# APPEAL BY WADDETON PARK LTD

## PINS REFERENCE: APP/Y1138/W/22/3313401

## LAND AT HARTNOLLS BUSINESS CENTRE

# ADDITIONAL STATEMENT OF COMMON GROUND

## OUTLINE PLANNING APPEAL FOR THE EXTENSION TO THE EXISTING BUSINESS PARK FOR UP TO 3.9HA OF EMPLOYMENT LAND AND UP TO 150 RESIDENTIAL DWELLINGS WITH ASSOCIATED OPEN SPACE AND INFRASTRUCTURE (WITH MEANS OF ACCESS TO BE DETERMINED ONLY).

## AUGUST 2023

**PCL Planning Ltd**
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## 1.0 Introduction

1.1 On 21st August 2023, following the exchange of the proofs of evidence, the Appellant wrote to Mid Devon District Council ("MDDC") expressing its concern that MDDC's evidence, in particular the proof of evidence of Mr. Aspbury (the planning consultant appointed to represent MDDC at the inquiry), both (i) significantly expanded MDDC's case beyond that set out in the reasons for refusal and its statement of case and (ii) was inconsistent with a number matters which were agreed in the original statement of common ground. The letter explained why, in its view, MDDC's evidence contravened procedural safeguards and led to significant prejudice to the Appellant. It requested, amongst other matters, that parts of Mr. Aspbury's proof of evidence should be deleted and not relied upon by MDDC. The Appellant's letter is attached at **Annex A**.

1.2 On 23rd August 2023, MDDC responded. MDDC made clear that they did not agree with all of the matters raised in the Appellant's letter. However, it confirmed that it did not intend to move away from the matters agreed in the statement of common ground. It further agreed that parts of Mr. Aspbury's proof of evidence should be deleted and would not be relied upon by MDDC at the inquiry. MDDC's letter is attached at **Annex B**.

1.3 Since the exchange of letters, the parties have liaised and agreed to produce this additional statement of common ground.

## 2.0 Additional Matters of agreement

It is agreed between MDDC and the Appellant that:

- Mr. Aspbury's proof of evidence should be read as omitting those passages identified as being deleted in MDDC's letter of 23rd August 2023. MDDC will issue an updated version of Mr. Aspbury's proof striking through those passages which are deleted.
- MDDC do not seek to rely on those the deleted passages of Mr. Aspbury's proof as forming any part of its case against the appeal scheme.
- The conclusions of the Landscape and Visual Appraisal (LVA) are not disputed. The LVA judged (see table 5.2) that, in respect of visual impacts, that the proposed scheme would give rise to low-medium or medium and (in all cases) neutral overall effects. Whilst the proposal would result in a change to views experienced by receptors, assuming appropriate design and landscape mitigation (which MDDC agree is capable of being secured at reserved matters stage), the overall visual effect could be neutral (see section 6.1).
- MDDC do not seek to rely on visual impacts as constituting a reason for refusal.
- MDDC's position is that Policies S10-S14, which are referenced in RFR1, are fundamental to the strategy of the Local Plan in directing growth to the most sustainable locations of which the appeal site is not one. There is therefore a sustainability argument in principle in policy terms. However, MDDC does not contend that the appeal scheme is otherwise in an unsustainable location (e.g. by virtue of its accessibility to local facilities or choice or transport modes it offers) or that is contrary to policy outlined in NPPF, para 105.
- MDDC contends that the appeal scheme would establish an unacceptable precedent for further development in the area in that it is a development which lies outside of a settlement boundary.
- MDDC does not contend that the grant of appeal would prejudice the

emerging Local Plan review.

- MDDC does not rely on the Devon Waste Plan, including policy W21, either as a reason for refusing the appeal scheme or constituting a reason for justifying a financial contribution.

Name Dean Emery – Corporate Manager

Signed [redacted]

Date 31st August 2023 On behalf of Mid Devon District Council

Name David Seaton

Signed [redacted]

Date .....31st August 2023..... On behalf of Waddeton Park Ltd

**Annex A**
**Appellants letter dated 23/08/23**

**Your Ref** **21/01576/MOUT**
**Our Ref** **DS/SJS/1883**
**Date** **21st August 2023**

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Tristan Peat
Mid Devon District Council
Phoenix House
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Dear Arron,

**LAND AT HARTNOLLS FARM**
**APPLICATION REFERENCE: 21/01576/MOUT**
**APPEAL REFERENCE: APP/Y1138/W/22/3313401**

We write in respect of the proofs of evidence in respect of the above Inquiry which we received earlier this week.

