

EDUCATIONAL NEEDS ASSESSMENT

OAKLEY FARM, PRIORS ROAD, CHELTENHAM

ON BEHALF OF ROBERT HITCHINS LTD

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004

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1.0 Introduction

1.1 Gloucestershire County Council has requested contributions towards education in support of the proposed development at Oakley Farm.

1.2 The following assessment reviews the legal and policy context to determine whether such contributions should be provided in a S106 agreement or whether the relevant legal and policy context in Cheltenham Borough requires that any such infrastructure will be funded through CIL. It also applies the relevant guidance to establish whether there is any need for additional educational provision arising from the proposed development and if so the extent of this.

2.0 Legal and Policy Context

Regulation 122 of the CIL Regulations 2010

2.1 Regulation 122 requires that any planning obligations secured through a S106 agreement can only be required if they meet the following tests:

- They are necessary to make the development acceptable in planning terms;
- They are directly related to the development; and
- They are fairly and reasonably related in scale and kind to the development.

2.2 As detailed below, the request from the County Council does not meet any of these tests.

Developer contributions in Cheltenham Borough

2.3 Developer contributions may be secured, subject to compliance with the regulations, through planning obligations set out in S106 agreements or through the Community Infrastructure Levy (CIL).

- 2.4 Cheltenham Borough Council has adopted a CIL Charging Schedule such that all developments are required to contribute to the costs of infrastructure identified on the Regulation 123 List through CIL. Accordingly, CIL receipts will be secured from the proposed development and these receipts will be spent in accordance with the Regulation 123 List.
- 2.5 The Regulation 123 List in Cheltenham Borough indicates that the CIL receipts secured, including those secured as a result of the proposed development, may be spent on primary education including early education childcare, secondary education including sixth form within a secondary school, further education and special educational needs providing these are not directly related to an individual development. Where there were educational needs directly related to an individual development these can be secured through S106 agreements.
- 2.6 The Gloucester, Cheltenham and Tewkesbury Joint Core Strategy website correctly confirms that the Regulation 123 List remains operative as follows:

“The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 came into force on the 1st September 2019. The 2019 amendments included removing the requirement for authorities to publish a ‘Regulation 123 List’ of the projects or types of infrastructure they intended to fund, or may have funded, through CIL. The Regulation 123 List controlled the interaction between CIL funding and Section 106 planning obligations (Town and Country Planning Act 1990). Instead, by no later than 31st December 2020, the Regulation 123 List must be replaced with an ‘Infrastructure Funding Statement’ including a new ‘Infrastructure List’. In the meantime the Regulation 123 List remains as the published list of the types of infrastructure that may be, wholly or partly, CIL funded and what is likely to be required as part of a Section 106 agreement to meet the needs generated by a specific site.” (emphasis added)

- 2.7 Paragraph 5.3.25 of the Plan Viability, Community Infrastructure Levy and Affordable Housing Study, January 2016 identifies that the infrastructure requirements for the majority of non-strategic sites, specifically including school expansions, are likely to be met through off-site delivery to be funded through CIL as identified on the emerging Regulation 123 List.

2.8 This was confirmed in the examining Inspector's Final Report which states:

"With respect to section 106 infrastructure costs, it is assumed for the majority of generic sites that infrastructure requirements are likely to be met off site through CIL. Therefore, section 106/278 infrastructure costs would be significantly scaled back and in many cases would not apply. Where site specific obligations are required, the evidence suggests that generally there will be sufficient headroom to fund these costs at past average levels." (emphasis added)

2.9 The County Council has recently requested funding towards education in response to every recent planning application of Robert Hitchins Ltd. If these are to be secured through S106 agreements this would be directly contrary to the position of the JCS Councils to the examination of the CIL Charging Schedule which was accepted by the examining Inspector. If however, in accordance with the position of the JCS authorities, this funding is to be secured through the CIL receipts generated by the proposed development in accordance with the adopted Regulation 123 List, then the need for educational infrastructure does not act as a barrier to the grant of planning permission.

2.10 The examining Inspector proceeded in her Final Report to require a lower CIL rate to be applied to generic sites of 450 or more dwellings than to smaller sites, owing to the fact that these will be subject to significant site infrastructure costs. It is therefore clear that the Inspector understood that developments of 1 home to in excess of 450 homes were 'generic' but that where such sites were sufficiently large, namely in excess of 450 homes, it was necessary to apply a lower CIL rate as these would be subject to additional specific S106 costs.

2.11 As a corollary to this, the proposed development of up to 250 dwellings at Oakley Farm is subject to the full CIL rate owing to the absence of specific S106 costs such as those now requested by the County Council.

2.12 As set out above, the CIL Charging Schedule has been prepared on the basis that no S106 contributions will be required on generic non-strategic sites such as at Oakley Farm and that any educational needs will be funded through the

CIL secured from the development.

2.13 The proposed development will therefore secure the necessary funding through CIL and the Borough Council can direct this to the County Council to be spent upon educational projects. Any additional funding sought through a S106 agreement would require that the proposed development contributes twice towards educational needs.

