

**From:** [Sturgess, Tim \(Avison Young - UK\)](#)  
**To:** [Claire Westwood](#)  
**Subject:** 21/0573/FUL - Maple Cross  
**Date:** 07 October 2021 18:01:00

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Dear Claire,

It is noted that the statutory consultee and the Council have agreed the appropriate biodiversity offsetting contribution. It is however also noted that third party objectors have made a late objection to dispute the correct quantum of a biodiversity offsetting contribution and argue for the application of the Defra Metric.

The applicant has expert advice to suggest that the correct figure is the costed scheme included in the previous s106 obligation (£17,725) in addition to £16,685 for the 25yr management of any additional management associated with the original 10% net gain area size (2.26ha).

If the Defra Metric were to be applied the sum for an unspecified scheme could be as high as £142,800.

Given that the Defra Metric has no legal force at the moment little weight can be attached to it but it is necessary for the Council and the applicant to demonstrate that this biodiversity offsetting objective is certainly addressed.

**For the avoidance of doubt therefore the applicant is willing to commit to the maximum £142,800 figure if the Council as decision maker feels that this is necessary in order to address third party objections.**

Such a contribution could be lawfully collected through a bilateral s106 obligation with the council which:

- Names the maximum figure of £142,800 but not a formula (in this way it does not place sole reliance on the Defra Metric which is not yet in force, the planning file shows that it was the metric which influenced the choice of this sum as the maximum figure)
- Requires pre-commencement payment of that sum
- Requires the council to act as banker for that sum and only pass it (or part of it) on to HE or other applicable bodies once in receipt of a written costed scheme which is related to the development and these mitigation objectives. It is therefore foreseeable that the written costed scheme may turn out to be the figure proposed by the applicant's experts. In this way the figure finally collected will certainly meet the requirements of CIL Reg 122, that it is necessary, related to the development and fair in scale and kind.
- Requires the council to return any unexpended part to the party which made payment within 5 years of the date of payment to ensure that the mitigation is promptly provided

Given the applicant's willingness to address this late concern from third party objectors, this issue can be overcome and would not be a valid reason for refusal.

Kind Regards

Tim

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Director  
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