is proposed to have a long term aftercare/management period. More detail on each of the applications will be provided below and in the other accompanying reports. Although the applications seek to continue to extract for a further 5.5 years, the applicant has recently indicated that it is the intention to extract all the remaining reserves this year to serve the Whittlesey Embankment flood defence project being managed by the Environment Agency.

### **This application site proposal**

Application 13/01222/MMFUL seeks to retain the existing processing plant, stocking area, lagoons and internal haul roads at Eyebury Quarry. These facilities have been previously approved under the Review of Minerals Permission (ROMP) 00/00472/RMP, though lapsed as site operations developed under subsequent permissions and new extension areas within the wider site gained new approvals. The application therefore seeks to regularise the planning permission for this area of the site and function as an ancillary development to process reserves applied for as part of the ‘overall development’ outlined above.

The proposal is to retain the ‘plant site’ for the duration of mineral extraction and processing at Eye Quarry. Since the application has been received a substantial quantity of mineral has been extracted from phases 4 and 5, and approximately 240,000 tonnes remain, including reserves in phases 6 and 7, resulting in a further 4 years of extraction and processing at a rate of 60,000tpa. However, with reserves at the site likely to be exhausted sooner in the event that ‘as raised’ material be exported off site for the EA flood defence project, there is a need to ensure the restoration of the plant site is linked to the extraction period.

Restoration, landscaping and aftercare proposals have also been submitted with the proposal, to come into effect upon completion of mineral extraction operations.

## **2 Planning History**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
00/00472/RMP	Review of Minerals Permission (now lapsed)	approved	

### **3 Planning Policy**

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

#### **National Planning Policy Framework (2012)**

**Paragraph 14** – there is a presumption in favour of sustainable development which means approving development proposals that accord with the development plan without delay

**Paragraphs 135 – 136** – the effect of development on a non-designated heritage asset should be taken into account in determining an application. Local Planning Authorities should be certain a development will go ahead before permitting loss of a heritage asset.

**Paragraph 144** – In granting planning permission for mineral development, Local Planning Authorities must ensure there are no unacceptable adverse effects on the natural or historic environment, human health or aviation safety and take into account the cumulative effect of multiple impacts from individual sites or a number of sites locally. Restoration and aftercare shall be provided at the earliest opportunity.

#### **Technical Guidance to the National Planning Policy Framework 2012**

Provides technical advice as to how to deal with dust, noise and aftercare schemes

#### **Cambridgeshire & Peterborough Mineral and Waste Core Strategy DPD (2011)**

##### **MW01 - Strategic Vision and Objectives for Sustainable Minerals Development**

In delivering the growth agenda there will be an increase in the use of recycled secondary aggregates and a preference in these over land won minerals, however, where this is not practicable a steady supply of mineral from the Plan area will be maintained. Limestone only exists in the Peterborough area and extraction will continue thought the Plan period. In order to avoid reserves becoming exhausted, new sites will need to be identified and brought forward if they meet environmental criteria. Major infrastructure projects will be facilitated by the supply of mineral and in the case of the A14 improvements, by borrowpits close to the scheme. Mineral safeguarding and consultation areas will be identified to avoid needless sterilisation and prejudice to future mineral extraction. As extraction progresses across the area it will help deliver other objectives through restoration including increased biodiversity, amenity and recreational use. The natural and historic environment will continue to be protected with increased emphasis on operation practices which contribute towards addressing climate change and minimise the impact of such development upon communities. (Policy CS1 sets out a list of strategic objectives to support this vision; those of relevance will be discussed in the body of the report).

##### **MW25 - Restoration and Aftercare of Mineral and Waste Management Sites**

Minerals workings and waste management sites will be restored to a beneficial after use with aftercare arrangements. Restoration proposals will be considered on a site by site basis but must meet the criteria set out in the policy.

##### **MW32 - Traffic and Highways**

Minerals and Waste development will only be permitted where it meets the criteria set out in this policy.

##### **MW33 - Protection of Landscape Character**

Minerals and Waste development will only be permitted where it can be assimilated into the local landscape character in accordance with the Cambridgeshire Landscape Guidelines, local Landscape Character Assessments and related SPDs.

##### **MW34 - Protecting Surrounding Uses**

Mineral and waste management development will only be permitted where it can be demonstrated (with mitigation where necessary) there is no significant harm to the environment, human health or safety, existing or proposed neighbouring land uses, visual intrusion or loss of residential/other amenity.

#### **MW35 - Biodiversity and Geodiversity**

Mineral and waste management development will only be permitted where there will likely be no significant adverse effect on local nature conservation or geological interest. Where it is demonstrated there are overriding benefits to the development compensation and/or mitigation measures must be put in place. Proposals for new habitat creation must have regard to the Peterborough Biodiversity Action Plan and supporting Habitat and Species Action Plans.

#### **MW36 - Archaeology and the Historic Environment**

Minerals and waste development will not be permitted where there is an adverse effect on a designated heritage asset, historic landscape or other historic asset of national importance and/or its setting unless substantial public benefits outweigh the harm, or any significant adverse impact on a site of local architectural, archaeological or historical importance. Development may be permitted where appropriate mitigation measures are in place following consideration of the results of prior evaluation.

#### **MW37 - Public Rights of Way**

Minerals and waste development will only be permitted where permanent or temporary diversions of public rights of way are adversely affected if appropriate alternatives are provided. Proposals should, where practicable, provide for the enhancement of public rights of way.

#### **MW39 - Water Resources and Water Pollution Prevention**

Mineral and waste management development will only be permitted where it is demonstrated there is no significant adverse impact or risk to;

- a. Quantity or quality of groundwater/water resources
- b. Quantity or quality of water enjoyed by current abstractors unless alternative provision is made
- c. Flow of groundwater in or near the site

Adequate water pollution control measures will need to be incorporated.

#### **MW41 - Ancillary Development**

Proposals for ancillary development will be considered against the policies of the development plan and will be restricted to the life of the existing operations. Permanent facilities may be acceptable where it is demonstrated the criteria of this policy can be met.

#### **Community Infrastructure Levy (CIL) Regulations 2010**

#### **Paragraphs 203-205 of the National Planning Policy Framework: Planning Conditions and Obligations:**

Requests for planning obligations whether CIL is in place or not, are only lawful where they meet the following tests:-

- (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.

In addition obligations should be:

- (i) relevant to planning;
- (ii) reasonable in all other respects.

Planning permissions may not be bought or sold. Unacceptable development cannot be permitted because of benefits/inducements offered by a developer which are not necessary to make the

development acceptable in planning terms. Neither can obligations be used purely as a means of securing for the local community a share in the profits of development.

#### **4 Consultations/Representations**

##### **Transport & Engineering Services (25.09.13)**

No objections subject to the existing restrictions on traffic generation being brought forward onto this consent. Support use of the routing agreement.

##### **Rights of Way Officer (21.03.14)**

The Public Right of Way Diversion looks reasonable. It will need to be reinstated when the quarry is restored.

##### **Landscape Architect (Enterprise) (03.03.14)**

No objections - Does not appear to have significant landscape effects

##### **Pollution Team (23.04.14)**

Recommend that conditions regarding noise and dust attached to previous permission 05/00353/MMFUL be re-applied

##### **Wildlife Officer (30.05.14)**

Remains disappointed that the smaller shallower pond feature in the previous restoration scheme and suitable for Great Crested Newts has been removed from the scheme. The larger south-eastern lake is described as "angling/conservation" lake but is described as having a biodiversity goal. Angling and biodiversity lakes can be two very different things. Recommend that a habitat monitoring scheme be secured.

##### **Archaeological Officer (04.03.14)**

The proposed extraction and restoration works appear to have no adverse impact on the archaeological features to be preserved in situ.

##### **English Heritage (21.02.14)**

The application should be determined in accordance with national and local policy guidance and on the basis of PCC's specialist conservation advice.

##### **Environment Agency (05.03.14)**

No objection. Suggest that the noise monitoring scheme (condition 9) is updated.

##### **Natural England - Consultation Service (03.03.14)**

Refer to our standing advice regarding protected species. The Council should be satisfied that restoration proposals deliver BAP habitat and species targets, including net gain for biodiversity where possible.

##### **National Grid (20.02.14)**

Due to the presence of National Grid apparatus in the vicinity of the site, the operator should contact National Grid prior to any works taking place to ensure the apparatus is not affected by the works.

##### **Eye Parish Council (27.09.13)**

No comments

##### **Local Residents/Interested Parties**

Initial consultations: 60  
Total number of responses: 1  
Total number of objections: 0  
Total number in support: 0

## **Representations**

One representation has been received from a nearby resident who refers to continued problems with reversing beepers coming from Eyebury. No objection is raised to further extraction but would object to further land filling.

## **5 Assessment of the planning issues**

### **Consideration**

The key issues are as follows;

1. The principle of the development
2. Transport/traffic/Access
3. Visual appearance
4. Noise/impact on neighbours
5. Dust
6. The proposed restoration scheme/Ecology, landscaping and drainage.
7. Other issues (soils, hydrology during excavation, gas pipelines)
8. Conclusion

### **Principle of the development**

The site has previously been granted planning permission for extraction and processing and is within an identified Mineral Consultation Area (M9X) in the Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals DPD. The principle of mineral extraction and processing has already been established, and the proposed restoration scheme is acceptable and the development can be controlled by appropriate conditions and obligations.

The plant site has a processing capacity of up to 60,000tpa and there is an estimated 240,000 tonnes of material remaining within the overall development, suggesting four years of extraction and processing, rather than the 6.5 years as set out in the original application. Material required for the EA flood defence project has been (autumn 2014) and will be exported off site 'as-raised' and will not therefore require any processing. As raised material may be temporarily stocked in the application area. It is therefore appropriate for the life of the plant site to be linked to mineral extraction to ensure timely restoration.

### **Transport/traffic/access**

The application proposes to use the existing site access off Eyebury Road and to use existing haul roads. The quarry has been subject to a legal agreement (S106) which restricts the total number of lorry movements in and out of the site (for Cemex and Biffa) to 450 movements per day – that's 225 in/225 out. The applicant proposes to work within this limit and to include this clause in the new legal agreement that will be required should planning permission be granted.

A transport statement was submitted with the application/environmental statement which sets out that the site will be worked out over the next 6.5 years and that traffic levels generated will be well below the historic traffic levels at the site. The same operating hours would be worked i.e. 0700 to

1800 Monday to Friday and 0700 to 1300 on Saturdays and that peak hour traffic on the main routes and junctions closest to the site would not be significantly affected.

The Highway Authority has not objected to the application.

Recently, the applicant has advised that rather than extracting the remaining reserve over the next 6.5 years as set out in the original application, it is the company's intention to extract all the remaining reserve this year in order to fulfil the need for 'as raised' material to serve the Whittlesey Washes embankment project. However, the applicant advises that the maximum lorry movements i.e. 450 per day previously agreed, will not be exceeded. There are approximately 80,000 tonnes of material remaining in phases 4/5.

Extraction from phase 4 continued last year and the material was taken to the embankment project. (Officers advised Cemex that the operations continued at their risk and if complaints were received we would investigate and take appropriate action). The only complaints we received related to lorries using Willow Hall Lane as a short cut. This matter was raised with Cemex and was largely resolved (except for the occasional lorry still using Willow Hall Lane).

A further factor to take into consideration is the commencement of development at Willow Hall Lane Quarry which is accessed off the B1040 (between Thorney and Whittlesey) and the potential for this quarry to serve the Whittlesey Embankment project.

Policy CS32 of the Minerals and Waste Core Strategy (MW Core Strategy) states that development will only be permitted where any associated increase in traffic would not cause unacceptable harm to the environment, road safety or residential amenity. The policy also states that binding agreements covering lorry routing arrangements may be sought.

Given the new information concerning (a) the intended extraction of all remaining reserves in one year, (b) potential for cumulative impacts with lorry routing and traffic with Willow Hall Quarry and (c) potential for complaints from local residents who live on potential "rat runs", it is considered that any permission granted must be subject to a legal agreement which secures the following;

- Total daily lorry movements for Cemex and Biffa not to exceed 450
- For lorries/material destined for the Whittlesey Embankment Project an agreed lorry route which only uses the "A" roads from Parnell Way i.e. Eye Road/Frank Perkins Parkway, A605, A141, A47, A1139
- For any other business conducted by Cemex, a lorry route which avoids Willow Hall Lane

The above routes would ensure that Willow Hall Lane is not used as a short cut and similarly the B1040 cannot be used – this is already permitted to be used by Willow Hall Quarry traffic which exits onto the B1040. The Highway Authority supports this stance. Subject to such an agreement which secures this, it is considered that in highway terms the proposal will be acceptable and will comply with policy CS32.

## **Visual Appearance**

The applicant has submitted a Landscape & Visual Impact Assessment as part of the ES. The site lies within landscape character area 5 "Peterborough Fen Fringe" and sub area 5b "Eye Fen Fringe" as set out in the Peterborough Landscape Character Assessment published May 2007. The area is characterised by a gently undulating landform slightly higher than the fen, isolated residential properties and farmsteads, evidence of former extraction and a landfill site, medium hedgerows and open historically cultivated land extending east up to Catswater Drain. The edge of Peterborough urban area lies further to the west.

The wider site is already characterised by man-made features via the existing quarry works and landfill site and the plant site area which contains typical processing plant, machinery and silt lagoons, which was first granted permission in 1974 (ref. P0524/74).

Policy CS33 of the MW Core Strategy states that Mineral development will only be permitted where it can be demonstrated that it can be assimilated into its surroundings and local landscape character. Policy CS34 is concerned with protecting surrounding uses including visual intrusion.

It is considered that the processing and stocking of mineral will not cause visual harm over and above that already accepted at the site i.e. as it is already a quarry. The 'plant site' is highly visible from the public footpaths that cross the site but it is also screened from the Green Wheel route to a good degree by trees and hedges. Soil bunds will continue to protect Tanholt Farm, though mainly for acoustic purposes they also help to screen the visual appearance of the quarry. There are no other properties close enough to the site to be affected by visual intrusion.

The proposed restoration scheme will include a series of lakes, features which are not naturally common within the landscape, except for the silt lagoons. However the lakes, would not significantly alter the topography of the area in the way that a domed profile infill would. Importantly the lakes will be interspersed and surrounded by planting which will assimilate them into the landscape.

The Council's Landscape Architect has not raised objections.

It is considered therefore, that the visual appearance of the development is acceptable and in compliance with policies CS33 and CS34 of the MW Core Strategy.

### **Noise/Impact on neighbours**

A Noise Assessment and Noise Monitoring Scheme (2013) have been submitted as part of the ES. The scheme sets out that noise limits (dB LAeq, T) shall be applicable at the following properties during site operating hours;

Tanholt Farm	55
Willow Hall Farm	48
Caravan Park, Eye	51
Eye Village	54
Eyebury Cottages	50
Tanholt Farm Cottages	46

The scheme sets out what will happen with regard to routine monitoring and in the event of a complaint to the Local Planning Authority. In this case if the matter is more than a single event, the source of the noise will be identified and additional monitoring undertaken at the above monitoring sites to see if noise levels are being breached. If so, the particular operation causing the problem shall cease until it has been remedied.

Policy CS34 of the MW Core Strategy is concerned with protection of surrounding uses which includes residential amenity. The Technical Guidance to the National Planning Policy Framework (NPPF) gives specific advice in relation to noise and mineral planning. This states that subject to a maximum of 55dB(A)LAeq, 1 hr (free field), the mineral planning authorities should aim to establish a noise limit at the noise sensitive property that does not exceed background level by more than 10dB(A). Although where this is not achievable the maximum limit (55) should be applied. For temporary periods of up to 8 weeks in any year the increased temporary daytime limits should not exceed 70dB(A) LAeq 1 hr (free field).

## **Dust**

A dust monitoring scheme has been submitted with the application as part of the ES. Dust emanating from quarry operations has the potential to be a nuisance to nearby residents or at worst a possible health risk. Policy CS34 of the MW Core Strategy states that development will only be permitted where it is demonstrated there is no significant harm to human health or loss of residential amenity. The Technical Guidance to the NPPF provides specific advice with regard to dust emissions and how to carry out dust assessments and mitigation procedures.

The submitted scheme adheres to this advice. The Pollution Control Officer has raised no objections in this regard. The application is therefore acceptable subject to a suitable condition requiring implementation of the submitted scheme.

## **The Proposed restoration scheme/landscaping/ecology/drainage**

The restoration scheme proposed for the 'plant site' incorporates a mosaic of Biodiversity Action Plan Habitats including wet woodland, lowland mixed deciduous woodland, acid grassland, reedbeds, hedges and ponds. A composite restoration plan has been provided demonstrating how the restoration proposals for the wider site will fit together.

Policy CS35 of the MW Core Strategy states that development may be permitted subject to compensation and/or mitigation measures including biodiversity creation and/or enhancement measures which must be put in place and managed. Regard must be had for the Biodiversity Action Plans (BAP) and supporting habitat and species plans.

Policy CS25 requires mineral workings to be restored in a phased manner to a beneficial after use with aftercare arrangements. It refers to schemes assisting with biodiversity enhancement and BAP targets.

These policies are in conformity with advice set out in the NPPF Technical Guidance.

We asked the applicant how the hydrology of draining one lake to another by gravity fed outlets and then finally discharging to Cat's Water Drain would work (it was not clear on the initial submission). We also spoke with the Environment Agency and the Council's Drainage Team in this regard.

The applicant has submitted additional information to support the ES and a Long Term Management/Aftercare report which sets out the aims of the scheme with regard to providing areas of BAP habitat including grassland, wet and dry woodland and reed swamp to attract BAP priority species of mammals, invertebrates and insects. As the restoration scheme is proposing a water environment, long term management of 25 years is required and will be secured through a S106 legal agreement which shall bind the developer to the provisions set out in the Long Term Management/ Aftercare Report 2014.

The Council's Wildlife Officer recommends securing the long term management scheme by condition (it would need to be by legal agreement) and has raised some concerns about the dual use of some of the lakes for fishing purposes and conservation purposes. A separate planning application would be required to use the lakes for fishing on any public/commercial basis and so management of the lakes in this regard would need to be considered as part of that consideration and whether such a use is compatible with the biodiversity aims of this restoration scheme.

With regard to the hydrology of the restoration scheme, we are satisfied following advice from the Council's Drainage Team, that the gravity fed system can work as long as maintenance of the inlet and outlet pipes is undertaken as part of the long term management of the project. No objections have been received from the Environment Agency or the Internal Drainage Body. The EA is satisfied that the scheme does not present a risk with regard to flooding. The proposal is therefore acceptable with regard to policies CS25 and CS35 of the MW Core Strategy.

## Other Issues

### Soils

Topsoil and subsoil will be stored in managed bunds around the extraction areas and Tanholt Farm. Two large areas of soil will be stored to the north east of the excavation area in phases 4 & 5 between the limit of excavation and the location of the gas pipelines (but not over the pipelines). The soil will be re-used in the restoration scheme throughout the wider site. Soils will be stored in accordance with standard practice and in accordance with policy CS38 which requires the sustainable use of soils especially where that soil falls within agricultural grades 1, 2 and 3a. Approximately 45% of the soil is grade 3a, the remainder being of lower grade. The 'plant site' is not to be restored to agriculture but nevertheless it is still important to retain the integrity of the soils and to use them for a beneficial purpose in the restoration scheme as far as possible. Suitable conditions regarding soil handling and storage will be imposed.

### Hydrology during excavation

The applicant states that the excavation will take place as follows;

Dewatering is carried out in order to facilitate the extraction of mineral. The dewatering pump is currently located in the southern end of phase 4 and will follow the extraction phases. The water is pumped to the worked-out phases 1 – 3, from where it is subsequently pumped to the lagoon system within the 'plant site'. Water is discharged to Cat's Water at National Grid Reference TF 2420 0149 in accordance with environmental permit number EPR/XP3898VA. Dewatering water is used in the washing plant and recycled via the feeder lake and clean water lagoon. There will be no significant changes to water management with future working of the site.

There have been no problems with regard to dewatering of the worked out phases and no objections have been received from the EA or Internal Drainage Body (IDB). A permit is required from the IDB to discharge water into Cat's Water Drain. We are satisfied that this aspect of the proposal is acceptable.

### Gas Pipelines/National Grid

We have received a standard type response from National Grid with regard to the proposals and proximity to the gas pipelines. However, the proposals have no further impact on the pipelines than the previously approved development. The proposed vehicular entrance to the site remains the same as it has for many years. The submitted plans clearly show a stand-off is to be maintained with regard to extraction areas. We have attempted on several occasions to discuss the issues with National Grid and have offered to take a representative to the site to show the situation on the ground. We have not received a response. It is our opinion that the proposals will not further impact National Grid's apparatus and that the developer is aware of the presence of the pipelines and has a responsibility to contact National Grid should any issues arise.

The NPPF states that there is a presumption in favour of sustainable development - in terms of decision taking this means approving development proposals that accord with the development plan without delay. The application is considered to be acceptable having regard to the policies of the development plan and all other material considerations subject to the imposition of conditions and the entering into by the applicant of a legal agreement (as set out above). All of the matters raised within the Environmental Statement have been taken into account and following receipt of further information requested by the officers, the environmental assessment and proposed mitigation is acceptable and will not result in significant adverse effects. The development will continue to be monitored by the Senior Minerals and Waste Officer and the submitted schemes together with the conditions and legal agreement are robust enough to enable sufficient enforcement if required, both during excavation and through the delivery of the restoration scheme and long term aftercare. The proposal therefore accords with policies CS1, CS25, CS32, CS33,

CS34, CS35, CS36, CS37, CS39 and CS41 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy, policy SSP M9 of the Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals DPD and policy PP1 of the Peterborough Planning Policies DPD. There is no reason not to approve the application in line with Section 38(6) of the Planning and Compulsory Purchase Act.

## **6 Conclusions**

The NPPF states that there is a presumption in favour of sustainable development - in terms of decision taking this means approving development proposals that accord with the development plan without delay.

The application is considered to be acceptable having regard to the policies of the development plan and all other material considerations subject to the imposition of conditions and the entering into by the applicant of a legal agreement (as set out above).

All of the matters raised within the Environmental Statement have been taken into account and following receipt of further information requested by the officers, the environmental assessment and proposed mitigation is acceptable and will not result in significant adverse effects. The development will continue to be monitored by the Senior Minerals and Waste Officer and the submitted schemes together with the conditions and legal agreement are robust enough to enable sufficient enforcement if required, both during excavation and through the delivery of the restoration scheme and long term aftercare.

The proposal therefore accords with policies CS1, CS25, CS32, CS33, CS34, CS35, CS36, CS37, CS39 and CS41 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy, policy SSP M9 of the Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals DPD and policy PP1 of the Peterborough Planning Policies DPD. There is no reason not to approve the application in line with Section 38(6) of the Planning and Compulsory Purchase Act.

## **7 Recommendation**

The Director of Growth and Regeneration recommends that planning permission is **GRANTED** subject to the signing of a **LEGAL AGREEMENT** and the following conditions:

- C 1 No materials shall be imported to the site for processing, storage or restoration purposes. Reason: For the avoidance of doubt of the extent of the development and operations hereby permitted in accordance with policies CS32 and 34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
  
- C 2 The processing of the sand and gravel hereby approved shall be for a limited period of 5 years at the end of which mineral processing operations shall cease and the site shall be restored in accordance with the Conditions attached to this permission. In the event that mineral extraction operations shall cease prior to this period the site shall be restored within 12 months of cessation of mineral extraction in accordance with the Conditions attached to this permission. Reason: To ensure a timely restoration allowing beneficial restoration in accordance with policy CS25 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
  
- C 3 The development hereby permitted shall be carried out in accordance with the following plans;

Location Plan, drawing reference 14\_C041\_EYE\_002 dated June 2014  
Site Plan, drawing reference EYE\_PLA\_CAW\_060212\_A\_1 dated February 2012  
Site Water Management TF2302\_CAW\_D\_030409\_A\_2 dated May 2013  
Long-term Management / Aftercare document dated June 2014 and drawing Plant Site Restoration, ref. P8/1283/8/A  
Haul Routes drawing ref. CE2120/01

Reason: To clarify what is hereby approved and in accordance with policies CS1, CS25, CS32, CS33, CS34, CS35, CS36, CS37, CS39 and CS41 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy, policy SSP M9 of the Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals DPD.

- C 4 The operations authorised, required or associated with the development hereby approved shall only be carried out between the following times:-

7.00 - 18.00: Monday to Friday

7.00 - 13.00: Saturdays

and at no other time or on Sundays or Public Holidays

Reason: To minimise disturbance to residential or rural amenity from the development in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C 5 Except for temporary operations, the noise levels due to operations at the site, shall not exceed the relevant criterion limit specified below for each noise sensitive location;

Eye Village 54dB LAeq, 1 hour (free field)

Willow Hall Farm 48 dB LAeq 1 hour (free field)

Tanholt Farm 55 dB LAeq 1 hour (free field)

Caravan Park, Eye 51 dB LAeq 1 hour (free field)

Eyebury Cottages 50 dB LAeq 1 hour (free field)

Tanholt Farm Cottages dB LAeq 1 hour (free field)

The noise monitoring shall be carried out in accordance with the methodology set out in the Scheme of Noise Monitoring (included in the Environmental Statement at Appendix 5).

All plant and equipment shall be fitted with white noise warning devices maintained in good working order.

Reason: To ensure that operations are carried out in a manner which will safeguard the amenity of the area and minimise disturbance to adjacent land users in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C 6 For temporary operations which shall include site preparation, site stripping and restoration, and screen bund formation and removal and any other temporary activity as may be agreed in advance of works taking place with the Mineral Planning Authority, the free field noise level due to operations at the nearest point to each dwelling shall not exceed 70 dB LAeq, 1hour (free field). Temporary operations shall not take place for more than eight weeks in any continuous 12 month period for work affecting any noise sensitive property identified in condition 6. Five days written notice shall be given to the Mineral Planning Authority in advance of the commencement of any temporary operation.

Reason: To ensure that operations are carried out in a manner which will safeguard the amenity of the area and minimise disturbance to adjacent land users in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C 7 Dust mitigation and monitoring shall be carried out in complete accordance with the Dust Monitoring Scheme (included in the Environmental Statement at appendix 6). Dust

mitigation includes the availability at all times of a water bowser to dampen down all internal haul roads and operational areas as necessary during dry weather conditions, and the sheeting of all lorries removing excavated minerals from the site with a diameter less than 75mm.

Reason: In order to protect the amenity of adjacent occupiers in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C 8 All vehicular access to the site shall be achieved solely via the existing haul road and quarry access off Eyebury Road.  
Reason: In the interests of highway safety in accordance with policy CS32 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C 9 Notwithstanding the provision of the Town and Country Planning Act (General Permitted Development) Order 1995 (or any Statutory Instrument revoking and re-enacting that Order), no fixed plant, machinery or buildings connected with the extraction, processing or restoration shall be erected or placed on the site without the prior written approval of the Mineral Planning Authority.  
Reason: To ensure that the operations are carried out in a manner which will safeguard the amenity of the area and to minimise disturbance to adjacent land users in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C10 No floodlighting shall be installed within the site unless in accordance with a scheme to be submitted to and approved in writing beforehand with the Local Planning Authority.  
Reason: In the interests of protecting the amenity of adjacent occupiers in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C11 Any fuel, oil or chemical storage above ground and re-fuelling facilities shall be sited on an impermeable base and bunded to at least 110% of the tank/drum capacity with a sealed drainage sump within the bunded area and no direct discharge to any water course, land or underground strata. All fill, drain and overflow pipes shall be within the bunded areas.  
Reason: To protect the water environment in accordance with policy CS39 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C12 No stockpiles of mineral shall exceed an overall height of 7 metres.  
Reason: In the interests of protecting residential amenity in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy DPD.
- C13 Landscaping, aftercare and management shall be carried out in complete accordance with the 'Long-term Management / Aftercare' document dated June 2014 and drawing Restoration Planting Detail and revised Contours, reference P3/1283/19/C.  
Reason: To ensure the development will be appropriately assimilated into its surroundings and local landscape character, and provide appropriate biodiversity enhancement in accordance with policies CS33 and CS25 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C14 Plant or vehicle movement within the site shall be confined to clearly defined haul routes as depicted on 'Haul Routes' drawing ref. CE2120/01 dated May 06. No plant or vehicle shall cross topsoil and sub-soil except for the express purpose of soil stripping or replacement operations.

Reason: In order to protect the soil resource of the site in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C15 The existing wheel washing facilities shall be retained, maintained in an operational condition and used by all Heavy Goods Vehicles exiting the site throughout the period of development. The surface of the access road shall be kept clean by regular mechanical sweeping.

Reason: In the interests of highway safety in accordance with policy CS32 of the Cambridgeshire and Peterborough Minerals and Waste Core strategy.

- C16 No stored topsoil or sub-soil shall be removed from the site or the land edged blue on the approved location plan.

Reason: In order to protect the soil resource of the site in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C17 Soil storage bunds shall be a maximum of 3m for top soil and 5m for subsoil. All soil storage bunds intended to remain in situ for more than 6 months or over the winter period shall be seeded with seedmix A22 or similar at a rate of 25g/m<sup>2</sup>. The emergent sward shall be mown or strimmed to a height of 50mm and subsequently to the same height every April / May and August / September unless growth rates or climate conditions indicate otherwise. Weed growth will be controlled through the appropriate use of herbicide and any failed areas will be cultivated and reseeded as above.

Reason: To protect the existing soil resource and to ensure that the stored soils are kept free from weeds in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C18 The applicant shall give at least seven days and no more than twenty-one days written notice to the Mineral Planning Authority prior to the commencement of top soil or sub-soil stripping from any part of the site. Prior to the stripping of the soil any standing crop or vegetation shall be cut and removed from the site.

Reason: To allow the Mineral Planning Authority to inspect the condition of the soils during soil stripping operations and to prevent the soils from becoming degraded in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C19 The soil handling methods shall be undertaken in strict accordance with the recommendations of the Soils and Land Classification report dated December 2004 included as Appendix 9 of the Environmental Statement.

Reason: In order to protect the soil resource in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C20 Top soil and sub-soil stripping, movement and re-spreading shall only be carried out when the full depth of the soil to be handled is in a suitable dry and friable condition. Soils shall not be stripped, handled or re-spread between the months of October to March unless otherwise agreed in writing by the Mineral Planning Authority.

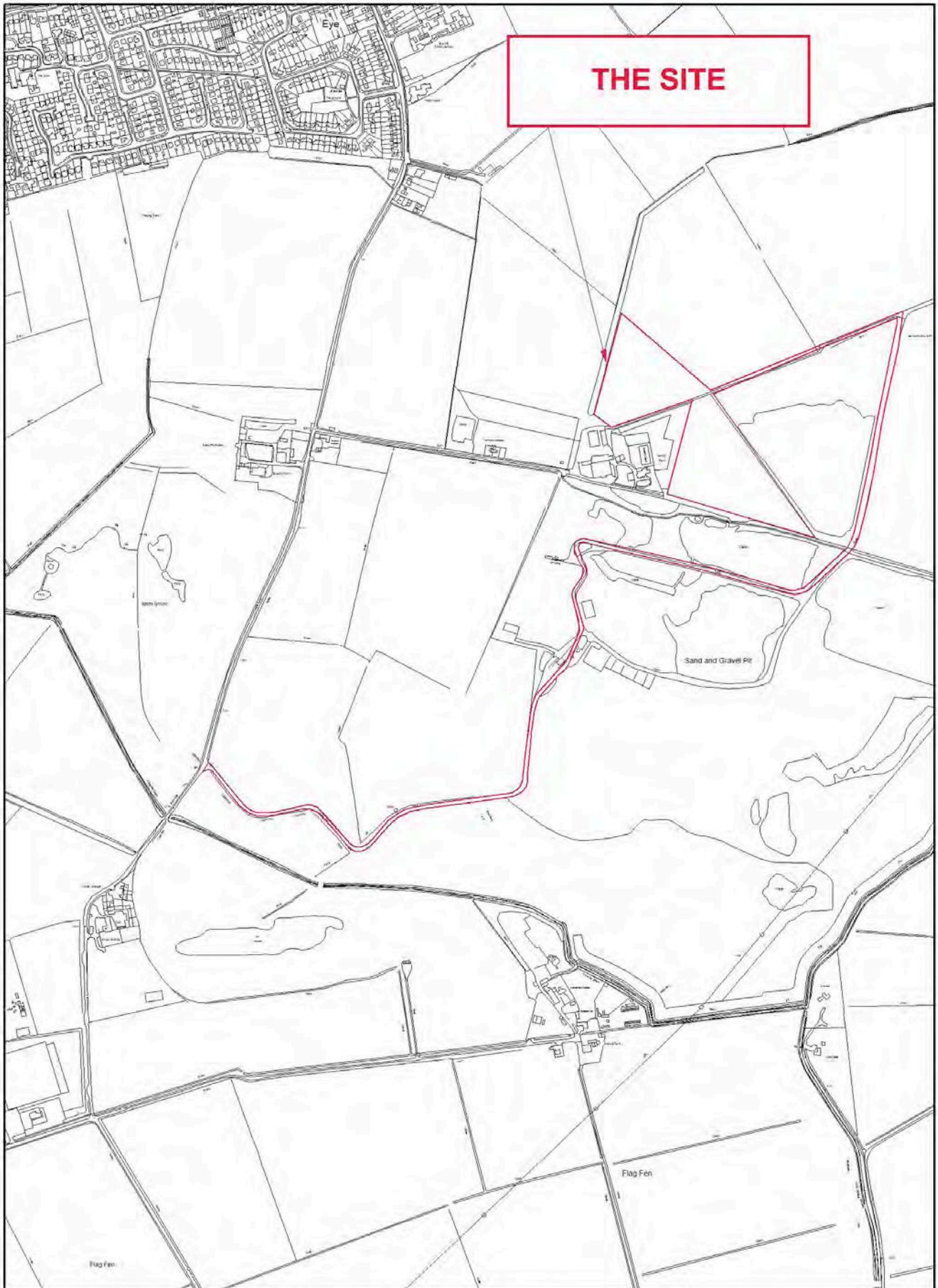
Reason: To protect the existing soil resource on the site in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C21 Notwithstanding references to "fishing lakes" within the application, the lakes hereby approved as part of the restoration scheme shall not be used by members of the public for

fishing nor shall they be used for any commercial fishing purpose unless a separate planning permission has first been obtained for such use(s)

Reason: The submission does not include vehicular access for such uses and does not provide adequate information or assessments as to the potential effects on the highway, nearby residents or the biodiversity benefits of the restoration scheme.

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**LOCATION PLAN 13/01225/MMFUL**  
 Eyebury Quarry Eyebury Road Eye Peterborough PE6 7UQ

**Scale NTS    Date 25/6/2014    Name LG    Department Planning Services**

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## Planning and EP Committee 8 July 2014

**Application Ref:** 13/01225/MMFUL

**Proposal:** Proposed extraction of sand and gravel from Tanholt Farm as an extension to the existing quarry on adjacent land, with restoration to agriculture, nature conservation and recreational uses

**Site:** Eyebury Quarry, Eyebury Road, Eye, Peterborough  
**Applicant:** Cemex UK Operations Ltd  
Kirsten Hannaford-Hill

**Agent:**  
**Referred by:** Director Growth and Regeneration  
**Reason:** EIA development  
**Site visit:** 05.11.2013

**Case officer:** Mr A O Jones  
**Telephone No.** 01733 454440  
**E-Mail:** alan.jones@peterborough.gov.uk

**Recommendation:** **GRANT** subject to the signing of a **LEGAL AGREEMENT** and relevant conditions

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### 1 Description of the site and surroundings and Summary of the proposal

#### The Overall Site and Development Proposal

This site forms part of the wider Eyebury quarry and landfill site. The former is operated by Cemex UK Ltd (the applicant for the current proposals), the latter is operated by Biffa Ltd. They share a single point of vehicular access off Eyebury Road, Eye.

Cemex has submitted three applications as follows;

- 1) 11/01921/WCMM - application to vary conditions attached to 05/00353/MMFUL to allow continued extraction for 5.5 years and to amend the method of working, restoration and planting details, noise and dust schemes
- 2) 13/01222/MMFUL - full application to retain the aggregate processing plant, stocking area, lagoons and internal haul roads
- 3) 13/01225/MMFUL - full application for proposed extraction of sand and gravel as an extension to the existing quarry on adjacent land, with restoration to agriculture, nature conservation and recreational uses.

All three applications form one "project" for the purposes of Environmental Assessment (ES). The development is Environmental Impact Assessment (EIA) development under Schedule 1, part 19 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 because the total site area (of all three application sites) exceeds 25 hectares. As such the submission of an ES was mandatory. The submitted ES covers the whole project area.

The project area (sites) lie approximately 0.5 km southeast of the edge of Eye Village. Cats Water Drain runs roughly north/south to the east of the site - the lagoons/lakes will eventually discharge to the drain (there is an existing discharge point from the processing lagoons). Eye 3 Footpath/Bridleway which is also part of the Green Wheel traverses the site from east to west between the proposed extraction areas and the processing/lagoon area. Eye 1 footpath branches off in a northwest direction towards Eye Village and it runs between the proposed extraction areas.

It is proposed to temporarily divert this footpath until the site is restored when it will be reinstated. The nearest residential properties are Tanholt Farm (just to the east of proposed phases 6 and 7 - the site will be returned to the farmer for use once restored, and Tanholt Cottages which lie just to the west of Tanholt Farm (accessed off a track from Eyebury Road which is part of the Green Wheel route).

There are high pressure gas pipelines (National Grid) which run in a roughly north east - south west direction. These pass through the north east part of the site and also run beneath the existing vehicular access. No extraction will take place in the vicinity of these pipelines.

At present there are no permissions in place that enable continued extraction and processing at the site because the previous permissions expired; the permission granted for extraction in phases 1-5 under 05/00353/MMFUL expired in July 2012 (but the current application to vary conditions attached to this permission was submitted prior to this expiry). In summary, all three applications seek to continue the use of the existing haul road, processing and lagoon area, complete the extraction in phases 4/5 and open up the new extraction areas in phases 6 and 7. The whole area will be restored to a largely water environment comprising "conservation" and "fishing lakes" with wet and dry woodland planting and a small area to the northeast of the extraction areas which shall be returned to agriculture. As the restoration is to a water environment it is proposed to have a long term aftercare/management period. More detail on each of the applications will be provided below and in the other accompanying reports. Although the applications seek to continue to extract for a further 5.5 years, the applicant has recently indicated that it is the intention to extract all the remaining reserves this year to serve the Whittlesey Embankment flood defence project being managed by the Environment Agency.

### **This application site proposal**

Application 13/01225/MMFUL proposes the extraction of sand and gravel from the final phases (6 & 7) of the wider quarry area. This area comprises two roughly triangular parcels of land (joined) to the west of the previously permitted phases 1-5 (which are the subject of application 11/01921/WCMM). Phases 6 & 7 are just to the east/northeast of Tanholt Farmhouse and are presently separated from phases 1-5 by a public footpath (Eye 1 – shown as IN 1 on the submitted plans) which it is proposed to divert temporarily whilst extraction of phases 6 & 7 takes place.

The proposed restoration would be to lakes with planting – a conservation lake in phase 7 and an angling lake in phase 6.

The site is shown as an existing quarry on the minerals consultation area plan M9X within the Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals DPD.

## **2 Planning History**

No relevant history

## **3 Planning Policy**

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

### **National Planning Policy Framework (2012)**

**Paragraph 14** – there is a presumption in favour of sustainable development which means approving development proposals that accord with the development plan without delay

**Paragraphs 135 – 136** – the effect of development on a non-designated heritage asset should be taken into account in determining an application. Local Planning Authorities should be certain a development will go ahead before permitting loss of a heritage asset.

**Paragraph 144** – In granting planning permission for mineral development, Local Planning Authorities must ensure there are no unacceptable adverse effects on the natural or historic environment, human health or aviation safety and take into account the cumulative effect of multiple impacts from individual sites or a number of sites locally. Restoration and aftercare shall be provided at the earliest opportunity.