2.14 Any such request for a S106 towards a piece of infrastructure identified on the Regulation 123 List would not be appropriate. This is confirmed in paragraph 2.4.22 of the Plan Viability, Community Infrastructure Levy and Affordable Housing Study, January 2016 which states:

“To overcome potential for ‘double dipping’ (i.e. being charged twice for the same infrastructure by requiring the paying of CIL and S106), it is imperative that charging authorities are clear about the authorities’ infrastructure needs and what developers will be expected to pay for and through which route.”

2.15 The Councils provided clarity on the operation of the Regulation 123 List in this regard in their response to the Inspector examining the CIL Charging Schedule where they identified that:

“This is to ensure that there will be no development contributing to the same infrastructure through both CIL and s106. It is also careful to ensure that the draft reg. 123 list does not limit the LPAs use of s 106 for developments where they need to secure infrastructure directly related to the development (meeting the reg. 122 CIL tests) e.g. strategic sites...”

2.16 Any S106 requests towards educational need on non-strategic sites of less than 450 homes such as Oakley Farm would therefore not only be contrary to the Regulation 123 List, it would also be contrary to the Borough Councils representations to the examining Inspector and it would require that the developer contributes twice towards the same piece/s of infrastructure contrary to the position of the Councils.

Pooling developer contributions

- 2.17 As CIL contributes towards educational infrastructure projects, the PPG (23b-003) identifies that S106 cannot be pooled to fund these projects, until an Infrastructure Funding Statement is published which clearly delineates how CIL is to be used. At present, no such Infrastructure Funding Statement has been published in Cheltenham Borough and so S106 contributions cannot be pooled towards the infrastructure identified on the Regulation 123 List including towards educational projects unless these are directly related to a specific development and are not pooled with CIL receipts.
- 2.18 Regulations 122 and 123 and national guidance ensure that double dipping does not occur as a result of the collection of receipts through CIL and S106 agreements towards the same infrastructure, as confirmed by the Inspector in her Final Report where she stated:

“I note the Councils’ suggested amendments to the Regulation 123 lists in CILEXAM006, which aim to clarify the relationship between CIL and Section 106/Section 278 contributions and avoid any perception of “double dipping”.”

- 2.19 CIL receipts have already been directed to the County Council to support educational places and until such time as an Infrastructure Funding Statement is published which demonstrates that any S106 requests do not seek funding towards projects for which funding has already been secured through CIL, no such S106 contributions can be requested as set out in the PPG (23b-003).

The formulaic approach of the County Council

- 2.20 The Council has responded to the planning application at Oakley Farm seeking contributions towards education and provide the calculations in support of their request. It is unclear whether the County Council expects these contributions to be provided through CIL or through a S106 agreement. As identified above, the proposed development will secure the appropriate CIL receipts and so if this approach is to be adopted in accordance with the position of the JCS authorities to the CIL examination and as required by the examining Inspector,

this does not act as a barriers to the grant of planning permission. If however, the County Council is seeking contributions towards education through a S106 agreement this would be contrary to the operation of the CIL Charging Schedule in Cheltenham Borough and would have wider implications on the currency of the JCS¹.

- 2.21 The County Council's request is based on a newly arising formulaic approach which has not been tested through an examination. Indeed, as set out above, the CIL Charging Schedule examination proceeded on the basis that the educational needs of non-strategic sites would be funded through the receipts secured through the now adopted CIL Charging Schedule. The application of any such untested formulaic approach is directly contrary to the PPG (23b-004) which states inter alia:

"It is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination."

- 2.22 The ad-hoc introduction of such formulaic approaches, whether in response to planning applications or within SPDs, in the absence of a fair and open² assessment of the need³, the existing capacity and the viability⁴ in light of the full range of policy requirements within the Development Plan may undermine the deliverability of the Development Plan as set out in the PPG (23b-005).
- 2.23 In the case of the JCS and the adopted CIL Charging Schedule, as set out above, the examining Inspector was reassured that generic sites of less than 450 homes would not be subject to any request for S106 contributions. However, if the request of the County Council is to be funded through a S106 contribution, this would require an untested contribution of £4,285,980 or £17,144 per dwelling towards education alone. This would clearly have

¹ Including because it would undermine the viability and deliverability of the policies within the JCS.

² See the PPG (23b-013)

³ See the PPG (23b-004)

⁴ See the PPG (23b-004)

significant implications for the viability of the policies in the JCS and would therefore undermine the deliverability of the Development Plan.

Viability

- 2.24 The CIL examination concluded that the CIL Charging Schedule in Gloucester is viable in the context of other policies contained in the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy.
- 2.25 The Viability Study prepared in support of the CIL Charging Schedule identified that:
- “Tewkesbury Borough Council identifies that average s106 receipts have been £7,710 per unit over the period 2010 to 2015. Gloucester District Council have also reviewed past receipts between April 2010 and March 2015 and identified an average of £2,320 per unit. Cheltenham Borough Council do not have the same information to extract past s106 agreements and/or receipts, although it has been noted that the overall amounts have been very low compared with the other two authorities.”**
- 2.26 The report assumed that there would be no contributions through S106 on non-strategic sites and this was accepted by the examining Inspector. However, the report undertook some sensitivity testing and identified that there would be sufficient headroom to accommodate S106 costs of up to £8,000 per dwelling in Cheltenham Borough should these be required in exceptional circumstances.
- 2.27 The request from the County Council now requires £4,285,983 towards education alone from the delivery of 250 homes. This equates to £17,144 per dwelling, vastly in excess of the maximum total S106 contributions for all forms of infrastructure assumed in support of the CIL Charging Schedule. Such contributions would be likely to undermine the viability and thereby the delivery of any housing site within Cheltenham Borough. This is precisely why any such contributions should be subject to appropriate testing through an examination as required by the PPG (23b-004). Assuming that the request from the County Council was accepted by Cheltenham Borough Council as being CIL compliant, this would instantaneously result in a significant number

of policies in the Development Plan in Cheltenham Borough being out-of-date as they do not take account of and cannot facilitate the delivery of the infrastructure necessary to deliver them.