**Mr Aspbury's evidence**

We were astonished to read Mr Aspbury's proof of evidence. The case it advances against the Appeal Scheme is, in many respects, unrecognisable from that which was set out in the Council's reasons for refusal and Statement of Case. Worse still, it directly contradicts matters which were agreed in the Statement of Common Ground some seven weeks ago.

This is highly inappropriate. It runs roughshod over the legislative and policy safeguards which are in place to ensure that all parties to planning inquiries adopt a 'cards on the table' approach, and to guard against unfairness. Regrettably, it would appear necessary to remind the Council of these safeguards.

First, Article 35(1)(b) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires that decision notices must *"state clearly and precisely their full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision".* The reasons for refusal therefore establish the ambit of the Council's case. It is not appropriate for the Council to use the appeal process to expand their case beyond the remit of the reasons for refusal. It is particularly inappropriate to do so in a proof of evidence which bears no resemblance to the statement of case or statement of common ground.

Second, the statement of case plays an important role in the appeal process. It enables every party, at an early stage in the appeal proceedings, to understand the case which is made against them. The Town and Country Planning (Inquiries

Procedure) Rules 2000 ("the 2000 rules") requires statements of case – meaning

- to be filed well in advance of the Inquiry. Similarly, PINS Procedural Guide requires parties to submit *"a full statement of case"* which contains *"all the details and arguments…which a person will put forward to make their case in the appeal"* (para 12.1.1). It specifically requires that the LPA's statement of case *"Must*

*LPA*

*should not, normally, introduce additional policies or raise new issues beyond those in the reasons for refusal (or likely reasons if the appeal is against non-determination*)".

Third, a statement of common ground is critical to the proper running of an inquiry. Again, they are required to be filed the 2000 rules. We refer to PINS guidance which explains that "

*LPA*

- **Visual harm** - the contention that the appeal scheme would cause *"unacceptable visual intrusion"* constituting *"harm"* which should *"attract significant weight"* (paras 6.7-6.8) is perhaps the most egregious example of Mr Aspbury running a frolic of his own . The Council has never advanced a case against the appeal scheme on the basis of visual harm. Visual harm was not mentioned in its reasons for refusal or statement of case. The Council's second reason for refusal originally contended that the scheme would give rise to moderate adverse impact on *landscape character* only. However, this was based on a misreading of the LVA. As confirmed in the statement of common ground, the Council now agrees that *"the proposed commercial and residential development would not adversely harm landscape character."* (Para 7.4) and that it no longer seeks to rely on this reason for refusal (para *7.5*). Although Mr Aspbury purports to respect this agreed position (para 6.8), this acknowledgment is disingenuous as the points he now seeks to raise (see e.g. para 3.3-3.4, 6.8-6.9) are

inconsistent with the Council's acceptance that the appeal scheme would cause no landscape harm. Furthermore, and in any event, the SoCG records that the conclusions of the Landscape and Visual Appraisal (LVA) are agreed, including in respect of visual impacts (para 7.6-10). Mr Aspbury's contentions about the visual impact of the Appeal Scheme are wholly at odds with the conclusions of the LVA, recorded at paras 7.9-7.10 of the SoCG. **Accordingly, the case concerning visual impact advanced by Mr Asbury is not only well outside of the scope of the Council's case, it is directly contrary to the position agreed in the SoCG.**

- **Locational Sustainability** – the allegation that the appeal scheme is not in a location which is or can be made sustainable, contrary to NPPF, para 105 – and therefore that the scheme cannot be considered *"sustainable"* as a whole (paras 10.4-10.5) - is entirely new. It was not a point taken against the scheme in the OR, reasons for refusal or statement of case. None of these documents contended that there was a breach of para 105 of the NPPF, nor related local plan policies, such as DM1(d) *("Creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling")* Indeed, the OR expressly concluded that "*In accordance with LP policy and the NPPF it is considered that appropriate opportunities to promote sustainable transport modes have been considered"* (OR, para 4.12), before concluding that the proposal was in accordance with relevant development plan policies, including DM1 (para 4.15).. The issue of locational sustainability was not a matter addressed in the SoCG for the simple reason that there was, hitherto, no suggestion that the location of the appeal scheme– immediately adjacent to the TEUE, in Mid Devon's most sustainable settlement – was unsustainable.