### **Technical Guidance to the National Planning Policy Framework 2012**

Provides technical advice as to how to deal with dust, noise and aftercare schemes

### **Cambridgeshire & Peterborough Mineral and Waste Core Strategy DPD (2011)**

#### **MW01 - Strategic Vision and Objectives for Sustainable Minerals Development**

In delivering the growth agenda there will be an increase in the use of recycled secondary aggregates and a preference in these over land won minerals, however, where this is not practicable a steady supply of mineral from the Plan area will be maintained. Limestone only exists in the Peterborough area and extraction will continue through the Plan period. In order to avoid reserves becoming exhausted, new sites will need to be identified and brought forward if they meet environmental criteria. Major infrastructure projects will be facilitated by the supply of mineral and in the case of the A14 improvements, by borrowpits close to the scheme. Mineral safeguarding and consultation areas will be identified to avoid needless sterilisation and prejudice to future mineral extraction. As extraction progresses across the area it will help deliver other objectives through restoration including increased biodiversity, amenity and recreational use. The natural and historic environment will continue to be protected with increased emphasis on operation practices which contribute towards addressing climate change and minimise the impact of such development upon communities. (Policy CS1 sets out a list of strategic objectives to support this vision; those of relevance will be discussed in the body of the report).

#### **MW25 - Restoration and Aftercare of Mineral and Waste Management Sites**

Minerals workings and waste management sites will be restored to a beneficial afteruse with aftercare arrangements. Restoration proposals will be considered on a site by site basis but must meet the criteria set out in the policy.

#### **MW32 - Traffic and Highways**

Minerals and Waste development will only be permitted where it meets the criteria set out in this policy.

#### **MW33 - Protection of Landscape Character**

Minerals and Waste development will only be permitted where it can be assimilated into the local landscape character in accordance with the Cambridgeshire Landscape Guidelines, local Landscape Character Assessments and related SPDs.

#### **MW34 - Protecting Surrounding Uses**

Mineral and waste management development will only be permitted where it can be demonstrated (with mitigation where necessary) there is no significant harm to the environment, human health or safety, existing or proposed neighbouring land uses, visual intrusion or loss of residential/other amenity.

#### **MW35 - Biodiversity and Geodiversity**

Mineral and waste management development will only be permitted where there will likely be no significant adverse effect on local nature conservation or geological interest. Where it is demonstrated there are overriding benefits to the development compensation and/or mitigation measures must be put in place. Proposals for new habitat creation must have regard to the

Peterborough Biodiversity Action Plan and supporting Habitat and Species Action Plans.

### **MW36 - Archaeology and the Historic Environment**

Minerals and waste development will not be permitted where there is an adverse effect on a designated heritage asset, historic landscape or other historic asset of national importance and/or its setting unless substantial public benefits outweigh the harm, or any significant adverse impact on a site of local architectural, archaeological or historical importance. Development may be permitted where appropriate mitigation measures are in place following consideration of the results of prior evaluation.

### **MW37 - Public Rights of Way**

Minerals and waste development will only be permitted where permanent or temporary diversions of public rights of way are adversely affected if appropriate alternatives are provided. Proposals should, where practicable, provide for the enhancement of public rights of way.

### **MW39 - Water Resources and Water Pollution Prevention**

Mineral and waste management development will only be permitted where it is demonstrated there is no significant adverse impact or risk to;

- a. Quantity or quality of groundwater/water resources
- b. Quantity or quality of water enjoyed by current abstractors unless alternative provision is made
- c. Flow of groundwater in or near the site

Adequate water pollution control measures will need to be incorporated.

### **MW41 - Ancillary Development**

Proposals for ancillary development will be considered against the policies of the development plan and will be restricted to the life of the existing operations. Permanent facilities may be acceptable where it is demonstrated the criteria of this policy can be met.

## **Cambridgeshire and Peterborough Minerals and Waste Development Plan Site Specific Proposals DPD 2012**

The site is identified as an existing mineral site within a larger mineral and waste site and is within a mineral consultation area (SSP M9X)

### **Peterborough Planning Policies DPD 2012**

The Presumption in Favour of Sustainable Development – the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

## **Community Infrastructure Levy (CIL) Regulations 2010 Paragraphs 203-205 of the National Planning Policy Framework: Planning Conditions and Obligations:**

Requests for planning obligations whether CIL is in place or not, are only lawful where they meet the following tests:-

- (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.

In addition obligations should be:

- (i) relevant to planning;
- (ii) reasonable in all other respects.

Planning permissions may not be bought or sold. Unacceptable development cannot be permitted because of benefits/inducements offered by a developer which are not necessary to make the development acceptable in planning terms. Neither can obligations be used purely as a means of securing for the local community a share in the profits of development.

#### **4 Consultations/Representations**

##### **Transport & Engineering Services (25.09.13)**

No objections subject to the existing restrictions on traffic generation being brought forward onto this consent. Support use of the routing agreement.

##### **Rights of Way Officer (21.03.14)**

The Public Right of Way Diversion looks reasonable. It will need to be reinstated when the quarry is restored.

##### **Landscape Architect (Enterprise) (03.03.14)**

No objections - Does not appear to have significant landscape effects

##### **Pollution Team (23.04.14)**

Recommend that conditions regarding noise and dust attached to previous permission 05/00353/MMFUL be re-applied

##### **Wildlife Officer (30.05.14)**

Remains disappointed that the smaller shallower pond feature in the previous restoration scheme and suitable for Great Crested Newts has been removed from the scheme. The larger south-eastern lake is described as "angling/conservation" lake but is described as having a biodiversity goal. Angling and biodiversity lakes can be two very different things. Recommend that a habitat monitoring scheme be secured.

##### **Archaeological Officer (04.03.14)**

The proposed extraction and restoration works appear to have no adverse impact on the archaeological features to be preserved in situ.

##### **English Heritage (21.02.14)**

The application should be determined in accordance with national and local policy guidance and on the basis of PCC's specialist conservation advice.

##### **Environment Agency (05.03.14)**

No objection. Suggest that the noise monitoring scheme (condition 9) is updated.

##### **Natural England - Consultation Service (03.03.14)**

Refer to our standing advice regarding protected species. The Council should be satisfied that restoration proposals deliver BAP habitat and species targets, including net gain for biodiversity where possible.

##### **National Grid (20.02.14)**

Due to the presence of National Grid apparatus in the vicinity of the site, the operator should contact National Grid prior to any works taking place to ensure the apparatus is not affected by the works.

##### **Eye Parish Council (27.09.13)**

No comments

##### **GeoPeterborough (03.10.13)**

The proposal is 'associated' with the Eye/Thorney Area of Search Local Geological Site and

continued excavation should allow for recording and sampling of geological horizons. Final restoration should consider retaining representative sections in the gravel sequence.

### **Local Residents/Interested Parties**

Initial consultations: 60  
Total number of responses: 1  
Total number of objections: 0  
Total number in support: 0

### **Representations**

One representation has been received from a nearby resident who refers to continued problems with reversing beepers coming from Eyebury. No objection is raised to further extraction but would object to further landfilling.

## **5 Assessment of the planning issues**

### **Consideration**

The key issues are as follows;

1. The principle of the development
2. Transport/traffic/Access
3. Visual appearance
4. Noise/impact on neighbours
5. Dust
6. Archaeology
7. The proposed restoration scheme/Ecology, landscaping and drainage.
8. Other issues (soils, hydrology during excavation, pipelines)
9. Conclusion

### **Principle of the development**

The site has previously been granted planning permission for extraction and is shown as an existing quarry in the Cambridgeshire and Peterborough Minerals and Waste Site Allocations DPD. The principle of mineral extraction has already been established and so in this regard the proposed variation of conditions to the 2005 permission to allow extraction in phases 4-5 to be completed with a revised restoration scheme is acceptable.

### **Transport/traffic/access**

The application proposes to use the existing site access off Eyebury Road and to use existing haul roads. The previous application for phases 1-5 (05/00353/FUL) was subject to a legal agreement (S106) which restricts the total number of lorry movements in and out of the site (for Cemex and Biffa) to 450 movements per day - that's 225 in/225 out. The applicant proposes to work within this limit and to include this clause in the new legal agreement that will be required should planning permission be granted.

A transport statement was submitted with the application/environmental statement which sets out that the site will be worked out over the next 6.5 years (although this was written 3 years ago and the site will be worked out more quickly than this) and that traffic levels generated will be well below the historic traffic levels at the site. The same operating hours would be worked i.e. 0700 to 1800 Monday to Friday and 0700 to 1300 on Saturdays and that peak hour traffic on the main routes and junctions closest to the site would not be significantly affected.

The Highway Authority has not objected to the application.

Recently, the applicant has advised that rather than extracting the remaining reserve over the next 6.5 years (timescale is now out of date in any event), it is the company's intention to extract all the remaining reserve this year in order to fulfil the need for as raised material to serve the Whittlesey Washes embankment project. However, the applicant advises that the maximum lorry movements i.e. 450 per day previously agreed, will not be exceeded. There are approximately 163,000 tonnes of mineral to extract in phases 6 & 7.

Extraction from phase 4 continued last year and the material was taken to the embankment project. (Officers advised Cemex that the operations continued at their risk and if complaints were received we would investigate and take appropriate action). The only complaints we received related to lorries using Willow Hall Lane as a short cut. This matter was raised with Cemex and was largely resolved (except for the occasional lorry still using Willow Hall Lane).

A further factor to take into consideration is the commencement of development at Willow Hall Lane Quarry which is accessed off the B1040 (between Thorney and Whittlesey) and the potential for this quarry to serve the Whittlesey Embankment project.

Policy CS32 of the Minerals and Waste Core Strategy (MW Core Strategy) states that development will only be permitted where any associated increase in traffic would not cause unacceptable harm to the environment, road safety or residential amenity. The policy also states that binding agreements covering lorry routing arrangements may be sought.

Given the new information concerning (a) the intended extraction of all remaining reserves in one year, (b) potential for cumulative impacts with lorry routing and traffic with Willow Hall Quarry and (c) potential for complaints from local residents who live on potential "rat runs", it is considered that any permission granted must be subject to a legal agreement which secures the following;

- Total daily lorry movements for Cemex and Biffa not to exceed 450
- For lorries/material destined for the Whittlesey Embankment Project an agreed lorry route which only uses the "A" roads from Parnell Way i.e. Eye Road/Frank Perkins Parkway, A605, A141, A47, A1139
- For any other business conducted by Cemex, a lorry route which avoids Willow Hall Lane

The above routes would ensure that Willow Hall Lane is not used as a short cut and similarly the B1040 cannot be used - this is already permitted to be used by Willow Hall Quarry traffic which exits onto the B1040. The Highway Authority supports this stance. Subject to such an agreement which secures this, it is considered that in highway terms the proposal will be acceptable and will comply with policy CS32.

With regard to the proposed footpath diversion, the Rights of Way Officer has confirmed that the proposed diversion route appears to be sensible. The applicant would need to apply for a temporary footpath diversion order. The application complies with MW Core Strategy policy CS37 which requires temporary routes to be provided where the development will adversely affect the permanent use of public rights of way.

### **Visual Appearance**

The applicant has submitted a Landscape & Visual Impact Assessment as part of the ES. The site lies within landscape character area 5 "Peterborough Fen Fringe" and sub area 5b "Eye Fen Fringe" as set out in the Peterborough Landscape Character Assessment published May 2007. The area is characterised by a gently undulating landform slightly higher than the fen, isolated residential properties and farmsteads, evidence of former extraction and a landfill site, medium hedgerows and open historically cultivated land extending east up to Catswater Drain.

The wider site is already characterised by man-made features via the existing quarry works and

landfill site and the plant site area which contains typical processing plant and machinery and silt lagoons. Soil bunds screen Tanholt Farm. The majority of the site area covered by this application has already been stripped and worked. (the two new phases 6 & 7 are immediately to the west of the already worked areas).

Policy CS33 of the MW Core Strategy states that Mineral development will only be permitted where it can be demonstrated that it can be assimilated into its surroundings and local landscape character. Policy CS34 is concerned with protecting surrounding uses including visual intrusion.

It is considered that the extraction of mineral will not cause visual harm over and above that already accepted at the site i.e. as it is already a quarry. The quarry is highly visible from the public footpaths that cross the site but it is also screened from the Green Wheel route to a good degree by trees and hedges. The other footpath which runs along the extraction area will be diverted temporarily until the site is restored. Soil bunds will continue to protect Tanholt Farm, though mainly for acoustic purposes they also help to screen the visual appearance of the quarry. There are no other properties close enough to the site to be affected by visual intrusion.

The proposed restoration scheme will include a series of lakes, features which are not naturally common within the landscape, except for the silt lagoons. However the lakes would not significantly alter the topography of the area in the way that a domed profile infill would. Importantly the lakes will be interspersed and surrounded by planting which will assimilate them into the landscape.

The Council's Landscape Architect has not raised objections.

It is considered therefore, that the visual appearance of the development is acceptable and in compliance with policies CS33 and CS34 of the MW Core Strategy.

### **Noise/Impact on neighbours**

A Noise Assessment and Noise Monitoring Scheme (2013) have been submitted as part of the ES. The scheme sets out that noise limits (dB LAeq, T) shall be applicable at the following properties during site operating hours;

Tanholt Farm	55
Willow Hall Farm	48
Caravan Park, Eye	51
Eye Village	54
Eyebury Cottages	50
Tanholt Farm Cottages	46

The scheme sets out what will happen with regard to routine monitoring and in the event of a complaint to the Local Planning Authority. In this case if the matter is more than a single event, the source of the noise will be identified and additional monitoring undertaken at the above monitoring sites to see if noise levels are being breached. If so, the particular operation causing the problem shall cease until it has been remedied.

Policy CS34 of the MW Core Strategy is concerned with protection of surrounding uses which includes residential amenity. The Technical Guidance to the National Planning Policy Framework (NPPF) gives specific advice in relation to noise and mineral planning. This states that subject to a maximum of 55dB(A)LAeq, 1 hr (free field), the mineral planning authorities should aim to establish a noise limit at the noise sensitive property that does not exceed background level by more than 10dB(A). Although where this is not achievable the maximum limit (55) should be applied. For temporary periods of up to 8 weeks in any year the increased temporary daytime limits should not exceed 70dB(A) LAeq 1 hr (free field).

### **Dust**

A dust monitoring scheme has been submitted with the application as part of the ES. Dust emanating from quarry operations has the potential to be a nuisance to nearby residents or at worst a possible health risk. Policy CS34 of the MW Core Strategy states that development will only be permitted where it is demonstrated there is no significant harm to human health or loss of residential amenity. The Technical Guidance to the NPPF provides specific advice with regard to dust emissions and how to carry out dust assessments and mitigation procedures.

The submitted scheme adheres to this advice. The Pollution Control Officer has raised no objections in this regard. The application is therefore acceptable subject to a suitable condition requiring implementation of the submitted scheme.

### **Archaeology/heritage assets**

The site does not contain designated heritage assets such as scheduled monuments or listed buildings. The quarry does contain archaeological features which are not designated and would be destroyed in the areas where extraction will be taking place. Archaeological investigation has taken place in phases 1-5 in accordance with a Written Scheme of Investigation (WSI) submitted to satisfy the requirements of the 2005 permission and the work was carried out by Cambridge Archaeology Unit. The NPPF (paragraph 135) states that where a non-designated heritage asset will be directly affected by development, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Policy CS36 of the MW Core Strategy states that where mineral sites are permitted on sites of local archaeological importance, satisfactory mitigation should take place which could be preservation in situ and/or archaeological investigation and publication of the results.

To date archaeological investigation has been carried out to the satisfaction of the Council's archaeologist. Although the previous WSI was written in 2006, the Council's archaeologist has confirmed the scheme is still relevant and should be adhered to in phases 6 & 7. (With regard to phases 4 & 5 the archaeological investigations have been completed in accordance with the scheme. The exception is with regard to three "watering holes" which were discovered during 2013 which shall be preserved in situ following consultation with English Heritage and the Council's archaeologist. Although investigations are complete in phases 4 & 5, the results still need to be published).

The application is therefore acceptable subject to a condition which requires the development to proceed in accordance with the WSI.

The site is in close proximity to the Eye/Thorney Area of Search Regional Important Geological Site (RIGS). GeoPeterborough have identified that the site is likely to have a similar level of geological interest and requested recording and sampling of gravel sequences is undertaken (and can be done by GeoPeterborough) and that representative sections are retained in the final restoration. The operators will be notified by informative of the potential geological importance of the site and requested to allow recording and sampling of representative sections. Retaining a representative section will not be possible in the confined spaces of this site.

### **The Proposed restoration scheme/landscaping/ecology/drainage**

The restoration scheme approved under 05/00353/FUL (phases 1-5) was based on provision of a water environment with woodland planting belts around the lakes. The proposed restoration scheme provides larger more irregularly shaped lakes and correspondingly less planting (in terms of plant numbers).

Policy CS35 of the MW Core Strategy states that development may be permitted subject to compensation and/or mitigation measures including biodiversity creation and/or enhancement measures which must be put in place and managed. Regard must be had for the Biodiversity Action Plans (BAP) and supporting habitat and species plans.

Policy CS25 requires mineral workings to be restored in a phased manner to a beneficial after use with aftercare arrangements. It refers to schemes assisting with biodiversity enhancement and BAP targets.

These policies are in conformity with advice set out in the NPPF Technical Guidance.

We asked the applicant to justify why a lesser amount of planting would be acceptable, how the scheme complied with the above policy and to demonstrate how the hydrology of draining one lake to another by gravity fed outlets and then finally discharging to Cat's Water Drain would work (it was not clear on the initial submission). We also spoke with the Environment Agency and the Council's Drainage Team in this regard.

The applicant has submitted additional information to support the ES and a Long Term Management/Aftercare report which sets out the aims of the scheme with regard to providing areas of BAP habitat including grassland, wet and dry woodland and reed swamp to attract BAP priority species of mammals, invertebrates and insects. As the restoration scheme is proposing a water environment, long term management of 25 years is required and will be secured through a S106 legal agreement which shall bind the developer to the provisions set out in the Long Term Management/ Aftercare Report 2014.

The Council's Wildlife Officer recommends securing the long term management scheme by condition (it would need to be by legal agreement) and has raised some concerns about the dual use of some of the lakes for fishing purposes and conservation purposes. A separate planning application would be required to use the lakes for fishing on any public/commercial basis and so management of the lakes in this regard would need to be assessed as part of that consideration and whether such a use is compatible with the biodiversity aims of this restoration scheme.

With regard to the hydrology of the restoration scheme, we are satisfied following advice from the Council's Drainage Team, that the gravity fed system can work as long as maintenance of the inlet and outlet pipes is undertaken as part of the long term management of the project. No objections have been received from the Environment Agency or the Internal Drainage Body. The EA is satisfied that the scheme does not present a risk with regard to flooding. The proposal is therefore acceptable with regard to policies CS25 and CS35 of the MW Core Strategy.

## **Other Issues**

### **Soils**

Topsoil and subsoil will be stored in managed bunds around the extraction areas and Tanholt Farm. Two large areas of soil will be stored to the north east of the excavation area in phases 4 & 5 between the limit of excavation and the location of the gas pipelines (but not over the pipelines). The soil will be re-used in the wider restoration scheme. Soils will be stored in accordance with standard practice and in accordance with policy CS38 which requires the sustainable use of soils especially where that soil falls within agricultural grades 1, 2 and 3a. Approximately 45% of the soil is grade 3a, the remainder being of lower grade. The majority of the site is not to be restored to agriculture but nevertheless it is still important to retain the integrity of the soils and to use them for a beneficial purpose in the restoration scheme as far as possible. Suitable conditions regarding soil handling and storage will be imposed.

### **Hydrology during excavation**

The applicant states that the excavation will take place as follows;

*Dewatering is carried out in order to facilitate the extraction of mineral. The dewatering pump is currently located in the southern end of phase 4 and will follow the extraction phases. The water is pumped to the worked-out phases 1 - 3, from where it is subsequently pumped to the lagoon system to the south of the quarry. Water is discharged to Cat's Water at National Grid Reference*

*TF 2420 0149 in accordance with environmental permit number EPR/XP3898VA. Dewatering water is used in the washing plant and recycled via the feeder lake and clean water lagoon. There will be no significant changes to water management with future working of the site.*

There have been no problems with regard to dewatering of the worked out phases and no objections have been received from the EA or Internal Drainage Body (IDB). A permit is required from the IDB to discharge water into Cat's Water Drain. We are satisfied that this aspect of the proposal is acceptable.

## **Gas Pipelines/National Grid**

We have received a standard type response from National Grid with regard to the proposals and proximity to the gas pipelines. However, the proposals have no further impact on the pipelines than the previously approved development. The proposed vehicular entrance to the site remains the same as it has for many years. The submitted plans clearly show a stand-off is to be maintained with regard to extraction areas. We have attempted on several occasions to discuss the issues with National Grid and have offered to take a representative to the site to show the situation on the ground. We have not received a response. It is our opinion that the proposals will not further impact National Grid's apparatus and that the developer is aware of the presence of the pipelines and has a responsibility to contact National Grid should any issues arise.

## **6 Conclusions**

The application is considered to be acceptable having regard to the policies of the development plan and all other material considerations subject to the imposition of conditions and the entering into by the applicant of a legal agreement (as set out above).

All of the matters raised within the Environmental Assessment have been taken into account and following receipt of further information requested by the officers, the environmental assessment and proposed mitigation is acceptable and will not result in significant adverse effects.

The development will continue to be monitored by the Senior Minerals and Waste Officer and the submitted schemes together with the conditions and legal agreement are robust enough to enable sufficient enforcement if required, both during excavation and through the delivery of the restoration scheme and long term aftercare. The proposal therefore accords with policies CS1, CS25, CS32, CS33, CS34, CS35, CS36, CS37, CS39 and CS41 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy, policy SSP M9 of the Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals DPD and policy PP1 of the Peterborough Planning Policies DPD. There is no reason not to approve the application in line with Section 38(6) of the Planning and Compulsory Purchase Act.

## **7 Recommendation**

The Director of Growth and Regeneration recommends that planning permission is **GRANTED** subject to the signing of a **LEGAL AGREEMENT** and the following conditions:

- C 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

C 2 The extraction of the sand and gravel hereby approved shall be for a limited period of 4 years at the end of which mineral extraction operations shall cease and the site shall be restored in accordance with the Conditions attached to this permission. In the event that mineral extraction operations shall cease prior to this period the site shall be restored within 12 months of cessation of mineral extraction in accordance with the Conditions attached to this permission.

Reason: To ensure a timely restoration allowing beneficial restoration in accordance with policy CS25 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

C 3 The development hereby permitted shall be carried out in accordance with the following plans;

Location Plan EYE PLA\_CAW 050713 dated July 2013

Site Plan EYE PLA\_CAW 260713 dated July 2013

Method of Working, drawing reference P8/1283/3E dated Jan 2009

Method of Working, drawing reference P3/1283/16B dated Dec 2004

Wateringhole Areas, drawing reference, EYE\_D\_PWJ\_160913A dated Sept 13

Proposed Guttled Quarry Configuration, drawing reference EYE\_D\_PWJ160913b dated Sept 13

'Long-term Management / Aftercare' document dated June 2014 and drawing Restoration Planting Detail and revised Contours, reference P3/1283/4/E

Haul Routes drawing ref. CE2120/01

Proposed Footpath Diversion, drawing reference tf 2301\_CAW\_D\_280807\_A dated August 2007

Reason: To clarify what is hereby approved.

C 4 The operations authorised, required or associated with the development hereby approved shall only be carried out between the following times:-

7.00 - 18.00: Monday to Friday

7.00 - 13.00: Saturdays

and at no other time or on Sundays or Public Holidays

Reason: To minimise disturbance to residential or rural amenity from the development in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and waste Core Strategy.

C 5 Except for temporary operations, the noise levels due to operations at the site, shall not exceed the relevant criterion limit specified below for each noise sensitive location;

Eye Village 54dB LAeq, 1 hour (free field)

Willow Hall Farm 48 dB LAeq 1 hour (free field)

Tanholt Farm 55 dB LAeq 1 hour (free field)

Caravan Park, Eye 51 dB LAeq 1 hour (free field)

Eyebury Cottages 50 dB LAeq 1 hour (free field)

Tanholt Farm Cottages dB LAeq 1 hour (free field)

The noise monitoring shall be carried out in accordance with the methodology set out in the Scheme of Noise Monitoring (included in the Environmental Statement at Appendix 5).

All plant and equipment shall be fitted with white noise warning devices maintained in good working order.

Reason: To ensure that operations are carried out in a manner which will safeguard the amenity of the area and minimise disturbance to adjacent land users in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C 6 For temporary operations which shall include site preparation, site stripping and restoration, and screen bund formation and removal and any other temporary activity as may be agreed in advance of works taking place with the Mineral Planning Authority, the free field noise level due to operations at the nearest point to each dwelling shall not exceed 70 dB LAeq, 1hour (free field). Temporary operations shall not take place for more than eight weeks in any continuous 12 month period for work affecting any noise sensitive property identified in condition 6. Five days written notice shall be given to the Mineral Planning Authority in advance of the commencement of any temporary operation.  
Reason: To ensure that operations are carried out in a manner which will safeguard the amenity of the area and minimise disturbance to adjacent land users in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C 7 Dust mitigation and monitoring shall be carried out in complete accordance with the Dust Monitoring Scheme (included in the Environmental Statement at appendix 6). Dust mitigation includes the availability at all times of a water bowser to dampen down all internal haul roads and operational areas as necessary during dry weather conditions, and the sheeting of all lorries removing excavated minerals from the site with a diameter less than 75mm.  
Reason: In order to protect the amenity of adjacent occupiers in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C 8 All vehicular access to the site shall be achieved solely via the existing haul road and quarry access off Eyebury Road.  
Reason: In the interests of highway safety in accordance with policy CS32 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C 9 Notwithstanding the provision of the Town and Country Planning Act (General Permitted Development) Order 1995 (or any Statutory Instrument revoking and re-enacting that Order), no fixed plant, machinery or buildings connected with the extraction, processing or restoration shall be erected or placed on the site without the prior written approval of the Mineral Planning Authority.  
Reason: To ensure that the operations are carried out in a manner which will safeguard the amenity of the area and to minimise disturbance to adjacent land users in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C10 No floodlighting shall be installed within the site unless in accordance with a scheme to be submitted to and approved in writing beforehand with the Local Planning Authority.  
Reason: In the interests of protecting the amenity of adjacent occupiers in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C11 Any fuel, oil or chemical storage above ground and re-fuelling facilities shall be sited on an impermeable base and bunded to at least 110% of the tank/drum capacity with a sealed drainage sump within the bunded area and no direct discharge to any water course, land or underground strata. All fill, drain and overflow pipes shall be within the bunded areas.  
Reason: To protect the water environment in accordance with policy CS39 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C12 No stockpiles of mineral shall exceed an overall height of 7 metres.  
Reason: In the interests of protecting residential amenity in accordance with policy CALP12(D) of the Cambridgeshire Aggregates Local Plan.

- C13 Landscaping, aftercare and management shall be carried out in complete accordance with the 'Long-term Management / Aftercare' document dated June 2014 and drawing Restoration Planting Detail and revised Contours, reference P3/1283/19/C.  
Reason: To ensure the development will be appropriately assimilated into its surroundings and local landscape character, and provide appropriate biodiversity enhancement in accordance with policies CS33 and CS25 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C14 Plant or vehicle movement within the site shall be confined to clearly defined haul routes as depicted on 'Haul Routes' drawing ref. CE2120/01 dated May 06. No plant or vehicle shall cross topsoil and sub-soil except for the express purpose of soil stripping or replacement operations.  
Reason: In order to protect the soil resource of the site in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C15 The existing wheel washing facilities shall be retained, maintained in an operational condition and used by all Heavy Goods Vehicles exiting the site throughout the period of development. The surface of the access road shall be kept clean by regular mechanical sweeping.  
Reason: In the interests of highway safety in accordance with policy CS32 of the Cambridgeshire and Peterborough Minerals and Waste Core strategy.
- C16 No stored topsoil or sub-soil shall be removed from the site or the land edged blue on the approved location plan.  
Reason: In order to protect the soil resource of the site in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C17 Soil storage bunds shall be a maximum of 3m for top soil and 5m for subsoil. All soil storage bunds intended to remain in situ for more than 6 months or over the winter period shall be seeded with seedmix A22 or similar at a rate of 25g/m<sup>2</sup>. The emergent sward shall be mown or strimmed to a height of 50mm and subsequently to the same height every April / May and August / September unless growth rates or climate conditions indicate otherwise. Weed growth will be controlled through the appropriate use of herbicide and any failed areas will be cultivated and reseeded as above.  
Reason: To protect the existing soil resource and to ensure that the stored soils are kept free from weeds in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C18 The applicant shall give at least seven days and no more than twenty-one days written notice to the Mineral Planning Authority prior to the commencement of top soil or sub-soil stripping from any part of the site. Prior to the stripping of the soil any standing crop or vegetation shall be cut and removed from the site.  
Reason: To allow the Mineral Planning Authority to inspect the condition of the soils during soil stripping operations and to prevent the soils from becoming degraded in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

- C19 The soil handling methods shall be undertaken in strict accordance with the recommendations of the Soils and Land Classification report dated December 2004 included as Appendix 9 of the Environmental Statement.  
Reason: In order to protect the soil resource in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C20 Top soil and sub-soil stripping, movement and re-spreading shall only be carried out when the full depth of the soil to be handled is in a suitable dry and friable condition. Soils shall not be stripped, handled or re-spread between the months of October to March unless otherwise agreed in writing by the Mineral Planning Authority.  
Reason: To protect the existing soil resource on the site in accordance with policy CS38 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C21 Dewatering of the site shall be undertaken in accordance with the recommendations of the Report; "Mitigating the Impacts of Quarry Dewatering in Sand and Gravel Deposits", dated March 2007.  
Reason: To protect the water environment in accordance with policy CS39 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C22 No materials shall be imported into the site for processing, storage or restoration purposes.  
Reason: For the avoidance of doubt of the extent of the development and operations hereby permitted in accordance with policies CS32 and 34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.
- C23 The development shall be carried out in complete accordance with the Scheme of Archaeological Works dated 30.05.06., including any post development requirements e.g. archiving and submission of final reports.  
Reason: To ensure that the impact of the scheme on the historic environment is mitigated in accordance with policy CS36 of the Cambridgeshire and Peterborough minerals and Waste Core Strategy.
- C24 Notwithstanding references to "fishing lakes" within the application, the lakes hereby approved as part of the restoration scheme shall not be used by members of the public for fishing nor shall they be used for any commercial fishing purpose unless a separate planning permission has first been obtained for such use(s)  
Reason: The submission does not include vehicular access for such uses and does not provide adequate information or assessments as to the potential effects on the highway, nearby residents or the biodiversity benefits of the restoration scheme.
- C25 The development shall not commence until Footpath IN01 has been diverted along the route of the proposed footpath diversion shown on drawing tf 2301\_CAW\_D\_280807\_A dated August 2007.  
Reason: In order to safeguard pedestrian routes for the safety and amenity of pedestrians in accordance with policy CS37 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy.

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## Planning and EP Committee 8 July 2014

**Application Ref:** 13/01562/WCMM

**Proposal:** Non-compliance of C2 and C4 of planning permission 08/01032/WCMM - To amend the approved plans and continue landfill operations until 31 December 2019

**Site:** Dogsthorpe Landfill Site, Welland Road, Dogsthorpe, Peterborough

**Applicant:** Mr Mat Nicholson  
FCC Environment

**Agent:**

**Referred by:** Director of Growth and Regeneration

**Reason:** EIA development

**Site visit:** 09.09.2013

**Case officer:** Mr A O Jones

**Telephone No.** 01733 454440

**E-Mail:** alan.jones@peterborough.gov.uk

**Recommendation:** **GRANT** subject to the signing of a **LEGAL AGREEMENT** and relevant conditions

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### 1 Description of the site and surroundings and Summary of the proposal

#### Site Description

Dogsthorpe landfill site is situated at the north east urban edge of Peterborough. It is bounded by the A47 to the north, Welland Road to the northwest, the A15 to the west / southwest and the A1139 to the east. A small cluster of waste and industrial sites are based at the west / northwest of the site, all using the same access from Welland Road. Peterborough Garden Park lies immediately to the south.

#### Proposal

FCC Environment (FCC) are seeking to vary conditions 2 and 4 of planning permission 08/01032/WCMM to amend the approved plans and continue landfill operations from 31 December 2013 until 31 December 2018, with final restoration of the site to be complete by 31 December 2019. Amendments to the final restoration scheme include the removal of (unimplemented) leachate treatment lagoons, agriculture including biomass cropping and to provide areas of ecological enhancement. The proposal also includes amendments to the approved phasing of the site, resulting in phases being completed in numerical order; this entails completion of landfilling along the northern flank of the site prior to any further works on the southern flank, as opposed to the general east – west direction of filling. Details have also been provided to discharge planning conditions 8 and 21 (aftercare and ecological management) of planning permission 08/01032/WCMM.

The proposal is EIA development, under Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, and is accompanied by an Environmental Statement.

## 2 Planning History

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
12/01236/MMFUL	Removal of existing structures and development and operation of a materials recovery and recycling facility, comprising a relocated household waste recycling centre, a materials recycling facility, an anaerobic digestion facility and ancillary development including offices/welfare/education centre, operatives car park, weighbridge, commercial vehicle park and surface water attenuation lagoon	Permitted	25/03/2013
13/01541/FUL	The erection, 25 year operation and subsequent decommissioning of a single wind turbine (including micro-siting) with a maximum overall tip height of 90m, with associated infrastructure including turbine transformer, hardstanding, control building and cabling	Pending Consideration	
12/01797/MMFUL	Installation of a new Leachate Storage tank	Permitted	15/02/2013
08/01032/WCMM	Non - compliance of C2, 7, 8 and 17 of planning permission 06/00316/WCMM	Permitted	15/12/2008
08/01033/MMFUL	Installation of lagoon-based leachate treatment system	Permitted	12/12/2008
06/00316/WCMM	Modification to approved scheme for refilling and restoration at Dogsthorpe landfill site	Permitted	29/07/2008
97/P0085	Application for the determination of new conditions for extraction of clay and restoration to agricultural use by landfill	Permitted	25/04/1997

## 3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

### National Planning Policy Framework (2012)

#### **Section 13 - Economic Benefit**

Great weight to the benefits of the mineral extraction, including to the economy. Non energy minerals should be provided for outside of Scheduled Monuments and Conservation Areas where practicable.

### Cambridgeshire & Peterborough Mineral and Waste Core Strategy DPD (2011)

#### **MW02 - Strategic Vision and Objectives for Sustainable Waste Management Development**

Growth will be supported by a network of waste management facilities which will deliver sustainable waste management. The facilities will be 'new generation' which will achieve higher levels of waste recovery and recycling in line with relevant targets. They will also be of high quality design and operation, contributing towards addressing climate change and minimising impacts on communities in Cambridgeshire and Peterborough. There will be a network of stand alone facilities but also co-located facilities in modern waste management 'eco-parks'. The network will manage a wide range of wastes from the plan area, contributing to self sufficiency but also accommodating

the apportioned waste residues from London or authorities in the East of England. Any long distance movement of waste should be through sustainable transport means - such facilities will be safeguarded via Transport Zones. A flexible approach regarding different types of suitable waste technology on different sites will be taken and Waste Consultation Areas and Waste Water Treatment Works Safeguarding Areas will be designated to safeguard waste management sites from incompatible development. A proactive approach to sustainable construction and recycling will be taken and strategic developments will need to facilitate temporary waste facilities to maximise the reuse, recovery and recycling of inert and sustainable construction waste throughout the development period. Where inert waste cannot be recycled it will be used in a positive manner to restore sites. The natural and built historic environment will continue to be protected with an increased emphasis on operational practices which contribute towards climate change and minimise the impact of such development on local communities. (Policy CS2 sets out a list of strategic objectives to support this vision; those of relevance will be discussed in the body of the report).

#### **MW21 - Non-hazardous Landfill**

Planning permission for additional non-hazardous landfill will not be granted unless one or more of the listed criteria is demonstrated.

#### **MW24 - Design of Sustainable Minerals and Waste Management Facilities**

All proposals for minerals and waste management development must achieve a high standard in design and environmental mitigation. Waste Management proposals must be consistent with guidance set out in The Location and Design of Waste Management Facilities SPD.

#### **MW25 - Restoration and Aftercare of Mineral and Waste Management Sites**

Minerals workings and waste management sites will be restored to a beneficial afteruse with aftercare arrangements. Restoration proposals will be considered on a site by site basis but must meet the criteria set out in the policy.

#### **MW30 - Waste Consultation Areas**

Waste Consultation Areas will be identified through the Core Strategy and Site Specific Proposals Plan and development will only be permitted in these areas where it is demonstrated it will not prejudice future or existing planned waste management operations.

#### **MW32 - Traffic and Highways**

Minerals and Waste development will only be permitted where it meets the criteria set out in this policy.

#### **MW33 - Protection of Landscape Character**

Minerals and Waste development will only be permitted where it can be assimilated into the local landscape character in accordance with the Cambridgeshire Landscape Guidelines, local Landscape Character Assessments and related SPDs.

#### **MW34 - Protecting Surrounding Uses**

Mineral and waste management development will only be permitted where it can be demonstrated (with mitigation where necessary) there is no significant harm to the environment, human health or safety, existing or proposed neighbouring land uses, visual intrusion or loss of residential/other amenity.

#### **MW35 - Biodiversity and Geodiversity**

Mineral and waste management development will only be permitted where there will likely be no significant adverse affect on local nature conservation or geological interest. Where it is demonstrated there are overriding benefits to the development compensation and/or mitigation measures must be put in place. Proposals for new habitat creation must have regard to the Peterborough Biodiversity Action Plan and supporting Habitat and Species Action Plans.

#### **MW39 - Water Resources and Water Pollution Prevention**

Mineral and waste management development will only be permitted where it is demonstrated there is no significant adverse impact or risk to;

- a. Quantity or quality of groundwater/water resources
- b. Quantity or quality of water enjoyed by current abstractors unless alternative provision is made
- c. Flow of groundwater in or near the site

Adequate water pollution control measures will need to be incorporated.

### **Cambridgeshire and Peterborough Minerals and Waste Development Plan Site Specific Proposals DPD 2012**

The site is identified as an existing waste management facility and is within a Waste Consultation Area (W8Q).

### **Peterborough Planning Policies DPD (2012)**

#### **PP01 - Presumption in Favour of Sustainable Development**

Applications which accord with policies in the Local Plan and other Development Plan Documents will be approved unless material considerations indicate otherwise. Where there are no relevant policies, the Council will grant permission unless material considerations indicate otherwise.

### **Community Infrastructure Levy (CIL) Regulations 2010 Paragraphs 203-205 of the National Planning Policy Framework: Planning Conditions and Obligations:**

Requests for planning obligations whether CIL is in place or not, are only lawful where they meet the following tests:-

- (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.

In addition obligations should be:

- (i) relevant to planning;
- (ii) reasonable in all other respects.

Planning permissions may not be bought or sold. Unacceptable development cannot be permitted because of benefits/inducements offered by a developer which are not necessary to make the development acceptable in planning terms. Neither can obligations be used purely as a means of securing for the local community a share in the profits of development.

## **4 Consultations/Representations**

### **Pollution Team (31.01.14)**

No objections subject to the imposition of conditions to control noise emissions.

### **Landscape Architect (Enterprise) (14.11.13)**

No objections, subject to ensuring woodland planting takes place at the end of the 5 year settlement period. The "Revised Restoration Plan (with MRRF Development)" demonstrates how the permitted 'MRRF Development' will be incorporated into the final restoration scheme.

### **Archaeological Officer (18.03.14)**

No objections.

**Drainage Team (25.03.14)**

No objections. No further comments on additional information.

**Transport & Engineering Services (27.03.14)**

No objections, as there shall be no increase in operational traffic movements to and from the site.

**Wildlife Officer (24.03.14)**

No objections in principle to the extension of time. The details relating to the water profiles and depths are acceptable. Wildflower margins to the agricultural grassland, and the use of wildflower seedmix around the lagoons are welcomed.

There is no justification for the departure from the previously approved grassland / wild flower mix for the inferior mix proposed for agricultural grassland areas and in the vicinity of the surface water management pond. The applicant is requested to provide details to demonstrate any net gains or losses in Priority Habitats that may be achieved through this restoration proposal.