The consistency of the methodology with relevant guidance

2.28 The formulaic approach proposed by the County Council is also based on an approach which is inconsistent with the regulations and guidance. The calculations apply the child product ratios of the County Council's Pupil Product Ratio Study (PPRS) to the number of dwellings proposed to calculate the number of additional school places required as a result of the proposed development. In so doing, the Council:

- has not taken account of known or forecast capacity of schools as required by paragraph 61 of the Council's adopted Local Development Guide (LDG), paragraph 58 of the Council's emerging refresh of the Local Developer Guide (LDGR) and the PPG (23b-007) within the school planning area as required by section B4 of the Council's School Places Strategy (SPS) and the PPG (23b-008). The consequence of this is that the Council may be seeking contributions towards educational provision where this is unnecessary and could not be justified;
- has calculated the contributions on the basis of the number of children likely to be accommodated in the proposed development rather than the number of pupils within the proposed development likely to require mainstream school places locally, contrary to paragraph 102 of the adopted LDG; and
- has calculated the contributions on the basis of the total number of children rather than those additional to the local school population taking account of migration, contrary to paragraph 3 of Securing Developer Contributions for Education;
- has not taken account of the fact that at any time a proportion of dwellings will be vacant as identified in the evidence base of the Joint Core Strategy.

2.29 As a result, the need for additional school places as calculated by the County Council, in the absence of any consideration of the proportion of children that attend LEA funded schools, or the proportion of children that are additional to

the school population, or the proportion of vacant homes, is disproportionate and not necessary to make the development acceptable in planning terms nor directly related to the development, nor fairly and reasonably related in kind and scale.

- 2.30 Notwithstanding the fact that as identified above, any contributions towards school places would not accord with Regulation 122 or 123, the PPG, or the CIL Charging Schedule, the following Education Needs Assessments seeks to assess the educational needs arising from the proposed development of up to 250 dwellings in accordance with all of the relevant guidance. This assessment provides an indication of the need for additional school places to be funded through CIL.

3.0 Area of Assessment

- 3.1 The Council's School Places Strategy (SPS) assesses the capacity of schools and the number of pupils in school planning areas in order to determine whether or not additional capacity needs to be provided.
- 3.2 As the SPS assesses the capacity of school places across school planning areas to determine whether additional capacity is required, the corollary must be that where there is sufficient capacity across a school planning area, no additional capacity is required at least at a strategic level. This accords with the PPG (23b-008) which identifies that school capacity should be considered for such areas.
- 3.3 It is therefore appropriate to consider the capacity across the school planning area to determine whether there is a strategic need for additional places that may justify developer contributions in accordance with the SPS and PPG, and, if there is a strategic need to also consider the capacity at a local level to determine whether there is a need for additional places locally (at the nearest school according to the SPS or nearest schools according to the adopted LDG and emerging LDGR) which is necessary to make a development acceptable in planning terms.

3.4 Oakley Farm is located in the Whaddon primary school planning area which includes Holy Trinity CofE Primary, Oakwood Primary, St John's CofE Primary, St Mary's CofE Infant and Prestbury St Mary's CofE Junior Schools; and within the Cheltenham secondary school planning area which includes All Saint's Academy, Balcarras, Cheltenham Bournside and Sixth Form Centre, Pates Grammar, and Pittville Secondary Schools.

3.5 The nearest primary schools are located at Holy Apostle's CofE Primary School⁵ (0.6 miles walking distance), Oakwood Primary (0.8 miles) and St Mary's CofE Infant and Prestbury St Mary's CofE Junior Schools (0.8 miles) and the nearest secondary schools are Pittville School (1.4 miles) and Balcarras School (1.6 miles). As there are a variety of schools in close proximity to the application site, each of which could serve the educational needs of the residents of the proposed development, it is clearly appropriate to consider the capacity across the school planning area rather than limiting this to the nearest school/s.

4.0 Current Need

4.1 The SPS does not identify the number of pre-school or post-16 pupils or identify the capacity to accommodate them. The need for pre-school and post-16 places to accommodate pupils likely to be accommodated in the proposed development is nevertheless addressed subsequently as far as is possible based upon the available information.

4.2 The response from the County Council identifies that there are 1,215 resident 0-4 year olds in the primary school planning area and places to accommodate 619 children in childminder and day care places or 757 children including out of school places. However, it does not provide any indication of the proportion of the resident children that require childcare places and so does not provide any indication as to whether there is currently insufficient or excess capacity to accommodate the pre-school needs of the local population.

⁵ In the Charlton Kings primary school planning area.