- **Precedent/Local Plan** – Mr Asbury contends that the appeal scheme would *"fundamentally prejudice and pre-empt the ongoing review/replacement [Local Plan] process…"* (para 7.3). Although Mr Asbury disavows taking a prematurity point, it would appear that he is submitting that he is suggesting that this is a material consideration telling against the appeal scheme – otherwise why mention it. Once again, this is a wholly new point taken against the appeal scheme, without any basis in the OR, reasons for refusal or statement of case.

These points have been raised without any forewarning to the Appellant, notwithstanding that Mr Aspbury was in contact with Mr Seaton regarding a number of procedural matters prior to the exchange of evidence.

***Authority?***

We understand that Mr Asbury was only very recently appointed to represent the Council at the upcoming inquiry. His evidence bears so little resemblance to the Council's case as previously set out that it calls into question whether his proof is advancing the case of the authority or simply representing his own private views.

Accordingly, we require details of the authority (if any) that the Council gave, in accordance with its Council's constitution and scheme of delegation, for Mr Aspbury's proof of evidence to be filed in its current form. In particular, we require details of the authority (if any) given to Mr Aspbury to expand the Council's case in the manner described above, well beyond that contained in the reasons for refusal and statement of case. This is in addition to the way forwards that we propose below.

***Way forward***

In light of the breaches of the procedural safeguards set out above, and given the extent to which Mr Asbury's evidence extends beyond the Council's case, if Mr Aspbury's proof was to be admitted in its current form it would cause to significant prejudice to the Appellant. The evidence that the Appellant has produced seeks to address the matters raised within the reasons for refusal, to the extent that they still remain in issue having regard to the Council's SoC and the SoCG. For obvious reasons the Appellant has not sought to address the wholly new issues raised by Mr Aspbury which, as explained above, go well beyond the remit of the reasons for refusal and are, in a number of respects, contrary to the agreed position in the SoCG.
In order to remedy the unfairness, and to ensure that the Inquiry can proceed as planned, we require that the following sections are deleted from Mr Aspbury's proof:

- Paras 3.3-3.4
- Paras 6.6-6.8
- Paras 7.3-7.4
- Paras 10.4-10.5
- Para 10.7 – delete *"perpetuate unsustainable travel from what is a relatively poorly served location and be visually intrusive"*

indicate that they would be unlikely in a position to provide proofs of evidence in good time prior to, or attend, the current dates for the Inquiry. Our landscape expert, for instance, is currently away, and does not return until 30th August, so we have been unable to speak to him about the new landscape and visual points. It is therefore highly likely that, if these new points are to be maintained, we would need an adjournment of the inquiry in order to procure this new evidence. Whether or not this is so required, you will not be surprised to learn that the Appellant will be seeking the entirety of any costs it incurs as a result of the introduction of these wholly new points against the scheme so late in the day. This would include the full costs of any adjourned inquiry.

We very much hope this will not be necessary, and therefore would urge the Council to consider carefully our proposal that the aforementioned parts of Mr Aspbury's proof be omitted and not relied upon by the Council.

**Other matters**

Regrettably the Council's unsatisfactory approach is not confined to Mr Aspbury's evidence.

Firstly, Arron Beecham's evidence on 5 year Housing Land Supply is not consistent with the 5 year Housing Land Supply statement previously published and provided to the Appellant (CD25). Mr Beecham's evidence changes both the 5 year requirement figure and the deliverable sites on which the Council relies. This has been produced without forewarning, and contrary to our understanding of the indications given by the Council's advocate at the CMC. Unsurprisingly, the Appellant has produced its evidence in response to CD25. Although it would be possible for the Appellant to respond to the new evidence base, this will require substantial additional work. We suggest that the Council's case on 5 year housing land supply should therefore progress on the basis of CD25, which after all remains its published position. If this is not agreeable, then the Appellant will seek the costs of the additional work required to address and respond to the Council's new position. We therefore require confirmation of the Council's intend approach.

Second, it is clear that the Council have jettisoned its responsibility of justifying the financial contributions by reference to CIL Regulation 122, by leaving it to DCC to provide evidence in respect of education, transport and waste management. DCC have produced a 'statement', but it is entirely unclear whether they intend to attend the Inquiry to give evidence. We would be grateful for clarification. In any event, DCC's statement too falls foul of introducing wholly new points. For instance the allegation that the Appeal Scheme would contravene Policy W21 of the Devon Waste Plan: a policy (and indeed a plan) which was neither mentioned in the reasons for refusal, statement of case or the SoCG, the latter of which identified the Local Plan as being the only development plan document of relevance to these proposals (paras 5.1-5.2). We therefore

also require confirmation that the Council will not seek to rely on Policy W21 of the Waste Plan as part of its case.