**Environment Agency (20.03.14)**

No objections, as the surface water attenuation details are now acceptable. The applicant is advised that prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 9 metres of the top of the bank/foreshore of the Car Dyke - Flood Defence Consent may also be required.

**Natural England - Consultation Service (19.03.14)**

No objections. The proposal is unlikely to have an adverse effect on designated sites including Dogsthorpe Star Pit SSSI. NE is satisfied with the details provided in the Revised Restoration Plan and Restoration Aftercare Management Plan.

**Local Residents/Interested Parties**

Initial consultations: 245

Total number of responses: 4

Total number of objections: 2

Total number in support: 2

One comment was in support of the proposals, and another showed understanding and appreciation for the reasons for the application and did not believe that occupiers within the vicinity will be affected. Two objections were received, which highlighted negative amenity impacts such as unpleasant odour, birds and noise (from the bird scarer), the site should already be completed and that incineration was a better idea than landfilling, that Welland Road was increasingly used as a 'rat-run' and that the 'Environment City' does not give sufficient concern to the residents environment.

**5 Assessment of the planning issues**

The main considerations are;

- Extension of time for landfilling
- Site restoration details
- Landscaping and Aftercare
- Review of conditions

**Extension of time for landfilling**

The site benefits from a Waste Consultation Area (WCA) designation (policy CS30 - Cambridgeshire and Peterborough Minerals and Waste Core Strategy, hereafter, the 'Core

Strategy'), as set out in the Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals DPD, policy SSPW8, W8Q. WCA's have been identified around waste management facilities that make a significant contribution in managing waste in Cambridgeshire and Peterborough. WCA's serve a number of purposes, ensuring that adjacent neighbouring new development is appropriate and will not prejudice the waste management use.

Dogsthorpe Landfill makes a significant contribution to waste management within Peterborough, and continues to provide landfill capacity whilst alternative facilities for recycling and recovery become operational. There is also a need to achieve an appropriate final restoration profile of the landfill in accordance with obligations under the Environmental Permit, and landscape considerations previously assessed and approved. The requirement for an extension of time to fill the previously consented voidspace is primarily due to a decline in the volume of waste being disposed of via landfill, as a result of environmental and waste policy and legislation which seeks to encourage recycling, recovery and diversion away from landfill in accordance with the waste hierarchy.

As an extension of time application the proposal does not represent an application for additional non-hazardous landfill capacity, and is not required to be assessed against Core Strategy policy CS21.

The amendments to the proposed phasing enable the site to be worked in a more logical manner and do not represent any additional landfilling to that previously consented.

The slowdown in the rate of landfill imported to the site has resulted in a significantly lower than expected number of traffic movements, and whilst a representation has been received expressing concern at the use of Welland Road as a 'rat -run' this cannot be attributed to traffic associated with the site. The proposal represents an increase in the time period over which traffic will visit the site at lower levels than has previously occurred, and is therefore in accordance with Core Strategy policy CS32. Additionally, planning obligations will ensure that the majority of the waste imported into the site comes from a local area representing a continuation of the previously consented requirements.

A representation expressing support for the application has been received, and the Dogsthorpe Landfill Liaison Committee have expressed an understanding and appreciation of why the application is necessary.

### **Site Restoration details**

The previously approved restoration plan for the site made provision for leachate treatment lagoons to potentially be included within the design. Onsite leachate treatment has not been implemented and there is no requirement for the treatment lagoons. Since the previous permission was granted an additional leachate tank has been permitted at the site, enabling leachate to be tankered off site for treatment. Further substantial changes reflect a greater awareness of the agricultural afteruse of the site, and areas for biomass planting have been identified. Biomass will be used in the Anaerobic Digester (permission ref. 12/01236/MMFUL), should this be implemented, or exported off site. The restoration design is to a high standard and the proposed beneficial afteruses will help to mitigate environmental impacts including climate change and the proposal therefore accords with Core Strategy policies CS24 and CS25.

### **Landscaping and Aftercare**

The proposed restoration landform is unchanged from that previously approved (apart from the removal of the leachate treatment lagoons) and there is no need to reassess the form and height of the final restoration levels, which can be assimilated into the surroundings in accordance with Core Strategy policy CS33.

A detailed landscaping and aftercare management plan has been submitted to discharge Conditions 8 and 21 of permission ref. 08/01032/WCMM. The plan represents an acceptable combination of agricultural and biodiversity enhancement afteruse, with woodland, hedgerow and

wildflower planting throughout the site, with a dedicated biodiversity enhancement area at the eastern end around the lagoon. The proposal has been modified in light of comments from the Wildlife Officer to incorporate a greater proportion of wildflower planting and is in accordance with Core Strategy policy CS35.

Specific landscaping and aftercare details for the southern screening bund have not yet been fully implemented and so the previously approved plan (and accompanying letter) including the specific details for this area, will be re-imposed.

### **Review of conditions**

Planning permission, if granted as recommended would represent an entirely new permission and so the conditions must be reviewed to ensure they are still necessary, relevant to planning, relevant to the development, enforceable, precise and reasonable in all other respects. As such, the conditions have been extensively reviewed, amended and updated, resulting in different ordering and numbering, whilst ensuring appropriate control has been retained and to ensure the proposal is in accordance with Core Strategy policy CS34. Furthermore, issues such as birds and odour are subject to environmental permitting. The Environment Agency requested further clarification regarding the drainage capabilities and requirements of the restored landfill profile, which were provided and demonstrated the proposal to be in compliance with Core Strategy policy CS39.

## **6 Conclusions**

The NPPF states that there is a presumption in favour of sustainable development - in terms of decision taking this means approving development proposals that accord with the development plan without delay.

The proposal ensures the previously consented non-hazardous void space at Dogsthorpe landfill can continue to function as an important waste management facility within the Peterborough area whilst working towards an appropriately controlled restoration form.

The environmental impacts of the proposal can be safely controlled by condition and will also be subject of environmental permitting regulations. An extension of time will help enable the appropriate restoration of the site from both a visual and environmental perspective, providing an appropriate waste disposal facility whilst other facilities to help move waste up the waste hierarchy become operational. The submitted details in respect of Conditions 8 and 21 of planning permission are appropriate and can be imposed by condition. The proposal therefore accords with policies CS2, CS21, CS24, CS25, CS30, CS32, CS33, CS34, CS35 and CS39 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy, policy SSP W8 of the Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals DPD and policy PP1 of the Peterborough Planning Policies DPD. There is no reason not to approve the application in line with Section 38(6) of the Planning and Compulsory Purchase Act.

## **7 Recommendation**

The Director of Growth and Regeneration recommends that planning permission is **GRANTED** subject to the following conditions:

- C 1 The development shall be carried out in complete accordance with the following submitted documents and plan:
- Application form dated 22/10/2013
  - Environmental Statement dated October 2013
  - Supporting statement dated October 2013

- Site Location Plan (ref. 468T002A) dated 23/12/2004
- Planning Boundary Plan, drawing reference 468A239 dated 18th June 2014
- Proposed Pre-Settlement Restoration Contours and Phasing, drawing ref. 468A110D dated 17 Jan 2014
- Proposed Post-Settlement Restoration Contours, drawing ref. DG627-D13A Figure 3A dated Jan 06
- Interim Restoration Plan, drawing ref. 468R233 dated 7 March 2014.
- Final Restoration Plan, drawing ref. 468R234 dated 7 March 2014.
- Revised Restoration Plan (with MRRF Development), drawing ref. 468R217A dated 11 September 2013.
- Southern Screening Bund Landscaping Details, drawing ref. DG627-D14 version 4, dated April 2007
- Cross Section of Eastern Lagoon (North-South and East-West), drawing ref. 468A231 dated 21.02.14.
- Letter from Sarah Henderson dated 23rd December 2013
- Letter from Sarah Henderson dated 26th February 2014
- Letter from Sarah Henderson dated 13th March 2014
- Letter from Sarah Henderson dated 19th June 2014
- Restoration Aftercare Management Plan, Version 3, dated 12 June 2014
- Letters from Jonathan Standen, RPS, dated 18 September 2006 and 5 March 2007
- Letter from N.C. Baston, Estates Manager, Waste Recycling Group (ref. NCB/07130/smd) dated 26 April 2007

the details of which are approved except as amended by the following conditions.

Reason: For the avoidance of doubt and to enable the Mineral Planning Authority to adequately control the development to minimise the impact on the amenities of the local area in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policies CS2 and CS34.

- C 2 The deposit of waste shall cease not later than 31 December 2018. Plant, machinery and buildings not required for the operation of the landfill gas power station shall be removed by 30 June 2019 and the site shall be fully restored to an agricultural and nature conservation afteruse by 31 December 2019.

Reason: To minimise the duration of the adverse visual impact and disturbance hereby permitted in the interests of the amenity of the local area in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS25 and CS34.

- C 3 The applicant shall give at least 7 days notice to the Mineral Planning Authority prior to the commencement of topsoil and subsoil stripping or replacement operations. Soil stripping or replacement shall only be carried out when the full depth of soil to be stripped is in a suitable dry moisture condition and not at all between the months of October and March inclusive.  
Soils will be temporarily stocked in accordance with the provisions of the letter from J Standen dated 18th September 2006 as amended by letter from S Henderson dated 19th June 2014. Any such soils shall be seeded during the first available sowing season following their construction with an appropriate seedmix, kept free of weeds and maintained to a good amenity standard until needed for restoration operations.

Reason: To ensure the sustainable use of soils in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS38.

- C 4 The site shall be landfilled by numerical phase order in accordance with;

Proposed Pre-Settlement Restoration Contours, drawing ref. 468A110C dated 17th Jan 2014.

and restored and landscaped progressively in complete accordance with;

Final Restoration Plan, drawing ref. 468R233 dated 7 March 2014,

Southern Screening Bund Landscaping Details, drawing ref. DG627-D14 version 4 dated April 2007,

Letter from N.C. Baston, Estates Manager, Waste Recycling Group (ref. NCB/07130/smd) dated 26 April 2007

Or, in the event of permission 12/01236/MMFUL being implemented, in accordance with; Revised Restoration Plan (with MRRF Development), drawing ref. 468R217A dated 11 September 2011),

Southern Screening Bund Landscaping Details, drawing ref. DG627-D14 version 4, dated April 2007.

Letter from N.C. Baston, Estates Manager, Waste Recycling Group (ref. NCB/07130/smd) dated 26 April 2007

Should for any reason the reclamation of the site cease for a period of 12 months the applicant shall upon written request from the Mineral Planning Authority submit a revised scheme for the restoration of the site within 8 weeks of the request being made. It shall include a schedule of timings, provision and completion of containment works, soiling and restoration in a manner similar to that referred to in these conditions and submitted scheme. All works of restoration shall then be completed within a period of 12 months from the date upon which the scheme is approved by the Mineral Planning Authority.

Reason: To ensure that the site is reclaimed in a condition capable of beneficial use at an early date and in the interest in the amenity of the local area in accordance with Cambridgeshire and Peterborough Core Strategy policies CS25 and CS34.

- C 5 Aftercare and management shall be carried out in complete accordance with the; Southern Screen Bund Landscaping Details drawing (ref. DG627-14 version 4) dated April 2007,  
Letter from N.C. Baston, Estates Manager, Waste Recycling Group (ref. NCB/07130/smd) dated 26 April 2007,  
Restoration Aftercare Management Plan Version 3, dated 12 June 2014

Reason: To ensure that the reclaimed land is correctly husbanded and to bring the land to an appropriate standard for agriculture and nature conservation after use in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS25.

- C 6 Vehicular access to and from the landfill site shall be by way of the existing site access to Welland Road only as shown on Planning Boundary Plan drawing reference 468A239 dated 18th June 2014.

Reason: In the interests of highway safety in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS32.

- C 7 No commercial vehicles leaving the site shall enter the public highway unless their wheels and chassis have been cleaned to prevent material being deposited on the public highway.

Reason: In the interests of highway safety in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS32.

- C 8 Except in emergencies no operations authorised or required by this permission shall be carried out except between the following times:  
0600 hours and 1830 hours Mondays to Saturdays  
0800 hours and 1200 hours Sundays, Bank Holidays and Public Holidays

Reason: in the interests of residential amenity in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS34.

- C 9 A bowser shall be available to dampen internal haul roads and operational areas as necessary during dry conditions in order to prevent the egress of dust from the site.

Reason: In the interests of protecting surrounding uses in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS34.

- C10 The scheme for the control of noise as outlined in Chapter 9 of the Environmental Statement (dated October 2013) shall be complied with at all times. The level of noise emitted from the development during normal operations and maintenance shall not exceed 55dB expressed as an LAeq, 1hr between 06:00 and 18:30 hours Monday to Saturday and 52dB expressed as an LAeq, 1hr between 08:00 and 12:00 hours Sunday, Public Holidays and at any other time as measured, or assessed on the residential property boundary of the following properties;  
67 Peterborough Road, Eye  
101 Peterborough Road, Eye  
The boundary of the rear gate at the Eastern boundary of the landfill site.  
The precise locations shall be chosen and the measurements and assessment made according to BS4142:1997.

Reason: In the interests of protecting surrounding uses in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS34.

- C11 All buildings or tanks to be used for the storage of fuels, together with ancillary handling equipment including pumps and valves shall be contained within an impervious bunded area of at least 110% of the storage capacity and shall enclose within their curtilage all fill and draw pipes, vents, gauges and sight glasses. There must be no drain through the bund floor or walls.

Reason: In the interests of the prevention of pollution in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS39.

- C12 All buildings, plant, equipment and hardstandings shall be removed from the site within 12 months of the date on which they cease to be required for the purposes originally permitted, and the areas in question shall be further restored within a period of 6 months from removal in accordance with a scheme to be submitted to and approved in writing by the Mineral Planning Authority.

Reason: In the interests of securing restoration of the site to a beneficial afteruse in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS25.

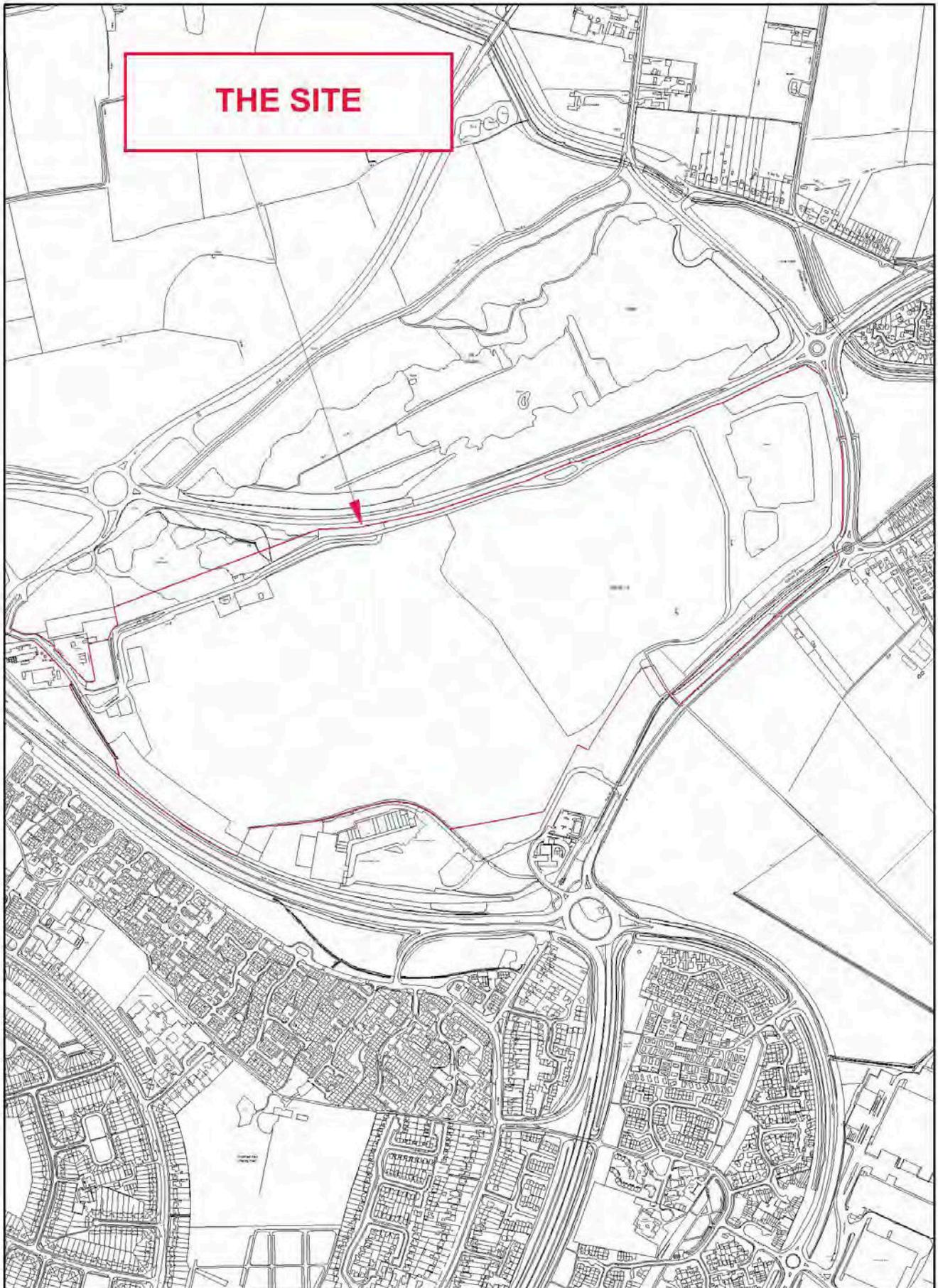
- C13 Any litter from the site which is deposited beyond the site shall be removed and returned to the landfill site for proper disposal.

Reason: In the interests of the amenity of the local area in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS34.

- C14 Litter management and Litter fencing or netting shall be erected and maintained in accordance with the details of the Litter Management and Monitoring plan ref. 11EMS-4-13 12-LNF Version 6 dated 14/02/2014.

Reason: The height at which waste is deposited increase the possibility of wind blown litter and adverse impact on the local amenity and environment; litter fencing is therefore required in accordance with Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS34.

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**LOCATION PLAN 13/01562/WCMM**

Dogsthorpe Landfill Site Welland Road Dogsthorpe Peterborough

**Scale NTS    Date 25/6/2014    Name LG    Department Planning Services**

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## Planning and EP Committee 8 July 2014

**Application Ref:** 14/00371/HHFUL

**Proposal:** Construction of a two storey extension to provide additional living accommodation

**Site:** 158 Chestnut Avenue, Dogsthorpe, Peterborough, PE1 4NT

**Applicant:** Mr Vince Reddell

**Agent:** Mr Dale Barker  
Planning Places for People Ltd

**Referred by:** **Cllr Bella Saltmarsh**

**Reason:** The extension is required to enable the applicant's elderly parents to be cared for at home. The extension would not cause either a loss of privacy, overbearing impact or loss of light to the neighbours.

**Site visit:** 1 May 2014

**Case officer:** Mr M Roberts

**Telephone No.** 01733 454410

**E-Mail:** mike.roberts@peterborough.gov.uk

**Recommendation:** **REFUSE**

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### **1 Description of the site and surroundings and Summary of the proposal**

#### **The Proposal**

The proposal is for the erection of a two storey side/rear extension to the dwelling to provide an annexe for elderly parents. The ground floor is to provide a guest bedroom and living room to the rear with a shower room that is to be retained for the use with the occupation of the annexe and the residents of the existing dwelling. The first floor proposes a bedroom, bathroom and a study. The staircase is to be located centrally. The two storey footprint of the extension is proposed to be approximately 43sq.m and the existing dwelling has a two storey footprint at present of approximately 54sq.m. There will be a retained area of the ground floor of the existing dwelling to be incorporated into the granny annexe and the dwelling would lose its existing study.

The depth of the extension is to be 9.3m with a consistent width of 3.9m and a height of 7m. The roof of the extension is to be of a pitched and hipped appearance. The flank wall of the extension is to be 3m from the boundary shared with no.156 Chestnut Avenue and 7m from the boundary with no.160, the attached dwelling. The extension will project at an angle from the existing dwelling to run parallel with the flank shared boundary with no.156.

#### **The site and surrounding area**

The property comprises a part render/part brick semi-detached dwelling house on a curve within Chestnut Avenue. It has a significantly sized rear garden. The common boundary with no.160 Chestnut Avenue, comprises of a 1.8m high close boarded fence. This is similar to the unattached dwelling, no.156. This dwelling has a single storey side extension that faces the application property which has a hipped/pitched design. There is a general uniformity to the appearance to the dwellings within the immediate area of Chestnut Avenue which includes their design and set back from the highway.

## **2 Planning History**

No relevant planning history

## **3 Planning Policy**

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

### **Peterborough Planning Policies DPD (2012)**

#### **PP2– Design Quality**

Planning permission will only be granted where the proposal makes a positive contribution to the built and natural environment; does not have a detrimental effect on the character of the area; is sufficiently robust to withstand/adapt to climate change impacts; and is designed with longevity as a key objective.

#### **PP3 – Impacts of New Development**

Planning permission will not be granted where development would result in loss of privacy, public and/or private green space or natural daylight; or it would cause noise and/or general disturbance, odour and/or pollution, overbearing impact or opportunities for crime and disorder.

#### **PP04 - Amenity Provision in New Residential Development**

Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents

## **4 Consultations/Representations**

No comments received

### **Local Residents/Interested Parties**

Initial consultations: 7

Total number of responses: 0

Total number of objections: 0

Total number in support: 0

There have been no objections from the occupiers of the close by dwellings.

## **5 Assessment of the planning issues**

### **Planning Issues**

The main considerations in the determination of the application:-

- The purpose of the extension
- Relationship of the extension to the existing dwelling.
- The impact of the proposed extension on the character of the immediate area.
- The impact of the extension upon the amenities of the occupiers of the two adjoining residential properties

## **The purpose of the extension**

The applicant requires the extension for the occupation of ageing parents. When proposing 'granny annexes' it is usual for such accommodation to be single storey due to problems there might be for the residents accessing the first floor. The agent has advised that to access the first floor accommodation there will be a motorised seat up the staircase. This may well be of assistance but it is considered that the necessary accommodation, in this case, could be provided within a ground floor addition. Such accommodation could include a bedroom, a living room and bathroom with the shared use of the kitchen of the existing dwelling.

The proposed ground floor accommodation alone, would be sufficient in most cases for family members to occupy where they would also have access to the facilities of the dwelling. As submitted the scale of the extension and its proposed accommodation are considered to be tantamount to a new dwelling which would be wholly out of character within the immediate neighbourhood.

## **Relationship of the extension to the existing dwelling.**

The proposal is for an extension to the dwelling that has no design features or scale that relates to the existing dwelling. The existing dwelling is modest in terms of its appearance and size. The proposed extension is not subservient to the dwelling as demonstrated by the footprint of the extension being close to that of the dwelling. As a result the appearance and character of the existing dwelling would be detrimentally affected by way of its inappropriate bulk, scale, depth, height and siting.

## **The impact of the proposed extension on the character of the immediate area.**

The application dwelling lies within a planned large residential area dating from the 1950's, a time when there was much Local Authority residential development within the city. The character of the immediate area has largely been retained with no obvious residential extensions of a significant nature visible within the immediate area.

The proposed extension would, due to its sheer scale, be visible from a number of locations within the cul-de-sac as well as to passers-by along the main stretch of Chestnut Avenue to the north. This would detract from the general uniform character of the immediate residential environment by way of its awkward juxtaposition with the existing dwelling.

## **The impact of the extension upon residential amenities of the two adjoining residential property's**

**No.156** - Given the scale of the extension, its depth, bulk, height and proximity to the boundary of no.156 the extension would have a significant impact upon the amenities of the occupiers of this dwelling particularly within areas of its rear garden by way of a significant overbearing presence.

**No.160** - This is the attached dwelling to the east of the application dwelling. It is also considered, albeit to a lesser extent that the extension by way of its scale, its depth, height, its overall bulk, and the close proximity to no.160 would provide a detrimental feeling of enclosure to the rear of this dwelling. No.160 is not currently affected by obstructions to the rear and as a result has a good level of amenity. The proposed extension would harmfully affect this amenity.

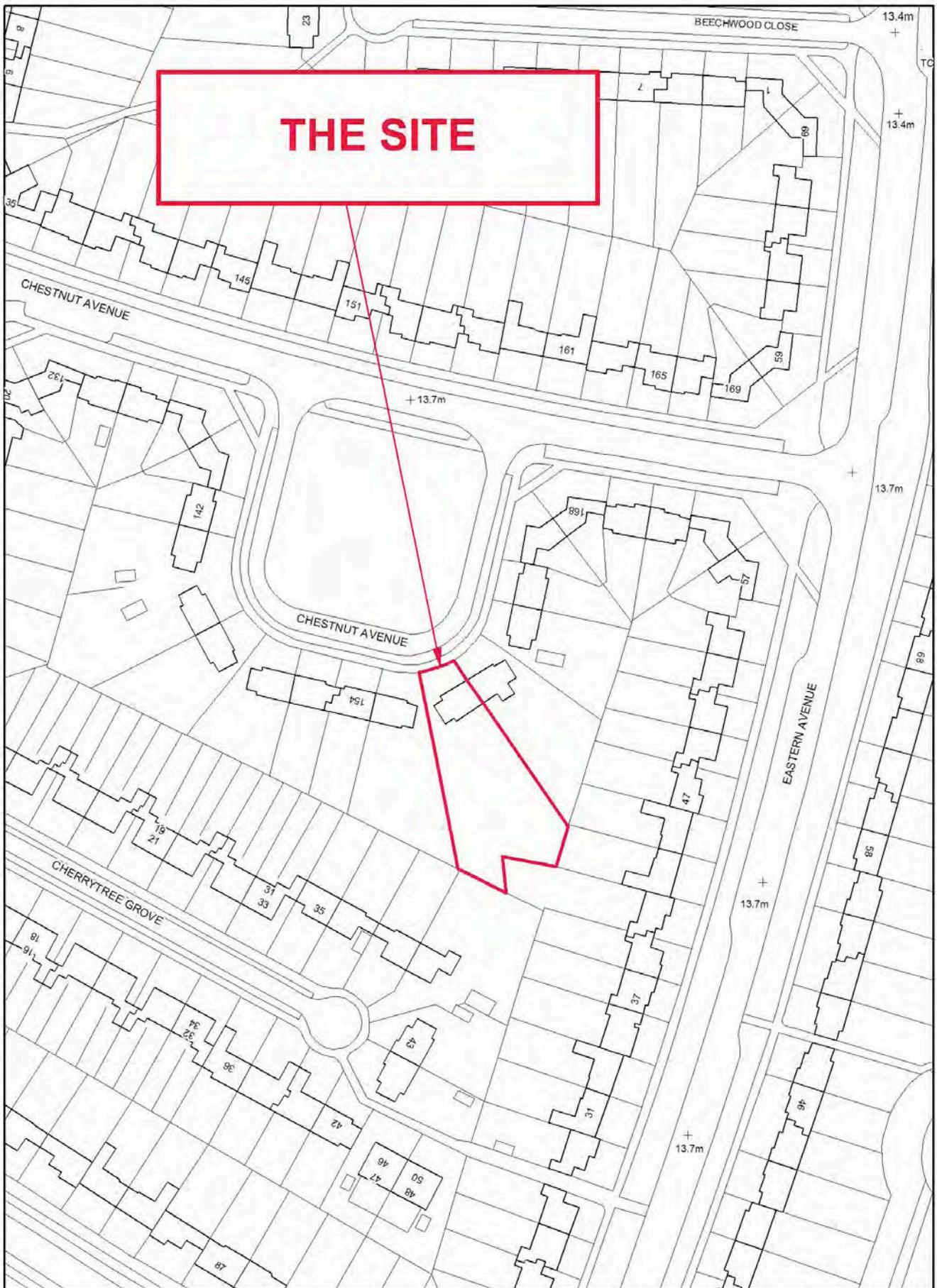
## **6 Conclusions**

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

## **7 Recommendation**

The Director of Growth and Regeneration recommends that planning permission is **REFUSED**

- R 1** The proposed extension by reason of its depth, height, scale and siting would be out of character with, and detrimental to the appearance of that dwelling. Therefore the proposal would be contrary to policies PP2 and PP3 of the Peterborough Planning Policies DPD
- R 2** The extension would have an adverse overbearing impact upon the amenities of the occupiers of no.156 and no.160 Chestnut Avenue by way of its scale, depth, height and siting contrary to policies PP2 and PP3 of the Peterborough Planning Policies DPD.
- R 3** The proposed residential development by way of its scale, accommodation, and relationship to the existing dwelling would be tantamount to a new dwelling to the detriment of the amenities of the occupiers of the existing dwelling, the adjoining residential properties and the character of the overall residential area. Therefore the proposal would be contrary to policies PP2, PP3 and PP4 of the Peterborough Planning Policies DPD.



**THE SITE**

**LOCATION PLAN 14/00371/HHFUL**  
 158 Chestnut Avenue Dogsthorpe Peterborough PE1 4NT

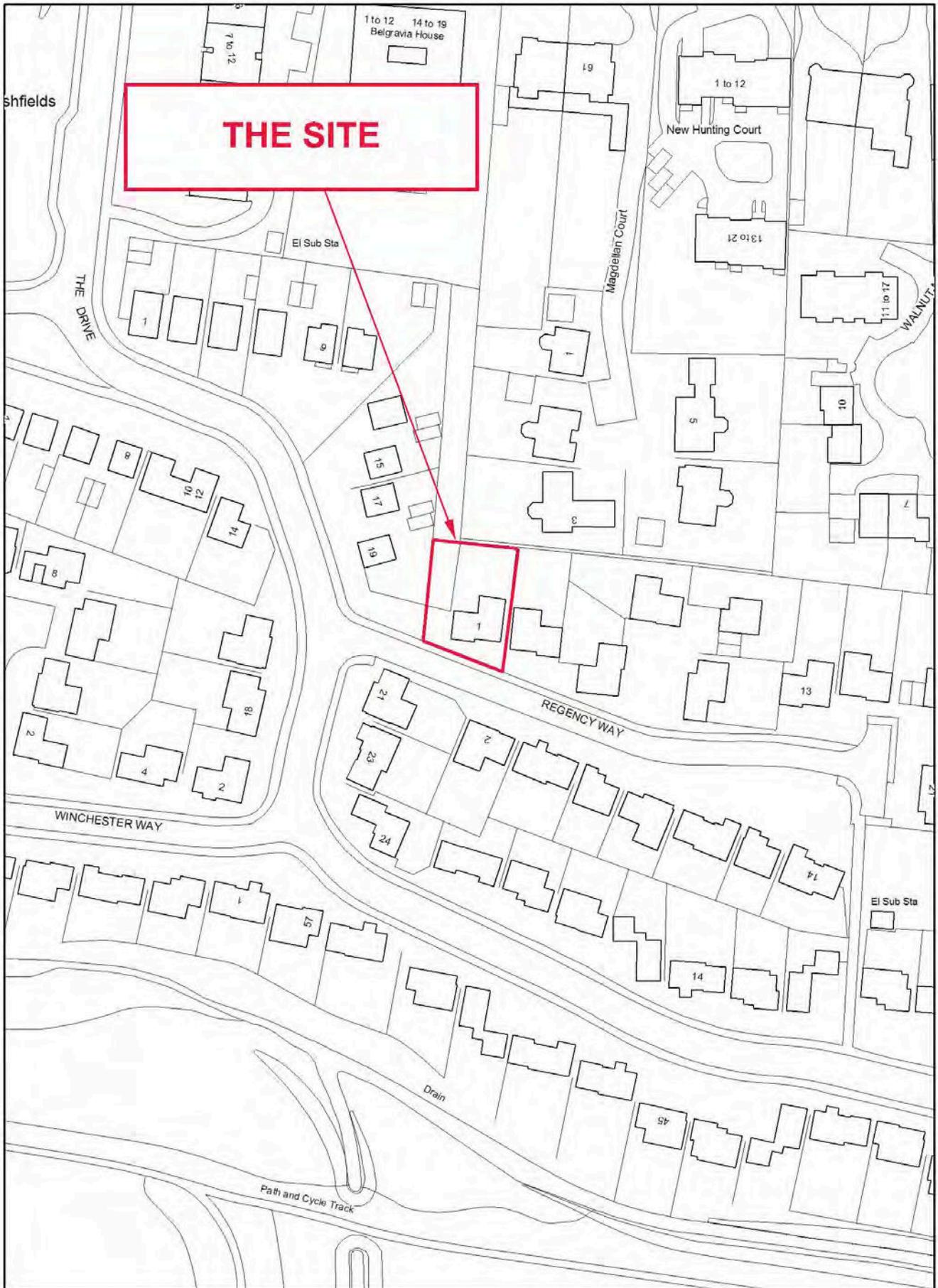
**Scale NTS    Date 25/6/2014    Name LG    Department Planning Services**

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**LOCATION PLAN 14/00731/FUL**

Land Adjacent To 1 Regency Way Peterborough PE3 6HJ

Scale NTS Date 25/6/2014 Name LG Department Planning Services

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## Planning and EP Committee 8<sup>th</sup> July 2014

**Application Ref:** 14/00731/FUL

**Proposal:** Change of use of track to garden

**Site:** Land Adjacent To, 1 Regency Way, Peterborough, PE3 6HJ  
**Applicant:** Miss Shumaela Syed

**Agent:**  
**Site visit:** 21/5/14

**Referred by:** Cllr Arculus  
**Reason:** Right of way; ownership; neighbour concern; inaccuracies in application.

**Case officer:** Ms L Lewis  
**Telephone No.** 01733 454412  
**E-Mail:** louise.lewis@peterborough.gov.uk

**Recommendation:** **GRANT** subject to relevant conditions

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### **1 Description of the site and surroundings and Summary of the proposal**

Regency Way is a residential cul de sac built in the 1980s, accessed off The Drive. No 1 is the first house on the north side of the cul de sac. These dwellings would originally have backed onto the large rear gardens of houses in Thorpe Road, however subsequent backland development has taken place on these gardens. The north side of Regency Way now backs on to various smaller residential properties. To the side of No 1, between its western boundary and the rear boundary of 19 The Drive, is a track which connects Thorpe Road and Regency Way, running behind houses on the Drive and along the original side boundary of No 63 Thorpe Road. The track is about 6m wide, and is overgrown for most of its length.

The northernmost section of the track has been incorporated into the access and parking area around a block of flats built on 65 Thorpe Road, but it is clear to see that the route of this section of the track is still usable and unobstructed across this area. There is a gate at the south boundary of the curtilage of the flats, and beyond this the track does not appear to be widely used. There is no obvious reference to this matter on the relevant planning files, so it is likely that the access arrangement was made outside the planning system.

No 1 Regency Way has an attached double garage to the west side. The apron in front of this garage is shallow, and even small cars parking on it overhang the footway slightly. The outer corner of the garage is about 3m from the back edge of the footway, and a fence has been constructed running from this point, across the end of the track, to a point where it connects (approximately) with the corner of the side and rear fences to 19 The Drive. There is a mature conifer part way along this end of the track, and the fence has been constructed around it.

It appears that there was a fence across the track, from the rear corner of No 1's garage, possibly for many years. A feature is shown on plans from 1979, and appears on the Ordnance Survey plans. It is not possible to be certain, but views on photographs suggest that there was a gate in this fence.

The applicant has enclosed the application site by erecting a fence at the front and rear of the section of the track next to their garden. It appears that the west side boundary is still formed by the fence that was already in place at the rear of 19 The Drive. The new fence to the front, which is set only a small distance from the back edge of the footway, has double gates in it, and it is apparent that the area enclosed by the applicant and subject to this application has been used for

the parking of vehicles in the recent past. There is no dropped kerb on the footway outside the site.

There have been a number of complaints that a car sales business has been operating from the site. These have been investigated and to date there has been insufficient evidence that such a change of use has taken place.

The new fence across the rear of the application site does not have a gate.

## **2 Planning History**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
13/01723/FUL	Change of use of adjacent land to residential garden - retrospective	Withdrawn	11/04/2014

## **3 Planning Policy**

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

### **Peterborough Core Strategy DPD (2011)**

#### **CS14 - Transport**

Promotes a reduction in the need to travel, sustainable transport, the Council's UK Environment Capital aspirations and development which would improve the quality of environments for residents.

#### **CS16 - Urban Design and the Public Realm**

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

#### **CS19 - Open Space and Green Infrastructure**

New residential development should make provision for/improve public green space, sports and play facilities. Loss of open space will only be permitted if no deficiency would result.

### **Peterborough Planning Policies DPD (2012)**

#### **PP01 - Presumption in Favour of Sustainable Development**

Applications which accord with policies in the Local Plan and other Development Plan Documents will be approved unless material considerations indicate otherwise. Where there are no relevant policies, the Council will grant permission unless material considerations indicate otherwise.

#### **PP03 - Impacts of New Development**

Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

#### **PP12 - The Transport Implications of Development**

Permission will only be granted if appropriate provision has been made for safe access by all user groups and there would not be any unacceptable impact on the transportation network including highway safety.

#### **PP16 - The Landscaping and Biodiversity Implications of Development**

Permission will only be granted for development which makes provision for the retention of trees

and natural features which contribute significantly to the local landscape or biodiversity.

#### **4 Consultations/Representations**

##### **Transport & Engineering Services (02.06.14)**

No objection.

There is a set of gates along the site frontage. There is no dropped kerb adjacent the gates so this cannot be considered to be a lawful access.

##### **Enforcement Team**

No comments received

##### **Councillor Comments**

The application has been referred to Committee by Cllr Arculus on the following grounds:

1. The provisions do require the diversion/extinguishment of a right of way –contrary to the statement made by the applicant at panel 6. There is at least one document and very extensive right of way across along this track.
2. Highways. I disagree (which I don't do lightly) with the comments of the Local Highways Authority. There is the potential for the existing track to be converted and used by servient tenements for access both to Regency Way and/or Thorpe Road. This may be advantageous in future to the highway network in the area in future and this does not seem to have been considered.
3. The applicant's supporting statements does not seem to be accurate and they should have the opportunity to correct this before the committee.
4. The applicant cannot show ownership of the property or that they control the area in question. The enclosure of the site is recent and has been in the face of resident and councillor opposition and that of a party with an interest in the site.
5. There is significant resident concern over the application.
6. If the committee is minded to approve the decision then the residents ought to have the opportunity to inform the debate of the planning authority with regard to the imposition and enforceability of any planning conditions necessary not to reduce the amenity of the local area.

Generally, it is in the interests of ward harmony and community relations for this matter to be referred to the planning committee.