- 4.3 At least some of the childcare facilities within the Whaddon primary school planning area are advertising vacancies including at Abbotts Day Nursery and Circus Day Nursery. As these places have not been taken by the existing population, it would appear that there are currently more than sufficient places to accommodate the existing childcare needs.
- 4.4 The SPS predicted that in 2018/19, there would be 1,160 primary pupils accommodated in 1,283 places in the Whaddon primary school planning area; and 4,578 pupils in 5,023 secondary places in the Cheltenham secondary school planning area. This would have equated to a surplus of 123 primary places (9.6%) and a surplus of 445 secondary places (8.9%) across the respective school planning areas.
- 4.5 However, based on the latest statutory School Census returns⁶, the primary schools in the primary school planning area had 1,188 pupils accommodated in 1,283 places and the secondary schools in the secondary school planning area had 4,473 pupils accommodated in 5,036 secondary places. This provides for 95 surplus primary places (7.4%) and 563 surplus secondary places (11.2%).
- 4.6 The official statistics also identify that there were 1,290 sixth form pupils in 1,521 places in the secondary planning area, providing a surplus of 231 places (15.2%).
- 4.7 Therefore, at present there is currently a surplus capacity in pre-school, primary and secondary schools and sixth forms across the respective school planning areas.

⁶ Taken from the Government's Get Information About Schools website.

5.0 Future Need

The School Places Strategy

- 5.1 The anticipated pupil numbers for 2018/19 identified in the SPS were calculated using baseline projections which do not take account of the child product ratios. These child product ratios only influence the projections from 2019/20 onwards. The baseline projections of the SPS excluding these ratios have been demonstrated to be broadly accurate although slightly conservative for the Whaddon primary school planning area⁷ but they have over-estimated the number of pupils by 105 in Cheltenham secondary school planning area.
- 5.2 In addition to these baseline projections, the number of pupils accommodated in new development calculated using child product ratios is also added into the calculation in future years in the SPS. The child product ratios are therefore material to the identified need for additional pupil places and so are considered in greater detail below.
- 5.3 Whilst the Council no longer rely upon the child product ratios identified in the SPS, these are considered initially to provide some context.
- 5.4 The baseline projections of the SPS takes account of the level of migration achieved in recent years, some of which will have been to new developments. This trend is then embedded in the projections. However, the SPS then additionally adds on the number of children expected to be accommodated in future new developments, some of which will reflect historic trends. In effect, the baseline projections assume that the same levels of migration will occur but then the application of the child product ratio then additionally adds on all migration. This results in double counting.
- 5.5 Furthermore, the SPS uses child product ratios rather than the pupil product ratios required by the PPG (23b-008), Securing Developer Contributions for

⁷ Having underestimated the number of pupils by 28.

Education and paragraph 102 of the adopted LDG. Child product ratios reflect the number of children resident in a dwelling whereas pupil product ratios reflect the number of pupils that will place a demand on educational facilities within a dwelling. The SPS therefore incorrectly assumes that all children will attend LEA funded schools without any allowance for the fact that a proportion are privately educated, home-schooled, or attend post-16 apprenticeships or traineeships.

5.6 These issues would not arise, if in accordance with the PPG, LDG and Securing Developer Contributions for Education, the child product ratios identified in the PPRS had been adjusted to reflect the number of children that attend mainstream schools and the number of pupils additional to the area rather than the number of children (including those already resident) accommodated in new dwellings.

5.7 The Council has subsequently commissioned the Pupil Product Ratio Study (PPRS) which is proposed to be used in the emerging LDGR and which has been used in the Council's response to the planning application. This similarly applies unadjusted ratios contrary to the LDG and Securing Developer Contributions for Education and thereby similarly produces anomalous results. The applicant is therefore not only being asked to fund additional places without any regard being paid to whether there is already sufficient capacity, but is also being asked to fund sufficient school places to accommodate needs which do not in fact exist, including for example:

- Pupils resident in a new development who already attended a local school prior to moving to the new development;
- Pupils resident in a new development who will not attend mainstream schools;
- Pre-school children resident in a new development that do not attend pre-school;
- Post-16 children resident in a new development that have taken on a work or college based apprenticeship or traineeship and so do not require a post 16 education place at a school or college.

5.8 Notwithstanding the above, the calculations in support of the County Council's request is explored further below.

The County Council's child product ratios

5.9 As described above, the child product ratios identified by the County Council⁸ do not provide an indication of the number of pupils that arise from a development. Furthermore, as described below, they do not even appear to provide a reasonable indication of the number of additional children.

5.10 Table SP2a of the Joint Core Strategy identifies that 11,092 homes will be delivered in response to the needs of Cheltenham Borough, but that 2,610 of these will be delivered in Tewkesbury Borough. It is therefore proposed that Cheltenham Borough will accommodate 8,482 homes from 2011-31.

5.11 It can be calculated from the Council's Response to EXAM 78, that the JCS assumed that 4.6% of dwellings would not be occupied as a primary residence⁹. It would therefore be expected that the 8,482 homes would accommodate 8,095 households in Cheltenham over the plan period¹⁰. This is less than the 9,206 households projected to arise in Cheltenham in the 2012-based projections¹¹ and greater than the 7,853 households projected in the 2014-based projections. It would therefore be expected that the net change in the school aged population would lie somewhere between these two projections¹². However, the child product ratios assumed by the Council identify a net increase in pupils or children that is significantly greater than that identified by

⁸ Including the broadly similar rates identified in the SPS and in the PPRS.