We look forward to hearing from you on all of the above issues by 4pm on Wednesday 23rd August. If we do not receive a satisfactory response then we will make a formal application to PINS concerning the above matters.

Your sincerely,

Kind regards,

David Seaton, BA (Hons) MRTPI
**For PCL Planning Ltd**

c.c. Robert Wordsworth, PINS
Arron Beecham, Angharad Williams, Richard Marsh, MDDC
Tony Aspbury, Aspbury Planning
Leanne Buckley-Thomson, No5 Chambers
Clare Mirfin, Pinsent Masons
Robert Williams, Cornerstone
Charles Banner, Keating Chambers

**Annex B**
**MDDC letter dated 23rd August 2023**

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**Tel:**

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**Your Ref**: DS/SJS/1883

**Date**: 23 August 2023

**My Ref**: 21/01576/MOUT

**Contact:** Mr Arron Beecham
Principal Housing Enabling and
Forward Planning Officer

Dear Mr Seaton,

**Land at Hartnoll Farm**
**Application Reference: 21/01576/MOUT**
**Appeal Reference: APP/Y1138/W/22/3313401**

Thank you for your letter which the Council has considered.

To be absolutely clear at the outset, the Council **does not** intend to move away from those matters agreed in the Statement of Common Ground between the parties which is reflective of the Council's case.

Mr Aspbury's instruction is dealt with at page 2, paragraph 1.2 of his proof and he is aware of the Council's case. The Council sees no need to detail any further the extent of his instruction. The Appellant will be aware that any witness must give evidence as they see fit in their capacity as a professional and in line with the rules of their respective professional bodies. Rather than manufacture evidence (which implies it is made up, a very strong allegation indeed) Mr. Aspbury has simply given his professional view. It would be entirely inappropriate for the Council, or the Appellant, to coach or create the evidence of its witnesses. That said, it is understood that some of what Mr Aspbury has written in his proof has caused concern to the Appellant, though the tone and language of the correspondence was unnecessary and unhelpful.

As the Council's position has not changed irrespective of Mr. Aspbury's evidence, and in an effort to assist, the Council is content to confirm that it does not and will not seek to rely upon the following excerpts:

**Paras 3.3-3.4**

The Council would contend that Para 3.3 is simply fact of how the Expert Witness views the planning context of the area, and is relevant to consideration of why the settlement policies are as they are. This is made clear with the sentence starting with 'it is my assessment'. It is fact that the area can be simply viewed as an open break between two settlements. The Council therefore propose no changes.

*3.3 It is my assessment that, moving in both directions along the main east/west road axis - eastwards along Post Hill/Tiverton Road towards Halberton and in reverse from that Village towards Tiverton (and also in both directions on Manley Lane), there is a clear sense that the Hill represents the physical and visual boundary between the Town to the west and the open countryside to the east and that this latter area constitutes an important open break between the two settlements.*

The Council agrees to the deletion of Para 3.4.

~~*3.4 I consider that that assessment is underpinned by the conspicuous transition in character, appearance and land uses – with agriculture (and to a lesser extent, the golf course) dominating the clearly open extensive landscape east of the Hill, and with the established and developing urban area domination to the west.*~~

**Paras 6.6-6.8**

The Council would contend that the first part of this paragraph is fact, and as such, does not see why it would be required to be removed. It is relevant to consideration of why the settlement policies are as they are. However, it is proposed that the second part of Para 6.6. be removed as shown below:

6.6 *Against this background, the definition of the settlement boundary and the Tiverton EUE outer eastern boundary properly utilises the strong Post Hill topographic feature as a key determinant/starting point. From near the crest of this eminence, two north-south roads run - the unnamed (?) lane running from Post Hill [the highway] north to Uplowman Road, along the western side of the Golf Course, and Manley Lane, running south from the main road. These hedgerow-lined physical/man-made features provide lucid, well-defined, established, logical and 'defensible' boundaries, complementing the local topography.* ~~*The consolidation of the urban form of the Town up to these boundaries will not intrude upon or detract from the openness and countryside character of the land to the east, including the Appeal Site, which, for the reasons I have given above, lies within a clearly recognisable open rural landscape extending uninterrupted (across the Grand Western Canal) eastwards. The definition of this boundary has been settled and justified in the Plan-making process and I see no grounds for seeking to override it now through this Appeal.*~~

The Council agrees to the removal of 6.7 and 6.8.