##### **Local Residents/Interested Parties**

Initial consultations: 13

Total number of responses: 14

Total number of objections: 14

Total number in support: 0

Neighbour comments have been received as follows:

- The land obviously belongs to somebody else
- Previous builders would have used the land to build on but there has always been this problem of ownership
- Land is not owned by the applicant
- Land [the full extent of the track] was owned by the [now Church Commissioners] in 1879 and cannot find a record of sale
- The fence includes part of the land registered to 19 The Drive [*nb this comment was not made by the owner of 19 The Drive*]. The lane is 20 feet wide yet the new fence/gates are wider than 20 feet. PCC should serve notice on the registered owners of 19 The Drive

- Why is this application not listed as “retrospective” which the previous one was
- Does “change of use to garden” mean that the applicant can continue to park cars
- What help and advice was given [by the LPA] to the applicant, was this to ensure that she received planning permission
- Various sections of the application form have not been completed correctly
- No 63 Thorpe Road has a right of way over the length of the [track]
- There is a right of way over the land – why should somebody else have to pay to defend his own rights
- Applicant should not have put up fence and gates without permission
- Applicant states they have maintained and cultivated the land since 2006, this is not true, please refer to the document from [the Neighbourhood Watch Co-ordinator]
- Owners [*sic*] never maintained this land until June 2013 when a fire was lit to clear the land
- Land has not been gardened or maintained since June 2013 when the fence and gates were erected
- Applicant states “approximate date for starting and finishing work was November 2013” this is untrue work started in June 2013 when a gate and fence were erected on this land enabling the family to park on the land (confirmed with photographs taken by the Highway Authority)
- Applicant states that there was vandalism and anti-social behaviour, but there was a very low number of incidents
- Regency Way is a quiet residential area. It has none of the adverse incidents referred to by the applicant
- [Applicant] hopes to get cars round the side of the premises
- Change of use has allowed applicant to trade in cars at a business level from a residential property
- No 1 has a double garage with two drive areas which one would normally expect to be sufficient.
- [Footway] access has frequently been blocked by parked cars outside No 1
- Owners of No 1 might take even more of the land to store more vehicles
- Email [to LPA from the applicant] states that they are happy to keep the grounds free from cars, so why are cars still on the land
- Has been a lot of time and effort spent on this matter, there are too many uncertainties for this application to be granted
- Properties adjacent to No 1 have been devalued due to the garden and street being cluttered with cars
- Nuisance caused by car trading business has caused great stress and resulted in 3 houses having to be withdrawn from sale
- Garden will be used for commercial purposes unsuitable for a residential area
- Current gardens have been used for commercial car-trading, vehicle repair and testing. This results in increased fire and traffic risks
- Cars have been washed and valeted at No 1 at all times of the day and night
- Ingress to Regency Way is frequently hampered by cars parked outside No 1 without permits, frequently blocking the only pavement. Children and adults are forced into the road
- Cars are parked on the road without permits [Regency Way is in a residents permit parking zone]
- Local residents have been in correspondence with Planning Compliance over the last three years about car trading taking place from the application site, including parking vehicles and giving test drives using trade plates licenced to another motor trader
- At least three other businesses are being carried out at No 1 already
- What enforceable conditions can be used to prevent car-trading activity from recurring as a result of the change of use being approved
- PCC Highway Control Team has made comments about aspects of parking cars at the rear and side; residents cannot understand why these have not been enforced

- Appears inconceivable that permission might be granted thereby allowing a commercial business in a residential area and resulting in obstruction and access difficulties and impact on emotional and physical well-being of neighbouring residents in their own homes

***the following 11 comments are from the owner of 63 Thorpe Road, who enjoys access rights over the track***

- The applicant is seizing land that does not belong to them
- Concerned that local authority could grant permission that defies and obstructs the legal right of way
- Right of way is enforceable by law
- Matter is a concern to me and my mortgage lender
- Application should be refused to avoid any further cost/time to me and my mortgage lender
- Applicant has ticked “no” on the application form when asked about effect on rights of way
- The land is not owned by the applicant
- Right of way is blocked
- Right of way states that travel across the land with transport is permitted
- Applicant has not replied to my letter
- Common sense and law should be observed when considering this application

Stewart Jackson, the local MP, has commented as follows:

- The application would set a precedent as it would encourage a commercial use in a residential area
- It would have a serious and detrimental effect on the quality of life and amenity of [residents in] Regency Way
- Increased traffic, parking, noise and annoyance as a result of related activities
- I am unconvinced that the City Council should be granting permission – there is at best disputed ownership (in the form of a beneficial right of way) and at worst the appropriation of land owned by the householder at 63 Thorpe Road
- Applicants are at liberty to move elsewhere if they do not like the restrictions of living in a narrow cul de sac
- LPA should seek to protect the integrity of established residential areas, should not allow retrospective applications of this sort, and should have sought to take enforcement action earlier
- There is evidence that the use of the land would be for commercial car trading, as laid out by neighbours over the last two years

## **5 Assessment of the planning issues**

The proposal is for a change of use of the end of the track, as enclosed by the applicant, to domestic garden. Implicit in this is retention of the fencing.

The application is not for any commercial use of the site. This would require a separate application.

### **Site History**

Since 2007, there have been complaints to the Enforcement Team about car trading from the site. Enforcement Officers have investigated at various times but there is insufficient evidence that there has been a change of use. It is understood that an extended family lives at the house (and that a member of the household operates a car business in the city), with several adults each owning their own cars. Occasional car sales of private vehicles from a home are considered ancillary – as yet, the scale of car sales established by Officers has not moved beyond ancillary.

### **Principle of use**

The land has no allocated use in planning terms. As a general rule, areas of land with no allocated

use, which are adjacent to a garden, and which have no particular value in the streetscene, are suitable for incorporation into a garden. The general rule can be applied in this case.

The basic foundation of the planning system is that it exists to regulate and control the use and development of land in the public interest. That is, not the private interest. Private interest is for a private person to protect themselves. In this case, the issues of ownership and a private right of way do not affect the public interest. Nevertheless, they are examined in more detail below, as neighbours have made several comments.

### **The Right of Way (RoW)**

It is understood, and land registry documents have been provided by a neighbour (as part of the previous application) to show, that there is a private right of way over the track (identified as Occupation Road), from Thorpe Road to Regency Way. This right of way pre-dates the development of Regency Way – the year given is 1902, but it appears to have been granted in 1879, when a piece of land along the east side of the track was sold. It is a private right of way, enjoyed by owners of 63 Thorpe Road and any persons authorised by them. Title evidence from the owner of 63 Thorpe Road has been provided to show this, but it has not been established whether any other properties or persons share the right of way.

It is possible that others do share the right of way, which was granted according to the 1879 document. No 1 Regency Way itself occupies part of the land that was sold with the right of way, as do several other dwellings.

As it is a private right of way it is for the holder(s) of the RoW to enforce his or her rights, and not within the power of the Local Planning Authority.

The applicant has stated on the application form, as pointed out by various parties, that the proposal does not require any diversions, extinguishments or creation of rights of way. Although it is not clear on the application form, this section of the form refers to **public** rights of way, not private. The Guidance Notes for filling in the form make this clear.

A grant of planning permission does not over-ride a private right of way, but it is for holder of the right of way to protect his or her own interest and/or the developer to extinguish the right of way through negotiation with the interested parties.

The LPA does not have the power to take any action in respect of the right of way. If the LPA were to refuse planning consent on the grounds that there is a private right of way over the land then it would be open to legal challenge and an award of costs against it.

### **Land Ownership**

The applicant does not own the application site. Several neighbours have raised this as an objection, but the correct steps have been taken by the applicant. The land is not registered at the Land Registry, as has also been established by the Enforcement Officer when dealing with a complaint, and the applicant has posted a notice in the local newspaper. This is what is required by law in order that the planning application can be properly considered and determined. The issue of a planning consent does not give the applicant the right to occupy another person's land, but it is for the owner person to protect their own interest – the LPA cannot do it for them; nor can the LPA refuse planning permission just because the owner of the land objects on the grounds of ownership.

One neighbour has established that the land was owned by the Church Commissioners in 1879. It is likely that if it was so owned then it would be registered with the Land Registry, but Officers have contacted the Commissioners local representative (Smiths Gore) who have confirmed that the Church Commissioners do not own the land. They suggested the Diocese, but their representatives have also confirmed that they do not own the land.

One neighbour has commented that the site includes part of the land registered to 19 The Drive

[this comment was not made by the owner of 19 The Drive]. The comment appears to be based on the track width of 20 feet given in a title document, and the width of the new fence/gates being more than 20 feet. Neither the owner nor the occupant of 19 The Drive has commented. It is possible that some of the fence is on the applicant's own land as the track is not likely to be hard up to the side wall of the applicant's garage. It does not appear that the fence at the rear of 19 The Drive has been interfered with by the applicant. Land within the curtilage of 19 The Drive will already be lawfully garden land in planning terms and therefore will not require planning consent so to be used, whoever uses it.

On the plans accompanying an application for 19 The Drive, in 2012, the width of the track is shown as 6m (19.7 feet) alongside the garden fence for No 1 Regency Way, but 7m (23 feet) between the back boundary of 19 The Drive and the side wall of the garage at No 1 Regency Way. This might account for the discrepancy.

If the LPA were to refuse planning consent on the grounds that the applicant does not own the land then we would be open to legal challenge and an award of costs against us.

### **Alleged Commercial Use of the Site**

Neighbours have commented about commercial activities taking place from the site. There are records of complaints to Enforcement Officers since 2007. These have been investigated and no breach of planning control has been identified. Neighbours have repeatedly commented that there is commercial activity taking place, but it is likely that some if not all of the activity they see relates to cars owned by occupants being sold privately. This is not, if carried out at a reasonable scale, a breach of planning control. In a household of several adults, private car sales taking place several times a year would be regarded as reasonable.

A neighbour has commented that "at least three other businesses are being carried out at No 1". This appears to refer to some other businesses having a registered address at No 1 Regency Way, which is not the same thing as being carried out. If a person wishes to register a business at their home address, or if a director of a company lists their home address, there is no planning objection. There are companies registered at two neighbouring addresses – a property company and a contracting company – but this does not appear to have given rise to any overt commercial activity in the area. It is the activity taking place that will, in certain circumstances, trigger the need for the involvement of the LPA; not the fact of a company registration.

Residents have also mentioned matters such as mis-use of trade plates, and health and safety breaches, but these are not planning matters. It is for the relevant authorities (such as for example the DVLA) to take action on such matters where they are lawfully empowered to do so. The LPA cannot go beyond its own powers.

### **Possible Future Commercial Use**

This cannot be taken into account. The applicant has stated that the proposal is to use the land as garden, and Officers consider that this is acceptable. Any commercial use of the site would require planning consent. If the LPA were to refuse planning consent on the grounds that the applicant might use the site for commercial purposes in the future then we would be open to legal challenge and an award of costs against us.

Although possible future commercial use cannot be taken into account, Officers are aware that this is a residential area, and this would be considered were any application received in the future for a commercial use.

Neighbours have asked about the use of conditions to control possible future car trading, but a condition cannot be used to stop something that requires planning permission in its own right. Private car trading, of residents own cars, several times a year, is already ancillary to the residential use of No 1, and cannot be prevented. Conditions imposed on a planning permission now would not apply retrospectively to the land that has always been No 1 Regency Way. A condition, as suggested below, preventing use of the land for the parking of vehicles, would

prevent just that – the parking of vehicles – but would not, and could not, prevent occupants selling their own private cars from their home.

Commercial scale car sales from the site would require planning consent, and if Enforcement Officers were ever able to establish that a commercial car sales operation was taking place then the appropriate enforcement action could be taken – a condition would not be required.

### **Assessment of Proposal**

The land in question is of no particular merit in the streetscene. Although most of the length of track is visible from the north, and from the south if one looks over the fence, the fence across the track at the back of the application site does not require planning permission. This is because, under the Permitted Development regulations, a 2m fence can be erected without explicit planning permission in locations not adjacent to the Highway. Views up the track can therefore be blocked without planning consent. It is apparent from looking at the track that it has not been maintained lately. Maintenance of the track is not a planning concern, but in terms of impact on the streetscene the track is a neutral feature and therefore loss of the view along the track will not cause any particular harm.

The site shares a boundary with 1 Regency Way and is, purely in land use terms, a natural extension to the garden. There is no lawful planning reason to resist the change of use to garden. As set out above and below, many of the objections raised by neighbours are not lawful planning matters.

### **Highway Safety**

Several neighbours have objected to the proposal on the grounds that vehicles might be parked on the land, which could be hazardous to Highway safety. Given that there is a private right of way in existence which allows for the travel of vehicles (albeit referred to in 1902 as horses carts and carriages) over the track, this potential hazard already exists. The owner of the right of way could, according to the wording in the Deeds, authorise anybody to use the right of way – in theory this means that a large number of vehicles could be driven up and down it.

Officers are of the view that it is reasonable to impose a condition prohibiting the applicant, or any future user of the land, from parking vehicles on the site. This is because the manoeuvring of vehicles across the footway in the absence of a dropped kerb could be hazardous. The right of way could in theory be used by an unlimited number of authorised persons creating an equivalent hazard to Highway safety, but this is unlikely. The parking of vehicles on the application site is extremely likely. Officers therefore consider that a condition should be used to prohibit the use of the site for the parking of vehicles.

Neighbours have asked why some recommendations made by the LHA Highway Control Team have not been enforced. This appears to be a reference to comments made at the time of the previous application. At that time, the Highway Engineer made comments about the proposal relating to the need for visibility splays and a dropped kerb. The application was withdrawn so those matters never had to be resolved. The current application is solely for garden use, so those matters do not arise. The Engineer also made advisory comments, which would apply if the applicant was intending to use the site for vehicle sales/storage. That is not the proposal which has to be determined, so the comments are irrelevant.

If there is an active Highway safety issue related to vehicles being driven up the raised kerb and across the footway then the Highway Authority has the power to take action, however the current situation can be resolved through the grant of planning permission for the scheme with appropriate conditions.

A condition is recommended prohibiting the use of the land for the parking of vehicles.

### **Fence and Gates**

The fence at the back of the application site does not require planning consent. The fence at the

front, being adjacent to the Highway, does as it is over 1m tall. Officers have considered the various options.

Firstly, the fence and gates could be granted planning consent as they stand. The opening width of the gates would allow the passage of vehicles.

Secondly, a condition could be imposed requiring that any gate is restricted in width to 1m, to allow the passage of people but not large vehicles. This would prevent the applicant from being able physically to drive cars onto the site, but it would also prevent the owner of 63 Thorpe Road from exercising his vehicular right of way. As set out above, the private right of way is not a planning matter, and it would be open to the owner of the right of way, should he wish to drive vehicles over this boundary, to apply for a variation of the condition.

Thirdly, a condition could be imposed restricting the construction of any fence over 1m high. Given that the applicant wishes to use the land as garden, there is no planning reason to resist this, and there is already a tall fence along the side boundary of 19 The Drive, it is not considered reasonable to prevent the applicant having a 2m fence along the garden boundary to allow the usual level of privacy.

Officers therefore recommend that the second option is taken, and a condition is imposed requiring the gates to be changed so that the gate width is no more than 1m. It would be open to the holder of the right of way to apply to vary this condition should he wish to start using the right of way for vehicular access.

### **The Applicant's Supporting Statement**

Some neighbours have commented on the applicant's planning statement. The main points in the supporting statement are:

- Have looked after the land for the last 6 years
- Burglaries taking place on Regency Way and down The Drive
- A van reversed into a car parked outside the house, having had two witnesses from the neighbourhood this was never resolved
- Youths hanging out drinking, making a nuisance, tipping rubbish late at night
- Dogs being allowed to litter on the grass
- Pests such as rats mice and foxes visiting, which has since stopped
- Access for youths to hide due to poor lighting/gangs hanging out/thieves and intruders having rear access to The Drive
- Police advised to apply for the side of the land it would be the best way forward and hopefully stop the neighbours from complaining
- Have purchased smaller cars so they are easily parked on the driveway and not hanging off on the footpath
- Have maintained the land since 2006, and secured the front and back to prevent the above mentioned
- Cleared up bushes, twigs, leaves, branches, grass which was 1.5m high and very untidy.
- Also was a lot of bricks/rubbish tipped inside the bushes which is now all cleared up
- This has helped remove the pests which were causing most of the problem around the house
- Also reduced the amount of theft and burglary in the area, especially criminal related
- Now all cleared up maintained and fenced, fully secured. This not only helps secure 1 Regency Way but also properties on The Drive.

None of these points has influenced the consideration of the application.

The Neighbourhood Watch Co-ordinator has examined these points in detail. Her letter is attached so that Members can read her comments in full.

### **The Application Form**

Neighbours have made various comments about the way that the application form has been filled in. The matter of the right of way has been covered above; other points are (again, Officer response is in *italics*):

- Section 5 – Pre-application advice - Help and advice given to the applicant – *this was not to ensure that the applicant received planning permission, but to ensure that she completed the application form correctly. As the neighbours pointed out in great detail, the application form for the first application was not correctly filled in, although this did not, and would not have, affected the consideration of the application. Planning Officers are obliged to assist all parties, including applicants. The applicant in this case had a meeting with the Case Officer to go through the application, to ensure that it was as correct and complete as possible, and to explain to the applicant her options in relation to this application and future actions. So far, time spent talking to and helping the applicant has been heavily outweighed by time spent talking to and attempting to help the neighbours and objectors.*
- Section 9 – Materials to be used - the details on the plan are very unclear. The plan should show precise details of the width of the lane and explain why that differs from the dimension of the newly erected fence/gate so substantially – *the applicant is under no obligation to explain this. In any case, this section of the application form refers to materials. The applicant has stated “Gate fence wooden” which, as the fence and gates have already been put up, is obviously correct.*
- Section 10 – Vehicle Parking – the applicant has written “see cover letter” but that letter refers only the land at the front of the house – what is their intention re the former track? *The applicant has applied for change of use to garden. The level of information submitted is sufficient for Officers to make an informed recommendation on the application.*
- Section 14 – Existing use - the first box has not been completed *This does not affect the determination of the application*
- Section 16 – Trade effluent – there are a number of old vehicles parked on the site. These almost certainly contain fuel/oil; batteries are left in the open. This is a health and safety issue - *The proposal is for a domestic use. “Trade effluent” is not a consideration in this case and refers to, for example, outputs from factories, oil refineries etc. Health and safety is not a planning matter but in this circumstance would be the applicant’s responsibility.*
- Section 23 – Hazardous substances – as above – *This question is asked to establish whether an application for Hazardous Substances Consent might be required. This is not a consideration that would apply to domestic scale applications.*
- Section 26 – Declaration - the applicant has signed a declaration [that the information supplied is correct] but there are misleading details in the supporting statement. *This has not affected Officer’s consideration of the application.*

#### **Other matters, with Officers response *in italics***

- Loss of property value – *this is not a planning matter*
- Application should be refused to save me time protecting my right of way – *this is a private matter outside the planning system*
- My [63 Thorpe Road] right of way is blocked – *this is a private matter to be resolved outside the planning system.*
- Right of way allows travel with vehicles – *this is stated in the Land Registry deeds for 63 Thorpe Road. A copy of this document was provided to support an objection to the earlier application. This is a private matter to be resolved outside the planning system.*
- Why is this application not listed as “retrospective” which the previous one was – *this has not affected comments on or the consideration of the application. The applicant has stated that the works/change of use have been completed so the word “retrospective” has been added to the description.*
- Email [to LPA from the applicant] states that they are happy to keep the grounds free from cars, so why are cars still on the land – *in discussions with the applicant Officers indicated that we would be recommending condition that effectively prevented the keeping of vehicles on the land. The applicant indicated that this would be acceptable. As no*

*permission has been issued, there is currently no requirement or need for vehicles there now to be removed.*

- Applicant states “approximate date for starting and finishing work was November 2013” this is untrue work started in June 2013 when a gate and fence were erected on this land enabling the family to park on the land (confirmed with photographs taken by the Highway Authority) – *the exact dates for the start and finish of work are not relevant to determination of the proposal. The photographs on the file were taken either by the applicant or by the case officer, and not by the Highway Authority. Photographs taken by the Case Officer were all taken in 2014 and so cannot establish anything earlier.*
- No 1 has a double garage with two drive areas which one would normally expect to be sufficient – how many families have up to 11 “family cars”? – *it is not the place of the LPA to decide how many cars a household should have.*

## **6 Conclusions**

The proposed change of use to garden land, and retention of the front boundary treatment, will have no detrimental impact on the amenity of occupiers of neighbouring properties, or on the streetscene.

Activities likely to cause disturbance, or to cause a hazard to Highway safety, can be controlled by Condition.

Various matters arising such as a private right of way and land ownership are not planning matters and cannot be taken into account.

The proposal is therefore in accordance with Policy CS16 of the Peterborough Core Strategy DPD and Policies PP3 and PP12 of the Peterborough Planning Policies DPD.

## **7 Recommendation**

The case officer recommends that planning permission is **GRANTED** subject to the following conditions:

**C1 The site shall not be used for the parking, storage, maintenance or cleaning of motor vehicles.**

Reason: In the interests of Highway safety and neighbour amenity in accordance with Policies PP3 and PP12 of the Peterborough Planning Policies DPD.

**C2 The gates in the fence at the front of the site shall be altered so that there is only a single gate opening and that the opening is no more than 1m wide.**

Reason: In the interests of Highway safety and neighbour amenity in accordance with Policies PP3 and PP12 of the Peterborough Planning Policies DPD.

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# Response to Planning Application 14/00731/FUL

In my role as Neighbourhood Watch (NHW) Coordinator for Regency Way, Peterborough, I have been asked by a number of local residents (I can provide all their names and addresses should this be a requirement) to pull together their various objections on the recent Planning Application 14/00731/FUL and to submit these comments on the residents' collective behalf before the deadline date of 16 June 2014. The comments below unanimously represent the views of those who have approached me about this application. Other residents may be commenting separately of course, as is their prerogative.

Perhaps I should stress from the outset that I have also been approached on at least three separate occasions over the last few years for advice and help by various members of the Syed family who live at No1 Regency Way and who are now the applicants for Planning Application 14/00731/FUL. I have always sought to give the Syed family my best advice on any such occasions just as I would do for any other local residents.

Mrs. M.P.Barrett

## Key Objections to Planning Application 14/00731/FUL

**A majority of residents of Regency Way, and some immediate neighbours on The Drive and Thorpe Road, OBJECT to the planning application on the following grounds:**

Combined comments as follows:

**1. Ownership:** The land referred to in this application (part of the former lane) is not owned by the applicant and they have no legal title to it. This would appear to be a serious flaw in the application. PCC may therefore need to seek legal advice on this point in relation to the actual validity of the pending application.

Irrespective of this, following extensive research of the archives held at the Church of England Record Centre (CERC) in Bermondsey, London, it has come to light that the last known owners of the former lane were **The Ecclesiastical Commissioners for England** (now known as the Church Commissioners) who definitely owned the land in 1879 - please see the attached document dated 22 April 1879 and plan (3 pages in total, original filed under CERC reference F58859) which confirms this fact. The full extent of the former lane, also known as Occupation Road, is clearly shown as being within ECE ownership on that same plan.

Further exhaustive research of the Church Commissioners archives did not reveal any subsequent sales whatsoever of the land on which the former lane stands. Given the above, it is our considered opinion that the Church Commissioners remain the legal owners of the former track, therefore we ask that, at the very least, PCC takes appropriate steps to serve notice on the Church Commissioners alerting them to the implications of Planning Application 14/00731/FUL.

Additionally, No1 erected a new fence/gate last June to include not only the former track adjacent to their property but also part of the land already registered under CB17652 ie 19 The Drive. The former lane is 20 feet wide throughout its full length (as shown on legal documents for other titles and earlier editions of the Ordnance Survey map) yet the new fence/gate facing Regency Way itself is much wider than 20 feet and **clearly eats significantly into the registered extent of CB17652**. A site visit may be required to fully appreciate this comment. We therefore ask that, at the very least, PCC takes appropriate steps to serve notice on the registered proprietors of CB17562 alerting them to the implications of Planning Application 14/00731/FUL.

**2. Right of Way:** Land Registry records show that the owner of No 63 Thorpe Road has a legal right of way over the whole length of the former lane. However, the land now the subject of planning application 14/00731/FUL has already been fenced off thus preventing the right of way from being exercised. The owner of No 63 Thorpe Road (Mr David Johnson) wrote to No1 Regency Way on 9 January 2014 pointing out this fact and is still awaiting a reply. A copy of Mr Johnson's letter can be provided for record purposes if required. Mr. Johnson's valid intervention adds to the flawed nature of the application. Again, PCC may need to seek legal advice on this point in relation to the validity of the pending application.

**3. Stated Reason for application:** Application 14/00731/FUL purports to be for "*Change of use of track to garden*".

PCC Planning Control should note that local residents have been in lengthy correspondence with PCC Planning Compliance over the last three years about the occupants of No1 trading in cars at a business level from their residential property. This trading has been done from their residential address by making use of land alongside their rear garden to park vehicles and to give test-drives using trade plates officially licensed to another car-trader in another part of Peterborough. Information on this topic has been gathered already by PCC - please contact PCC Planning Compliance for more information. A simple web search also reveals that at least three other businesses - (i) Motor Claims Consultants Ltd (ii) Switch Car Hire and Recovery Services Ltd and (iii) Desimag Ltd - are being carried out at No1 already. By extending the garden area via the possible approval of this pending application there is a strong probability that yet more space would be given over to expanding professional car trading activities from No1's residential premises. There is understandably great suspicion amongst local residents as to the motives behind 14/00731/FUL.

**NOTE: THIS IS THE MAIN REASON WHY LOCAL RESIDENTS ARE NOW ACTING TOGETHER TO OBJECT TO Planning application 14/00731/FUL. WE DO NOT WANT TO FACILITATE A RETURN TO THE CAR TRADING ACTIVITIES WE HAVE ENDURED FROM No1 IN THE RECENT PAST.**

**WHAT ENFORCEABLE CONDITIONS CAN PCC IMPOSE TO PREVENT THIS CAR-TRADING ACTIVITY FROM RECURRING AS A RESULT OF THE POSSIBLE APPROVAL OF CHANGE OF USE OF THIS LAND?**

#### 4. Comments on the Application form itself:

Section 5 – the “Details” box has not been completed despite the fact that the applicant has stated that pre-application advice has been provided by PCC.

Section 6 – the fifth and last box in this section appears to have been answered incorrectly – a right of way is clearly affected. There is definitely an issue about extinguishment of a known right of way over the land sought to be used by the applicant.

Section 9 – The details on the plan provided are very unclear. What do they mean? The plan should show the precise dimension of the width of the former lane ie 20 feet and explain why that differs from the dimension of the newly erected fence/gate so substantially.

Section 10 – The applicant has written “See cover letter” but that letter refers only to the land at the front of the house – it does not state anything about parking or not parking on the land which is the subject of this application ie on the former track adjacent to No1. What is their intention?

Section 14 – The first box has not been completed.

Section 16 – there are currently a number of old vehicles parked alongside and at the rear of No1. These vehicles almost certainly contain some fuel and various oils. There are also batteries left in the open – as shown on PCC Highway photos. This is an important health and safety issue.

Section 23 – see previous point.

Section 26 – The applicant has signed a Declaration here. We draw your attention to the misleading details in the Supporting Document once again (see next paragraph)

**5. The “facts outline” Supporting Document :** The supporting document supplied by the applicant is misleading and inaccurate in a number of respects. This purports to be a key document in support of the application but it is flawed in many places. Residents simply do not recognise the alarming and bleak picture that is being portrayed by the applicant (almost certainly in a misguided attempt to artificially strengthen the case made in their application).

The following points refer:

- (i) In a couple of places the applicant states that she has **“looked after the land for the past 6 years”**. I’m afraid this is not so. The owners of No1 moved into their house in 2006 but never maintained or cultivated this piece of land until the weekend of 22 - 24 June 2013 when a new wooden fence/gate was erected. A few years ago, old used cars were occasionally parked on the land (part of the former lane). Following complaints, I understand No1 were subsequently advised by the Police/PCC to remove those vehicles on the basis that the land was not owned by them and the old cars were an eyesore. Many residents can unequivocally confirm that the new fencing and gates were actually erected by No1 over the weekend

of 22 - 24 June 2013 so as to include the land in 14/00731/FUL within the physical fenced extent of No1. This was the first indication to anyone locally that No1 were seeking to maintain or cultivate that land.

- (ii) The applicant states that she has "**cut the lawn and cleared the land**". But there is no lawn. The land is just muddy and full of debris (as evidenced by the photos from PCC's own on-site visit).
- (iii) **Reference to Previous burglaries** – Official eCOPS statistics show that there were no burglaries within Regency Way during 2013 (nor 2012 for that matter). However, over the years there have been some recorded instances of Anti-Social Behaviour (one recorded incident in 2012 and another recorded incident in 2013) at the children's play area at the eastern end of Regency Way but this is quite a distance from No1 and should have no bearing whatsoever on 14/00731/FUL. PCC may need to consult the eCOPS statistics to confirm any other such figures.
- (iv) "**Cars being damaged/broken into**" and "**Car theft and criminal damage**" - soon after the current occupants of No1 moved into their property one of their cars was broken into and a radio stolen but that happened as long ago as 2007. This was referred to NHW at the time. There have been no reported instances of vehicles having been stolen or broken into since that date as per eCOPS statistics.
- (v) "**Racism**" - NB: We find the remark made about "racism" to be extremely offensive. In Regency Way there are more than 7 different nationalities represented by residents. This is the first reference we have ever heard about "racism" – where is the supporting evidence? Our past and current concerns to PCC have been purely about illegal activities being carried out by residents of No1. All residents should be subject to the same laws irrespective of their ethnic origins and these laws should be equally and fairly enforced as necessary. Our main complaint has been, and still, is that PCC seems reluctant to take enforcement action against No1.
- (vi) "**Youths hanging out**" and "**thieves and intruders**" – we can only speculate that these are likely to be references by the applicant to some anti-social behaviour being carried out at the eastern end of Regency Way at odd times over the years. However those incidents took place well away from No1 and were never serious enough to ever make the Police arrest or formally caution anyone – again, eCOPS statistics will confirm.
- (vii) "**Pests - rats, mice, and foxes**" – Local residents will confirm that pests such as rats and mice are not seen elsewhere in the street. Foxes have been seen from time to time but they are not really regarded as a nuisance by other residents.

- (viii) **“tipping/broken glass and rubbish”**: Instances of fly-tipping on the former lane have indeed been reported in the past to PCC. Our local councillor told us that, on one occasion, No1 were asked to remove a large number of tyres which they had dumped on the former lane themselves. Although residents have more information about this, it’s probably best for PCC Planning to contact PCC Neighbourhood Services or Councillor Arculus for a completely independent and unbiased report about this.
- (ix) **“no assistance was provided by anyone having requested this on many occasions”** :- Feedback suggests that no other local residents were ever approached about this. Maybe PCC were contacted by No1? If so, more details about this would be useful.

With reference to the rear garden, **“This is all now cleared up and well maintained”**. This remark is completely at odds with the findings of PCC’s own on-site inspection. Please see their photos (submitted with 13/01723/FUL). The land at the side and rear of the house is littered with rubbish and is uncultivated.

- (x) **“The front of the land is fenced and gated”**: Gates have been erected on land that No1 does not own and hides the fact that as many as 6 or 7 cars have been parked on the former lane alongside the rear of their property. This has been additional to any cars parked on their front lawn and on the road itself. Obviously some of these vehicles are used by the family at No1 but potential purchasers of other vehicles parked on their premises were regularly seen inspecting the cars during 2013 when PCC were asked to investigate suspected car trading activities at the premises. Residents are deeply suspicious that No1 is now seeking to extend their own garden ground through the guise of 14/00731/FUL with the ultimate aim of storing yet more vehicles in the former lane alongside the rear garden for further car trading purposes.

Once again,

**THIS IS THE MAIN REASON WHY LOCAL RESIDENTS ARE NOW ACTING TOGETHER TO OBJECT TO Planning application 14/00731/FUL. WE DO NOT WANT TO FACILITATE A RETURN TO THE CAR TRADING ACTIVITIES WE HAVE ENDURED FROM No1 IN THE RECENT PAST.**

**WHAT ENFORCEABLE CONDITIONS CAN PCC IMPOSE TO PREVENT THIS CAR-TRADING ACTIVITY FROM RECURRING AS A RESULT OF THE POSSIBLE APPROVAL OF CHANGE OF USE OF THIS LAND?**

- (xi) **“Poor lighting”** – The street lighting in Regency Way is excellent. Older lights were completely replaced during 2013.
- (xii) **“Dog Fouling”** – The only incident of dog fouling ever reported to NHW occurred in the children’s play area at the Eastern end of Regency Way some years ago. This was reported to PCC who took swift and effective

action to rectify the situation. Any dog fouling problems at or near No1 have never been brought to the attention of other residents or NHW.

## 6. Other points to consider

- (i) **Parking** - Like most houses in the street, No1 has a double garage with two adjacent drive areas which one would normally expect to be sufficient to park all family-owned cars but that appears not to be so in this instance. Despite being noticeably quiet over the last few weeks, No1 regularly parks cars on their front lawn and back garden, and in the former lane alongside their rear garden as well as yet more vehicles on the road – residents have evidence of this should it be required. How many families have up to 11 “family cars” exclusively in their family ownership?

Neighbourhood Watch records show that there have been two separate collisions involving vehicles owned by and parked outside No1 in recent years. There are a number of cars in situ already on the former lane and these would have to be manoeuvred (somehow) on a daily basis to allow all their other vehicles to be parked, re-parked, and/or driven away. Have the basic logistics of this been taken into account by the applicant? Does the PCC Planning Approval body take this into account too or is that the responsibility of yet another part of PCC? Whatever the response to those questions is, PCC would surely be ill-advised if they were to approve the Planning Application without demanding reassurances about ceasing the parking of cars at the rear of the property and imposing clearly *enforceable* conditions as part of their decision.

Residents are very aware of the parking permit regulations and know that several vehicles could legally be parked on the street. Where valid permits are displayed this is not a problem but the fact is permits are frequently not displayed on the cars parked outside No1.

- (ii) **Valeting** – Over the last two years, cars have been regularly washed and valeted at No1 at all times of the day and night – this activity has been carried out on a scale much greater than one would expect from normal domestic use and only serves to confirm that vehicles are being prepared for selling on at a business scale. The associated noise and general nuisance has caused great discomfort and distress especially to near neighbours over a long period of time.
- (iii) **PCC Highways Control Team** – PCC’s own Highways team has made on-site inspections of the land at No1 and have made strong recommendations as to the health and safety aspects of parking cars at the rear and side of that property. Residents cannot understand why those recommendations have still not been enforced and, as a result, have taken their complaint about this to Stewart Jackson, our local MP.

- (iv) **Footpath access** - Regency Way is a narrow road; there is a footpath on one side only – the side on which No1 is located – and this footpath has been frequently blocked by parked cars outside No1 forcing pedestrians, including many children, onto the road itself. This is an accident waiting to happen.
  
- (v) **Property Values** - Properties adjacent to No1 have failed to sell when placed on the market over the last few years – feedback tells us that potential purchasers have been put off by the continuing chaos and disruption seen regularly at No1. Their behaviour in cluttering their garden and the street with cars obviously has an impact on all nearby properties. It actually devalues all properties including No1 itself although they seem to be oblivious to that fact.

### **Summary,**

A number of residents would be willing to meet with Planning Control officers to formally discuss this matter if it were deemed appropriate. Additionally, individual residents have confirmed they would be willing to testify to any of the facts given in this submission to PCC.

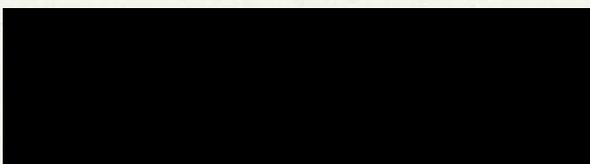
As you will have gathered by now, local residents are extremely concerned, suspicious and angry that the long-established, quiet, residential, nature of the street is being lost due to the gradual escalation, by No1, of (i) their long history of unauthorised car-trading activities and (ii) the frequent movement of abnormally large numbers of vehicles at non-commercial premises. Residents would be negligent at best if they allowed this application to proceed in its current form uncontested.

I would be grateful if the Planning Application Team could respond to the many relevant points raised within this submission so that local residents can be reassured that the PCC decision-making process is seen to be fair and above board to one and all parties.

In case of future challenges, I will retain all relevant correspondence on this matter in my Neighbourhood Watch file as a record of the petitions made by residents and the responses officially received by them from PCC.

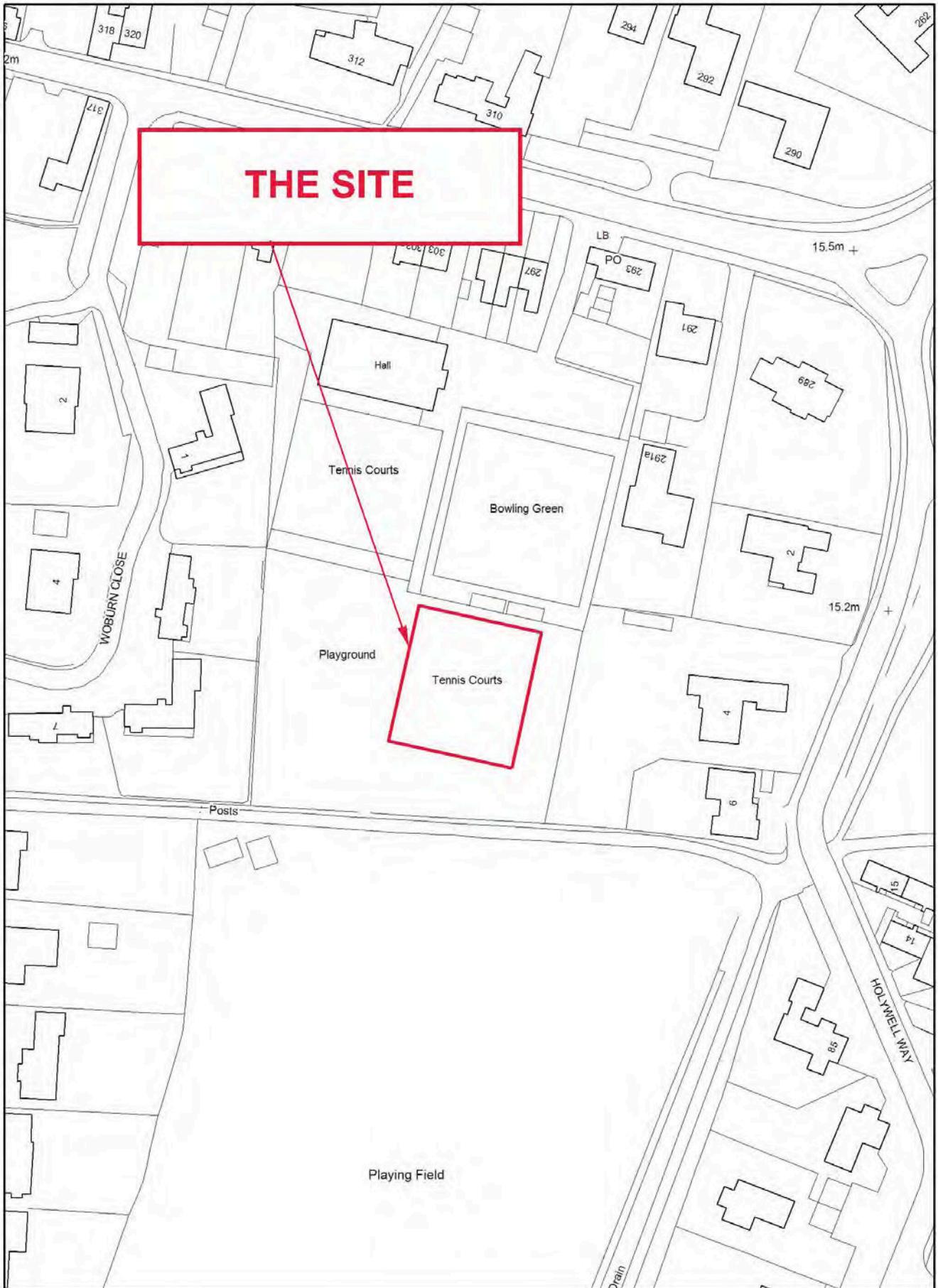
**Mrs Mary Barrett Neighbourhood Watch Co-Ordinator (Regency Way)**

***(on behalf of a majority of Regency Way Residents)***



**26 May 2014**

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**LOCATION PLAN 14/00903/WCPP**  
 Longthorpe Memorial Hall 295 Thorpe Road Peterborough PE3 6LU

**Scale NTS Date 25/6/2014 Name LG Department Planning Services**

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**PCC GIS**



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## Planning and EP Committee 8 July 2014

**Application Ref:** 14/00903/WCPP

**Proposal:** Variation of condition 1 (operational hours) of planning approval 13//00849/WCPP (original condition 2 of planning permission 10/01598/FUL) - Installation of external downlighting to tennis courts 3 and 4

**Site:** Longthorpe Memorial Hall, 295 Thorpe Road, Peterborough, PE3 6LU  
**Applicant:** Longthorpe Lawn Tennis Club

**Agent:** Mr Graham Walker

**Referred by:** **Director for Growth and Regeneration**  
**Reason:** Level of objection from local residents to previous applications  
**Site visit:** 06.06.2014

**Case officer:** Miss Louise Lovegrove  
**Telephone No.** 01733 454439  
**E-Mail:** louise.lovegrove@peterborough.gov.uk

**Recommendation:** **GRANT** subject to relevant conditions

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### **1 Description of the site and surroundings and Summary of the proposal**

#### **Site and Surroundings**

The courts are situated within the Longthorpe Memorial Hall grounds which comprise a community centre, car park, four no. tennis courts, a bowls green, play area and playing fields. This complex is situated at the heart of the urban village of Longthorpe, a predominantly residential area of varied character and form. The properties surrounding the site are predominantly large detached two storey dwellings with rear gardens facing on to the site, albeit there are terraced properties facing on to Thorpe Road. The site is located within the identified Longthorpe Conservation Area.