⁹ As 9,448 households would be accommodated in 9,900 homes once an allowance was made for second homes and vacant homes.

¹⁰ It should be noted that whilst this is the net increase in households, a proportion of the people within these households will not be additional as they will have been accommodated in shared or concealed households and the provision of housing will now have allowed them to form their own individual household.

¹¹ Which were used to identify the JCS housing requirement as set out in paragraph 3.1.8.

¹² And closer to the 2014 based projections given that the 2014 based projections assume that the number of net additional households will be 3% lower than the JCS, whereas the 2012 based projections assume that they will be 12% greater.

either of these projections as follows:

- The 2014 and 2012 based projections respectively identify a net increase of 153 and 213 pre-school aged children in Cheltenham over the period 2011-31 assuming that between 8,229 and 9,646 homes are built. The number of pre-school aged children has reduced by 358 in the period 2011-19¹³ during which time 2,980 homes have been constructed¹⁴. Applying the Council's identified child product ratio of 0.3 children per home to the remaining housing requirement for 5,502 homes, would require that 1,651 additional pre-school children will reside in Cheltenham over the period 2019-31. As a result of the reliance upon the child product ratios, the Council therefore assume that the delivery of 8,482 homes will result in an additional 1,293 pre-school aged children, which compares to the official projections that indicate that the delivery of 9,646 homes would only result in an additional 213 pre-school aged children;
- The 2014 and 2012 based projections respectively identify a net increase of 1,326 and 1,422 primary school aged children over the plan period. There has been an increase of 1,074 primary school pupils in the period 2011-19. Applying the Council's identified child product ratio of 0.41 pupils per home to the remaining housing requirement for 5,502 homes, would require that 2,256 additional primary pupils will require school places in Cheltenham over the period 2019-31. As a result of the reliance upon the child product ratios, the Council therefore assume that the delivery of 8,482 homes will result in an additional 3,330 primary school pupils, which compares to the official projections that indicate that the delivery of 9,646 homes would only result in an additional 1,422 primary school aged children, some of whom will not attend LEA funded schools;
- The 2014 and 2012 based projections respectively identify a net increase of 795 and 990 secondary school aged children over the plan period. There has been an increase of 115 secondary school pupils in the period 2011-19. Applying the Council's identified child product ratio of 0.2 pupils per home

¹³ According to the ONS mid-year population estimates.

¹⁴ Demonstrating that the number of children can and often does reduce regardless of new housing. The approach of the County Council which requires that the number of resident children increase as a direct result of new development is therefore demonstrably incorrect.

to the remaining housing requirement for 5,502 homes, would require that 1,100 additional secondary pupils will require school places in Cheltenham over the period 2019-31. As a result of the reliance upon the child product ratios, the Council therefore assume that the delivery of 8,482 homes will result in an additional 1,215 secondary school pupils, which compares to the official projections that indicate that the delivery of 9,646 homes would only result in an additional 990 secondary school aged children, some of whom will not attend LEA funded schools;

- The 2014 and 2012 based projections respectively identify a net increase of 134 and 223 post-16 school aged children over the plan period. There has been an increase of 112 post-16 school pupils in the period 2011-19. Applying the Council's identified child product ratio of 0.11 pupils per home to the remaining housing requirement for 5,502 homes, would require that 605 additional post-16 pupils will require school places in Cheltenham over the period 2019-31. As a result of the reliance upon the child product ratios, the Council therefore assume that the delivery of 8,482 homes will result in an additional 717 post-16 school pupils, which compares to the official projections that indicate that the delivery of 9,646 homes would only result in an additional 223 post-16 school aged children, some of whom will not attend LEA funded schools.

5.12 It is therefore apparent that the child product ratios upon which the County Council rely are wholly out-of-keeping with the projections which informed the housing requirement of the JCS. They require that each home accommodates a significantly greater number of children than anticipated by the official projections. In order for this to occur, it would require that there is a significant bulge in the pre-school aged population that has been ignored in the official projections and/or that fertility rates significantly increase in Cheltenham beyond that assumed in the official projections such that the newly arising children will place a significant demand on school places once they access education and/or there will be a significantly greater influx of households with children to Cheltenham than assumed in the official projections. Each of these potential causes is considered below.

5.13 The official mid-year population estimates demonstrate that there is currently no bulge in the younger population that will feed through into educational

needs in later years. For example, the number of people aged 0, 1, 2, or 3 in Cheltenham was lower in 2019 than in any preceding year since at least 2011. It would therefore be expected that:

- the number of children in need of pre-school facilities currently would be lower than in preceding years; and
- the number of children in need of primary school places will be lower than at present for at least the forthcoming 4 years (to 2023); and
- the number of children in need of secondary school places will be lower than at present for the years 2023-28; and
- the number of children in need of post-16 places will be lower than at present for the years 2028-30.

5.14 The child product ratios assumed by the County Council must therefore rely entirely upon a material change of circumstances to either (or both) the fertility rates experienced in Cheltenham Borough or the child net-migration rates to Cheltenham Borough such that the number of children will significantly increase.

