

Appendix 2 Summary of High Court Judgements

Jelson Limited vs Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council [2016] EWHC 2979 (Admin)

Jelson Limited were appealing to the High Court against the decision of a Planning Inspector to refuse planning permission for 73 homes. The case revolved around a dispute between the parties over the calculation of 'Full Objectively Assessed Need' for housing.

However, Jelson Limited also objected in the case to making a Section 106 contribution to Leicestershire Police, on grounds that such contributions did not comply with CIL Regulation 122.

For the avoidance of doubt, Leicestershire Police were not represented at the High Court. Therefore, the High Court assessed the written evidence presented by them at the earlier planning appeal and application stages.

In this respect Mr Michael Lambert, on behalf of Leicestershire Police, had submitted detailed representations to both the original planning application (14/00475/OUT) and to the subsequent appeal requesting the following Section 106 contributions:

- £3,527 – Start-up equipment for a police officer
- £1,697 – Vehicle costs
- £153 – Additional radio capacity
- £80 – Police National Database
- £176 – Call handling
- £2,055 – ANPR
- £375 – Mobile CCTV
- £19,278 – Premises
- £146 – Hub equipment for police officers
- **£27,487 - Total**

Hinckley and Bosworth Borough Council considered the above contributions CIL Regulations compliant, as did the Planning Inspector following a public inquiry.

Jelson Limited's arguments against the police contribution are contained in paragraphs 73 – 76 of the enclosed High Court judgement (**Appendix 3**). In essence, they argued that the Planning Inspector had not properly assessed the evidence submitted by Leicestershire Police. Had the Inspector done so, she would have rejected Leicestershire Police's Section 106 contribution request.

The High Court rejected all of Jelson Limited's arguments, as detailed in paragraphs 77 – 81 of the judgement (**Appendix 3**). In summary, the reasons for this were as follows:

1. It was unreasonable to have expected the Inspector to undertake a more detailed analysis of the submissions from Leicestershire Police than she had done.
2. The request made by Leicestershire Police was clear, with the contributions requested properly allocated to specific projects.

3. The police evidence comprehensively demonstrated and evidenced the impact caused by the development and why the infrastructure types (and contributions) identified would mitigate this.
4. In view of the above, the Inspector could have made no other reasonable choice but to award the requested Section 106 contribution to Leicestershire Police.

The judgement provides support for the methodology used in all Warwickshire Police (WP) and West Mercia Police (WMP) Section 106 requests because they follow Leicestershire Police's.

R (Police and Crime Commissioner for Leicestershire) vs Blaby DC [2014] EWHC 1719 (Admin)

In this case the principle of police contributions was considered and approved by the High Court. Foskett J stated (see **Appendix 4**):

"It is obvious that (significant additional housing) a development of the nature described would place additional and increased burdens on local health, education and other services including the police force (paragraph 11).

I do not, with respect, agree that the challenge mounted by the Claimant in this case can be characterised as a quibble about a minor factor. Those who, in due course, purchase properties on this development, who bring up children there and who wish to go about their daily life in a safe environment, will want to know that the police service can operate efficiently and effectively in the area. That would plainly be the "consumer view" of the issue (paragraph 61).

Although the sums at stake for the police contributions will be small in comparison to the huge sums that will be required to complete the development, the sums are large from the point of view of the police (paragraph 61).

I am inclined to the view that if a survey of local opinion was taken, concerns would be expressed if it were thought that the developers were not going to provide the police with a sufficient contribution to its funding requirements to meet the demands of policing the new area (paragraph 62)."