TOWN AND COUNTRY PLANNING ACT 1990
(as amended)

Appeal by David Wilson Homes East Midlands and
Anthony Raymond Shuttlewood

Land off Cossington Road, Sileby,

Leicestershire, LE12 7SL

HEALTH MATTERS

Section 106 Planning Obligation Requirements

Leicester City Clinical Commissioning Group ("CCG")

REBUTTAL TO LEICESTER CITY CCG LETTER DATED 27TH APRIL 2022

Ben James Hunter

BA DipMS

PINS Reference: APP/X2410/W/21/3287864

LPA Ref: P/21/0491/2

Date: 27th April 2022

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1 Introduction

1.1 This document is produced in response to the letter sent to the Inspector of the Cossington Lane, Sileby Appeal, dated 27th April 2022, by Leicester City Clinical Commissioning Group ("CCG") in response to the Appellant's Rebuttal document dated 25th April 2022.

1.2 This letter responds to the three points made in the CCG's letter, in order to clarify areas that the CCG deems to be "factually incorrect".

2 CCG Evidence

2.1 **Point 1:** There is a dispute between the CCG and the Appellant with regards to double funding. The Appellant's point is that expansion works by a GP Practice, however they are financed, can be reimbursed by a particular funding stream based on rental value. This is known as Notional Rent Reimbursement[1]:

> ***7 REIMBURSEMENT***
>
> *The enlargement of General Practice premises can be funded by capital grant from the NHS Commissioning Board or by an increase in the Reimbursement indicated by the increase in floor area/rateable value of the premises. If the former, then rent abatement applies. This is all set out in the National Health Service (General Medical Services – Premises Costs) Directions 2013 that came into force 1st April 2013.*
>
> *GP practice funding is separate from patient funding. It is governed by The National Health Service (General Medical Services – Premises Costs) Directions 2013. GP practices (contractors) are eligible for rental reimbursements. The type of reimbursement applicable depends upon who owns the building. For instance:*
>
> - *Where the GP owns the building, this is known as 'notional rent'*
> - *Where the GP is paying off a mortgage, this is known as 'borrowing cost reimbursements' (historically known as 'cost rent')*

[1] https://www.bma.org.uk/advice-and-support/gp-practices/gp-premises/rent-reimbursement-for-gp-practices

- *Where the GPs are tenants in a building owned by an NHS landlord or a private owner, they receive leasehold cost reimbursements.*

***Notional Rent**: The amount of notional rent to be paid to the practice is based on the current market value (CMR), determined by a surveyor. CMR is assessed on notional lease terms, which assume a 15 year lease internal repairing obligations with the landlord responsible for external and structural repairs and insurance.*

***Leasehold Rent Reimbursement**: The level of leasehold rent that may be granted is determined by the CMR value of the premises, or the actual lease rent, whichever is the lower. The CMR value of the premises is as assessed by independent valuation conducted by the district valuer, who must determine what might be reasonably expected to be paid for the premises.*

***Borrowing Cost Reimbursements**: GPs who own their premises and have incurred costs, such as mortgage or loan for repairs, may be eligible to have their borrowing costs reimbursed.*

2.2 It is possible that Developer funding secured to expand premises will not be sought through reimbursement from the NHS Commissioning Board; in which case there will be no double funding. However, if the GP Practice does seek to get those costs reimbursed by the NHS Commissioning Board, as is their right, then there would be double-funding, as the NHS would essentially refund works paid for by the Developer. There is no way to know which choice the GP Surgery will make, which adds inherent risk of double funding.

2.3 There is no clawback function in a Section 106 agreement for Health contributions, unlike Education, so if the funding is unspent, or reimbursed, it will not be returned to the Developer. On that basis, the evidence for its inclusion in the Section 106 must be robust.

2.4 **Point 2:** There is a dispute between the CCG and the Appellant about Capacity and Practice Lists being open. The CCG state that the Practice Lists are open, which is appreciated. Our argument is clear that there is no leeway within the NHS Constitution; a GP Surgery is either Open and accepting new Patients, or Closed and not accepting new Patients. The CCG confirm that the lists of both Surgeries are open.

2.5 The CCG state:

A significant influx of additional patients (due to any new developments) would have a serious consequence to them being able to provide robust health services to the occupants of this proposed development and the existing local community.

2.6 There is a noticeable lack of evidence for this statement which makes assessing its validity impossible. Essentially, this is an argument over the interpretation of what is an appropriate number of Patients at a GP Surgery, and the actual wording of the NHS Constitution, which outlines the stages to go through to close new registrations if the Patient roll is actually full.

2.7 **Point 3:** The statement that the Banks Surgery and Highgate Medical Centre operate at 47.5 hours and 45 hours per week respectively is not "factually inaccurate" as it is detailed on their website as their opening hours. Whilst I accept that staff work outside of these hours, the wider point was to state the difficulty in assessing "capacity" as longer hours equals more capacity, unlike expanding a school, which adds to the capacity.

2.8 It should be noted that the Health Building Note 11-01: Facilities for primary and community care services[2] document from the Department of Health (2013) assumes that NHS Buildings are operational 60 hours per week (page 16, Table 1). If the GP Practices in Sileby discussed are operating 8.00am – 6.30pm, then this is 10.5 hours per day, or 51.5 hours per week. Therefore, if they bring their hours up to the standard 60 hours per week, their capacity increases.

2.9 The final point to make is to reiterate the Secretary of State's letter[3] confirming the Inspectors Report in 2008 that states:

[2] https://www.england.nhs.uk/publication/facilities-for-primary-and-community-care-services-hbn-11-01/

[3] APP/C3430/A/06/2027165 Cat and Kittens Lane, Featherstone, Staffordshire, WV10 7RP

Health care

44. The Secretary of State notes that the appellants' commitment to the proposed GP's practice/health centre is solely to offer the Primary Care Trust a free site for such a facility if they want to establish one. She agrees with the Inspector that the issue of funding any additional GP(s) is very much a matter for the PCT and not something that can reasonably be expected to be funded by the appellants. She therefore agrees with the Inspector that this issue does not amount to harm to weigh against the appeal proposals (IR13.92).

2.10 This confirms that Land for new GP provision is acceptable under planning obligations, but any further funding is not the responsibility of the development sector.

3 Conclusion

3.1 I trust that this clarifies the position of the Appellant with regards to the monetary request from the CCG. Please let me know if you need anything further, or would like to discuss.

Signed:

Ben Hunter
Associate Director – Education and Social Infrastructure
EFM (on behalf of David Wilson Homes)

27th April 2022