



PROOF OF EVIDENCE

Site: Land at Oakley Farm
Priors Road
Cheltenham
GL52 6PW

For: Gloucestershire County Council

Appeal Ref: APP/B1605/W/21/3273053

Date: August 2021



Prepared by:
Liz Fitzgerald BA (Hons) Dip TP MRTPI
Director
Barker Parry Town Planning Ltd
33 Bancroft, Hitchin, Herts SG5 1LA
T: 01462 420224 / E: office@barkerparry.co.uk



RTPI

Chartered Town Planners

QUALIFICATIONS AND EXPERIENCE

My name is Elizabeth Fitzgerald. I have a degree and diploma in town planning and over 17 years' experience as a practising planner. I have been a Member of the Royal Town Planning Institute (MRTPI) since 2005.

Most of my work has been in the public sector, with 13 years working for a variety of Local Authorities across England, including Chorley Borough Council, Richmondshire District Council, Stevenage Borough Council and Huntingdonshire District Council, including my last job as a Development Manager, responsible for the Development Management and Enforcement function at Harlow District Council. I moved into the private sector to work as a planning consultant in 2015. I was previously employed by the planning consultancy Vincent and Gorbing, before moving to Barker Parry in 2017.

INVOLVEMENT WITH THE PROJECT

I was instructed in May 2021 to assist with the planning evidence in respect of this appeal on behalf of Gloucestershire County Council.

I was not involved in the consideration of the proposal at application stage, nor in the representations made by Gloucestershire County Council to the Local Planning Authority. However, I have reviewed the representations made and consider those representations in writing this evidence.

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1.0 **INTRODUCTION**

1.1 My evidence for this Inquiry draws upon the material comprising the planning application and the full Appellant's Statement of Case which accompanied the initial appeal papers and GCC Statement of Case. It should also be read in association with the Proofs of Evidence of Mr Stephen Chandler, which deals with educational need and Mr Stephen Hawley, which deals with highways and transportation matters.

1.2 I will focus on matters which I consider to be germane to the approach to the application of relevant planning policy and regulation to the outstanding issues between GCC and the Appellant, namely the effect of the proposed development on education provision and highways and transportation matters.

1.3 At the time of writing, the Statement of Common Ground between the Appellant and GCC remains in draft and discussions are ongoing.

2.0 **BACKGROUND**

- 2.1 The background associated with Gloucestershire County Council' (GCC) correspondence with the Local Planning Authority is set out in the GCC Statement of Case and Addendum dated June and July 2021 respectively.
- 2.2 The description of the site and its surroundings are set out in the Local Planning Authority's (LPA) committee report and the Appellant's Statement of Case.
- 2.3 There is no planning history of specific relevance to this Appeal Site but those applications/requests submitted prior to this application submission can be seen within the LPA's committee report and the draft Statement of Common Ground with the Borough Council.

3.0 **THE AREAS OF DISPUTE**

3.1 The Appeal is made against the non-determination of the Application, accordingly, the LPA have subsequently reported the Application to Committee and obtained Members agreement to 7 putative reasons for refusal.

3.2 This Proof seeks to address three putative reasons which state:

" 3. The proposed development would, by virtue of design, layout and traffic generation result in a severe impact on the highway network and would fail to provide a safe and suitable access for all users, contrary to paragraphs 108, 109, and 110 of the National Planning Policy Framework, Policies INF1 and INF6 of the Joint Core Strategy (adopted December 2017), Policies LTP PD 0.3 and 0.4 of the Local Transport Plan (adopted March 2021), Policy CE10 of the Cotswold AONB Management Plan 2018-23 and Manual for Gloucestershire Streets (adopted July 2020).

6. Policy INF 4, INF6 and INF7 of the Joint Core Strategy (JCS)(adopted 2017) (and Policy CI1"of the Cheltenham Plan) states that where infrastructure requirements are generated as a result of the site proposals, new development will be served by appropriate on and/or off site infrastructure and community services. Financial contributions towards the provision of necessary infrastructure and services will be sought through the s106 and CIL mechanisms, as appropriate. The proposed development will lead to a need to provide for education and libraries provision for the future residents (Policy INF6 of the JCS).