Parking is provided to the front of the site in an area of car park accessed from Thorpe Road adjacent to the Post Office. This is a shared facility between the Tennis Club, Memorial Hall and bowls green. A public footpath runs to the south of the site.

Planning permission was granted for the installation of all-weather surfacing on Courts 1 and 2 (retrospectively) and Courts 3 and 4 to allow usage of the courts throughout the year under application reference 09/01435/FUL.

#### **Proposal**

The application seeks planning permission to vary Condition C1 of planning permission reference 13/00849/WCPP which granted permission itself for the variation of condition C2 (Operational Hours) of planning permission 10/01598/FUL (for the installation of external down lighting to tennis courts 3 and 4). Condition C1 states:

*C1 For a period of 12 months from the date of this permission, the floodlights shall not be illuminated before 09.00 and after 20.30 on Tuesdays, Thursdays and Saturdays; before 09.00 and after 21.30 on Mondays, Wednesdays and Fridays; and not before 09.00 and after 18.00 on Sundays and Bank Holidays.*

*Following expiry of this 12 month period, the floodlights shall not be illuminated before 09:00 and after 20:30 Monday to Saturday (except for Wednesdays when they may be illuminated up to 21:30) ; and before 09:00 and after 16:00 on Sundays and Bank Holidays.*

*Reason: In the interests of protecting the amenity of the surrounding area and local residents, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011) and Policy PP3 of the Peterborough Planning Policies DPD (2012).*

To date, the floodlights which are in operation at the site have strictly adhered to the above timings. The proposed variation seeks to remove the temporary condition imposed for extended operational hours to a permanent one, with the condition re-worded as follows:

**The floodlights hereby approved shall not be illuminated before 09.00 and after 20.30 on Tuesdays, Thursdays and Saturdays; before 09.00 and after 21.30 on Mondays, Wednesdays and Fridays; and not before 09.00 and after 18.00 on Sundays and Bank Holidays.**

## **2 Planning History**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
09/01435/FUL	Construction of all-weather surface for tennis courts 1-2 - retrospective. Construction of all-weather surface to lawn tennis courts 3-4. Movement of fence to enlarge court to LTA standard. Removal of shrubs and one Cherry tree	Permitted	22/01/2010
10/01598/FUL	Installation of external down lighting to tennis courts 3 and 4	Permitted	10/02/2011
13/00849/WCPP	Variation of condition C2 (Operational Hours) of planning permission 10/01598/FUL - Installation of external down lighting to tennis courts 3 and 4	Permitted	26/07/2013

## **3 Planning Policy**

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

### **Planning (Listed Building and Conservation Areas) Act 1990**

#### **Section 66 - General duty as respects listed buildings in exercise of planning functions**

The Local Planning Authority has a statutory duty to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

### **National Planning Policy Framework (2012)**

#### **Section 8 - Social, Cultural and Recreational Facilities**

Developments should plan for the provision and use of shared space, community services and other local services; guard against the unnecessary loss of valued services/facilities; allow established shops, facilities and services to develop/modernise; and ensure an integrated approach to the location of housing, economic uses and communities facilities and services.

### **Section 11 - Natural and Local Environment**

Should be enhanced through the protection and enhancement of valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity. New and existing development should not contribute to or be put at unacceptable risk by unacceptable levels of soil, air, water or noise pollution and land instability.

### **Section 11 - Light Pollution**

Lighting should be designed to limit pollution on local amenity, intrinsically dark landscapes and areas of nature conservation.

### **Section 12 - Conservation of Heritage Assets**

Account should be taken of the desirability of sustaining/enhancing heritage assets; the positive contribution that they can make to sustainable communities including economic viability; and the desirability of new development making a positive contribution to local character and distinctiveness. When considering the impact of a new development great weight should be given to the asset's conservation.

Planning permission should be refused for development which would lead to substantial harm to or total loss of significance unless this is necessary to achieve public benefits that outweigh the harm/loss. In such cases all reasonable steps should be taken to ensure the new development will proceed after the harm/ loss has occurred.

### **Peterborough Core Strategy DPD (2011)**

#### **CS16 - Urban Design and the Public Realm**

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

#### **CS17 - The Historic Environment**

Development should protect, conserve and enhance the historic environment including non-scheduled nationally important features and buildings of local importance.

#### **CS18 - Culture, Leisure and Tourism**

Development of new cultural, leisure and tourism facilities will be encouraged particularly in the city centre.

#### **CS21 - Biodiversity and Geological Conservation**

Development should conserve and enhance biodiversity/ geological interests unless no alternative sites are available and there are demonstrable reasons for the development.

### **Peterborough Planning Policies DPD (2012)**

#### **PP03 - Impacts of New Development**

Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

#### **PP12 - The Transport Implications of Development**

Permission will only be granted if appropriate provision has been made for safe access by all user groups and there would not be any unacceptable impact on the transportation network including highway safety.

#### **PP16 - The Landscaping and Biodiversity Implications of Development**

Permission will only be granted for development which makes provision for the retention of trees and natural features which contribute significantly to the local landscape or biodiversity.

## PP17 - Heritage Assets

Development which would affect a heritage asset will be required to preserve and enhance the significance of the asset or its setting. Development which would have detrimental impact will be refused unless there are overriding public benefits.

## 4 Consultations/Representations

### Pollution Team (19.06.14)

No objections - No complaints have been received within the last 12 months regarding the operation of the lights or use of the premises. It is requested that the condition requiring compliance with limitations in terms of sky glow, lighting into windows etc. be maintained to ensure that no unacceptable impact arises in the future.

### Local Residents/Interested Parties

Initial consultations: 49

Total number of responses: 1

Total number of objections: 1

Total number in support: 0

One objection has been received from the occupant of No.291A Thorpe Road on the following grounds:

- At the P&EP meeting of 23 July 2013, the following was recorded in the minutes: *'Councillor Arculus stated: "In increasing the hours to 21.30pm, three days per week, this would mean an overall increase of 100 hours over the year. This was unreasonable for the adjoining neighbours". Mr. Wappatt, on behalf of the Applicant addressed the committee and stated: "During May and August, the lights may be required for league matches at dusk"'*. In the letter sent by the Applicant to neighbours on 21 May 2014, it states that the renewal of the extension is required to allow the Club to continue to finish home fixture inter-club matches, mainly in the Spring and Autumn when light can be limited. There is no mention of usage outside the period outside these times but the application is for a year round extension.
- At the last Committee it was further minuted in the debate that the Club is situated within a Conservation Area and additional use of the lights during the winter months could be detrimental to the amenity of surrounding residents.
- I do not believe that any justification has been made for a year-round extension and to grant one would go against views previously expressed by Committee Members and would be detrimental to the amenity of neighbours.
- The extension is for the convenience of members only and is not needed, or justified on the basis of the existing usage of the floodlights. In the period between 28/10/2013 and 19/12/2013, measuring from Dusk until the floodlights were due to be switched off, the following usage was recorded (excluding wet weather):

Day	Unutilised Percentage
Sunday	91%
Monday	70%
Tuesday	14%
Wednesday	72%
Thursday	26%
Friday	88%
Saturday	87%

- In addition, the usage of the 'extended hour' between 8.30 and 9.30 was recorded, with a total of 20 Mondays and 18 Fridays equating to 38 'extra hours'. During these times, the floodlights were on for a total of 10 minutes.

- I believe that this application is part of a deliberate, on-going process over the last few years to keep extending the playing hours by the Tennis Club and that this process has been to the detriment of nearby residents. This creeping intensification of use has had a significant impact on our amenity and should not be allowed to continue.

## **5 Assessment of the planning issues**

The main considerations are:

- Impact upon neighbour amenity
- Design and impact upon the character and appearance of the Conservation Area
- Highway implications and car parking
- Ecology

### **a) Impact upon neighbour amenity**

#### Noise impact

At present, tennis is played on all courts throughout the year with games/practice either finishing when natural light fades or in accordance with the operational hours for the approved floodlighting. It is noted that the Applicant has diligently adhered to these restrictions and the floodlights are programmed to automatically turn off at the correct time. The application proposal would allow tennis to continue being played throughout the year until 21.30 on three days per week (currently there is only one day per week when the lights can be used until 21.30) on a permanent basis. Whilst it is acknowledged that the surrounding residential properties are sited in close proximity to Courts 3 and 4 (the nearest residential property is approximately 30 metres from the courts to the rear elevation), it is considered that there is sufficient separation distance to prevent a statutory noise disturbance from arising. It is therefore considered that the extended hours of operation are unlikely to give rise to any significant increase in noise disturbance and the proposal will therefore not result in any unacceptable impact upon the amenity of neighbouring residents in this regard.

#### Light spillage and intrusion

The lighting columns which are in situ on the site stand to a maximum height of 6.7 metres, with luminaires set to the horizontal and fitted with side and rear baffle plates to prevent outward light spillage to the surrounding area. The original application for the erection of the lighting was accompanied by a detailed Lighting Assessment and associated light spillage diagram (Appendix 1) which demonstrated the indicative light spillage out of the site. This diagram demonstrated that the level of lighting that would reach neighbouring residential properties would be limited to only 0.3 Lux or lower (brightness of a full moon on a clear night).

Following installation of the lighting columns, the Applicant submitted a further assessment to the Local Planning Authority which demonstrated that the lighting installed was in accordance with the predictions.

The light spillage from the installed floodlights is in accordance with the standards set out in the Institute of British Lighting Engineers (ILE) guidance document for light intrusion into residential properties. Whilst the development lights up an area which was traditionally intrinsically dark and unlit, at the time of the original application (10/01598/FUL) it was considered that the lighting scheme would not result in any unacceptable harm to the amenities of neighbouring occupants.

It is noted that the previous assessment of the application scheme (reference 10/01598/FUL) considered that permitting the lights to be on up to 21.30 for more than one night per week would be unacceptable. This conclusion was made at the time as Officers sought to ensure that the impact of the proposal would not result in any unacceptable harm to neighbour amenity by way of general disturbance. It is considered that the Applicant has reasonably demonstrated that restrictive conditions have been and will be diligently adhered to and that

the external lighting does not result in any significant harm to neighbour amenity. Whilst the proposal would result in additional nights of floodlighting to the rear of dwellings, the time limit of 21.30 falls significantly short of the accepted curfew of 23.00 set out in the ILE best practice guidance and within the commonly accepted curfew of between 21.00 and 22.00 which is set out in 'Lighting in the Countryside: Towards Good Practice 1997'. Furthermore, Officers consider that the benefit of allowing increased participation in sport which offers opportunity to the wider City area, outweighs any harm that may result.

On this basis, it is considered that the proposal accords with the National Planning Policy Framework (2012), Policies CS16 and CS18 of the Peterborough Core Strategy DPD (2011) and Policy PP3 of the Peterborough Planning Policies DPD (2012).

**b) Design and impact upon the character and appearance of the Conservation Area**

At the time of granting planning permission for the floodlights (reference 10/01598/FUL), it was considered that the visual impact of the lights would be kept to a minimum owing to the design of the lights themselves and the context of the site being shielded by existing mature landscaping. Furthermore, the Conservation Officer at the time concluded that the lighting was set a sufficient distance from the streetscene along Thorpe Road (approximately 70 metres) so as to have no discernable impact upon the character, appearance or setting of the Conservation Area. Whilst this application would increase the usage of the lights, this would only be by 2 hours per week from the original permission and accordingly, it is considered that the proposal will not result in any increased impact in this respect. The proposal is therefore considered to be in accordance with the National Planning Policy Framework (2012), Policy CS16 and CS17 of the Peterborough Core Strategy DPD (2011) and Policies PP2 and PP17 of the Peterborough Planning Policies DPD (2012).

**c) Highway implications and car parking**

At present, car parking is provided in a car park to the front of the site shared between the Memorial Hall, bowls club and Tennis Club. This is accessed from Thorpe Road via a narrow access at the side of the Post Office. At the time of granting permission for the lights, it was considered that the floodlighting would not significantly intensify the use of the site or generate significant additional demand for car parking. The current proposed increase in operating hours will not in itself generate any further significant demand for car parking, or increased vehicular movements to and from the site. As such, it is not considered that the proposal will result in any harmful impact to highway safety, in accordance with Policy CS14 of the Peterborough Core Strategy DPD (2011) and Policy PP12 of the Peterborough Planning Policies DPD (2012).

**d) Ecology**

As part of the original application for the installation of the floodlights (reference 10/01598/FUL), an Ecology Report was submitted which assessed the impact of the lights on the local bat population. It was concluded that the application site and immediately surrounding area was unlikely to be used either as a commuting route or foraging area. Those bats which were detected along the southern boundary hedge line and open grass area beyond were common Pipistrelle and as such, were considered unlikely to be affected by the Lux levels generated by the floodlights.

The proposed increase in hours to 21.30 on 3 nights per week on a permanent basis will not result in any further impact from the approved scheme in terms of ecology and is therefore, in accordance with the National Planning Policy Framework (2012), Policy CS21 of the Peterborough Core Strategy DPD (2011) and Policy PP16 of the Peterborough Planning Policies DPD (2012).

## 6 Conclusions

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- the proposed permanent increase in usage of the lights will not result in any unacceptable impact upon neighbour amenity, either by virtue of noise disturbance or light intrusion, in accordance with the National Planning Policy Framework (2012), Policy CS16 of the Peterborough Core Strategy DPD (2011) and Policy PP3 of the Peterborough Planning Policies DPD (2012);
- the proposal will allow an existing sport/recreational facility within the City to expand and develop, in accordance with the National Planning Policy Framework (2012) and Policy CS18 of the Peterborough Core Strategy DPD (2011);
- the proposal will not result in any unacceptable impact upon the visual amenity of the surrounding area or the character, appearance or setting of the Longthorpe Conservation Area, in accordance with the National Planning Policy Framework (2012), Policies CS16 and CS17 of the Peterborough Core Strategy DPD (2011) and Policies PP2 and PP17 of the Peterborough Planning Policies DPD (2012);
- the proposed increase in operating hours will not in itself generate any further significant demand for car parking, or increased vehicular movements to and from the site and as such, no harm will result to highway safety, in accordance with Policy CS14 of the Peterborough Core Strategy DPD (2011) and Policy PP12 of the Peterborough Planning Policies DPD (2012); and
- the proposal will not result in any additional impact upon the ecology of the site and its surroundings, in accordance with the National Planning Policy Framework (2012), Policy CS21 of the Peterborough Core Strategy DPD (2011) and Policy PP16 of the Peterborough Planning Policies DPD (2012).

## 7 Recommendation

The Director of Growth and Regeneration recommends that planning permission is **GRANTED** subject to the following conditions:

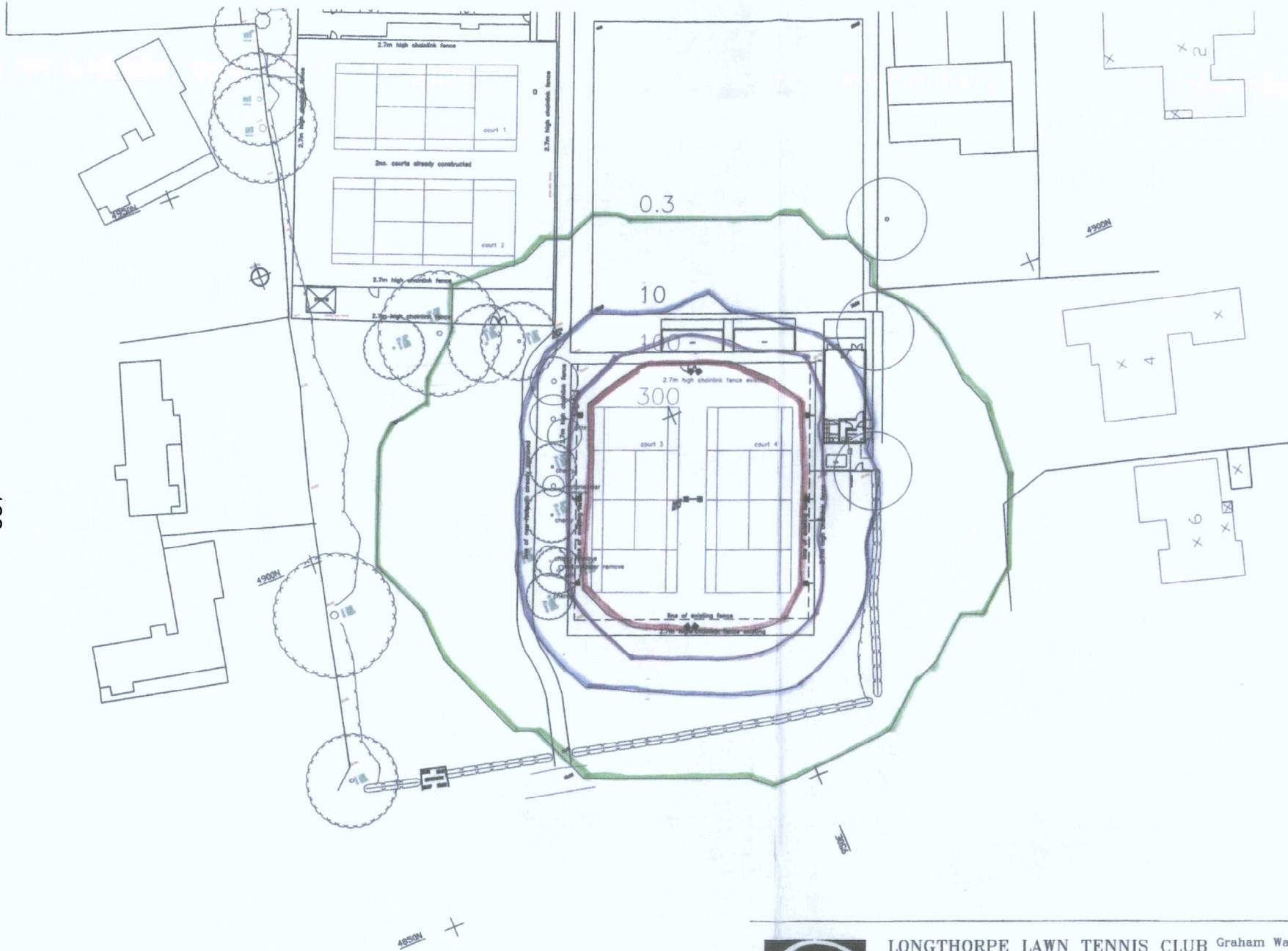
- C 1 The floodlights shall not be illuminated before 09.00 and after 20.30 on Tuesdays, Thursdays and Saturdays; before 09.00 and after 21.30 on Mondays, Wednesdays and Fridays; and not before 09.00 and after 18.00 on Sundays and Bank Holidays.

Reason: In the interests of protecting the amenity of the surrounding area and local residents, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011) and Policy PP3 of the Peterborough Planning Policies DPD (2012).

- C 2 The use of the lighting columns shall not exceed the obtrusive light limitations for sky glow, light into windows, source intensity and building luminance specified in environmental zone E2 in the Institution of Lighting Engineers document 'Guidance Notes for the Reduction of Obtrusive Light GN01:2011'. In the event of any reasonable complaint to the Local Planning Authority in respect of light intrusion to neighbouring properties, the Applicant (or their successors in title) will be required to demonstrate compliance with these limits.

Reason: In the interests of protecting the amenity of local residents, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011) and Policy PP3 of the Peterborough Planning Policies DPD (2012).

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<b>PLANNING &amp; ENVIRONMENTAL PROTECTION COMMITTEE</b>	AGENDA ITEM No. 6
<b>8 June 2014</b>	<b>PUBLIC REPORT</b>

Cabinet Member(s) responsible:	<b>Cllr Cereste</b> - Leader of the Council and Cabinet Member for Growth, Strategic Planning, Housing, Economic Development and Business Engagement <b>Cllr Hiller</b> - Cabinet Member for Planning and Housing Services	
Contact Officer(s):	Simon Machen Director of Growth and Regeneration	Tel: 453475

**PETERBOROUGH DRAFT DEVELOPER CONTRIBUTIONS SUPPLEMENTARY PLANNING DOCUMENT (SPD)**

RECOMMENDATIONS	
<b>FROM :</b> Richard Kay (Head of Sustainable Growth Strategy) Gemma Wildman (Principal Planner)	<b>Deadline date :</b> 28 July
<p>To obtain the views of the Committee on the Peterborough Draft Developer Contributions Supplementary Planning Document (SPD) (see Appendix A) before it is presented to Cabinet on 28 July for approval for public consultation. Any views made by the Committee will be included in to the Cabinet Agenda papers, so that Cabinet are fully aware of the Committee's views prior to making a decision.</p>	

**1. ORIGIN OF REPORT**

- 1.1 This report is submitted to committee following Government changes to the way Local Authorities can collect developer contributions and the proposed introduction of a Community Infrastructure Levy (CIL).

**2. PURPOSE AND REASON FOR REPORT**

- 2.1 The purpose of this report is to seek the views of Committee on the proposed changes to the way developer contributions (S106 agreements) will be negotiated in the future. The proposed changes respond to statutory and regulatory changes by Government and are also set in the context of the anticipated adoption of the Peterborough Community Infrastructure Levy (CIL).
- 2.2 This report is for the Committee to consider under its Terms of Reference No.

**3. TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If Yes, date for relevant Cabinet Meeting	28 July 2014
Date for relevant Council meeting	N/A	Date for submission to Government Dept <i>(please specify which Government Dept)</i>	N/A

**4. BACKGROUND**

- 4.1 The current system for securing infrastructure and developer contributions is through a combination of planning conditions and S106 agreements, with the latter informed by the

Council's Planning Obligations Implementation Scheme (POIS) SPD adopted in February 2010.

- 4.2 The national system governing planning conditions remains largely unchanged. However, Government has introduced a number of changes to the way local authorities can collect and distribute developer contributions. In order to continue to secure developer contributions for investment in the infrastructure considered critical to accommodate our growth targets and maintain sustainable communities, the Council needs to make changes to its existing systems and processes.
- 4.3 The main changes will be through the adoption of a Community Infrastructure Levy (CIL). A draft version is due to be approved for public consultation by Full Council on 23 July 2014.
- 4.4 CIL is a charge that the Council can levy on most new development to fund infrastructure improvements. Once CIL has been consulted upon, approved through independent examination and adopted by Council, it will replace the current POIS system and will become the main mechanism for securing developer contributions.
- 4.5 Although CIL will be the main system for funding future infrastructure, S106 planning obligations will still be used to fund any necessary on site related infrastructure such as open space provision and site specific access arrangements. Also, the provision of affordable housing is outside the CIL process and therefore can only be delivered via the use of S106 agreements.
- 4.6 Therefore, to make it clearer for everyone, it is considered prudent to prepare a Developer Contributions SPD to set out the relationship between planning conditions, S106 agreements and CIL and to make it clear what infrastructure will be funded by the different mechanisms.
- 4.7 A Draft SPD is presented with this agenda item. Please note, the SPD is written on the assumption that it is adopted at the same time a CIL is adopted for Peterborough. It will not be appropriate to adopt the SPD in advance of a CIL. If, for whatever reason, a CIL is not adopted for Peterborough, this SPD will need considerable redrafting and be subject to further public consultation.
- 4.8 The Developer Contributions SPD does not set new policy. It provides a framework for the implementation of existing policies contained in the adopted Core Strategy DPD (2011) and Planning Policies DPD (2012) relating to the impacts of new development and provision of new infrastructure.
- 4.9 The SPD will;
- Clarify the relationship between planning conditions, planning obligations and the Peterborough Community Infrastructure Levy (CIL);
  - Explain how developer contributions which are not provided for through the Community Infrastructure Levy, might be sought through the use of planning obligations;
  - Help ensure the timely provision of infrastructure to support growth;
  - Aid the smooth functioning of the planning application process by explaining the Council's process and procedures for using planning obligations;
  - Assist in securing both local and national objectives in respect of the provision of sustainable development in Peterborough.
- 4.10 This new SPD will supersede the POIS SPD which will need to be formally revoked at the same time this SPD is adopted.
- 4.11 Although CIL will replace some elements of S106 planning obligations, S106 obligations will still play an important role in securing on site infrastructure. They will be used for site-specific infrastructure or mitigation required to make a development acceptable in planning

terms. The principle is that all eligible developments must pay a CIL as well as any necessary site specific requirement to be secured through S106 obligations.

4.12 For clarity and transparency, it is important to identify the relationship between S106 obligations and CIL; and to make clear the circumstances when each will or will not be used. This relationship is set out clearly in the SPD.

4.13 The types of infrastructure that CIL and S106 contributions will be sought for are:

- Transport
- Education
- Affordable Housing
- Lifetime & Wheelchair Homes
- Primary Health Care
- Crematoria/Burial grounds
- On site Open Space
- Strategic Open Space and Green Infrastructure
- Indoor Sports Facilities
- Community Facilities
- Libraries and Life Long Learning
- Public Realm / Urban Design
- Waste Management
- Site Drainage and Flood Risk Management

4.14 The Draft Developer Contributions SPD sets out when S106 agreements will be used to secure developer contributions. It sets out any thresholds that apply and also gives an indication of likely cost. It may not always be necessary or appropriate to seek contributions for each infrastructure type as such matters are addressed on a case by case basis.

### **Affordable Housing**

4.15 Affordable housing is not part of CIL and therefore can only be provided through the use of S106 agreements. The Draft SPD includes a section setting out the process for securing affordable housing. Core Strategy policy CS8 (meeting housing needs) states that any housing development of 15 dwellings or more would be required to provide 30% affordable housing. The CIL charge is lower for residential developments of 15 dwellings or more because of the extra cost associated with providing affordable housing and to ensure that schemes remain viable.

### **Strategic Sites**

4.16 A lower CIL rate for residential development on all strategic sites of 500 dwellings or more is proposed to reflect the range of infrastructure to be provided by the developer directly on site or via an S106 agreement.

4.17 This Draft SPD sets out what the likely cost would be for different types of infrastructure. Nevertheless, each application would be negotiated on a case by case basis (unlike CIL, which is non-negotiable).

## **5. ANTICIPATED OUTCOMES**

5.1 The Developer Contribution SPD is due to be presented to cabinet on 28 July. If approved the draft SPD will be consulted on for four weeks alongside the CIL Draft Charging Schedule August and September 2014. A final version of this SPD is expected to be adopted at the same time as CIL, by April 2015.

5.2 The introduction of CIL and the Developer Contributions SPD will replace the existing POIS system. It is anticipated that the new mechanisms for securing developer contributions will work in a similar way, but will provide a much clearer and transparent system that sets out up front the likely costs for developers.

## 6. REASONS FOR RECOMMENDATIONS

- 6.1 Committee is recommended to make its comments known to assist Cabinet in reaching its decision. Cabinet will be recommended to approve the Developer Contribution SPD for public consultation in August and September 2014.

## 7. ALTERNATIVE OPTIONS CONSIDERED

- 7.1 From April 2015 the Council will not be able to secure developer contributions through the POIS system and therefore the Council is proposing to introduce CIL. However, CIL does not cover affordable housing and will not be used to secure site specific infrastructure, particularly on strategic sites. Therefore there is the need for an additional document which supplements the CIL process and sets out how affordable housing contributions and other on-site infrastructure will be secured.
- 7.2 Without a Developer Contributions SPD in place to set out clearly how this process will work there could be inconsistencies in the approach used and the Council could miss out on securing developer contributions that are critical to accommodate our growth targets. It could also mean that a developer would not be aware upfront of the potential costs associated with onsite infrastructure, which could affect the viability of a scheme and either result in lower contributions to fund important infrastructure, such as affordable housing, or stop development coming forward.
- 7.3 Therefore the option of not preparing a Developer Contributions SPD was rejected.

## 8. IMPLICATIONS

- **Legal** – The proposed changes to CIL and S106 agreements will have legal implications relating to implementation, monitoring and enforcement.
- **Financial Implications** - There will be financial implications in terms of the way the Council collects, administer and spends S106 receipts and how this will fit with CIL
- **Human Resources** – The SPD can be delivered within existing resources.

The developer Contributions SPD will have implications city wide.

## 9. BACKGROUND DOCUMENTS

- Peterborough Community Infrastructure Levy (CIL) Draft Charging Schedule
- Peterborough Community Infrastructure Levy (CIL) Draft Charging Schedule Supporting Documents

## Appendices

- Appendix A - Peterborough Draft Developer Contributions SPD



**Peterborough City Council**

**Draft for Consultation:**

**Developer Contributions Supplementary Planning Document (SPD)**

Draft for Planning Committee

8 July 2014

**Peterborough City Council**  
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## **How to make comments**

This document is the consultation draft Developer Contributions Supplementary Planning Document (SPD), it has been published alongside the council's Community Infrastructure Levy (CIL) [Draft Charging Schedule](#) for public consultation.

This SPD sets out how planning obligations will be used and in what circumstances, it also sets out how planning obligations will work alongside CIL.

Comments can be made on this SPD:

By filling in the [representation form](#) and sending to:

**Email:** [planningpolicy@peterborough.gov.uk](mailto:planningpolicy@peterborough.gov.uk)

**Post:** Peterborough City Council  
Stuart House East Wing, St John's Street  
Peterborough  
PE1 5DD

Further information on CIL and the Draft Charging Schedule can be found at:

Comments on both documents must be made by 5.00pm on XXX

## Draft Developer Contributions SPD 2014

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Section	Title	Page
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7	Affordable Housing	
8	Lifetime Homes and Wheelchair Homes	
9	Primary Health Care	
10	Crematorium and Burial Grounds	
11	Site Drainage and Flood Risk Management	
12	On-Site Open Space	
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16	Libraries, Museums and Life Long Learning Facilities	
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Appendix F	Open Space Glossary	

# 1. Introduction

## 1.1 Purpose of this document

1.1.2 The purpose of this Supplementary Planning Document (SPD) is to set out the city council's approach to developer contributions. It is set within the context of the council's anticipated adoption of a Community Infrastructure Levy (CIL) by April 2015. For the majority of planning applications CIL will become the primary method by which the council seeks developer contributions, which will be pooled in order to help meet the infrastructure needs relating to growth. The SPD does not set policy. It provides a framework for implementation of existing policies contained in the adopted [Core Strategy DPD<sup>1</sup>](#) (2011), [Minerals and Waste Core Strategy DPD<sup>2</sup>](#) (2011) and [Planning Policies DPD<sup>3</sup>](#) (2012) relating to the impacts of development. The main policy this SPD supports is Core Strategy policy CS13: Developer Contributions to Infrastructure Provision. Should a new Local Plan be prepared it will confirm the ongoing status of this SPD.

1.1.3 This SPD will;

- Clarify the relationship between planning conditions, planning obligations and the Peterborough CIL;
- Explain how developer contributions which are not provided for through CIL, might be sought through the use of planning obligations;
- Help ensure the timely provision of infrastructure to support growth;
- Aid the smooth functioning of the planning application process by explaining the council's process and procedures for using planning obligations;
- Assist in securing both local and national objectives in respect of the provision of sustainable development in Peterborough.

1.1.4 This SPD will supersede the Peterborough Planning Obligations Implementation Scheme SPD (adopted February 2010) which will be formally revoked at the same time this SPD is adopted.

## 1.2 Status

1.2.1 The Developer Contributions SPD will be adopted by the Council on or around the same date as the CIL Charging Schedule (anticipated in early spring 2015) when it will become a material planning consideration in the determination of planning applications.

1.2.2 The policies this SPD supplements have been subject to Sustainability Appraisal. The SPD itself has been prepared in accordance with the plan making regulations<sup>4</sup> and having regard to the National Planning Policy Framework (NPPF)<sup>5</sup>.

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<sup>1</sup> <http://www.peterborough.gov.uk/pdf/Plan-policy-ldf-cs-adoptedCS.pdf>

<sup>2</sup> <http://www.peterborough.gov.uk/pdf/MWCSAdopted.pdf>

<sup>3</sup> <http://www.peterborough.gov.uk/pdf/env-plan-ldf-ppdpd-adopted%20DPD.pdf>

<sup>4</sup> Town and Country Planning (Local Planning) Regulations 2012

- 1.2.3 Alongside consultation on this draft SPD, the council is consulting on its Draft CIL Charging Schedule. The council intends to submit its Draft CIL Charging Schedule for independent examination in September or October 2014. It is anticipated that, subject to the outcome of that examination, Peterborough City Council's CIL will come into effect in April 2015.

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<sup>5</sup> NPPF Paragraph 153

## 2. Securing Developer Contributions

### 2.1 Developer Contributions

2.1.1 When assessing a planning application, the city council (as the local planning authority (LPA)) can take into account specific conditions, restrictions, activities or operations which would make the development proposal acceptable in planning terms, when the only other alternative would be to refuse it. These are referred to as 'developer contributions' i.e. contributions made by the developer in order to make a proposal acceptable in planning terms.

2.1.2 The council expects new development to contribute to site related and other infrastructure needs through a combination of the following mechanisms:

- Planning **conditions** (Site/development related)
- Planning **obligations** to secure developer contributions or works in kind e.g. s106 Agreements or Unilateral Undertakings (site/development related)
- Peterborough Community Infrastructure Levy (**CIL**) (Strategic, local and city wide requirements)
- **Section 278 agreements** under the Highways Act 1980

The distinctions between them are highlighted below.

### 2.2 What are planning conditions?

2.2.1 Planning conditions are requirements made by the council, in the granting of permission, to ensure that certain actions or elements related to the development proposal are carried out. In Peterborough such conditions are likely to cover, among other things: the requirement to undertake archaeological investigations; submission of reserve matters; controls over materials used; and the requirement to carry out work in accordance with the submitted plans such as landscaping, tree planting and drainage works.

2.2.2 Paragraph 203 of the NPPF states that LPA's should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Paragraph 206 of the NPPF states that planning conditions should only be met where they are:

- Necessary;
- Relevant to planning;
- Relevant to the development to be permitted;
- Enforceable;
- Precise; and,
- Reasonable in all other respects.

The policy requirement is known as the six tests. Further explanation of the six tests are set out in the Planning Practice Guidance<sup>6</sup>. The council will consider whether an issue can be satisfactorily addressed through a condition, which meets the tests, before negotiating a planning agreement.

2.2.3 Where there is a choice between imposing planning conditions and entering into a planning obligation to manage the impacts of a new development, the use of planning conditions is always preferable.

2.2.4 Importantly Planning Conditions:

- can not be used to secure financial contributions,
- can not be used in relation to land outside of the application site,
- can be appealed against by the applicant if they believe them to be unreasonable.

2.2.5 In some cases (especially in the case of large scale development proposals), the LPA may wish to control the impact of development, but the desired restrictions go beyond those allowed for planning conditions. In such circumstances, consideration of the use of a planning obligation(s) will be an option.

## **2.3 What are planning obligations?**

2.3.1 Planning obligations are formal commitments given by an owner of land enforceable by a local authority against that owner and subsequent owners. They are a means of securing measures to make a development acceptable in planning terms and to accord with national or local planning policies. Planning obligations can be used to mitigate the impact of a development; to compensate for loss or damage created by a development; or to prescribe the nature of a development.

2.3.2 Planning obligations may be financial or in kind, and negotiated as part of planning applications. There may be cases where provision in kind is preferable and suitable, such as where finding land for a facility is an issue.

2.3.3 A planning obligation must meet all of the following tests:

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

2.3.4 Planning obligations can be implemented in two main ways:

- a) the developer provides the physical measures, or
- b) the developer makes a financial contribution towards any works to be carried out by the local authority or its partners.

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<sup>6</sup> NPPG - ID 21a-004-20140306

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- 2.3.5 Unlike with planning conditions, a planning obligation 'contribution' can relate to land outside the application site and/or not under the control of the applicant. For example, a developer may be asked to contribute towards infrastructure costs arising out of the development. This could include new roads and sewers, or social amenities such as open space, community facilities or affordable homes. These 'costs' should directly arise from approval of the development.
- 2.3.6 Planning obligations are legally binding agreements entered into between a Local Authority and a developer under section 106 of the Town and Country Planning Act 1990. They are private agreements negotiated between planning authorities and persons with an interest in a piece of land. They run with the land and are enforceable against the original covenantor and anyone subsequently acquiring an interest in the land. They are registered as a local land charge.
- 2.3.7 Both draft and completed s106 planning obligations may be viewed by members of the public and are in no sense confidential documents.
- 2.3.8 Further basic questions and answers in relation to Section 106 Planning Obligations are set out in Appendix A to aid understanding.

**2.4 How are planning obligation contributions secured?**

- 2.4.1 Section 106 of the Town and Country Planning Act 1990 states that planning contributions can be by way of "agreement or otherwise" and must be entered into by an instrument executed as a deed.
- 2.4.2 The city council uses two types of planning obligation:-

**S106 Legal Agreement**

A S106 Agreement is the most common form and is made between the applicant, all other parties with an interest in the land and the LPA. The agreement commits each of the parties including the LPA to the document and to make a contribution. For example, an applicant may be committed to providing a certain number of affordable homes or a financial contribution which the LPA is committed to spend on a specific project. The city council will always use a S106 Agreements to secure affordable housing.

**S106 Unilateral Undertaking**

This is an undertaking made by the applicant to the authority to cover any planning issues before the granting of planning permission and may be offered at any point in the application process – but normally where agreement has not been reached. As the word 'unilateral' conveys, the undertakings are the developer's commitment, unlike the S106 agreement where the council is also committed to deliver on one or more of the specified contributions. A unilateral undertaking does not require any agreement by the LPA. The LPA may therefore have no legal input into the drafting of such agreements. However, local authorities do not have to

## **Peterborough Draft Developer Contributions SPD - June 2014**

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accept unilateral undertakings offered by the developers if they do not feel they deal with all the issues in granting planning permission. An applicant may offer a unilateral undertaking at a planning appeal against refusal to overcome the local authority's objections. It will then be for the Inspector to decide its suitability or otherwise.

2.4.3 Timing of implementation is an important factor for most development projects, and it is important that the structure of the planning obligation reflects this. This often means that planning obligations are linked to and specify:

- the different agreed phases of development
- timescales within which a developer is required to undertake certain actions
- the time within which commuted sums are to be paid to the LPA, or on the occurrence of a certain event, such as the occupation of the n<sup>th</sup> dwelling or building
- the appropriate building cost indices to be referenced and linked for occasions when there is a delay between financial contributions being agreed (date of planning permission issue) and the date of payment.
- the time within which a commuted sum or financial obligation has to be spent
- the time within which the LPA must spend the financial contribution, otherwise the developer could be reimbursed including any interest accrued.

## **2.5 What is the Community Infrastructure Levy (CIL)?**

2.5.1 The CIL is an optional charge which local authorities can place on developers to help fund infrastructure needed to support new development in their areas. Before CIL can be charged the authority must have an adopted CIL Charging Schedule in place.

2.5.2 CIL will partially replace the existing Section 106 planning obligations process by reducing the range of infrastructure types or projects that it will be appropriate to secure obligations for. Unlike Section 106 Planning Obligations, CIL receipts are not earmarked for particular infrastructure. Instead, CIL monies are pooled into one fund which the city council must use to provide, improve, replace, operate or maintain infrastructure to support the development of its area. Importantly, the CIL charge once introduced is non-negotiable.

2.5.3 Funds raised through the CIL can be used to pay for a wide range of community infrastructure (strategic, citywide and local) that is required to support the needs of sustainable development. The proposed Peterborough CIL Regulation 123 list (R 123 list) will set out the infrastructure that can be funded by CIL (see Appendix E). planning obligations will not be used to secure infrastructure that has already been identified for delivery and investment from CIL funds through the R.123 list.

2.5.4 The R.123 list can evolve over time to reflect changing priorities for the provision of infrastructure. Should a type of infrastructure get removed from the R.123 list then the council may seek to negotiate planning obligations for that type of infrastructure.