5.15 The number of conceptions has reduced year on year across England and Wales since 2010¹⁵. Similarly, in Cheltenham the number of conceptions has been broadly reducing for an even longer period. There is no evidence and no reason to assume that this will change¹⁶. Therefore, based on the available evidence, the County Council's child product ratios must require that the net number of children that migrate into Cheltenham will be significantly greater than that identified by the official projections.

5.16 The number of households that migrate into Cheltenham will be largely determined by the housing requirement. As the housing requirement is lower than that which arises from the 2012 based projections, fewer net households will be able to move to Cheltenham than identified by those projections. Nevertheless, the County Council's child product ratios require that these fewer

¹⁵ Except in 2015 when there was a small increase compared to that in 2014.

¹⁶ Although the effects of the pandemic have yet to be evidenced, it is expected that it could result in a 'baby bust' as people avoid having children in these unprecedented times.

households will include a significantly greater number of children than the greater number of households identified in the official projections. This would in effect require that families with children from across the region would migrate to Cheltenham whilst households without children (typically older households) will migrate out of Cheltenham. There is no evidence to demonstrate that this will occur, and it is likely that precisely the opposite will occur given the incentive for established households to retain their housing in Cheltenham as a result of local property prices.

5.17 The only remaining explanation that could justify the child product ratios of the County Council is that the resulting significant number of children within a new development occurs as a result of children moving from within the existing dwelling stock within Cheltenham. If this is the case, it would be necessary to apply a complementary child product ratio to the existing dwelling stock reflecting the fact that the number of children resident in existing dwellings will reduce as they move to new dwellings within the same area. As identified above, having established the net change in children taking into account the movement of children from the existing dwelling stock to new dwellings, it would then be necessary to calculate the number of these that would require LEA funded education.

5.18 As the adopted housing requirement indicates that 3.1% more households will arise in Cheltenham than provided for by the 2014 based projections, it is reasonable to assume that as a working proxy, the number of school aged children will be 3.1% greater than identified by the 2014 based projections. Based on the changes which have occurred in the period 2011-19, it is possible to calculate the expected change over the period 2019-31. It is then possible to compare this with the change that would arise from the County Council's identified child product ratios. The difference between these two figures must be accounted for by the reduction in the number of children resident in the existing dwelling stock. The full calculations are set out in Table 5.1 below.

Table 5.1 – the child product ratios for the existing dwelling stock that arise as a direct result of the child product ratios of new dwellings assumed by the County Council

		Net change					
		Dwellings	Households	Pre-school aged population (0-3)	Primary school aged population (4-10)	Secondary school aged population (11-15)	Post-16 aged population (16-17)
A	2014 based projections 2011-31	8,229	7,853	153	1,326	795	134
B = Ax1.03	Expected from JCS (+3.1%) 2011-31	8,482	8,095	157	1,367	820	138
C	Actual change 2011-19	2,980	2,844	-358	1,171	175	-217
D = B-C	Residual change 2019-31	5,502	5,251	515	196	645	355
E = County Council's ratios applied to 5,502	Of which attributable to new dwellings according to PPRS	5,502	5,251	1,651	2,256	1,100	605
F	Child product ratio for new dwellings			0.300	0.410	0.200	0.110
G = D-E	Of which attributable to existing dwelling stock	0	0	-1,135	-2,060	-456	-250
H = G/56,102	Child product ratio for existing dwellings			-0.020	-0.037	-0.008	-0.004

5.19 It would therefore be expected that as a result of the child product ratios identified by the County Council¹⁷, the number of children resident in the existing dwelling stock will reduce. For example, if within a defined area¹⁸ there were 1,000 existing homes, and 100 homes were delivered within that area (as part of the overall housing requirement), there would be 30 new pre-school aged children within the new development¹⁹, but 20 less pre-school aged children within the existing dwelling stock²⁰ across the plan period. Accordingly,

¹⁷ Which in themselves do not appear to be robust.

¹⁸ Whether that is the area which is closest to a particular school or a school planning area.

¹⁹ =0.3x100

²⁰ =0.02x1,000

contributions could only be sought towards the school places required by the 10 net additional children rather than the 30 additional children which would arise from the approach adopted by the County Council.

Need for pre-school places

- 5.20 The child product ratios in the PPRS suggest that it is likely that 30 pre-school children would be accommodated in 100 new dwellings. Using this child product ratio, the development of up to 250 homes would accommodate up to 75 pre-school aged children.
- 5.21 The Childcare and Early Years Survey of Parents in England 2019 identifies that 76% of children aged 0-4 in England use some form of formal childcare (rather than being looked after by their family etc). Therefore, it would be expected that only 57 of the 75 pre-school aged children would require childcare.
- 5.22 A proportion of these 57 pre-school attendees will also already attend pre-schools in the local area and so will not generate an additional need for pre-school places. It would be highly unusual if all of the pre-school children within the households occupying new dwellings were new to the locality as assumed as a default by the Council.
- 5.23 The 2011 Census identifies that 688 of the 1,015 children aged 0-4 that moved to Cheltenham in the preceding year moved from within the Borough (or 67.8%). The corresponding figures for the two mid-SOAs that broadly cover the Whaddon primary planning area are that 18.9% of the 0-4 year olds that moved to these mid-SOAs remained within the same mid-SOA²¹. Clearly, the proportion of children that remained within the primary planning area will be less than the proportion of children that remained in Cheltenham but greater than the proportion that remained within a single mid-SOA. It is therefore reasonable that somewhere between 18 and 46 of the 57 pre-school attendees

²¹ This excludes those that moved from one of these mid-SOAs to the other and so the rate will actually be higher. Nevertheless, in the absence of the necessary information this is used as an indicative minimum.

would be new to the pre-schools in Cheltenham Borough. This compares to the 75 that the County Council are seeking contributions towards.