~~*6.7 Within this wider landscape envelope east of Post Hill, the Appeal Site is not contained by existing (strong) natural or man-made boundaries. On its north-eastern and south-eastern sides, the proposed development boundary cuts arbitrarily through existing fields, where the Appellant proposes extensive new structural landscaping to contain it visually. The perceived need for and the very scale and extent of this proposed mitigation underlines how visually intrusive and incongruous the proposed development would be and this landscaping would, in itself, constitute an alien feature. Thus, whilst the proposed development would be relatively inconspicuous in longer distance views, because of the topography and 'compartmentalisation' of the landscape with field boundaries and intervening landscape features, it will remain prominent in medium- and short- distance views from the east and south (including from the towpath of The Canal). The proposed access from Tiverton Road and the development around it will be especially prominent and intrusive as will the south east corner of the proposed extension to the Business Park and it will be some time before this harsh and arbitrary development edge is softened and screened by the new landscaping. Moreover, because, as I have noted above, the Site is not contained by strong natural or man-made features (and also because the land to the east is in the same agricultural land use and ownership), its development would set a precedent and, once such development has occurred, there would be nothing to prevent proposals for further ad hoc sprawl eastwards and southwards, justified on the same basis as is the present Appeal.*~~

~~*6.8 I should make clear at this point that I am not seeking to run a landscape harm case here, contrary to the SocG about no longer pursuing putative Reason for Refusal Number 2. Rather I am suggesting that the Appeal Proposal would be an unacceptable visual intrusion by introducing major urban development into an open area as well as constituting a clear policy conflict with the development plan and that reinforces the harm arising from that conflict. This harm should in my view attract significant weight.*~~

**Paras 7.3-7.4**

The Council considers that the first part of para 7.3 is relevant and states fact. The Council therefore only agrees to remove part of this paragraph as shown below.

*7.3 Because of the size of the Appeal Site, the amount and scale of development it can accommodate (150 dwellings and 3.9 hectares of employment development with an overall site size of 12.7 hectares) and the precedent that I have contended above it would set for further development,* ~~*there is, therefore, a demonstrable risk that if it is developed now, such development would fundamentally prejudice and pre-empt the ongoing Plan review/replacement process by predetermining the strategic location/direction of growth around Tiverton and, indeed, whether further significant growth should be admitted in and around the Town at all for the time being. In this context, I am not advancing a 'prematurity' argument here as I accept that the terms of Paragraphs 49 and 50 of the NPPF are not met in this case.*~~

Similarly with Para 7.4 the Council considers the first part of this to be factual and true to the SOCG. The Council will therefore agree to remove only part of this paragraph as shown below.

*7.4 So far as the employment element of the Appeal Proposal is concerned, the Council does not object to further such development in and around the Town, but considers that, as with further housing development, the best location for major proposals is best left to the Local Plan review/replacement. In the meantime, if an extension to the Business Park alone were to be promoted separately by the Appellant (something that is not before the Inspector), that would be considered on its merits in accordance with Policy S14, clause b) of the Local Plan*. ~~but I take the view that the Business Park extension as currently proposed, by its prominence and intrusive visual impact contributes cumulatively to the harm that the whole of the Appeal Proposal occasions.~~
~~- Paras 10.4-10.5~~

**Para 10.4 – 10.5**

The Council notes that there is no agreement in the SoCG that the appeal proposals are sustainable. Indeed, RFR1 makes reference to conflict with policies which include matters relating to sustainability. That said, the Council accepts that beyond any sustainability point related to the in-principle objection to the development due to its location (paragraph 9.2 SoCG), they do not run a case that the appeal proposals would be unsustainable in transport terms. Accordingly, the Council will not rely upon paragraphs 10.4 to 10.5.

~~*10.4 Whilst I have noted the Appellant's proposals to optimise sustainable transport access, including the Framework Travel Plan, I consider that the strategic location of the Appeal Site and its relationship to the rest of Tiverton, mean that the development would not be sustainable or be capable of being made so and it would be heavily dependent on the private motor car mode, contrary to Paragraph 105 of the Framework. In my view this is not a location which is, or is likely to be in the foreseeable future, adequately served by sustainable transport modes for the scale of development proposed. In this context, I consider that the Appeal Site, by its location, would be heavily dependent on the progress of the implementation of the adjoining EUE and on the delivery over time of the sustainable transport infrastructure it provides. As already noted above, the full delivery of the EUE, particularly the phases closest to the Appeal Site is likely to evolve over some years.*~~

~~*10.5 In the circumstances, and having regard to the my overall assessment of the Appeal Proposals in this and other part of my Proof, I do not consider that they can be considered to be 'sustainable development', attracting the presumption under Paragraph 11 of the NPPF, irrespective of whether the tilted balance is engaged.*~~

**Para 10.7 delete "perpetuate unsustainable travel from what is a relatively poorly served location and be visually intrusive" from Para 10.7**

The Council will agree to remove this from the proof of evidence.