## **2.6 Section 278 Agreements**

- 2.6.1 Section 278 agreements under the Highways Act 1980 (as amended by S23 of the New Roads and Street Works Act 1991) are legally binding agreements between the Local Highway Authority and the developer to ensure delivery of necessary highway works to the existing highway network. They identify the responsibilities (financial or otherwise) of parties involved in constructing works on the public highway.
- 2.6.2 Where, as part of the assessment of a planning application, it is identified that it will be necessary to make modifications to the existing highway to facilitate or service a proposed development (typically these will be off-site works required to mitigate the impact of the proposed development) a S278 agreement will be used.
- 2.6.3 It is important to note that where a CIL has been introduced by an authority, and the R.123 list includes a generic item (such as 'transport infrastructure'), then S106 contributions should not normally be sought on any specific projects in that category.
- 2.6.4 Where a R.123 List includes project-specific infrastructure, the LPA should seek to minimise its reliance on planning obligations in relation to that infrastructure.
- 2.6.5 As part of the CIL (Amendment) Regulations 2014 it exempts highway agreements relating to the trunk road network drawn up by the Highways Agency from proposals to restrict the use of highway agreements by reference to the R.123 list (as outlined above).

### **3. Planning Policy Context and Infrastructure Needs**

#### **3.1 The National Planning Policy Framework (NPPF)**

3.1.1 Paragraphs 203 to 206 of the NPPF set out the Government's policy on planning obligations. These paragraphs reiterate the tests for planning obligations set out in the CIL Regulations; restate the principle that planning conditions are preferable to planning obligations; require local authorities to take into account changes in market conditions over time in policies and planning obligations, and make sure they are sufficiently flexible to prevent planned development from being stalled.

#### **3.2 Peterborough Local Planning Policy Framework**

3.2.1 This SPD will support and supplement the local plan policy framework<sup>7</sup>, and so will be an important material consideration in the decision making process when considering future planning applications.

#### **3.3 Peterborough Core Strategy**

3.3.1 The Core Strategy has identified a minimum of 25,500 additional homes and the need for 213ha to 243ha of employment land between 2009 and 2026. This growth will result in increased pressure on local infrastructure, services and facilities, creating demand for new provision. The Council and developers have a responsibility, through the planning process, to manage the impact of this growth and ensure that any harm caused by development is mitigated and that the necessary infrastructure is provided. The council expects new development to contribute to both on-site and strategic off-site infrastructure needs, this is established in Core Strategy policies CS12: Infrastructure and CS13: Developer Contributions to Infrastructure Provision, which provide the main hooks for the preparation of this SPD. The policies are set out in full below.

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<sup>7</sup>[http://www.peterborough.gov.uk/planning\\_and\\_building/planning\\_policy/planning\\_policy\\_framework/development\\_plan\\_documents.aspx](http://www.peterborough.gov.uk/planning_and_building/planning_policy/planning_policy_framework/development_plan_documents.aspx)

**Policy CS12: Infrastructure**

New development should be supported by, and have good access to, infrastructure. Planning permission will only be granted if it can be demonstrated that there is or will be sufficient infrastructure capacity to support and meet all the requirements arising from the proposed development and mitigate the impact of that development on existing community interests within environmental limits. Conditions or a planning obligation are likely to be required for many proposals to ensure that new development meets this principle.

Consideration will be given to the likely timing of infrastructure provision. As such, development may need to be phased either spatially, or in time, to ensure the provision of infrastructure in a timely manner. Conditions or a planning obligation may be used to secure this phasing arrangement.

**Policy CS13 - Developer Contributions to Infrastructure Provision**

Where a planning obligation is required in order to meet the principles of policy CS12 'Infrastructure' then this may be negotiated on a site-by-site basis. However, to speed up and add certainty to the process, the City Council will encourage developers to enter into a planning obligation for contributions based on the payment of a standard charge. Subject to arrangements as set out in a separate Planning Obligations Implementation Scheme SPD, contributions received via this standard charge may be assembled into pools at an authority-wide level and to the relevant Neighbourhood Management Area (as described in policy CS6).

The use of a standard charge approach will ensure that any contribution is reasonably related to the scale and type of development that is proposed. The Planning Obligations SPD will set out detailed arrangements for the operation of the standard charge and formulae based upon needs assessments, viability studies and associated business plans, which will be kept under review. The SPD will include the level of the charge for different types of development, by unit of development, and the basis for the calculation of that level of charge; any minimum size thresholds which will apply; any arrangements for pooling, including the split between pools; any arrangements for staged payments; long-term management and maintenance of infrastructure; any arrangements to address collection and management of pools; and inflation proofing measures.

The City Council will be prepared to negotiate a variation from the standard charge(s) in cases where actual provision of neighbourhood or strategic infrastructure is provided as part of the development proposals or other material consideration. The SPD will include an explanation of where exemptions from or variations to the charge may occur.

Additional contributions may also be negotiated to mitigate a significant loss of a facility on the site, such as public open space.

In the event that the Community Infrastructure Levy (CIL) regulations remain in place (or similar regulations introduced), then the City Council may adopt such a CIL (or similar) to replace the standard charge arrangements set out in this policy.

### **3.4 Other Peterborough Local Plans**

- 3.4.1 Other policies within the Peterborough Local Plan provide specific and detailed justification for various types of planning obligation e.g. Policy PP14 – Open Space Standards for new development. Such policies are referred to in the relevant sections of this SPD.

### **3.5 Infrastructure Needs**

- 3.5.1 The identified infrastructure needs for the Core Strategy were set out in the Integrated Development Programme (IDP) (Dec 2009), which provides a costed, phased and prioritised programme of infrastructure development to support the proposed economic and housing growth. It is recognised that by its very nature the IDP will require regular update to reflect changing circumstances.
- 3.5.2 The updated version of the IDP has been termed the Infrastructure Delivery Schedule (IDS) and was published in November 2012 to support the Community Infrastructure Levy Preliminary Draft Charging Schedule consultation. A revised version (2014) of the [IDS](#) is published alongside this draft SPD.
- 3.5.3 The IDS is Peterborough's 'live' evidence base of what the infrastructure needs to support growth across the District is. It is updated in liaison with both internal and external infrastructure providers. The IDS forms an important source of infrastructure types and projects that the council will reference when determining the priority and, timing of what infrastructure is required to ensure the sustainable delivery of the different development proposals which will comprise Peterborough's growth.

## 4. Peterborough's Approach to Developer Contributions

### 4.1 Introduction

4.1.1 Following the adoption of a CIL Charging Schedule, it is expected that CIL will become the main source of infrastructure funding obtain through the development management process.

4.1.2 However, CIL will not replace the uses of S106 agreements completely. S106 agreements and conditions will still be used alongside CIL to secure 'on site' infrastructure.

4.1.3 The provision of affordable housing lies outside the remit of CIL and will therefore continue to be secured via S106 agreements.

4.1.4 This section sets out the council's role and the process for securing CIL and S106 contributions. It also sets out when the CIL and S106 will be used for different types of infrastructure.

### 4.2 The council's role

4.2.1 It is the city council's role to:

- Lead discussions on securing developer contributions for infrastructure taking account of input from infrastructure/service providers and needs identified in the IDS and through consultation responses to planning applications;
- Notify developers of their CIL liabilities (See Appendix C);
- Strive to ensure a balance is maintained between community infrastructure needs and development viability; and
- Ensure that funds provided by developers are spent in an appropriate and timely manner that responds to the impacts of the development alongside other processes which may not be within its control (e.g. site access, legal processes, utility connections etc.).

4.2.2 The city council Planning Services offer a pre-application advice service which is highly recommended to be used to discuss the above. Further details are available on the [city council's website](#)<sup>8</sup>.

4.2.3 The benefits of this early negotiated approach include:

- Ensuring that developers are aware of the scale and nature of likely contributions required for a proposed development at the earliest opportunity.
- Assisting in determining project viability.
- Providing greater clarity and certainty to the process.

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<sup>8</sup> [http://www.peterborough.gov.uk/planning\\_and\\_building/making\\_a\\_planning\\_application/get\\_pre-application\\_advice.aspx](http://www.peterborough.gov.uk/planning_and_building/making_a_planning_application/get_pre-application_advice.aspx).

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- Helping to minimise the timescales involved in determining affected planning applications.

**4.3 The range of developer contributions**

4.3.1 An indication of the range of developer contribution types that the council will give consideration to, as part of the assessment of planning applications, is indicated below. It should not be considered as a definitive list of contributions that can be sought when determining a S106 planning obligation. However, the topics listed below are the more common infrastructure types considered and often required.

- Transport
- Education
- Affordable Housing
- Lifetime & Wheelchair Homes
- Primary Health Care
- Crematoria/Burial grounds
- On site Open Space
- Strategic Open Space and Green Infrastructure
- Indoor Sports Facilities
- Community Facilities
- Libraries and Life Long Learning
- Public Realm / Urban Design
- Waste Management
- Environment Capital
- Site Drainage and Flood Risk Management

4.3.2 Sections 5 to 19 of this SPD provide the detail of when CIL or S106 will be required for the above infrastructure, with a summary in Table 4.

4.3.3 The range of development proposals seeking planning permission is diverse, in both scale and type. When assessing a planning application, judgement needs to be applied. It will not be appropriate or even legal in every circumstance to require a planning obligation for each of the contribution types listed above.

4.3.4 When considering the planning obligations requirements for a development, the capacity of existing infrastructure will be considered to ensure that obligations are only necessary where the current capacity would not be able to accommodate the additional need generated by the proposed development.

4.3.5 The use of thresholds can be beneficial in helping to simplify and clarify which contribution mechanism will be used, and in the case of S106 planning obligations thresholds to determine when certain infrastructure types can reasonably be expected to be delivered on-site or off-site.

4.3.6 The relationship between when the CIL will be used to secure a contribution towards certain infrastructure types and when a S106 planning obligation will be used is explored below.

**4.4 Planning Obligations Process**

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- 4.4.1 It is expected that planning obligations will be used to fund on-site or site related infrastructure only. The council's role and the process involving planning obligations is outlined in Table 1 below.

**Table 1: Overview of Planning Obligations Process**

Steps	S106 Planning Obligations – Agreements & Unilateral Undertaking (UU)
1	As part of the documentation submitted with the planning application, the developer provides a draft Planning Obligations Heads of Terms form, using the template available on the city council's website. Planning applications will not be validated if this is not done.
2	Draft Heads of Terms are agreed in principle.
3	Once the Local Planning Authority is minded to approve the application, the city council's Legal Services Team are instructed to prepare a draft s106 Agreement / UU. Minimum charge of £550 to be paid by applicant.
4	s106 Agreement / UU is signed and sealed and planning permission can then be granted. Details will be registered by the city council's Land Charges Section.
5	The agreed Planning Obligations and their relevant triggers are entered on the city council's Planning Obligations Database. Implementation of approved applications is monitored through to completion.
6	On final payment of the outstanding s106 contributions, the city council's Land Charges Section will remove the charge from the Land Charges Register.

- 4.4.2 The process for securing CIL payments and the council's role is set out in the Draft Charging Schedule and is summarised in table 2.

**Table 2: CIL overview process**

Steps	Community Infrastructure Levy
1	Developer provides the appropriate floorspace and development type details with the application, where available. An Assumption of Liability Notice should be included with the application.
2	The city council will determine the levy based on the adopted charges.
3	City Council prepares a draft Liability Notice.
4	Provided planning permission is granted, a Liability Notice will be issued and the levy rate will be registered by the city council's Land Charges Section.
5	Once verification of the commencement date has been received, a Demand Notice/s will be issued to the person/s liable to pay the CIL in accordance with the CIL Payment Instalments policy.
6	On final payment of the outstanding CIL charge, the city council's Land Charges Section will remove the charge from the Land Charges Register.

- 4.4.1 The principle is that all eligible developments must pay the CIL charge, as well as any site specific requirement(s) to be secured through S106 planning obligations.

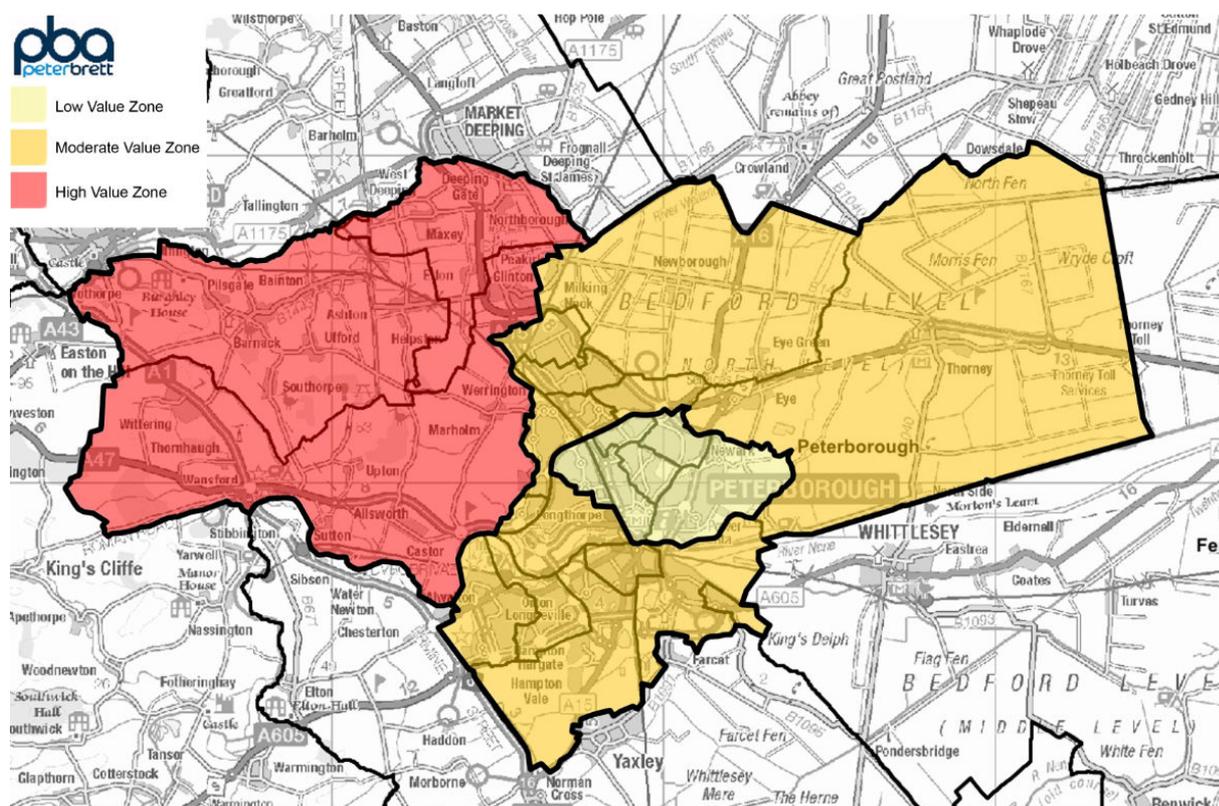
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4.4.2 The CIL [Draft Charging Schedule Viability Study](#)<sup>9</sup> (April 2014) has assessed the viability of different development with the Peterborough administrative area to identify rates set out in the Draft Charging Schedule. The viability study identifies a number of different rates related to the development type, location or size. These are explained in detail below and summarised in Table 4

**Type** – There are different rates for different types of development such as residential or retail. There is also a distinction between the requirement for Market and Affordable housing as well as apartments.

**Location** - The Draft Charging Schedule Viability Study identifies three zones, as shown on Map 1, where different CIL rates will be charged for residential development.

**Map 1 Charging Zones**



**Size** - The scale of a proposed development is also an important factor that has been taken into account in setting the CIL Charging Schedule rates. Large-scale residential/mixed use developments such as urban extensions will be required to provide (deliver and fund) a wide range of infrastructure on-site. Securing such infrastructure is often better done through the use of planning obligations, allowing the developer to deliver the infrastructure in a timely manner in conjunction with the remainder of the development. The financial scale of planning obligations associated with such developments is an

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important consideration in the viability assessment. This has been reflected in the CIL Draft Charging Schedule by introducing a rate for strategic development sites of over 500 dwellings.

**4.6 CIL Charging Rates**

4.6.1 The Draft Charging Schedule proposes the following CIL rates for different types of development

**Table 3 Schedule Rates**

Development Type	Charging Zone		
	High	Medium	Low
Market Housing on sites of less than 15 units	£140	£120	£100
Market Housing on sites of 15 or more units	£70	£45	£15
Apartments on sites of less than 15 units	£70	£45	£15
Strategic Sites (500 dwellings or more)	£15	£15	£15
Supermarkets (500sqm or more)	£150		
Retail Warehouses (500sqm or more)	£70		
Neighbourhood Convenience Stores (less than 500sqm)	£15		
All other development	£0		
All charges are £ per m <sup>2</sup>			

(Source: CIL Draft Charging Schedule)

- 4.4.3 If a proposed development is CIL liable, and most developments are likely to be, the relevant CIL charge will be levied.
- 4.4.4 Receipted financial contributions from the charge will be pooled. The monies may then be used to address in full, or in part, the infrastructure necessary to support the cumulative impact of development. Unlike Section 106 planning obligations, CIL receipts are not earmarked for particular infrastructure. Instead, CIL monies are pooled into one fund which the city council must use to provide, improve, replace, operate or maintain infrastructure to support the development of its area. Appendix E contains Peterborough's Draft R.123 List of infrastructure types or projects which the receipted CIL monies may help to fund. Importantly, where the R.123 List includes a generic item such as 'education' or 'transport' then S106 planning obligation contributions should not normally be sought for specific projects within that category. This is to prevent developers from being 'double-charged'.
- 4.4.5 Importantly, the CIL charge is non-negotiable.

**4.6.1 Relationship between CIL and S106**

4.6.1 Table 4 sets out when CIL will be used and when planning obligations will be required for different types of infrastructure. The table also shows the different CIL rate for strategic

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sites (developments of more than 500 dwellings) and reliance on planning obligations to provide on-site infrastructure.

**Table 4: Summary of the relationship between contributions secured by CIL and S106 planning obligations for residential development**

Infrastructure	Residential development on sites up to 499 dwellings		Residential development on strategic sites (Sites over 500 dwellings)	
	CIL £140/m <sup>2</sup> to £15m <sup>2</sup> (£70/m <sup>2</sup> to £15/m <sup>2</sup> for flats)	S106 Obligation	CIL £15/m <sup>2</sup>	S106 Obligation
<b>Transport</b>	City-wide projects only	Site specific requirements only	City-wide. Projects Only	Site Specific requirements only
<b>Education</b>	City-wide projects only	x	City-wide. Projects Only	On site School provision
<b>Affordable Housing</b>	x	On site provision only	x	On site provision only
<b>Lifetime Homes</b>	x	Site Specific if >14 dwellings	x	Site Specific only
<b>Wheelchair Homes</b>	x	Site Specific if >50 dwellings	x	Site Specific only
<b>Emergency Services</b>	City-wide projects only	x	City-wide. Projects Only	Site Specific
<b>Primary Health Care</b>	City-wide projects only	x	City-wide. Projects Only	Site Specific
<b>Crematorium/Burial grounds</b>	City-wide projects only	x	City-wide. Projects Only	x
<b>Non-Strategic Outdoor Open Space</b>	Off-site provision	Site Specific if >14 dwellings	City-wide. Projects Only	Site Specific
<b>Strategic Outdoor Open Space</b>	City-wide projects only	x	City-wide. Projects Only	Site Specific
<b>Strategic Green Infrastructure</b>	City-wide projects only	x	City-wide. Projects Only	x
<b>Indoor Sports Facilities</b>	City-wide projects only	x	City-wide. Projects Only	Site Specific

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Infrastructure	Residential development on sites up to 499 dwellings		Residential development on strategic sites (Sites over 500 dwellings)	
	CIL £140/m <sup>2</sup> to £15m <sup>2</sup> (£70/m <sup>2</sup> to £15/m <sup>2</sup> for flats)	S106 Obligation	CIL £15/m <sup>2</sup>	S106 Obligation
Community Buildings	Off-site provision	*	City-wide. Projects Only	Site Specific
Libraries, Museum and Life Long Learning	City-wide projects only	*	City-wide. Projects Only	Site Specific
Public Realm	City-wide projects only	*	City-wide. Projects Only	Site Specific
Environment Capital	*	Condition	*	Condition /site specific
Site Drainage	*	Condition	*	Condition
Flood Risk Management & Protection	City-wide. Projects Only	Site Specific	City-wide. Projects Only	Site Specific
Waste Management	City-wide. Projects Only	Condition	City-wide. Projects Only	Condition/ Site Specific
Other Infrastructure	Refer to CIL R.123 List	Case by Case	Refer to CIL R.123 List	Case by Case

- 4.6.2 Where thresholds apply, they have been indicated, however the table should be read in conjunction with the more detailed policy guidance that is set out in the remainder of this SPD.
- 4.6.3 It should be noted that with regard to CIL funds the infrastructure types and associated thresholds provide a listing of what CIL may be used for. It is widely recognised that the CIL, whilst delivering additional funding, can not be expected to pay for all of the infrastructure types and projects listed. It will make a contribution.
- 4.6.4 The list of infrastructure types and associated thresholds in the S106 planning obligation columns sets out what / when S106 planning obligations may be sought. It may not always be necessary or appropriate to seek contributions for each infrastructure type, as such matters need to be assessed on a case by case basis.

4.6.5

## 5 Transport

### 5.6 Introduction

5.6.1 Investment in transport infrastructure represents one of the greatest challenges to Peterborough's growth agenda. Overall traffic levels in Peterborough have increased over the last decade, leading to increased congestion and a range of associated problems such as increased air pollution, noise impacts and visual intrusion. It is critical to the successful and sustainable growth of the city that major transport improvements are delivered. Without this, the Core Strategy targets will not be achieved.

5.6.2 Core Strategy policy CS14 Transport is the main policy and it is aimed at reducing the need to travel by private car and delivers a sustainable transport package capable of supporting growth and the Environmental Capital aspirations. The detail of the transport package is set out in the [Peterborough Local Transport Plan 3 \(LTP3\) and the Long Term Transport Strategy \(LTTS\)](#). The LTP3<sup>10</sup> covers the short term (2011-2016) setting out the authority's transport policy and strategy. The LTTS is the 15 year plan of how transport provision can support the authority's sustainable growth agenda, as set out in the Core Strategy.

### 5.7 Types of facilities that may be required

5.7.1 The type of transport infrastructure that is required to support growth is wide ranging and includes schemes such as, new access roads, parkway widening, junction improvements, bridges, cycle-ways, footpaths, bus lanes, bus stops, station improvements and park and ride. The LTTS transport improvements are reflected in the IDS

#### **CIL funding of Transport projects**

The cumulative impact of development leads to pressures on the transport infrastructure network which are 'off-site' and beyond the immediate proximity of the proposed developments. An example of this may be the limited capacity of a traffic roundabout on the parkway system, beyond the immediate vicinity of proposed developments.

Following the adoption of the CIL, the strategic / city-wide impact projects will be funded from , in whole or part, CIL receipts, but not S106 planning obligations or S278 agreements.

### 5.8 When will planning obligations be sought?

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<sup>10</sup> <http://consult.peterborough.gov.uk/file/2159565>

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5.8.1 In addition to the strategic implications of transport, there are also local matters which may justify the use of planning obligations. The council envisages that the majority of sites will not require a planning obligation to address specific local transport improvements. The transport and access issues in most cases can be addressed as part of the scheme design. This matter will however be determined on a case by case basis.

**5.9 What planning obligations might be sought?**

5.9.1 Although this list is not exhaustive, obligations could be sought in relation to:

- New access roads.
- Improved junction layouts.
- Public transport accessibility.
- Measures for cyclists / pedestrians.
- Traffic management/highway safety measures.
- Travel information

5.9.2 When developers apply for planning permission, the Council may ask them to produce a Transport Assessment (TA) or Transport Statement (TS) to provide a technical assessment of all the accessibility issues and transport implications that may arise due to the development. The TA or TS may be used in negotiating specific local off-site access improvements to allow the council to assess the impact of the development plus any mitigation measures proposed as necessary. The council may seek a financial contribution or works from the applicant to provide any necessary mitigation measures in the form of a Section 278 and/or S106 obligation.

5.9.3 The wider transport implications of a development may also be addressed, in whole or part, through a Travel Plan.

5.9.4 For all developments of 10 - 80 dwellings a TS will be required, potentially committing the developer to implement a number of Travel Plan measures, including Household Travel Information Packs as a minimum. These packs are provided to residents on first occupation of each dwelling comprising the development. Whilst these can be prepared by the developer, readily prepared packs are available from the Travelchoice Team<sup>11</sup> priced £10 per pack and available in bundles of 10. The developer will be required to include a covering letter explaining the reasoning behind the Packs and a tear-off slip offering the first occupancy household to receive either:-

- a free 1 month Megarider pass for use on Stagecoach buses in Peterborough, or
- a cycle voucher up to the value of £100 for a bike (subject to indexation) and a Peterborough Cycle Map.

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<sup>11</sup> <http://travelchoice.org.uk/developers/residential-travel-plans/>

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5.9.5 A Travel Plan will be required for residential applications of 80 or more households. In all other cases the thresholds for TA and therefore a travel plan are to be found in Appendix G. For the developments listed below, a Travel Plan must be submitted at the point of submitting the planning application. Travel plans may also be required for developments under the TA threshold. The criteria below are a reflection of the fact that some smaller scale developments can have significant transport impacts. A Travel Plan will be required for:

- Any development in or near an Air Quality Management Area
- Any development in an area that has been identified within the Local Transport Plan (LTP) for the delivery of specific initiatives or targets for the reduction of traffic, or the promotion of public transport, walking or cycling
- Any area specified in the Local Plan, where it is known that the cumulative impact of development proposals is a cause for concern
- The provision of new or extended school and other educational facilities
- An extension to an existing development that causes the travel impact of the site to exceed the threshold for a TA
- All instances where the local planning authority requires it.

## 6 Education

### 6.1 Introduction

- 6.1.1 Education infrastructure is an integral component of balanced sustainable communities. It is the council's vision to ensure that the highest quality opportunities exist in education, learning and training, by improving school performance and raising aspirations and standards of achievement for all age groups.
- 6.1.2 It is widely accepted that the provision of appropriate education facilities is a fundamental infrastructure requirement of sustainable growth. Core Strategy CS12 Infrastructure and CS13 Developer Contributions to Infrastructure Provision provide the policy link to successful delivery.
- 6.1.3 Development of new homes creates a need for additional school places at early years centres, primary schools and secondary schools and other educational establishments. Recent demographic changes in Peterborough and the cumulative impact of the growth of the city mean that there is and will continue to be a compelling need for additional capacity in the city's education infrastructure throughout the Core Strategy plan period (2006-2026) and beyond. The evidence in relation to school capacity is kept under constant review by the council's Children's Services Department.

### 6.2 When will planning obligations be sought?

- 6.2.1 Planning contributions will only be sought in the form of planning obligations on strategic sites of 500 dwellings or more.
- 6.2.2 Contributions will not be sought for specialist older persons housing schemes or 1 bed dwellings, as these property types are generally unlikely to accommodate children.

### 6.3 What S106 planning obligations might be sought?

- 6.3.1 Although this list is not exhaustive, obligations could be sought in relation to:
- The on-site provision of land within the development to accommodate identified education and school facilities, including early years centre provision. It is expected that fully serviced land will be provided by the developer at nil cost to the city council.
  - In certain circumstances it may be more appropriate to have the facility at an alternative location off site. In such circumstances, where more than 50% of need for infrastructure is generated by the proposal, a proportionate financial contribution to purchase the land or provision of the land as an in-kind payment will be required.
  - Contributions will also be needed in all cases for the construction or funding of the identified facilities. Consideration will be given, where appropriate, to the developer building the required infrastructure to an agreed specification.

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- Contributions to secure the necessary provision of new school places. This includes the provision of children's centre places, early years places, primary education places, secondary education places and post-16 education places.

**6.4 Provision Requirements**

6.4.1 The number of pupils living on a new development is usually linked to the size of dwellings proposed. In general terms, the larger the dwelling (number of bedrooms) the greater the number of pupils there is likely to be.

6.4.2 The 'child yield multipliers' that will be used in Peterborough to calculate the expected number of children and school places are derived from the Peterborough School Organisation Plan 2013-18, which is based on the number of school places per 100 dwellings and is shown in the table below.

**Table 5 - Child Yield Multiplier**

Child Yield Places per 100 dwellings	Number of Bedrooms				
	1	2	3	4	5+
Pre School Age (0-3 year olds)	0	2	3	4	5
Primary School age (4- 10 year olds)	0	10	35	65	90
Secondary School age (11-15 years old)	0	5	25	45	60
Post-16	0	0	5	10	15

Source: Peterborough School Organisation Plan 2013-18, April 2013

6.4.3 The table below converts the data from the above child yield table, to simplify interpretation when considering development from a dwelling based perspective.

**Table 6 - Dwelling Multiplier**

Dwelling Multipliers	Pre- school	Primary	Secondary	Post-16
1 bed dwelling	0	0	0	0
2 bed dwelling	0.02	0.1	0.05	0
3 bed dwelling	0.03	0.35	0.25	0.05
4 bed dwelling	0.04	0.65	0.45	0.1
5+ bed dwelling	0.05	0.9	0.6	0.15

Source: Peterborough School Organisation Plan 2013-18, April 2013

6.4.4 At the outline application stage if the detailed housing mix is not known, the following guideline will be used for the purpose of calculations, until the detailed information becomes available:

**Table 7 - Assumed mix of bedrooms**

No. of Bedrooms	Assumed Mix %	Example of a 50 dwellings scheme
1	12	6 dwellings
2	24	12 dwellings
3	44	22 dwellings
4	16	8 dwellings

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5+	4	2 dwellings
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Source: 2011 Census

6.4.5 Using the above guidance it is possible to calculate the number of education places required for the development proposal. The availability of spare capacity at near-by facilities should be discussed with the city council before converting the number of school places required into facility requirements, using the following guidance :-

**6.5 Primary Education**

- 1FE Primary School (210 places), with Early Years provision and offering extended school services, will require, in general, a 1.2 hectare site
- 2FE Primary School (420 places), with Early Years provision and offering extended school services, will require, in general, a 2.0 hectare site
- 3FE Primary School (630 places), with Early Years provision and offering extended school services, will require, in general, a 2.8 hectare site

*FE= Forms of Entry*

6.5.1 The city council will consider requests for primary schools which meet the above guidance, taking into account existing spare capacity of near-by schools, planned expansions and other planned residential development.

**6.6 Secondary Education**

6.6.1 For new or expanding secondary schools/ academies, the guideline that will be used is taken from the DfE recommended standards for total site area within DfE Building Bulletin 98 'Briefing Guide for Secondary School Projects' and set out below:

6.6.2

**Table 8 - Secondary School Site Areas**

School Size	DfE Minimum Area (Ha)	DfE Maximum Area (Ha)
4 FE	5	6
5 FE	6	7
6 FE	7	8
7 FE	8	9
8 FE	9	10
9 FE	10	11
10 FE	11	12
11 FE	12	13
12 FE	13	14

6.6.3 The city council will consider requests for secondary schools within the above range, taking into account existing spare capacity of near-by schools, planned expansions and other planned residential development.

**6.7 Post-16 Education**

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6.7.1 The city council now also has the responsibility for commissioning the provision of post-16 education and is tasked with establishing any additional or revised pattern of provision that may be required as a result of major developments. The city council does not support the provision of facilities providing fewer than 150 places. The new Commissioning Plan for Post-16 provision will form the basis for calculating any necessary developer contributions on a case by case basis.

**6.8 Indicative Costs for Buildings**

6.8.1 An indicative cost for school building provision is tabled below:-

**Table 9 - Indicative build costs**

<b>Facility Type and Size</b>	<b>Cost of Building*</b>
2 FE (420 place) Primary School	£6.5m
5 FE (750 place) Secondary School	£18m
Community Room for 48 place Pre- School	£0.75m
Children's Centre	£0.75m

Source: Peterborough School Organisation Plan 2013-18, April 2013 - Figures shown are for 2013/14

(\* - Assumes fully serviced land will be provided by the developer at nil cost).

**6.9 Conclusion**

6.9.1 As stated, education contributions will only be sought for strategic residential sites of 500 or more dwellings. The commentary in the above paragraphs are helpful, but only a starting point, for negotiations on education contributions on such strategic sites

## 7 Affordable Housing

### 7.1 Introduction

- 7.1.1 The Core Strategy's vision recognises the need for marketability, social integration and housing types in both the rural and urban areas that match the needs and aspirations of existing and future residents in terms of affordability and sustainability.
- 7.1.2 'Affordable housing' is a term that incorporates a range of housing need types and accommodation types. It is inclusive of affordability needs and the specialist needs of the elderly, young persons and those with mental health and/or physical impairment issues for those persons or households who are unable to access such accommodation without financial assistance. Provision of extra care homes, could form an element of affordable homes provision.
- 7.1.3 The [Peterborough Housing Strategy 2011 to 2015](#)<sup>12</sup> and up to date Strategic Housing market assessment (SHMA) quantifies the local needs and the policies to support social integration, improve the existing housing stock and set out the housing priorities to contribute towards the key strategic aims of the local authority.
- 7.1.4 Affordable housing is not part of CIL (and is not identified in the R123 List) and can only be provided through the use of planning obligations.

### 7.2 Delivery of affordable housing via planning obligations

- 7.2.1 Core Strategy policy CS 8 Meeting Housing Need seeks to meet the pressing need for new affordable housing, and thereby ensure the delivery of a wide choice of high-quality homes to create sustainable, mixed and balanced communities. This includes securing planning obligations to deliver affordable homes.

### 7.3 When will S106 planning obligations be sought?

- 7.3.1 Only a Local Plan policy can set the thresholds in terms of how much and what sites will affordable housing be sought. For Peterborough, the current Local Plan policy is CS8 in the Core Strategy which seeks the provision of affordable housing from residential developments of 15 dwellings or more whether new build or conversion, In such cases, qualifying developments will seek provision, through negotiation of 30% of the dwellings as affordable homes.
- 7.3.2 Contributions for affordable housing will not be required from care / nursing homes or student accommodation, where occupation is restricted by planning conditions or legal agreements to such uses. Provision for affordable housing will be required from sheltered

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<sup>12</sup> <http://www.peterborough.gov.uk/pdf/env-cc-Housing%20Strat1.pdf>

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and supported housing schemes, recognising the requirement to meet the housing needs of all sections of our communities.

- 7.3.3 The council will ensure that the policy is not avoided by the artificial sub-division of sites resulting in applications below the threshold, or developments at densities below that which is reasonably appropriate to the site.
- 7.3.4 If a development scheme comes forward which does not require the provision of affordable housing, but the scheme is followed by an obviously linked subsequent second development scheme at any point where the original permission remains extant, or up to 5 years following completion of the first scheme, then if the combined total of dwellings provided by the first scheme and the second or subsequent scheme provides 15 or more dwellings, then the affordable housing thresholds will apply cumulatively. The precise level of affordable housing to be provided will be 'back dated' to include the first scheme.
- 7.3.5 For example, if permission is granted in year 1 for 10 dwellings. In accordance with Core Strategy Policy CS8, nil affordable housing provision is required. All 10 dwellings are built in year 2. In year 6, a second application is received for an adjacent site for a further six dwellings. For affordable housing purposes, this second application is assessed in combination with the first application. As such, the total number of dwellings is 16 and thus meets the affordable housing threshold set out in policy CS8. Therefore, four affordable homes will be required for the second application. Development viability will be assessed on the entire scheme (i.e. both application sites), not the second site in isolation.
- 7.3.6 Peterborough Housing Strategy 2011-15 policy HS22 'Enabling the delivery of the affordable rented tenure' affirms this – 'the city council will take a more flexible approach to negotiating the tenure split on each site...'

**7.4 Involvement of Registered Providers (RP)**

- 7.4.1 The council strongly prefers all on-site affordable housing provision to be provided in conjunction with a Registered Provider (RP). They can secure effective and long-term management of the affordable housing, as well as ensuring the benefits of 'stair casing' (when occupiers purchase an additional % of a shared ownership house) are recaptured and recycled into alternative affordable housing provision.
- 7.4.2 Developers are encouraged to work in collaboration with the council and a RP (typically selected by the developer as the preferred partner) to deliver affordable housing on any particular site.

**Eligibility**

- 7.4.3 Affordable housing units must be allocated to people in genuine housing need. People registered on the Peterborough Choice Based Letting Scheme will be eligible for affordable housing provided through the planning system. Priority for affordable home ownership will be given to existing social housing tenants and serving military personnel, in accordance with Government policy. The council will keep this situation under review

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and adjust affordable housing requirements accordingly if a change in affordable need arises.

**7.5 Financial considerations****On-site provision**

7.5.1 It is important for developers to have a clear understanding of the likely financial impact of the affordable housing contribution in advance of acquiring land or making a planning application.

7.5.2 As a rule of thumb, the council has assumed for the purposes of CIL financial viability modelling work that

- A developer provides serviced land free of charge
- RP's will pay approximately 55% of Open Market Value (OMV) for affordable properties. (This is a blended rate that takes account of social rented and shared ownership, which are likely to vary from 35-40% of OMV for social rented properties and 60-70% of OMV for shared-ownership properties).

**Off-site provision or commuted sums**

7.5.3 Core Strategy Policy CS8, and supported by paragraph 50 of the NPPF, only allows for off-site provision or commuted payments *in lieu* of on-site affordable housing where the developer can 'demonstrate exceptional circumstances which necessitate provision on another site, or the payment of a financial contribution (of broadly equivalent value) to the council to enable some housing need to be met elsewhere'.

**Calculating the contributions (off-site commuted sums)**

7.5.4 Whilst the council's preferred approach is the provision of affordable housing on-site, the off-site contributions for social/affordable rented and shared ownership units will be calculated as below:

- Social / Affordable rented unit contribution = 65% of Open Market Value minus 20% developers profits on costs.
- Shared ownership unit contribution = 50% of Open Market Value minus 20% developers profits on cost.

7.5.5 Commuted sums will be paid to the council prior to the occupation of the first dwelling.

**7.6 Pre-application discussions**

7.1.1 As discussed in section 4.2.2 the council strongly encourages pre-application discussions with regard to planning obligations including affordable housing.



## **8 Lifetime Homes and Wheelchair Homes**

### **8.1 Introduction**

8.1.1 The Peterborough Housing Strategy recognises the need to provide homes for all segments of society, including households with physical and / or mental disabilities, and elderly households with varying care needs. Producing a precise model of need and requirement, which also reflects economic and institutional change, makes long-term planning a challenge. The Peterborough SHMA is the vehicle to do this. It has highlighted a long term need for housing that offers flexibility for a households long-term changing needs. Lifetime Homes and Wheelchair Homes offer a recognised approach to help meet such needs.

### **8.2 Types of facilities that may be required**

8.2.1 Core Strategy policy CS8 Meeting Housing Needs requires from all development sites on which :-

- 15 or more dwellings are proposed, that 20%of the dwellings will be constructed to Lifetime Homes Standards, until such time as the construction of all dwellings to that standard becomes a mandatory part of the national Code for Sustainable Homes.
- 50 or more dwellings are proposed, there will be an additional requirement to provide 2% of the dwellings as wheelchair homes.

### **8.3 Delivery of Lifetime Homes and Wheelchair Homes via planning obligations**

8.3.1 Lifetime Homes and wheelchair homes will be secured on-site, using planning conditions or where necessary a S106 planning obligation. CIL is not intended to be used for this purpose.

### **8.4 When will S106 planning obligations be sought?**

8.4.1 Provision of Lifetime Homes and wheelchair homes will be in accordance with Core Strategy policy CS8 Meeting Housing Needs as summarised above.

8.4.2 Contributions for Lifetime Homes and / or wheelchair homes will not be required from care / nursing homes or student accommodation, where occupation is restricted by planning conditions or legal agreements. Contributions for Lifetime Homes and / or wheelchair homes will be required from sheltered and supported housing schemes, recognising the requirement to meet the housing needs of all sections of our communities.