- 5.24 This would equate to a pre-school pupil product ratio of between 7 and 18 pupils for every 100 dwellings which is broadly consistent with the pupil product ratios assumed in all of the neighbouring LEAs where the necessary information is available²². Indeed, Robert Hitchins Ltd have recently commissioned an extensive survey of the pupil product ratios on new developments in Gloucestershire. Whilst the data is currently being validated, the preliminary findings of this survey indicate that the pupil product ratio is within this range²³.
- 5.25 The request from the County Council indicates that there are 15 facilities offering childcare within the primary school planning area. The County Council's website indicates that at least three of these have vacancies and is silent on the remainder.
- 5.26 The County Council identify that the 15 facilities offer a total of 619 places or 757 places including out of school/holiday club places. The Survey of Childcare and Early Years Providers 2019 identifies that nationally 19% of group-based providers full day places, 22% of school-based full day places and 27% of childminders' full day places were unoccupied. The proportion of spare places was even greater in the South West region.
- 5.27 Even conservatively assuming that only 19% of the 619 places are unoccupied, there would be 118 spare places in the pre-school facilities in the primary school planning area, which would be more than sufficient to accommodate the 18 to 46 additional pre-school children that are likely to require such facilities within the proposed development.

²² Including Worcestershire that assume 11 pre-school pupils for every 100 dwellings, Stratford-on-Avon with 5 pupils per 100 dwellings, Swindon with between 4 and 9 pupils per 100 dwellings, Wiltshire with 13 per 100 dwellings, West Oxfordshire with 8 per 100 dwellings and Vale of White Horse with 7 per 100 dwellings.

²³ Once the data has been fully validated and processed, this newly arising evidence will be made available to the Council.

5.28 Notwithstanding that as set out above, the request is contrary to national guidance, the request for contributions towards pre-school places is also not fairly related in scale and kind to the proposed development as there is already likely to be sufficient capacity.

Need for additional primary places

5.29 The SPS suggests that the available capacity of primary schools in the Whaddon primary school planning area would decrease from a surplus of 123 to a surplus of 2 places by 2022/23. This result arises as a result of the baseline projections which indicate that the surplus capacity will increase by 38 places from 119 to 157 spare places between 2017/18 and 2022/23, and the unjustified application of the identified child product ratios to newly arising dwellings²⁴ which then indicates that as a result of new development there will be a surplus of only 2 places.

5.30 As set out above, the latest School Census returns indicate that an additional 28 primary pupils have arisen in 2018/19 in the primary school planning area than were anticipated. Once these additional children are taken into account, the baseline projections would indicate that there would be 1,154 children in 1,283 places (with a 90% occupancy rate).

5.31 Once the child product ratios are applied by the County Council without taking account of the fact that a proportion of children do not attend LEA funded schools, and that a proportion of children will move within the area and so will not be new to the school population, there would be a deficit of 26 places by 2022/23 based on the projections of the SPS. If these were replaced by the more recent child product ratios identified by the County Council, there would be a deficit of between 22 and 45 places by 2022/23²⁵.

5.32 However, if these child product ratios are applied to new dwellings it is

²⁴ Without the necessary complementary ratios being applied to the existing dwelling stock.

²⁵ Depending on the proportion of dwellings on sites of 100 or more which are subject to different rates according to the SPS.

necessary to apply a complementary child product ratio to the existing dwelling stock which has not been done by the County Council. As identified above, in the absence of the application of the complementary rate, the number of additional children to Cheltenham would be wholly out-of-keeping with the official projections and the evidence base of the JCS and could not be justified.

- 5.33 The Whaddon primary planning area broadly approximates to the mid-SOAs of Cheltenham 006 and 008. These had 7,585 dwellings in 2011. When the complementary child product ratio to that identified by the County Council is applied to these dwellings²⁶, there would be a net reduction of 279 primary school aged children in the existing dwelling stock which has not been taken into account by the County Council in addition to the increase of 151 primary school aged children in new developments (excluding Oakley Farm)²⁷. Therefore, there would be 128 additional surplus places in 2022/23 than there currently are as a result of the application of the child product ratios assumed by the County Council and the complementary rates which arise directly from these.
- 5.34 In 2018/19 there were 1,188 pupils in 1,283 places. It would therefore be expected that by 2022/23 there will be 1,060 pupils in 1,283 places, with a surplus of 223 places (or 82.6% occupancy). This would provide more than sufficient capacity to accommodate the 103 children (even if these all attended LEA funded schools) that would arise from the proposed development of up to 250 homes according to the child product ratios of the County Council with a 90.6% occupancy rate.
- 5.35 Therefore, even relying upon the child product ratios of the County Council and assuming that 100% of resident children attend LEA funded schools, there is more than sufficient primary capacity to accommodate the proposed development.