*10.7 Set against these benefits the appeal scheme would be situated beyond the settlement boundary of Tiverton and in the countryside. It would conflict with the development plan's overarching locational strategy. ~~perpetuate unsustainable travel from what is a relatively poorly served location and be visually intrusive.~~*

In light of the above suggested amendments, the Council does not consider it necessary for the Appellant to rely upon any witnesses in respect of landscape and highways matters which are not matters in dispute between the parties.

**Housing Land Supply**

In respect of my evidence on Housing Land Supply, your letter sets out that the evidence '*is not consistent with the 5-year Housing Land Supply statement previously published and provided to the Appellant'*. This statement is misleading. I do not accept that the updated position at Appendix A of my proof has been produced contrary to the information provided by the Council's Advocate at the CMC.

No change has been made to the base data utilised within the Council's Housing Land Supply calculation. The only change made to the housing requirement was a product of discussions that took place with the Appellant via the Housing Statement of Common Ground process. It is therefore very surprising that any issue is being taken with such a change. The updated figure reflects the Council's agreement with the Appellant that historically, a number of gypsy and traveller completions were recorded within the total completions figures and should be deducted. This is corrected in Appendix A of my Proof of Evidence. The updated position was provided to aid the Inspector and indeed the Appellant in the correct housing requirement figure to be applied.

A handful of additional updates and corrections have been made to the supply of deliverable sites, namely to reflect the latest status on sites, to correct a handful of administrative errors, and account for changes that have been provisionally agreed through the Housing Statement of Common Ground process. As the Appellant will be keenly aware, it is not at all unusual when dealing with five-year supply evidence that those sorts of changes will be made. It would be a wholly artificial process not to update the Inspector and the inquiry, and indeed the Appellant so that they have the opportunity of a response, of those matters.

The Council's Statement of Case (CD3) is clear that the '*LPA will argue that it maintains a robust five-year supply of deliverable housing land'*. The Council is entitled to defend its housing land supply case robustly and strongly rejects any notion of procedural unfairness. The updated Five-Year Housing Land Supply position appended to my Proof of Evidence is not substantially different to that issued to the Appellant in March 2023. The Appellant has every opportunity to respond to these updates in their rebuttals and any additional work that the Appellant might need to do in order to

address the same will not be outside of that which would ordinarily be expected in the context of a live five-year housing land supply contest. The Council would therefore defend any application for costs generated from such work should one be made.

**CIL compliance**

The Council notes your paragraph with reference to CIL Regulation 122. We do not consider that we have jettisoned our responsibility of justifying the financial contributions through evidence being produced by DCC to justify the education and waste contributions sought; it being noted that no transport contribution is sought by DCC as per their statement, and as such the Council also does not seek the same any longer. As DCC are the authority with jurisdiction over education and waste matters, it is not at all surprising that the Council would properly take their advice as consultee as to what contributions are appropriate and indeed the evidence to support the same. It is, however, accepted that it is for the Council to consider the extent to which such contributions are CIL compliant and that it is for the Council to produce a CIL compliance schedule. That schedule is due on 6th September 2023 per the Inspector's post-CMC note. Indeed, the Council is now considering carefully both the evidence of the Appellant and DCC to come to its own conclusion on CIL compliance and will update both the Appellant and DCC asap as to the same.

It is understood that DCC does not intend to attend the Inquiry to give formal evidence but rather to contribute to the s106 roundtable in the ordinary way. Of course, should the Appellant have any submissions to make in respect of DCC's statement, those can be made during that session as indeed any questions of clarification may also be asked through the Inspector.

The Council wishes to continue to work with the Appellant. Indeed, it is noted that during the application stage additional information was repeatedly requested but regrettably not provided as noted at paragraph 1.5 of the SOC. The Council does not wish to dwell on the past though and hopes that moving forward the parties can continue progress to the appeal in a helpful way.

Yours sincerely,

Arron Beecham
Principal Housing Enabling and Forward Planning Officer
**For Mid Devon District Council**