### **8.5 Provision Requirements and Indicative Costs**

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- 8.5.1 Lifetime Homes should be built to the Lifetime Homes Standards (revised standards of July 2010). Currently all homes built to level 6 of the Code for Sustainable Homes will be built to meet the Lifetime Homes criteria. The additional costs of meeting the wheelchair homes standards in new build homes is in the region of £650 per 'wheelchair home'
- 8.5.2 'Wheelchair homes' should be designed and built in accordance with the Housing Corporation Scheme Development Standards, 2003 or The Wheelchair Housing Design Guide (WHDG), by Habinteg, 2006. The additional costs of meeting the Lifetime Homes Standards in new build homes is in the region of £550 per Lifetime Home.

On a scheme of 15 dwellings, 20% (3) of the dwellings will be required to be built to **Lifetime Homes Standards** adding a total of  $£550 \times 3 = £1,650$  across a total of 15 dwellings. This is equivalent of **£110 per dwelling** built on-site.

On a scheme of 50 dwellings, 2% (1) of the dwellings will be required to be built to a **wheelchair home standard** adding a total of  $£650 \times 1 = £650$  across a total of 50 dwellings. This is equivalent of **£13 per dwelling** built on-site.

## 9 Primary Health Care

### 9.1 Introduction

9.1.1 The [Peterborough Local Commissioning Group](#)<sup>13</sup> (LCG) provides a network of primary care facilities and services throughout the city. The council recognises the social benefits of the provision of excellent primary healthcare facilities to the community. New residential developments put pressure on existing health facilities and cumulatively create the need for additional facilities and services. In order to cope with pressures arising from the growth of the city, new investment will be needed in a number of primary care facilities.

9.1.2 Core Strategy policy CS5 (Urban Extensions) recognises the need to make provision for an appropriate amount of (amongst other things) health facilities to meet local needs without having unacceptable impact on the vitality and viability of existing centres.

### 9.2 Types of facilities that may be required

9.2.1 An indicative range of primary health care services and facilities that may be required, includes:-

- Primary Care: GP services
- Intermediate Care: Day places and beds
- Acute facilities: elective, non-elective and day care beds
- Mental Health Services

9.2.2 Primary health care provision is constantly changing in terms of commissioning and delivery, and with it a changing range and scale of facility needs. For this reason, the list above is at best indicative. The LCG, or any successor NHS body will assess the impact of the development and indicate the service or facility requirements.

#### **CIL funding of Primary Health Care projects**

The impact of new development on primary health care infrastructure leads to pressures on the capacity of existing facilities and cumulatively creates the need for additional facilities and services or the expansion of existing facilities.

Following the adoption of the CIL, all residential developments less than 500 dwellings will contribute to the provision of 'off-site' strategic primary health care infrastructure by way of CIL, not planning obligations.

### 9.3 When will S106 planning obligations be sought?

9.3.1 Planning obligations will only be sought in relation to new residential developments located on strategic sites, of 500 dwellings or more, where;

<sup>13</sup> <http://www.cambridgeshireandpeterboroughccg.nhs.uk/Peterborough>

- New premises/facilities are required as a result of the increased needs arising from the development.
- Current facilities are inadequate for the additional users, in terms of their quality or accessibility for users (based on accepted NHS standards) and therefore need to be improved or extended in order to meet the needs of the development.
- Inadequate alternative funding is available to provide the additional facilities or services required as a result of the development.

#### **9.4 What S106 planning obligations might be sought?**

9.4.1 The city council and health care partners will take into account existing spare capacity, planned expansions or losses, ease of access and adequacy of near-by facilities; and other planned residential development. The following are options where obligations might be sought:

- Free, serviced land contributions or a financial contribution to purchase the land will be required as a minimum for the erection of appropriate primary health care facilities.
- As a first principle, the city council expects developers to provide a financial contribution towards the delivery of the required infrastructure. If appropriate, consideration of the developer building the required infrastructure to an agreed specification will be considered on a case-by-case basis in consultation with appropriate partners.
- The financial contribution towards the delivery of healthcare facilities will take into account the availability of mainstream NHS funding and any time lag between that funding stream availability and the 'on the ground' provision of the facility to support the development proposal.
- In certain circumstances it may be more appropriate to have the facility at an alternative location off site. In such circumstances, where more than 50% of need for infrastructure is generated by the proposal, a proportionate financial contribution to purchase the land or provision of the land as an in-kind payment will be required.

#### **9.5 Provision Requirements and Costs**

9.5.1 Contributions will vary with each development. The need for on-site development is dependent on the viability, proximity and capacity of other health infrastructure. This assessment will be made by the LCG, or any successor NHS body. Strategic planning of health services and infrastructure may identify a particular development site as a preferred location for a health facility to serve the development alone or including a wider area than the development itself.

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9.5.2 It is likely that health service provision will involve a range of services that can be delivered most cost efficiently and effectively from a shared facility, enabling build cost savings to be made too.

9.5.3 It is recognised that facilities and needs will vary greatly and costs will therefore vary accordingly. For this reason contributions will be negotiated case by case, but the two examples below provide a useful indicative cost per dwelling basis as a guide.

Example,

9.5.4 Using national provision guidelines of 1GP per 1,800 population, a new development of approximately 750 dwellings is likely to require a GP. On that basis a 2GP practice (335m<sup>2</sup>) would cost in the region of £0.74m.

9.5.5 Each GP may have up to 1800 patients registered to them. Indicative cost per person for a 2GP practice = £740,000 / (1800 + 1800) = £205 per person, or using the average household size for Peterborough £205 x 2.46 = **£505 per dwelling**.

9.5.6 Evidence from NHS Cambridgeshire provides indicative costs of c. £2,200/m<sup>2</sup> for healthcare facilities, costs which are comparable to those used elsewhere. Based on a health provision standard of 500m<sup>2</sup> per 6,000 people, average household size and the capital cost of £2,200/m<sup>2</sup>, have been used to generate an average cost per dwelling of £451 can be calculated.

## **10 Crematorium and Burial Grounds**

### **10.1 Introduction**

10.1.1 To address the long-term burial needs of the city's population, the council has identified that the capacity of the existing burial grounds will be exceeded by 2023, ie before the end of the plan period.

10.1.2 The council is currently seeking a new site of approximately 10ha to accommodate and make provision for the long-term needs, with a capacity of 15,000 burial spaces and associated facilities to accommodate the different expectations and requirements of a diverse community. The cost of providing the 15,000 grave facility is estimated at £1.158m. By 2026, it is calculated that a second chapel at the city crematorium will also be required to provide sufficient capacity, and is estimated to cost in the region of £2.62m.

### **10.2 When will S106 planning obligations be sought?**

10.2.1 Following the adoption of the CIL, all residential development will contribute to the provision of crematoria / burial grounds by way of CIL, not planning obligations.

## 11 Site Drainage & Flood Risk Management

### 11.1 Introduction

- 11.1.1 Peterborough city lies just a few metres above sea-level and part of the rural areas of the district lies below sea-level, making the area particularly vulnerable to the effects of flooding. The key challenges relate to potential development in flood risk areas, and surface water runoff caused by development or in times of heavy rainfall, by already saturated soils. Surface water drainage is a particular issue, for example, in the Padholme area of Peterborough where a strategic flood protection strategy has been put in place, which development in the area has made contributions to.
- 11.1.2 Core Strategy policy CS22 Flood Risk states that development site proposals need to be informed by an upfront sequential test; an exception test where required; and an appropriately detailed site specific flood risk assessment.
- 11.1.3 Detailed guidance is made available in the [Flood and Water Management SPD](#)<sup>14</sup> which supports Core Strategy policies CS12 and CS22; and Planning Policies PP16 and PP20 .

### 11.2 Types of facilities that may be required

- 11.2.1 Measures identified by a flood risk assessment as being needed to enable development and mitigate or manage existing flood risk are likely to be site specific and most likely secured by planning condition.
- 11.2.2 Surface water flood risk on site should be managed using sustainable drainage systems such as swales, filter drains, detention basins and green roofs. Subject to national implementation of new regulations. From 2014 developments will require approval for their site drainage strategy as a separate approval to planning consent. The cost of construction will be borne by the developer as part of drainage and landscaping design, but the cost of maintenance is to be reclaimed from the households using the drainage system. As a result, neither planning obligations or CIL is likely to be collected for this purpose.
- 11.2.3 However, if the legislation is not brought in, or in the period prior to such legislation, sustainable drainage systems built on site to address flood risk and drainage will require a commuted sum to support if the council is to adopt and maintain the system.
- 11.2.4 Features related to water supply such as rainwater harvesting provide additional benefit to development sites and are encouraged from a water efficiency perspective. However, such features cannot be considered to be part of the sustainable drainage systems that will be adopted by the council. This is because they are temporary in nature, and often integral to the design of building(s) on site, which will not be adopted as part of the SuDS.

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<sup>14</sup> <http://www.peterborough.gov.uk/pdf/env-wm-FWMSPD%20adopted%20Dec12.pdf>

11.2.5 Currently there are not many examples of strategic flood protection projects in Peterborough which developer contributions can be justifiably sought on the basis of cumulative impact. However, such projects have been established in the past as a means of enabling land development (Padholme Strategic Flood Management Scheme) and others may arise in the future. For example, within the city centre it may be necessary to develop a strategic level flood protection scheme to enable the development potential of a number of city centre sites (identified within the emerging Peterborough City Centre DPD) to be unlocked. For such off-site strategic flood and water management projects CIL could be used to fund them in whole or in part.

11.2.6 It should be noted that all flood or drainage schemes being led or supported by the council or other Peterborough water management partners are likely to be managed as integrated water management schemes providing multiple benefits e.g. to flood risk, biodiversity and amenity. Resultantly, CIL could beneficially contribute towards the simultaneous delivery or improvement of both green and blue infrastructure. (see Section 13)

### **11.3 When will S106 planning obligations be sought?**

- 11.3.1 S106 planning obligations will only be sought in relation to the development, where;
- Flood and water management schemes are required both on-site and off-site as a direct result of the proposed development.
  - On site schemes will generally be secured by planning condition. For situations where planning conditions alone are insufficient to secure the required infrastructure or scheme, it may be necessary to utilise a S106 planning obligation.

### **11.4 What S106 planning obligations might be sought?**

11.4.1 As a first principle, for off –site schemes, the city council expects developers to provide a financial contribution towards the delivery of the required infrastructure. If appropriate, consideration of the developer building the required infrastructure to an agreed specification will be considered on a case-by-case basis in consultation with appropriate partners.

11.4.2 An obligation might also be sought to secure the necessary maintenance regime to preserve the effectiveness of the Scheme, where this involves the council in some way e.g. the council has agreed to adopt the Scheme on completion and approval of its functionality and specification standards.

## 12 On-Site Open Space

### 12.1 Introduction

12.1.1 Core Strategy policy CS19 Open Space and Green Infrastructure makes it clear that “all new residential development will make appropriate provision for, or improvements to, public green space, indoor and outdoor sports facilities and play facilities” and “Where the scale of a proposed development would be too small to make the provision of open space on-site feasible, the council will seek contributions towards the provision of open space elsewhere or to the improvement of existing open spaces, in accordance with Developer Contributions policy CS13”.

12.1.2 The [Peterborough Open Space Study](#)<sup>15</sup> 2011 Update takes account of the planned growth of the city to 2026, together with the current shortfall of open space provision by type, across the district, and identifies target areas for future provision or improvements.

12.1.3

### 12.2 Types of facilities that may be required and thresholds

12.2.1 Planning Policies DPD policy PP14 and Appendix B of that document set out the open space standards for different types of open space to be secured.

12.2.2 A new housing development would not be expected to provide all categories of open space on site. To understand when Planning Obligations or CIL will be used to secure open space provision it is important to distinguish between on-site open space and strategic open space requirements. The open spaces types have been categorised as follows:

**Table 12 Open Space Requirements**

<b>Non-Strategic Open Space types</b> for which on-site provision may be required (via S106)	<b>Strategic* Open Space types</b> for which off-site provision / contributions will be required (* also known to as 'city-wide')
Doorstep outdoor play space (or LAP's –Local Areas of Play)	Country Parks
Junior outdoor play ( or LEAP's)	Synthetic Turf Pitches
Youth outdoor play space (NEAP's)	Family Play Spaces
Neighbourhood Parks	Strategic Green Infrastructure
Allotments	
Natural greenspace	
Playing pitches / outdoor sports	
Amenity greenspace	

A glossary of the above open space types is provided at Appendix F

<sup>15</sup> <http://consult.peterborough.gov.uk/file/2159584>

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12.2.3 This section of the SPD focusses on developer contributions towards on site open space provision. Section 13 looks at the strategic element to be funded by CIL.

### 12.3 Contributions towards the provision of non-strategic open space types.

12.3.1 The introduction of CIL provides the opportunity to roll back the use of planning obligations for relatively small developer contributions. Notably where small off-site contributions may be sought, the pooling of such small contributions can improve the quality of facility/provision delivered, and deliver efficiency benefits during the planning application process. The council has recognised these benefits and will utilise the CIL in respect of non-strategic open space provision, as follows.

**Table 13 Open Space when CIL and Planning Obligations will be used**

Non-Strategic Open Space types for which on-site provision or financial contributions may be required	Threshold & Mechanism		On-Site and Off- Site Threshold Provision Guide*			
	1-14 dwellings	15 or more	1 to 14 dwellings	15 to 499 dwellings	500 to 899 dwellings	900+
Doorstep outdoor play space / LAP's –Local Areas of Play [Min.50-100m <sup>2</sup> ]	CIL	S106	N/a	On-site	On-site	On-site
Junior outdoor play ( or LEAP's ) [Min.650m <sup>2</sup> ]	CIL	S106	N/a	Off-site	On-site	On-site
Youth outdoor play space (NEAP's) [Min.1000m <sup>2</sup> ]	CIL	S106	N/a	Off-site	Off-site	On-site
Neighbourhood parks [Min. 1ha]	CIL	S106	N/a	Off-site	On-site	On-site
Allotments [Min.5,000m <sup>2</sup> ]	CIL	S106	N/a	Off-site	Off-site	On-site
Natural greenspace [Min.400m <sup>2</sup> ]	CIL	S106	N/a	On-site	On-site	On-site
Playing pitches / outdoor sports [Min 800m <sup>2</sup> ]	CIL	S106	N/a	Off-site	Off-site	On-site
Amenity greenspace [Min.50-100m <sup>2</sup> ]	CIL	S106	N/a	On-site	On-site	On-site

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\* Where the above table indicates 'off-site' this should be treated as a guide only. Ultimately, it will be a matter for negotiation and if the developer chooses to provide such a facility on site (rather than an off-site financial contribution) or there is a particular need for such a facility in the local area with no prospect of provision off locally then the council may seek provision on site.

**12.4 Contributions from smaller residential developments of 14 or less dwellings**

12.4.1 For all residential development of 14 or less dwellings the scope for on-site provision of open space is relatively limited. In such cases, developer contributions will be sought in the form of the CIL payment.

**12.5 When will S106 planning obligations be sought?**

12.5.1 S106 planning obligations may be sought in relation to non-strategic open space provision on residential development of 15 or more dwellings, where;

- Open space provision is to be provided on-site and/or financial contributions are sought for off-site as a direct result of the proposed development.

**12.6 What S106 planning obligations might be sought?**

- As a first principle, the city council expects developers to provide non-strategic open space on-site in accordance with the Local Plan policy and the size thresholds outlined in Table 13. The land and any equipment will be provided by the developer and must be in appropriate condition for the intended purpose.
- In certain circumstances it may be more appropriate to make provision at an alternative location off site. In such circumstances, a proportionate financial contribution to purchase land or provision of the land as an in-kind payment will be required, together with contributions to make the land and any equipment in a condition for its intended purpose.
- Off-site provision may be in the form of an appropriate enhancement or expansion of an existing open space facility(s), within a reasonable proximity of the development. In such circumstances, a proportionate financial contribution towards the provision will be required.
- Where only partial provision can be met on-site, the developer will be expected to make a proportionate financial contribution towards the delivery of provision off-site open space to make redress the on-site shortfall.
- An obligation is likely to also secure the necessary future maintenance of the open space - where this involves the council in some way. For example, where the council has agreed to adopt the open space on completion, and approval of its functionality and specification standards.

**12.7 Provision Requirements and Indicative Costs**

12.7.1 Policy PP14 Open Space Standards and Appendix B of the Planning Policies DPD sets out the quantitative standards for the types of open space identified as non-strategic open space. These can be converted to indicative costs as follows:

**Table 14 Open Space Costs (excluding land and maintenance)**

<b>Non-Strategic Open Space</b> types for which on-site provision may be required	Ha per 1,000 persons	M <sup>2</sup> per person	M <sup>2</sup> Per Dwelling*	Cost of Provision £/M <sup>2</sup>	£ Per Dwelling*
Doorstep outdoor play space (or LAP's –Local Areas of Play)	No standard	No standard	No standard	No standard	No standard
Junior outdoor play (or LEAP's )	0.031	0.31	0.8	£62.95	£48.39
Youth outdoor play space (NEAP's )	0.0117	0.117	0.3	£62.95	£18.16
Neighbourhood parks	1.49	14.9	36.7	£42.29	£1550.10
Allotments	0.28	2.8	6.9	£30.78	£212.01
Natural greenspace	1.0	10	24.6	£15.65	£384.99
Playing pitches / outdoor sports	1.0	10	24.6	£46.01	£1131.85
Amenity greenspace	No standard	No standard	No standard	No standard	No standard
<b>Total</b>	<b>3.81</b>	<b>38.13</b>	<b>93.9</b>		<b>£3,345.5</b>
<b>Minus 15% discount</b>	<b>3.24</b>	<b>32.4</b>	<b>79.8</b>		<b>£2,843.7</b>

*Based on average household size of 2.46*

- 12.7.2 The open space standards repeatedly point out that the standards should not be simply added together to generate a total requirement for open space. This is because it can be possible to provide some open space types within the boundary of another. For example, a neighbourhood park may contain one or a number of the other open space types such as a LEAP, NEAP, allotments and amenity greenspace. This is reflected in the above table as a '15% discount'.
- 12.7.3 In recognition of this and in order to provide some guidance, the city council will apply a 15% discount to the requirement values. In cases where it can be demonstrated through an on-site scheme that the requirement can be met more effectively and efficiently, the council may accept a lower land take.
- 12.7.4 The city council will take into account existing open space provision, capacity, accessibility and condition within the area, along with other planned provision for the area, when interpreting the open space standards and requirements. Ideally, pre application discussion or negotiation as part of the planning application process can be beneficial to

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all in order to provide the most appropriate open space provision for the development and the wider community. The council recognises that each development brings a proportionate pressure to bear on existing provision. Any contributions towards open space provision, whether it is delivered on or off-site should only be fair in scale and not seek to provide more than this in order to redress existing deficiencies.

- 12.7.5 When considering the open space standards, requirements and existing provision within the area, the city council will apply the standards in a flexible manner in order to achieve the best outcome for the development, locality and city. Application of the standards in a rigid way is unlikely to be beneficial for any party, though the financial value of what is provided should remain broadly consistent with that calculated when determining the open space requirement in relation to the proposal.
- 12.7.6 When considering existing provision regard must be given to the open space standards 'accessibility guidelines' which provide an indication of what is considered to be an acceptable distance persons might travel to use such facilities. The accessibility guidelines are set out below. If accessible provision of one type of open space already exists, the council may seek to vary the composition of the open space it seeks to secure.

**Table 15 Open Space Accessibility Guidelines**

<b>Non-Strategic Open Space types</b>	<b>Accessibility Guidelines</b>
Doorstep outdoor play space (or LAP's – Local Areas of Play)	No standard
Junior outdoor play ( or LEAP's )	450m radius
Youth outdoor play space (NEAP's )	800m radius
Neighbourhood parks	560m radius
Allotments	560m radius
Natural greenspace	300m to natural greenspace of at least 2ha
Playing pitches / outdoor sports	260m/480m radius to informal/formal outdoor sports provision respectively
Amenity greenspace	No standard

- 12.7.7 New development can bring new opportunities, and where appropriate, it may be beneficial for all to enhance or expand existing facilities, but it is essential that such decisions comply with the planning obligations tests.
- 12.7.8 For development proposals where it is agreed that it is not possible to provide the open space requirement on-site, i.e. the provision has only been met in part, or not at all the balance will be required in the form of an off-site contribution.

## 12.8 Calculating the contributions (off-site commuted sums)

12.8.1 Whilst the council's preferred approach is the provision of open space on-site, off-site contributions for open space provision may need to be calculated in some instances.

- Land purchase –land purchase cost will be charged at £6/m<sup>2</sup>.  
Plus
- Provision Costs - will be charged pro-rata in accordance with Table 14 costs of provision, £ per m<sup>2</sup>.  
Plus
- Maintenance Costs

## 12.9 Maintenance Costs (for both on-site and off-site provision)

- 12.9.1 The council is normally prepared to adopt and maintain properly laid out green space, play space or playing pitches that are intended for wider public use, where these amenities are provided by the developer on-site as part of a development, and meet agreed standards.
- 12.9.2 This will be subject to a payment towards the future costs of maintenance by the council. This commuted sum is normally calculated for a 15 year period as a negotiated element of the Section 106 agreement, calculated on the basis of costs set out in Table 16 Schedule of Landscape Maintenance Rates.
- 12.9.3 The Schedule of Landscape Maintenance Rates does not provide an exact match to all open space types identified in the open space standards. For example, it can be seen that the maintenance rate (15year period) for a Junior Outdoor Play Area (LEAP – 5 items) is specified, but a neighbourhood park isn't. The reason for this, is that the neighbourhood park may constitute a wide range of the items set out in the Landscape Maintenance Schedule.
- 12.9.4 For adoption purposes, each area of open space will be assessed on a case by case basis. The actual calculation will be dependent on the composition of the open space to be assessed.
- 12.9.5 If the developer does not intend to offer areas for adoption, then the Council needs to be assured that satisfactory alternative arrangements are in place for maintenance in the future.

Table 16 Schedule of Landscape Maintenance Rates

Open Space / Equipment type	Rate for 15 year period (per hectare unless otherwise specified)
Balancing Area (mainly dry pond)	£35,843.00
Balancing Area (mainly wet pond)	£31,360.00
BMX Track	£26,700.00 each
Concrete Skate Park	£81,900.00 each
Ditches - Digging	£9.54 per linear metre
Ditches - Flailing	£4.23 per linear metre
Footpaths - Hoggins	£3.26 per m <sup>2</sup>
Footpaths - Tarmac	£21.11 per m <sup>2</sup>
Formal Shrubbery	£48.93 per m <sup>2</sup>
French drain - Jetting/inspection	£5.30 per linear metre
French drain - Manhole emptying	£158.00 each
Hedges	£3,060.00 per 1000m <sup>2</sup> of hedge face
MUGA	£35,050.00 each
MUGA Floodlit	£45,050.00 each
Open Space (conservation)	£33,599.00
Open Space (formal)	£43,681.00
Play Area LAP (3 items)	£18,600.00 each
Play Area LAP (5 items)	£38,700.00 each
Play Area LAP (8 items)	£44,450.00 each
Sports Pitch	£105,993.00
Stilling Ponds - Emptying	£95,013.00 per pond
Stilling Ponds - Hardstanding	£3.26 per m <sup>2</sup>
Stilling Ponds - Inspection/repair	£21,114.00 per pond
Swales	£87,358.00
Swales with shrubbery	£49.00 per m <sup>2</sup>
Village Pond/Open Water (over 0.05ha)	£44,798.00
Village Pond/Open Water (up to 0.05ha)	£34,720.00 per site
Woodland (existing mature)	£31,360.00
Woodland (new buffer/copse)	£27,999.00

(To be reviewed annually)

## 13 Strategic Open Space & Green Infrastructure

### 13.1 Introduction

- 13.1.1 This section sets out how strategic or city wide open space requirements identified in Table 13, will be funded through CIL.
- 13.1.2 As discussed in section 12 several policies within the Local Plan highlight the importance of integrated green and blue infrastructure. Core Strategy policy CS21 Biodiversity and Geological Conservation promotes the management of biodiversity in light of the threats and opportunities arising from climate change. This will include, for example, the provision of wildlife corridors and stepping stones which will be essential for the migration, dispersal and exchange of wild species, all contributing to the creation and effective functional green grid across Peterborough.
- 13.1.3 This is further enforced by the Planning Policies DPD, notably policies PP15 Nene Valley, PP16 The Landscaping and Biodiversity Implications of Development and The Flood and Water Management Supplementary Planning Document.
- 13.1.4 The [Peterborough Green Grid Strategy](#)<sup>16</sup> sets out a proposed range of strategic level initiatives, projects and opportunities which helpfully illustrates the '*what, when and where*' of multifunctional green infrastructure locally.
- 13.1.5 The Peterborough Open Space Study 2011 Update takes account of the planned growth of the city to 2026 and the current shortfall of open space provision by type across the district, and identifies target areas for future provision. The study has informed the open space standards.

### 13.2 Types of facilities that may be required

- 13.2.1 Strategic space includes country parks, synthetic turf playing pitches and family play areas (all of which are identified as elements of the Planning Policies Open Space Standards). Each type is described below:-
- **Country Parks** –The identified areas for country park provision are Hampton /Haddon and North/North East of Peterborough urban area. The Hampton/Haddon area already has an area of land identified and referred to as the Crown Lakes country park, though its qualitative credentials do not yet align with the Natural England Country Parks Accreditation Scheme (NECPAS) criteria. Developer contributions obtained through future obligations or the CIL, could be used to enhance this existing provision to meet NECPAS criteria, in the south of the city and to purchase land or seek long-term land stewardship agreements to secure provision in the north/north east of the city.

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<sup>16</sup> <http://consult.peterborough.gov.uk/file/2159612>

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- **Synthetic Turf Pitches** – the study calculated a need for two facilities, with target areas being Hampton /Haddon and Stanground College or Orton Bushfield area. As part of ongoing regeneration activity at Orton District Centre / Bushfield a 3G synthetic turf pitch facility has been delivered. Future CIL contributions could be used to fund the delivery of a second facility in the Hampton / Haddon area, or Stanground depending upon the opportunities that arise.
- **Family Play Space** – the study identified a shortfall of seven family play spaces across the district, if the policy standards were to be met. The proposed levels of growth will be insufficient to deliver this quantity through developer contributions. However, the study identifies areas in which there are shortfalls, these are Hampton /Haddon, south east, east, central, Bretton/Ravensthorpe and the rural area. Family play space can be delivered within other types of open space such as a country parks, neighbourhood parks and natural green space. Future CIL contributions could be used to fund the delivery of additional family play spaces, in whole or in part, within the areas identified.
- **Strategic green infrastructure** - is different to ‘on-site habitat creation or enhancement’, and relates to wider strategic level projects which aim to establish or enhance habitat corridors or connectivity, sometimes across districts and counties, to redress or balance the cumulative impacts of growth on existing habitats (loss, damage or erosion over time). It should be noted that green infrastructure should provide where possible multifunctional uses, i.e. wildlife, recreational and cultural experiences, as well as delivering ecological services, such as flood protection and microclimate control (see Section 11).

13.2.2 Following the adoption of the CIL, all development will contribute to the provision of strategic open space and ‘off-site’ strategic green infrastructure by way of CIL, not planning obligations.

**13.3 Use of planning conditions**

13.3.1 Ecological mitigation including avoidance, mitigation and compensation will be secured through planning condition to reinforce the policy requirements.

**13.4 When will S106 planning obligations be sought?**

13.4.1 Following the adoption of CIL, the council will only seek to secure S106 contributions for on-site open space as set out in Section 12. Planning obligations will not be used for the creation or expansion of strategic outdoor open space and off-site green infrastructure.

## 14 Indoor Sports Facilities

### 14.1 Introduction

14.1.1 The council does not have a specific planning policy standard for indoor sports facilities. Nevertheless the Peterborough Sports Strategy 2009-2014 identified a number of priority areas to be addressed in terms of indoor sports facility provision and the Core Strategy policy requires appropriate infrastructure in general terms is relevant. The priority needs are set out below.

### 14.2 Types of facilities that may be required

14.2.1 **Swimming pools** - Peterborough residents have less access to swimming pools than residents in the nearest neighbouring authorities. The level of accessible swimming pool provision is also below the industry standard.

14.2.2 The deficit is calculated to be in the order of 858m<sup>2</sup> of water space, which is equivalent to two 25m x 12.5m six lane swimming pools plus learner pool 8m x 12.5m each providing 412.5m<sup>2</sup> of water space **or** one 50m x 17m eight lane swimming pool providing 850m<sup>2</sup> of water space. Future provision of a 50m pool located in the city centre is the preferred option.

**Sports Halls** - currently there are sufficient sports halls in the city to meet the needs of the population however demand is not being met because much provision is not accessible to the public because they are located on school sites. Improving community access to existing school sports facilities (primarily through dual-use agreements) and ensuring such agreements are put in place for future such facilities is the short term strategy for sports halls. The schools building programme (Building Schools for the Future) provides an opportunity to achieve this.

**General** - Maintain, modernise, redevelop or replace existing sports facilities to meet outstanding and future needs before considering the development of new facilities. Explore the feasibility of a flagship city centre sports facility as part of a wider review of potential facilities on the Riverside North Policy Areas as set out in the City Centre Plan.

14.2.3 Following the adoption of the CIL, all residential development below 500 homes will contribute to the provision of 'off site' strategic indoor sports facilities by way of CIL. For strategic sites of 500 or more a S106 planning obligation will be sought to secure on-site or off site delivery. The precise contribution/obligation will be negotiated on a case by case basis.

### 14.3 When will S106 planning obligations be sought?

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14.3.1 Planning contributions will only be sought in the form of S106 planning obligations on strategic sites of more than 500 dwellings where site specific opportunity / impact is arises, and the obligation accords with the three statutory tests.

## 15 Community Buildings

### 15.1 Introduction

- 15.1.1 Community buildings are multipurpose buildings for the community to use. Community halls are important to both rural areas and residential neighbourhoods and meet a local need in an ever changing society.
- 15.1.2 Community buildings can come in many forms and are increasingly multi-functional spaces that can be a hub for the local community. These spaces need to provide easy and open access for the community, for a range of local activities and increasingly for community services, such as social activities, sports and recreation activities, arts activities, local democratic engagement and educational activities.
- 15.1.3 Demand for community buildings generated by new development should be catered for within easy reach of the new homes, by requiring developers to contribute towards the improvement of an existing building or the provision of a new one.

### 15.2 Types of facilities that may be required and thresholds

- 15.2.1 Community buildings can come in a range of forms and styles. Provision of 50-100m<sup>2</sup> for a community room within a building may be appropriate in some cases. However, as a basic guide, a multi-purpose community building will minimally comprise of a main hall with toilets and kitchen. The main hall will provide a space of at least 7m (H) x 9m (W) x 16.4m (L), plus toilets and kitchen – approx. floorspace 200m<sup>2</sup>.
- 15.2.2 Where new developments consist of more than 1,000 dwellings, consideration of the need and opportunity to provide additional space for a separate meeting/activity room(s) would be appropriate.
- 15.2.3 The city council will consider the needs derived from the development, taking into account the existing capacity, proximity and quality of near-by facilities.
- 15.2.4 Following the adoption of the CIL, all residential developments of less than 500 dwellings will contribute to the provision of 'off-site' community buildings infrastructure by way of CIL, not planning obligations.

### 15.3 When will planning obligations be sought?

- 15.3.1 Planning contributions will only be sought in the form of S106 planning obligations in relation to new residential developments of 500 or more dwellings, where;

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- New community buildings are required as a result of the need arising from the development.
- Current facilities are inadequate for the additional users, in terms of their quality or accessibility for users (in accordance with provision requirements below) and therefore need to be improved or extended in order to meet the needs of the development.
- Inadequate alternative funding is available to provide the additional facilities or services required as a result of the development.

**15.4 What S106 planning obligations will be sought?**

15.4.1 Contributions will be required in a number of forms as outlined below, taking into account specific site requirements.

- Free, serviced land or a financial contribution to purchase land will be required as a minimum for the erection of appropriate facilities.
- The city council, with appropriate partners, will negotiate with prospective developers with a view to securing the necessary community buildings and fit-out needs for the development.
- As a first principle, the city council expects developers to provide a financial contribution towards the delivery of the required infrastructure. If appropriate, consideration of the developer building the required infrastructure to an agreed specification will be considered on a case-by-case basis in consultation with appropriate partners.

**15.5 Provision Requirements and Indicative Costs**

15.5.1 Contributions will vary with each development, based on design issues and the existing capacity, proximity and quality of near-by facilities. The council will negotiate an appropriate contribution

## **16 Libraries, Museums and Life Long Learning**

### **16.1 Introduction**

16.1.1 New residential developments put pressure on existing library, museum and life-long learning services. It is reasonable to expect developers to contribute towards the costs of such infrastructure where the need arises directly from the development. Indeed, to cope with pressures arising from the growth of the city, further investment will be needed in existing libraries and potential additional library provision.

16.1.2 The council and Vivacaity (the organisation responsible for managing many of Peterborough's cultural and leisure facilities, such as libraries, on behalf of the council) seek to provide a network of well stocked local libraries throughout the city, with the Central Library at the hub and two mobile library vehicles providing an outreach option.

### **16.2 Types of facilities that may be required**

16.2.1 The provision of library and museum services may require the provision of a fitted out building, or suitable mobile transportation vehicle. Such services could be provided within a building used for other community uses, in a co-located fashion, providing a suitable and appropriate environment can be created for each of the uses. This would be considered on a case by case basis.

### **16.3 When will S106 planning obligations be sought?**

16.3.1 Following the adoption of the CIL, all developments of less than 500 dwellings will contribute to the provision of new or expanded libraries, museum, and life-long learning infrastructure solely by way of CIL, not S106 planning obligations. S106 planning obligations will only be sought in relation to new residential developments of strategic sites of 500 dwellings or more, where;

- New premises/facilities are required as a result of the increased needs arising from the development.
- Current facilities are inadequate for the additional users, in terms of their quality or accessibility for users (based on accepted PCC standards) and therefore need to be improved or extended in order to meet the needs of the development.
- Inadequate alternative funding is available to provide the additional facilities or services required as a result of the development.

### **16.4 What S106 planning obligations might be sought?**

16.4.1 The council, with appropriate partners, will negotiate with prospective developers with a view to securing the necessary library and life-long learning facility and fit-out needs for the development. Contributions will be required in a number of forms as outlined below, taking into account specific site requirements.

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- Free, serviced land or a financial contribution to purchase land will be required as a minimum for the erection of appropriate facilities.
- As a first principle, the city council expects developers to provide a financial contribution towards the delivery of the required infrastructure. If appropriate, consideration of the developer building the required infrastructure to an agreed specification will be considered on a case-by-case basis in consultation with appropriate partners.

**16.5 Provision Requirements**

16.5.1 Contributions will vary with each development. The costs can be broken into 3 distinct parts: land purchase, construction costs and fixtures / furnishings.

16.5.2 In cost terms the investment figure is derived from recent local work and in line with the Museums Library and Archives (MLA) Council Standard Charge approach to the provision of library facilities for new developments.

16.5.3 The two main parameters of a standard charge for public libraries are:

- A **space standard**; the MLA recommends a figure of 30 square metres per 1,000 population as a benchmark for local authorities.
- A **construction and initial fit out cost**; these can vary by site and area; taking the RICS (Royal Institution of Chartered surveyors) Building Cost Information Service data, this can be from £3,233 per square metre to £3,929 per square metre. A recommended current benchmark figure for East Anglia is £3,233 per square metre.

16.5.4 A calculation using the benchmark figure above gives a cost of £96,990 (30 x £3,233) per 1,000 people, or £97 per person in new housing; or £238 per dwelling for new build provision (based on average household size of 2.46, Figures exclusive of land purchase costs).

16.5.5 Where a contribution is required not for a new build facility, but to make necessary enhancements and/ or expansions to existing provision, in order to meet the additional demands which will be placed on that provision by the increase in population, then the contribution required will draw on the Museums Library and Archives Council (MLA) Standard Charge approach:

- In relation to fit-out, IT and bookstock by applying the MLA figure to the projected population growth.
- In relation to the building costs by using a multiplier based on 35% of the MLA construction figure. This is on the basis that what will be needed is not a complete new building or extension to existing buildings but changes to the internal configuration and layout. This equates to £83 per dwelling.

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16.5.6 For strategic sites where library, museum and life-long learning facilities are delivered, in the first instance such facilities must be offered to the city council or vivacity (and/or contracted partner) for adoption. In the event of the council being unable to be run by consider adoption, this requirement will revert to the parish council. Should the city council not be in a position to agree to the adoption, developers must submit a proposal to the council detailing how a Trust shall be set up for the new community to ensure appropriate future maintenance measures are put in place.

## **17 Public Realm**

### **17.1 Introduction**

17.1.1 An objective of the City Centre Plan is to create a vibrant, mixed-use centre that is alive during the day and at night and supports growth elsewhere in Peterborough. This will incorporate, amongst other things, improvements to the public realm and establishment of the Cathedral Square as a community hub and meeting point.

17.1.2 Some of the planned public realm works have been implemented by 2013, enhancing the city centre for all users. Further works, identified in the Peterborough Public Realm Strategy are programmed for the future in Long Causeway, Westgate, Riverside, Midgate, Queensgate & North Westgate and the Station Quarter areas of the city centre.

17.1.3 Contributions towards the provision of public realm projects in the city centre and district centres will be required from new dwellings on a proportionate basis.

### **17.2 Types of facilities that may be required**

17.2.1 Delivery of public realm projects is mainly about improvement works such as surfacing and street layouts, street lighting and street furniture, public art and hard and soft landscaping works. There will also be occasion where public realm master planning is required.

### **17.3 What S106 planning obligations might be sought?**

17.3.1 Following the adoption of CIL, the council will not seek to secure contributions towards public realm infrastructure projects, via S106 planning obligations. All CIL liable developments will contribute to the provision of public realm infrastructure projects.

## 18 Waste Management

### 18.1 Introduction

18.1.1 Both the Waste Management Plan for England (2013) and the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (Adopted July 2011) include policies encouraging all forms of new development to be designed and constructed in such a way as to minimise the production of waste, maximise the re-use of materials, and maximise the use of recycled materials; and to facilitate, by provision of adequate space and facilities, the ongoing recycling and recovery of waste as may arise from the completed development proposal. This includes the design and construction of single buildings through to whole communities in the form of urban extensions and new villages.

18.1.2 The Cambridgeshire and Peterborough Minerals and Waste Core Strategy policies CS16 Household Recycling Centres and CS28 Waste Minimisation, Re-Use and Resource Recovery provide the policy basis for seeking contributions towards the provision of household recycling centres, bring sites and residential waste storage containers.

18.1.3 New developments should make provision for waste storage, collection and recycling in accordance with [RECAP Waste Management Guide SPD](#)<sup>17</sup> (adopted February 2012). The document provides guidance on the design and provision of waste management infrastructure within a development's design, a toolkit to facilitate self –assessment of needs against standards. Many of these matters will be addressed as part of the design and dealt with by planning condition where necessary. The RECAP SPD also sets out a basis for planning conditions and /or planning obligations.

### 18.2 Types of facilities that may be required

18.2.1 The three main waste management infrastructure types sought through the above policy and guidance are:-

- Residential waste storage containers
- Bring Sites
- Household Recycling Centres

18.2.2 Other forms of waste management infrastructure may also be required to support the growth of the city in a more sustainable way. These may include city-wide facilities such as materials recovery facilities (mechanical or biological), composting facilities, and energy from waste facilities where these are operated by or on behalf of the city council.

### 18.3 When will S106 planning obligations be sought?

18.3.1 Following the adoption of the CIL, all developments of less than 500 dwellings will contribute to the provision of new waste management infrastructure solely by way of CIL,

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<sup>17</sup> <http://www.peterborough.gov.uk/pdf/RECAP%20SPD%20web.pdf>

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not S106 planning obligations. Planning contributions will only be sought in the form of S106 planning obligations for strategic sites of 500 dwellings or more. However, it should be remembered that relevant planning conditions may be imposed on all development schemes of any size.