There is no agreement from the applicant to pay the requested financial contributions towards education (school places) and libraries provision that would be generated by the proposed development to make the application acceptable in planning terms. The proposal therefore does not adequately provide for education and libraries provision and conflicts with INF4, INF6 and INF7 of the JCS (adopted 2017), Policy CI1 of the Cheltenham Plan (adopted 2020) and guidance on developer contributions set out in the NPPF, CIL Regulations (as

amended) and DfE Guidance on Securing Developer Contributions for Education.

7. Policies INF4, INF6 and INF7 of the Joint Core Strategy (JCS) (adopted 2017) (and CI1 of the Cheltenham Plan) state that where infrastructure and services requirements are generated as a result of site proposals, new development will be served by appropriate on and/or off site contributions, services and other remedial measures. Financial contributions towards the provision of necessary infrastructure, services or other remedial measures will be sought through the s106, s278 or CIL mechanisms, as appropriate. The proposed development would lead to a requirement for necessary off-site highway improvement works (JCS Policies INF1 and INF6) and the implementation of a Travel Plan.

No agreement has been completed to secure the provision of necessary highway improvement works and the funding and implementation of the Residential Travel Plan. The proposal fails therefore to meet the expectations of Policy INF1 and INF6 of the JCS (adopted 2017), Policy CI1 of the Cheltenham Plan (adopted 2020) and guidance on developer contributions set out in the NPPF.”

- 3.3 These putative reasons for refusal were resolved upon following the representations made by GCC to the LPA in its capacity as the Education Authority. It also has a statutory responsibility for the provision of library facilities and is the Local Highway Authority.

The Appellant’s Case

- 3.4 The Appellant asserts that, in seeking a s106 Agreement to secure funding towards education and community facilities, the LPA and GCC are in effect double counting, as such facilities are funded via way of a CIL contribution.
- 3.5 Further, the Appellant asserts that the method for calculating child yield is flawed and should not be relied upon, whilst the forecasts for school places are over-estimated.

- 3.6 The Appellant has advised GCC that they will not be presenting any evidence on the CIL v S106 matter, but that it will be for the County to satisfy the Inspector on the matter. This advice, received via email, contradicts that contained within the Appellant's Statement of Case and we are not aware of any such submissions to the Inquiry. We are therefore proceeding on the basis of the Appeal submissions.
- 3.7 The Appellant has not advanced any evidence to date pertaining to the libraries contribution, in fact it is not even mentioned in their submissions.
- 3.8 The Appellant acknowledges that the proposal will give rise to an increase in travel demand but asserts that suitable infrastructure provision can be provided that will mitigate against this impact.
- 3.9 In addition, the Appellant asserts that the site is sustainable and will provide connections to existing pedestrian and cycle infrastructure, with the Illustrative masterplan demonstrating how sustainable modes of transport can be encouraged through the provision of a well-connected network of streets and footpaths.
- 3.10 My evidence will consider whether GCC's justification for seeking contributions to education and library provision is sound as a matter of law and of policy.
- 3.11 Further, my evidence will demonstrate the need to ensure, at outline application stage, that a site can accommodate suitable gradients to enable access to all modes of transport for those persons with special characteristics.

4.0 **RELEVANT POLICY**

4.1 The relevant planning policy is set out in the LPA's committee report and the draft Statement of Common Ground.

4.2 For the purposes of the GCC case, the most relevant elements are as follows:

Development Plan

4.3 As set out in the GCC Statement of Case, the most relevant policies to consider in respect of the putative reasons for refusal are:

Joint Core Strategy 2011-2031

- Policy SD4 Design Requirements

"Where appropriate, proposals for development - which may be required to be accompanied by a masterplan and design brief - will need to clearly demonstrate how the following principles have been incorporated:

i. Context, Character and Sense of Place;