²⁶ As set out in the Table above.

²⁷ Rather than the 155 identified in the SPS, owing to the application of the County Council's more recent child product ratios.

Need for additional secondary places

- 5.36 The SPS suggests that in the secondary schools in the Cheltenham secondary school planning area there will be a shortfall of 592 places by 2024/25. This arises primarily as a result of the baseline projections indicating that the number of secondary pupils will increase dramatically in the short-term regardless of new development. This accounts for a 386 of the shortfall of places.
- 5.37 It is unclear why the baseline projections indicate that even without taking account of housing development, the number of secondary pupils will increase so dramatically in the forthcoming seven years (from 4,394 in 2017/18 to 5,441 in 2024/25 – an increase of 1,047 children or 24%). The official mid-year estimates indicate that in Cheltenham there are 9,219 people aged 4-10 that would be expected to feed into secondary schools (including post-16) in the next 7 years as compared to the existing 9,188 secondary (including post-16) aged children. Therefore, it is apparent that the baseline projections assume that there will be a significant net in-migration of children aged 4 to 17 over the next 7 years, contrary to the official projections and the evidence base of the JCS. The baseline projections of the SPS are therefore demonstrably not credible or justified in the medium term and are inconsistent with the Development Plan.
- 5.38 As identified above, the baseline projections have already overestimated the number of pupils by 105 in 2018/19. Perhaps this is instead symptomatic of a deeper issue with the baseline projections for secondary aged children.
- 5.39 Whilst this casts significant doubt on the credibility of the baseline projections in Cheltenham in the medium-term, in the absence of any alternative set of projections it is necessary to work with these and adjust them to reflect reality where possible. This can be achieved by applying the complementary child product ratios to those assumed by the County Council to calculate the capacity of secondary schools from the currently known position.
- 5.40 In 2018/19, there were 4,473 secondary pupils in 5,036 places across

Cheltenham. Assuming the current child product ratio of the County Council there would be between an additional 196 and 217 secondary pupils arising from planned development (excluding Oakley Farm)²⁸. This would potentially increase the number of secondary pupils to between 4,669 and 4,689 if all of these additional pupils attended LEA funded schools. There would therefore be more than sufficient capacity to accommodate these in the existing 5,036 places with between a 92.7% and 93.1% occupancy rate²⁹. Indeed, even without taking account of the complementary rate which requires that the number of secondary aged children in the existing dwelling stock will reduce and without taking account of the fact that a proportion of children will not attend LEA funded schools, there will be more than sufficient capacity to accommodate the 50 secondary aged children assumed to be accommodated in the development of up to 250 homes with between a 93.7% and 94.1% occupancy rate.

- 5.41 The entirety of the dispute on this matter appears to arise from the County Council's baseline projections which indicate that the number of secondary aged children will significantly increase in the next 7 years notwithstanding that the number of children aged 4-10 currently is broadly consistent with the existing secondary aged population, and that the official projections and the evidence base of the JCS all suggest that there will be minimal growth of this age group.

Post-16 places

- 5.42 The latest official statistics indicate that in 2018/19 there were 1,290 post-16 pupils in 1,521 places in the Cheltenham planning area. It is therefore evident that there is a very significant surplus capacity which would be sufficient to accommodate pupils resident in new development.
- 5.43 In summary, notwithstanding that the contributions requested by the County

²⁸ Depending on the proportion of dwellings on sites of 100 or more which are subject to different rates according to the SPS.

²⁹ Notwithstanding that the SPS indicates that the capacity will increase over the next few years.

Council are contrary to national guidance, none of the requested contributions towards pre-school, primary, secondary or post-16 places are necessary to make the development acceptable in planning terms as there is already sufficient capacity to accommodate the proposed development.

6.0 Conclusions

6.1 Any request for S106 contributions towards education from the County Council would be contrary to the CIL Charging Schedule in Cheltenham Borough and contrary to national guidance, given that school places are to be funded through CIL receipts towards which the planning application will contribute.

6.2 Furthermore, as identified throughout this assessment, the request for contributions from the County Council does not accord with their own guidance, national guidance or Regulation 122 of the CIL Regulations and it is also based on a fundamentally flawed application of the available evidence.

6.3 Based on the available evidence, it is likely that there is already more than sufficient capacity in pre-school places to accommodate the needs that arise from the proposed development.

6.4 Once any regard is paid to the migration of pupils as required by Securing Developer Contributions for Education, it is apparent that it is evident that there is more than sufficient capacity within the existing primary and secondary schools to accommodate the proposed development.

6.5 The County Council has also provided no evidence to justify contributions towards post-16 places. The above analysis demonstrates that there is a very significant surplus capacity of such places which is likely to be more than sufficient to accommodate the proposed development.

6.6 On the basis of the available evidence, it is therefore apparent that there is no necessity for any contributions towards pre-school, primary, secondary or post-16 places, and that even if there were these should be funded through

CIL in accordance with the Regulation 123 List, the stated position of the JCS authorities, and the PPG.