**18.4 What S106 planning obligations might be sought?**

18.4.1 The city council will seek to negotiate an area of land / areas of land provided by the developer (at no cost to the Local Planning Authority / Waste Planning Authority), or conditions towards acquiring such land, sufficient in size to allow the creation and operation of new facilities, for

- Household Recycling Centres, (c 2.5ha) and
- Bring Sites

## 19 Environment Capital (Carbon emissions reduction)

### 19.1 Introduction

19.1.1 Peterborough's ambition is to be the UK's Environment Capital. This includes putting in place the relevant infrastructure to support this ambition.

19.1.2 Another important aspect for such a rapidly growing city is to ensure growth is sustainable in all senses of the word. Core Strategy policy CS10 Environment Capital provides the means to encourage and deliver in this respect by requiring,

*"All development proposals of one dwelling or more, and other non-dwelling proposals concerning 100 square metres or more, should explicitly demonstrate what contribution the development will make to the Environment Capital agenda over and above that which would be required by the Building Regulations in force at the time, other development plan policies or any other consents as required through regional and national legislation."*

### 19.2 Types of contributions that may be required

19.2.1 Core Strategy policy CS10 Environment Capital provides a number of examples of how developments may contribute to the Environment Capital agenda. Three of these are highlighted below in order to provide an indication of what is sought: -

- *Achieving a greater reduction in carbon dioxide emissions than that required by national Building Regulations in force at the time, especially through the use of energy efficiency measures;*
- *The use of innovative resource efficiency measures, which aim to minimise demand for water, energy or other natural resources beyond that which would normally be required or expected;*
- *Creation of areas of high biodiversity or other green infrastructure, beyond that which would normally be expected or required via other policies in the development plan;*

19.2.2 Developer contributions will be sought towards Peterborough's Environment Capital ambition. In line with Core Strategy policy CS10 Environment Capital for all development proposals of one or more dwellings and other non-dwelling proposals concerning 100m<sup>2</sup> or more the council will seek to secure contributions via planning condition. If planning conditions don't provide a satisfactory means of securing contributions, it may be necessary to secure them via a S106 obligation.

19.2.3 CIL will not be used to deliver Environment Capital infrastructure.

### **19.3 When will S106 planning obligations be sought?**

19.3.1 Planning contributions will only be sought in the form of S106 planning obligations on residential developments and non-residential developments ( involving 100m<sup>2</sup> net change in floorspace ) towards the development of Peterborough's Environment Capital ambition, when:-

- Securing the contribution can't satisfactorily be achieved by use of a planning condition(s)
- Where technical feasibility issues preclude any on-site delivery,

### **19.4 What S106 planning obligations might be sought?**

19.4.1 If it has been deemed appropriate to utilise a S106 planning obligation to secure an Environment Capital contribution it is most likely that this will involve

- a financial contribution towards a suitable off-site project or
- resource management measures or initiatives at off-site locations

### **19.5 Provision Requirements and Indicative Costs**

19.5.1 It has not been possible to identify a formula for calculating a unit cost to development for site specific Environmental Capital contributions. A contribution will therefore be negotiated.

## 20 Other Potential Development Specific Requirements

### 20.1 What may be required via planning obligations?

20.1.1 Sections 4 to 19 may not represent all possible planning obligations requirements that may be applicable to any individual development. The precise circumstances of each development will be different and there therefore may be additional development specific requirements, such as mitigation measures, that may be needed to address the impact of individual developments. Such requirements by reason of their nature will need to be assessed on a site by site basis. The list below sets out some additional potential planning obligations that may be applicable, depending on the individual circumstances and constraints of the development site and the nature of the proposed development.

20.1.2 This list is not exhaustive, but provides examples.

- Emergency services
- Impacts on the historic environment
- Nature conservation mitigation measures
- Pollution/air quality mitigation measures
- CCTV

## Appendices

## **Appendix A**

### **S106 Planning Obligations : Basic Questions and Answers**

#### **What is a S106 Planning Agreement?**

A planning agreement is a legal agreement entered into by the planning authority **and** the developer or applicant which outlines the details of a planning obligation. This may include details of new community facilities or the amount and type of open space that would be required in a new housing scheme. Planning Agreements run with the land so will bind successive owners. If the applicant does not own the land the landowner will need to be party to the agreement.

#### **What is a Unilateral Undertaking?**

This is an undertaking made by the applicant **to** the planning authority to cover any planning issues before the granting of planning permission and may be offered at any point in the application process – but normally where agreement has not been reached. The undertaking does not require any agreement by the local planning authority and may therefore have no legal input into the drafting of such agreements. However, local authorities do not have to accept unilateral undertakings offered by the developers if they do not feel they deal with all the issues in granting planning permission. An applicant may offer a unilateral undertaking at a planning appeal against refusal to overcome the local authority's objections. It will then be for the Inspector to decide its suitability or otherwise.

#### **Do I need a solicitor to complete the S106 Agreement?**

You do not necessarily need a solicitor but it may be advisable because legal agreements and undertakings can restrict the use of the property in the future. Alternatively, some applicants may choose to use their agent or planning consultant. However a Solicitor will be required to confirm title to the land concerned.

#### **Can a legal agreement cover more than one obligation?**

A legal agreement may contain any number of planning obligations depending on the complexity and scale of the development and what would be necessary in order to grant planning permission. Where an obligation is very straightforward it may be contained in an undertaking which tends to be a short and simple document.

#### **How long will it take to complete a legal agreement or undertaking?**

This will depend on a number of issues including the complexity and size of the proposed development, the negotiations between the parties and progress made before the application is

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submitted or goes before the Environmental Protection and Planning Committee. It is the council's aim to carry out as much as possible of this work prior to consideration by Committee. Straightforward agreements on noncomplex sites should normally be completed shortly after a favourable resolution. The council will look to commence negotiations with the applicant as soon as it is apparent that an agreement will be sought.

### **When does infrastructure or financial contributions need to be paid?**

In order that the needs and impacts arising from new developments are addressed as soon as possible the council will generally aim to achieve the provision of infrastructure or payment of financial contributions on the commencement of development. In the case of outline planning permission and major phased developments, contributions may be paid in instalments on the commencement of each phase. The phasing of payments will be set out in the S106 agreement agreed by the applicant and the council.

### **Why are financial contributions Index Linked?**

In order to maintain the value of contributions from the date of the planning consent until the time development is commenced, they will be index linked to reflect changes in, for example, the RICS Index or Retail Price Index. Delayed payment of financial contributions will incur interest at a rate 5% above Base Rate. This is to ensure that the projects and works for which the contributions are earmarked are not unduly delayed or if delay occurs there is a contingency which may help negate the costs associated with delay.

### **How do I make payments to the council?**

It is the applicant's responsibility to be aware of when payments are due and to ensure that they are made on time. Payments can be made by cheque, made payable to

"Peterborough City Council"  
and sent to the Council Offices at:

Peterborough City Council  
Stuart House East Wing, St John's Street  
Peterborough  
PE1 5DD

Payments must specify the S106 reference number and site address in order to identify the relevant legal agreement and site.

### **What will happen to the payments?**

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When payments are received they will be recorded and noted against the relevant agreement and included in the council's Capital Programme for spending. Progress with particular obligations and expenditure in general will be reported regularly as part of the Planning Service Annual Monitoring Report.

**How long will a S106 obligation run for?**

Some requirements of a S106 obligation are of an ongoing nature, for example the maintenance of a facility or the community use of a building and so the obligation will continue for so long as development implemented under the associated planning permission continues. S106A of the Town and Country Planning Act 1990 also provides a procedure by which an applicant can apply for the formal modification or discharge of planning obligations.

## **Appendix B**

# **Approach for S106 Agreements / Unilateral Undertaking's**

### **1. Introduction**

- 1.1** Where it is agreed that it will be necessary to secure Developer Contributions via a S106 Planning Obligation (in the form of a S106 Agreement or Unilateral Undertaking) then a draft 'Heads of Terms' must be submitted with a planning application. Prior to submitting a Draft Heads of Terms, developers will need to consider a range of factors that influence contributions. The city council's Local Plan and supporting documentation is the primary source of information setting out the requirements of new development in Peterborough. The process for agreeing Developer Contributions involves a series of steps, set out in Table below, that are designed to ensure that the process is as swift and transparent as possible.

### **2. Legal and Monitoring Processes**

- 2.1** S106 Agreements and UUs will normally be drafted by the city council's Legal Services Team; a service paid for by applicants. Title has to be deduced to the city council and all persons with an interest in the land must be party to the agreement. The city council carries out searches to make sure there have been no new owners or mortgages in the period before completion. Agreements and UUs are registered as local land charges and their provisions bind future purchasers/tenants of the site. Both draft and completed s106 Agreements and UUs may be viewed by members of the public and are in no sense confidential documents.
- 2.2** If contributions are being sought for a range of items, they will usually be addressed in a single document; however, some infrastructure is provided by outside agencies, for example, electricity and water. Their requirements may occasionally be set out in separate documents, but to save time and costs a combined s106 Deed is usually entered into.
- 2.3** It should be understood that each Agreement or UU has to be entered into before any planning permission is granted. In non-appeal cases the city council seeks to issue the planning permission within one working day of completion of the Agreement or UU. In appeal cases the Agreement or UU needs to be completed before the appeal is determined by the Planning Inspectorate.
- 2.4** The council will track compliance with each provision contained in a legal agreement as a development proceeds to ensure that payment of financial contributions and completion of non-financial obligations is in accordance with the terms in the agreements. The council will require a monitoring fee charged at the rate of 2% for the first £3 million and 1%

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thereafter on the total sum of all S106 contributions. Late payment of contributions will incur additional interest charges at the rates set out in the Agreement.

**2.5** The council will require a payment for the preparation of the legal agreement. The current minimum charge is £550.

**2.6** Details regarding planning obligations and CIL payments will be recorded on a database. This will include what payments are due, triggers, and where/on what the funds are to be spent. Reports on the holding balances, and how the funds have been used will be made available annually within the planning authority's Annual Monitoring Report or equivalent.

**3. Late Interest Payments**

**3.1** In the event of any delay in making any payment required under a s106 Agreement, (regardless of whether or not any formal demand for payment has been made by the Council) interest shall be added to such contribution until payment is made on a daily basis at the rate of 5% per annum above the standard rate of Barclays Bank plc.

**4. Triggers for Planning Obligations**

**4.1** Planning Obligations are normally triggered on commencement of development i.e. the date on which works to begin the development start, as defined by the carrying out of a material operation (Section 56 of the 1990 Town and Country Planning Act), but may be earlier or later e.g. upon first occupation.

**5. Timing of Developer Contributions Payments**

**5.1** The timescale for payment of planning contributions will be set out in the Agreement. This will normally be due on commencement of development, but maybe prior to completion or first occupation. In the case of significant major development, payments may be phased to assist development viability.

**6. Inflation**

**6.1** Unless otherwise stated to the contrary all contributions (sums payable) by the owner will be subject to increase by application of the principles of indexation. For the purpose of applying indexation the index will mean the Building Cost Information Service All-in Tender Price Index (TPI) (SE England excl. London) of the Royal Institution of Chartered Surveyors.

**6.2** For the purposes of Affordable Housing Contribution and Public Transport separate indices are used.

**6.3** Indexation will commence on the date planning permission is issued and will end on the date(s) the Contributions or sums are actually paid in full.

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**6.4** Further detail on the above matters are set out in the S106 agreement documentation and via the council's Legal Service.

**7. Use of s106 Financial Contributions**

**7.1** When a financial contribution is secured, the use of the funds will be stipulated in the s106 Agreement.

**7.2** Time limits, usually ten years from the date that the contribution is paid in full (but potentially longer), for the expenditure of financial contributions will be included within the planning obligation agreements. After the agreed time limit, any unused contributions are returned to the developer with any accrued interest.

## Appendix C

### Approach to CIL Charging

#### Introduction

Note: This section is intended to be helpful to the reader but it does not replace or override the formal Acts and Regulations. The city council accepts no liability should any of the information in this SPD contradicts or is contrary to these Acts and Regulations.

The CIL will apply to most development, although some uses will have a zero charge. The levy rates will be set out in the CIL Charging Schedule once adopted by the council. Development involving less than 100m<sup>2</sup> floorspace of new build is exempt, *unless* one or more dwellings is created (in which case the exemption does not apply). If more than 100m<sup>2</sup> of floorspace is developed then CIL is liable on the whole amount.

Once adopted, CIL is chargeable on the “gross internal area” of the “development for which planning permission is granted” (Regulations 40 and 9 of the Community Infrastructure Levy Regulations 2010 (as amended)). This includes circulation and service space such as corridors, storage, toilets, lifts, etc. though there are some exemptions.

#### ‘s73 applications’

(Section 73 Town and Country Planning Act 1990) are not exempt from CIL liability. Determination of the chargeable development is clarified in the regulations as:

- Where the S73 is to change a condition subject to which a previous CIL liable permission was granted so that the amount of CIL payable would not change, then the chargeable development is the development for which planning permission was granted by the previous permission as if that development was commenced.
- Where the S73 is to change a condition subject to which a previous CIL liable permission was granted so that the amount of CIL payable would change e.g. due to change in gross internal area, the chargeable development is the most recently commenced or recommenced chargeable development.

Development commenced under general consent is liable to pay CIL. 'General consent' includes permitted development rights granted under the General Permitted Development Order 1995. Such cases will be required to submit a Notice of Chargeable Development prior to commencement of development to the Council in all cases unless the development is exempt from CIL under the minor exemption stated in Regulation 42 in the CIL Regulations or where the chargeable amount calculated under Regulation 40 is zero.

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Other contributions may also be required for development specific matters, such as through a Section 106 Town and Country Planning Act 1990 Legal Agreement and / or a Unilateral Undertaking.

### **Who is liable to pay the levy?**

Responsibility to pay the levy runs with the ownership of the land and the levy is registered as a local land charge. Liability to pay the levy may be assumed by the land owner or another party or parties, unless an application for social housing relief has been made (see note 3 below), by completing and submitting an Assumption of Liability (Form 1), which will be made available to download from the council's website.

The liability must be assumed by submission of a completed form before the development commences. Failure to submit prior to commencement of the development will result in the liable party/land owner losing any right to pay the levy in instalments, as set out in the council's Instalment Policy, and may incur a surcharge.

Liability may be transferred at any time before commencement of the development, unless an application for social housing relief has been made, by submitting the relevant forms 'Assumption of Liability Form', 'Withdrawal of Liability Form' and a Transfer of Liability Form as appropriate. If the council is unable to recover CIL from a party that has assumed liability, the liability defaults to the owner/s of the land. The CIL Liability Notice will be issued to the party/s that has assumed liability and/or to the landowner as well as to the planning applicant. CIL does not need to be paid until after the development has commenced.

### **Are there any exemptions from paying a levy?**

An owner of land is exempt from liability to pay CIL if that owner is a **charitable institution** and the chargeable development will be used wholly, or mainly, for charitable purposes. However, this does not apply where:

- that part of the chargeable development to be used for charitable purposes will not be occupied or under the control of the charitable institution;
- where the material interest is owned by the charitable institution jointly with a person who is not a charitable institution;
- where exemption of the owner from liability to pay CIL would constitute State aid.

The CIL Regulations also provide 100% relief from the levy on those parts of a chargeable development which are intended to be used as **social housing**.

Any person wishing to benefit from social housing relief must be an owner of the relevant land, assume liability to pay CIL, submit a claim in accordance with regulations to the Council and receive approval of the claim **all** before commencing development.

## Appendix D

### Viability

#### 1. Principles

- 1.1** The costs incurred in delivering a workable, high quality development commensurate with local standards and expectations are to be expected and should have been reflected in the price paid for the land, and will not normally reduce the ability of a site to provide necessary developer contributions. Expected costs include affordable housing, site clearance and remediation, good quality design measures, landscaping, noise and other environmental attenuation measures, and appropriate infrastructure provision (which may include highway and public transport measures). Price paid for land may not be a determining factor if too much has been paid or historic land values or developer profit margins are being protected at the expense of necessary contributions.
- 1.2** The city council has tested the viability of development in Peterborough as part of the development of the CIL, on the basis of current conditions and taking into account the provision of 30% affordable housing with no grant provision, in line with current policy requirements.
- 1.3** Viability and deliverability issues are a reoccurring theme throughout the Core Strategy and supporting/associated documents. There is a balance to be struck between meeting all policy requirements considered necessary for achieving sustainable development and financial viability at the macro-scale.

#### 2. The city council's approach to viability

- 2.1** A developer can easily calculate their likely CIL charge and can make a reasonable estimation for s106 planning obligations to address site specific impacts.
- 2.2** If developers wish to raise the viability of their development as an issue for its deliverability they will be expected to set it out in a formal submission to the city council prior to the submission of a planning application; including:
- Whether viability considerations mean that they are not able to provide the full policy requirements deemed to be necessary to be secured through a s106 (e.g. affordable housing) and the statutory CIL charges.
  - Why they consider not meeting the policy requirements should be found acceptable.
- 2.3** The assessment of this information will be considered on a case by case basis. It will involve weighing the additional benefits of a scheme (over and above for example the delivery of a development per se) compared with the degree of harm resulting from potential under-provision or delayed provision of infrastructure (including affordable housing). This will assist the city council in reaching a decision on whether or not the

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benefits of the scheme outweighs the general principle that planning permission should be refused unless policy requirements are met.

**3. Viability Assessments**

**3.1** If the principle that a reduction or deferral of contributions (including affordable housing) may be appropriate and has been discussed with the city council, then the developer will need to submit a viability assessment.

**3.2** An evidential approach to viability and benefits is required and the city council will not consider possible policy compromises simply on the basis of generalised arguments about the economy at large. What matters is the specific development economics of the scheme and an informed view as to what policy requirements can and cannot be reasonably and fairly afforded and the benefits of progressing on that basis. This allows for a fair and even-handed approach.

**3.3** The following additional guidance on viability assessments should be adhered to:

- Provision of financial information about the scheme will be on an “open book” basis;
- Developers should provide the following as part of their viability assessment:
  - Electronic version of the viability assessment in the form of the Homes and Communities Agency supported Development Appraisal Toolkit (DAT). Where appropriate other viability approaches may be acceptable subject to agreement with the city council;
  - Full Build Cost Plan;
  - Market Evidence for Sales Rates – set out in a sales and marketing report, including comparables;
  - Market evidence to support Gross Development Value and the assumptions on yield and financing costs. ;
  - Market Evidence for Site Value and/or legal evidence of land purchase price;
  - Development and Sales Programme;
  - Likely CIL charge including showing payments in line with the adopted Instalments Policy.
- The basis of the valuation will be on current values and costs, including current land values, rather than historic values or the price originally paid for the land. Larger schemes with longer development periods, phasing or with later implementation timeframes are likely to require a review of costs and values part way through the development.
- Any analysis will be based on land values as set by the application of planning policy in determining the permissible scope of development, rather than on the price actually paid for the land. For this reason valuations will be done on a residual basis where the value of land is an output of the process. Arguably no allowance should be made for the original cost of purchasing the land or for payments that are contracted to be made to the landowner or third party under an existing option, conditional land sale agreement, profit share (overage) or clawback arrangement. If

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it is suggested that the viability of the development is comprised as a result of an allowance for these items then it will be at the discretion of the city council as to what extent, if any, obligations are amended in recognition of them.

- A Development Appraisal will follow the principle as set out below:

$$\text{Gross Development Value} - \text{Total Build Costs} - \text{Developer's Profit} = \text{Residual Land Value.}$$

- The city council may seek independent valuation advice to review the viability assessment – the cost of that advice will be met by the developer.
- Any concerns regarding viability of the development must be highlighted by the developer at pre-application stage.
- Viability assessments should also be provided at the late/final pre-application stage, just before submission of the planning application, and certainly no later than when the planning application is submitted otherwise the application will not be validated.

**3.4** If the proposal involves affordable housing, the valuation assessment must assess the scheme on the basis of no grant for affordable housing. Written confirmation is also required to demonstrate grant funding is not available. Where the scheme delivers significant social benefits, special account may be taken of this in assessing the appropriate level of contribution.

**3.5** The Residual Value i.e. the payment to the landowner is a variable to take into account, assuming that sufficient positive land value is required for implementation of a permission. The Residual Land Value should exceed the Existing Use Value (EUV) and any Alternative Use Value (AUV) based on an extant planning permission for that use.

**3.6** The key variables to be considered include:

Value of residential sales

Independent evidence and evaluation will be required to justify the values used.

Value of affordable housing

The Council will require a statement setting out the assumptions made in terms of tenure, including where appropriate rents, yields, management costs and likely/agreed levels of Social Housing Grant if any.

Commercial values

Independent evidence and evaluation will be required to justify the values used, including rents, capital values and investment yields

Build Costs

A professional build cost plan will be required, including justification from a recognised quantity surveyor. Build costs must set out the quality of construction to be adopted

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including, if applicable, adopting building sustainability performance measures such as the Code for Sustainable Homes or Building Research Establishment Environmental Assessment Method. Any abnormal or exceptional costs that are identified must be explained and supporting evidence provided, including quotes for the identified works.

Planning obligations

Planning obligations in line with this SPD should be provided for, including affordable housing in compliance with the city council's adopted policy.

Finance Costs

Including borrowing rate and period of borrowing.

Developer's Profit

The appraisal must demonstrate the percentage profit that the scheme will deliver.

Existing Use Value or Alternative Use Value

A formal valuation in compliance with the requirements of the RICS Valuation Standards (the Red Book) will be required in support of the Existing Use Value and/or Alternative Use Value.

**4. Potential actions if "benefits" are identified**

- 4.1** If the city council considers that there are benefits of approving a non-policy compliant scheme, a number of potential courses of action will be considered to both enable the development to proceed but to also ensure the early delivery of the scheme and/or to capture any enhanced value arising from improved market conditions during the course of the development. These are as follows:
- 4.2** Deferred timing of planning obligations: This option will generally be explored first before considering reducing the quantum of contributions. Options that may be considered if justified include:
- Provision of site-specific infrastructure in phases with some on commencement of development and some at a later date, related to a specified trigger point.
  - Deferral of financial payments due under a planning obligation to a later stage of the development – however the city council will be cautious of this as it could lead to difficulties in securing the funds at a later stage in the development.
- 4.3** The city council will expect appropriate mechanisms to be included in the s106 agreement to provide maximum security/minimum risk to the city council in relation to securing these contributions.
- 4.4** Reduce quantum of contributions through s106 and use CIL funds to deliver what has been reduced from the s106 Agreement: Where viability issues still remain after investigating opportunities to defer the timing of obligations, it may be possible to reach an agreement with the city council whereby it will use a portion (minimal possible) of the compulsory CIL funds payable to deliver elements of the site specific infrastructure that

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would normally be secured through a s106 Agreement. If agreed, this will be set out in the R123 list and in the programmes of spend put forward on an annual basis by service providers (the IDS). Note: This process does not apply to Affordable Housing Provision.

**Example** – it is necessary for a development to undertake works to provide traffic management measures on the highway network because of the unacceptable impact on the highway network which is heavily congested at peak times. This would normally be secured by way of a s278 Agreement as part of a wider planning obligation agreement. If viability issues are demonstrated, that have not been addressed by other steps, then the city council and/or the Highway Authority could agree to waive the requirement to secure, via a planning obligation, some of these works

- 4.5** Reduce quantum of planning obligations including affordable housing: For this option to be used, the following principles apply:
- Reductions will be the minimum necessary to make the scheme viable.
  - A judgment will be made by the city council in terms of the scale of reduction required relative to the benefits of the scheme.
- 4.6** CIL 'Exceptional Circumstances' Relief: In addition to the mechanisms set out in this SPD to introduce as much flexibility into the system as is reasonably possible without compromising the ability to secure sustainable development in Peterborough, there is specific exceptional relief offered as part of the CIL. This is a last resort option and must be in line with the regulations permitting such relief
- 4.7** Mechanisms to secure early delivery: Where changes to the timing or quantum of contributions are agreed the city council will likely seek the early delivery of the scheme. These may include:
- Granting of a short life planning permission – e.g. maximum of 12 months.
  - Securing commitments to commence development within a specified period of time after the granting of planning permission.
  - Specifying time limits on the time allowed to complete the scheme, and/or specific phases or elements of a scheme.
- 4.8** Securing additional funding: To help assist with the delivery of infrastructure and affordable housing, particularly where contributions have been reduced or the timing of infrastructure delayed as a result of viability considerations, the city council will expect developers and their partners to bid for funding streams where available. The city council will be able to offer information in relation to this on request.
- 4.9** Mechanisms to capture any uplift in the market: Where the city council has accepted reductions in the level of contributions/affordable housing based on the current viability situation, it will expect mechanisms to be put in place that allow additional contributions to be provided later in the scheme if and when viability has improved. This is likely to take

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the form of overage or clawback clauses in the s106 agreement. The city council will expect any such clauses to be based on the following principles:

- Any calculations of clawback should be based on the uplift in net profit of the scheme (not gross development value);
- The “clawback” should constitute a substantial element of the additional net profit, secured as additional financial contributions and/or affordable housing;
- Clawback/overage clauses will require a re-assessment of costs and values (and validation) of the scheme near to the end of the development, at around the time that 90% of the development has been completed;
- The re-valuation will require independent assessment (such as by the District Valuer) with the cost of this independent assessment to be met by the developer;
- Any enhanced value/profit identified from the scheme should not include any input from any grant secured – such grant should be used in full for delivering the infrastructure/affordable housing that it was provided for;
- Clawback may be accepted in the form of affordable housing units rather than financial contributions;
- The amount of clawback secured will be limited to the full policy requirement for the scheme.

## Appendix E – Draft CIL Regulation 123 List

### Draft CIL Regulation 123 List

#### Peterborough City Council Community Infrastructure Levy

(To accompany the Community Infrastructure Levy Draft Charging Schedule consultation)

The infrastructure listed below has been divided into infrastructure types in Peterborough that are eligible for CIL funding and those that are not.

The Draft Regulation 123 list, as set out below, defines which projects and/or types/sections of infrastructure that the council will fund through CIL revenues. It will take effect upon the implementation of the Council's CIL Charging Schedule. The list is not definitive, and in no order of priority, as no formal decisions have yet been taken to confirm how CIL funds will be allocated amongst the listed infrastructure types/projects. It lists infrastructure types/projects that CIL could be used to fund, and by default, what S106 planning obligations contributions can't.

Infrastructure types and/or projects that will, or may, be funded in whole or in part by CIL:

<b>Development Specific infrastructure (Non-CIL funded)</b>	<b>Remaining Infrastructure (CIL funded in whole or part )</b>
Local site-related road / transport requirements	Remaining Roads and other Transport facilities
Site specific education provision contributions for sites of 500 dwellings or more	Remaining Educational facilities
Site specific health provision contributions for sites of 500 dwellings or more	Remaining Health facilities
Site specific indoor sports and recreational facilities contributions for sites of 500 dwellings or more	Remaining Indoor Sports and Recreational facilities
Site specific community buildings contributions for sites of 500 dwellings or more	Remaining Community buildings
Site specific library, museum, and life-long learning provision contributions for sites of 500 dwellings or more	Remaining library, museum, and life-long learning facilities
Site-specific waste management provision contributions	Remaining Waste Management infrastructure
Site specific emergency services contributions for sites of 500 dwellings or more	Remaining Emergency services
Local site-related utility requirements	Remaining Utilities
Local site-related flood risk management solutions/ requirements	Remaining Flood risk management schemes
Site specific public realm contributions for sites of 500 dwellings or more	Remaining Public Realm infrastructure
Site specific strategic outdoor open space contributions for sites of 500 dwellings or more	Remaining strategic outdoor open space infrastructure
Site specific non-strategic open space provision contributions for sites over 14 dwellings	Remaining non- strategic outdoor open space infrastructure
	Crematorium and Burial Grounds

	infrastructure
	Strategic Green infrastructure

## Appendix F – Open Space Glossary

### Doorstep Outdoor Play Space - DOPS (accompanied children up to 7 years of age - replacing LAPs)

These represent the base level of facility provision. The aim is to make them very accessible and therefore within easy reach of accompanied young children.

Because of the basic requirements, these facilities might be located on a wide range of open spaces that also serve other purposes. Parks and many existing green spaces will meet this requirement for a very local area for young children, and provision of playspace for the very young should therefore be considered in the context of the wider Open Space Strategy.

However, there are parts of the City not within easy reach of a park or green space, and there may be a need in such locations to consider LAP's.

DOPs should be within easy walking distance (5 minutes walking time from home). Wherever possible they should be located to coincide with routes and destinations for other regular trips (school, shops, parks etc). They may also be located on open space shared for other compatible recreation (such as in parks, playing fields, or general amenity space). They need to accommodate, for example, low-key games and exercise, imaginative/social play, and play with small toys. The emphasis is on encouraging younger children to be accompanied and regularly visiting whilst the parent/carer is on route to (say) school or local shops.

No minimum space specification is appropriate, subject to provision of sufficient space to allow for creative play taking into account surrounding physical constraints.

The funding and maintenance of such areas are addressed elsewhere in this Supplementary Planning Document.

#### Local Areas of Play (LAPs)

As above but inclusive of at least three pieces of play equipment and small low key games area with play features on approximately 50-100m<sup>2</sup>.

**Junior Outdoor Play Space (JOPS) (replacing NPFA LEAPs.)**

These are aimed primarily at junior school children (although there should be consideration to the needs of younger accompanied children for equipped playspace). The following specification reflects evidence that most parents and many children prefer to walk further to get to better-equipped playspace as well as providing for ball and wheeled play and preferences for well-designed and landscaped play space.

Provision per population	1:2,000 people
Location	10 minutes walking time from home – straight line distance 450 m.
Target age group	Accompanied and unaccompanied seven to eleven-year-olds.  Consideration should also be given to accompanied younger children (segregated area).
Purpose	A Junior Play Area should cater for a large range of play activity, including an area for informal ball games and/or low key wheeled sports.
Equipment/Landscaping	<p>Play area designed as per good practice guidelines and include minimum 6 differing items of traditional play equipment.</p> <p>They should also contain 'low key' casual ball play and/or wheeled sports facilities. For example:</p> <ul style="list-style-type: none"> <li>• An informal Wheel Play facility (Max height 1m approx);</li> <li>• A single ended 'multi use ball games area' comprising Goal mouth; Basket/netball hoop; Cricket Stumps; rear (ball retention) wall (3m high) on a tarmac playing surface.</li> </ul> <p>Some form of Shelter (Meeting Place) should also be provided to give some protection from rain &amp; wind.</p> <p>For the younger users equipment included should be small-scale and appropriate for young children.</p> <p>Also to include seating for adults.</p> <p>Landscaping to maximise play value.</p>
Area	<p>Activity zone minimum of 625 sq m.</p> <p>Buffer zone 30 m between the edge of the activity zone and residential property. The buffer zone should include footpaths and planted areas. Buffer zone landscaping to include child-friendly</p>

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	planting (e.g. natural scent, colour and texture).
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**Youth Outdoor Play Space (YOPS) (replacing NPFA NEAPS)**

Designed specifically to meet the needs of older children and young people, reflecting their greater mobility and willingness to walk further than younger children.

Provision per population	1:8,000 people
Location	Within 20 minutes walking time from home – straight line distance 800m
Target age group	Primarily for unaccompanied and unsupervised 12-16 year-olds (some provision for younger children)
Purpose	Provides challenging and stimulating play opportunities and youth facilities
Equipment/Landscaping	<p>Play area designed as per good practice guidelines and include 2 separate Areas as below:</p> <ol style="list-style-type: none"> <li>1. A range of challenging and stimulating play facilities. At least 8 items (could be variously linked in multi-play units) with at least 4 items to encourage more adventurous climbing, swinging or gliding (e.g. aerial runway).</li> <li>2. Hard surface floodlit Multi-Use Games Area of at least 465 sq m. and/or wheeled play facilities.</li> </ol> <p>Landscaping to maximise play value.</p> <p>Also to include:</p> <ul style="list-style-type: none"> <li>• Seating for adults.</li> <li>• Youth shelter/seating/meeting area for teenagers (well lit).</li> </ul> <p>The site may also include additional/alternative youth facilities in line with consultation with local young people.</p>
Area	<p>Total Activity zone minimum of 1000 sq m.</p> <p>Buffer zone at least 35m from activity zone to nearest residential property (50m if formal skateboarding facilities included).</p>

### Family Outdoor Play Space (FOPS)

Within the city access to Family Play Facilities is an objective of the open space standards. These cater for all age groups (young accompanied children to youth). When planning new facilities consideration must be given to accessibility from the rural areas too.

Provision per population	1:35,000 people
Location	Within 20 minutes cycle-time (3 to 4 mile straight line distance) on safe routes, links to public transport, and normally linked to a popular city wide park destination.
Target age group	Families - Unaccompanied and accompanied under 19 year-olds.
Purpose	To provide challenging and stimulating play opportunities for all age groups. Family visits.
Equipment/Landscaping	<p>Play area designed as per good practice guidelines to include 3 separate Areas as below:</p> <ol style="list-style-type: none"> <li>1. <i>Toddler area (under 7s)</i> - small-scale and appropriate for the age; at least 3 types of equipment; seating and dog fencing. Landscaping to maximise play value.</li> <li>2. <i>Junior area (7-11s)</i> - minimum 6 differing items of traditional play equipment. <ul style="list-style-type: none"> <li>Containing 'low key' casual ball play and/or wheeled sports facilities. For example: <ul style="list-style-type: none"> <li>• An informal Wheel Play facility (Max height 1m approx);</li> <li>• A single ended 'multi use ball games area' comprising Goal mouth; Basket/netball hoop; Cricket Stumps; rear (ball retention) wall (3m high) on a tarmac playing surface.</li> </ul> </li> </ul> </li> <li>3. <i>Over 12s area</i> - Hard surface Multi-Use Games Area of at least 465 sq m. and/or formal wheeled play facilities.</li> </ol> <p>Landscaping to maximise play value.</p> <p>Also to include:</p> <ul style="list-style-type: none"> <li>• Seating for adults.</li> <li>• Youth shelter/seating/meeting area for teenagers.</li> <li>• Nearby toilets and facilities for refreshments</li> </ul>

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	The site may also include additional/alternative youth facilities in line with consultation with local young people.
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**Family Outdoor Play Space (FOPS) cont'd**

Area	Activity zone minimum of 1500m <sup>2</sup> .  Buffer zone 30 m between the edge of the activity zone and residential property. The buffer zone should include footpaths and planted areas. Buffer zone landscaping to include child-friendly planting (e.g. natural scent, colour and texture).
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**Allotments**

Provision per population	0.28ha per 1,000
Location	Within 15 minutes walking time from home – straight line distance 560m.
Target age group	Families - Unaccompanied and accompanied under 19 year-olds.  Independent adults of all ages
Purpose	For allotment gardening / community farming
Equipment/Landscaping	Fencing, road/pathways and water supply to plots.
Area	Min size approx. 0.5ha

**Neighbourhood Parks**

Neighbourhood Parks cater for all age groups (young accompanied children to youth).

Provision per population	1:2,500 people
Location	Within 15 minutes walking time from home – straight line distance 560m.
Target age group	Families - Unaccompanied and accompanied under 19 year-olds. Independent adults of all ages
Purpose	Formal and informal recreational pursuits for all age groups, including sitting out and walking.
Equipment/Landscaping	Landscaped area with formal and informal planting, providing a range of activities that may include outdoor sports facilities and playing fields, children's play for different age groups.
Area	Between 1-6ha.

## Appendix G

### Indicative Thresholds for Transport Assessments

Thresholds based on size or scale of land use						
	Land Use	Use/ description of development	Size	No Assessment	Transport Statement	Transport Assessment / Travel Plan
1	Food retail (A1)	Retail sale of food goods to the public – food superstores, supermarkets, convenience food stores.	GFA	<250 sq. m	>250 <800 sq.m	>800 sq. m
2	Non-food retail (A1)	Retail sale of non-food goods to the public; but includes sandwich bars – sandwiches or other cold food purchased and consumed off the premises, internet cafés.	GFA	<800 sq. m	>800 <1500 sq.m	>1500 sq. m
3	A2 Financial and professional services	Financial services – banks, building societies and bureaux de change, professional services (other than health or medical services) – estate agents and employment agencies, other services – betting shops, principally where services are provided to visiting members of the public.	GFA	<1000 sq. m	>1000 <2500 sq. m	>2500 sq. m
4	A3 Restaurants and cafés	Restaurants and cafés – use for the sale of food for consumption on the premises, excludes internet cafés (now A1).	GFA	<300 sq. m	>300 <2500 sq.m	>2500 sq. m
5	A4 Drinking establishments	Use as a public house, wine-bar or other drinking establishment.	GFA	<300 sq. m	>300 <600 sq.m	>600 sq. m
6	A5 Hot food takeaway	Use for the sale of hot food for consumption on or off the premises.	GFA	<250 sq. m	>250 <500 sq.m	>500 sq. m
7	B1 Business	(a) Offices other than in use within Class A2 (financial and professional services) (b) research and development – laboratories, studios (c) light industry	GFA	<1500 sq. m	>1500 <2500sq.m	>2,500 sq. m
8	B2 General industrial	General industry (other than classified as in	GFA	<2500 sq. m	>2500 <4000 sq. m	>4000 sq. m

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		B1),The former 'special industrial' use classes, B3 – B7, are now all encompassed in the B2 use class.				
9	B8 Storage or distribution	Storage or distribution centres – wholesale warehouses, distribution centres and repositories.	GFA	<3000 sq. m	>3000 <5000 sq. m	>5000 sq. m
10	C1 Hotels	Hotels, boarding houses and guest houses, development falls within this class if 'no significant element of care is provided'.	Bedroom	<75 bedrooms	>75 <100 bedrooms	>100 bedrooms
11	C2 Residential institutions - hospitals, nursing homes	Used for the provision of residential accommodation and care to people in need of care.	Beds	<30 beds	>30 <50 beds	>50 beds
12	C2 Residential institutions – residential Education	Boarding schools and training centres.	Student	<50 students	>50 <150 students	>150 students
13	C2 Residential institutions – institutional hostels	Homeless shelters, accommodation for people with learning difficulties and people on probation.	Resident	<250 residents	>250 <400 residents	>400 residents
14	C3 Dwelling houses	Dwellings for individuals, families or not more than six people living together as a single household. Not more than six people living together includes – students or young people sharing a dwelling and small group homes for disabled or handicapped people living together in the community.	Dwelling Unit	<10 units	>9 <80 units	>80 units
15	D1 Non-residential Institutions	Medical and health services – clinics and health centres, crèches, day nurseries, day centres and consulting rooms (not attached to the consultant's or doctor's house), museums, public libraries, art galleries, exhibition halls, non-residential education and training centres, places of worship, religious instruction and church halls.	GFA	<500 sq. m	>500 <1000 sq.m	>1000 sq. m
16	D2 Assembly and leisure	Cinemas, dance and concert halls, sports halls, swimming baths,	GFA	<500 sq. m	>500<1500 sq.m	>1500 sq. m

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		skating rinks, gymnasiums, bingo halls and casinos. other indoor and outdoor sports and leisure uses not involving motorised vehicles or firearms.				
17	Others	For example: stadium, retail warehouse clubs, amusement arcades, laundrettes, petrol filling stations, taxi businesses, car/vehicle hire businesses and the selling and displaying of motor vehicles, nightclubs, theatres, hostels, builders' yards, garden centres, POs, travel and ticket agencies, hairdressers, funeral directors, hire shops, dry cleaners.	TBD	Discuss with appropriate highway authority	Discuss with appropriate highway authority	Discuss with appropriate highway authority

Thresholds based on other considerations				
	Other considerations	TS	TA	TA/TP
1	Any development that is not in conformity with the adopted development plan.			✓
2	Any development generating 30 or more two-way vehicle movements in any hour.		✓	
3	Any development generating 100 or more two-way vehicle movements per day.		✓	
4	Any development proposing 100 or more parking spaces.		✓	
5	Any development that is likely to increase accidents or conflicts among motorised users and non-motorised users, particularly vulnerable road users such as children, disabled and elderly people.			✓
6	Any development generating significant freight or HGV movements per day, or significant abnormal loads per year.		✓	
7	Any development proposed in a location where the local transport infrastructure is inadequate. – for example, substandard roads, poor pedestrian/cyclist facilities and inadequate public transport provisions.		✓	
8	Any development proposed in a location within or adjacent to an Air Quality Management Area (AQMA).		✓	

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