New development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality in terms of street pattern, layout, mass and form. It should be of a scale, type, density and materials appropriate to the site and its setting. Design should establish a strong sense of place using streetscapes and buildings to create attractive and comfortable places to live, and having appropriate regard to the historic environment

ii. Legibility and Identity;

New development should create clear and logical layouts that create and contribute to a strong and distinctive identity and which are easy to understand and navigate. This should be achieved through a well-structured and defined public realm, with a clear relationship between uses, buildings, routes and spaces, and through the appropriate use of vistas, landmarks and focal points.

iii. Amenity and space;

New development should enhance comfort, convenience and enjoyment through assessment of the opportunities for light, privacy and external

space, and the avoidance or mitigation of potential disturbances, including visual intrusion, noise, smell and pollution.

iv. Public realm and landscape;

New development should ensure that the design of landscaped areas, open space and public realm are of high quality, provide a clear structure and constitute an integral and cohesive element within the design. The contribution of public realm designs, at all scales, to facilitate the preferential use

of sustainable transport modes should be maximised.

v. Safety and security;

New development should be designed to contribute to safe communities including reducing the risk of fire, conflicts between traffic and cyclists or pedestrians, and the likelihood and fear of crime.

vi. Inclusiveness and adaptability;

New development should provide access for all potential users, including people with disabilities, to buildings, spaces and the transport network, to ensure the highest standards of inclusive design. Development should also be designed to be adaptable to changing economic, social and environmental requirements.

vii. Movement and connectivity;

New development should be designed to integrate, where appropriate, with existing development, and prioritise movement by sustainable transport modes, both through the application of legible connections to the wider movement network, and assessment of the hierarchy of transport modes

set out in Table SD4a below. It should:

- Be well integrated with the movement network within and beyond the development itself*
- Provide safe and legible connections to the existing walking, cycling and public transport networks;*
- Ensure accessibility to local services for pedestrians and cyclists and those using public transport*
- Ensure links to green infrastructure;*
- Incorporate, where feasible, facilities for charging plug-in and other ultra-low emission vehicles;*
- Be fully consistent with guidance, including that relating to parking provision, set out in the Manual for Gloucestershire Streets and other relevant guidance documents in force at the time.*

2. Detailed requirements of masterplans and design briefs, should the Local Planning Authority

consider they are required to accompany proposals, are set out in Table SD4d. These requirements are not exhaustive."

- Policy INF4 Social and Community Infrastructure

"1. Proposals to develop land or buildings currently or previously in use as a community facility will demonstrate, including evidence of engagement with relevant local community groups and partner organisations, why the facility is no longer required and, as appropriate, how, when and where suitable local replacement facilities will be provided. Provision of replacement facilities will have regard to the locational and other relevant elements of this policy

2. Where new residential development will create, or add to, a need for community facilities, it will be fully met as on-site provision and / or as a contribution to facilities or services off-site. New or refurbished provision will be of an appropriate type, standard and size. From an early stage, developers will be expected to engage with the relevant local authorities and infrastructure providers and, as appropriate, relevant local community groups where they exist, to ensure that new provision meets the needs of the community that it will serve and is fit for purpose

3. Social and community infrastructure should be centrally located to the population it serves and be easily accessible on foot and by bicycle. It should be located so as to have the potential to be well-served by public transport. Developers should aim to provide flexible, multifunctional facilities within mixed-use developments, creating shared space which maximises benefits to the community and minimises land-take. In the case of open space, 'easily accessible' means it is located within reasonable walking distance of the development it serves. New facilities should be accessible to all members of the community, and be planned and phased in parallel with new development."

- Policy INF6 Infrastructure Delivery

"1. Where infrastructure requirements are generated as a result of individual site proposals and/ or having regard to cumulative impact, new development will be served and supported by adequate and appropriate on- and / or off-site infrastructure and services. In identifying infrastructure requirements, development proposals will also demonstrate that full regard has been given, where appropriate, to implementing the requirements of the Joint Core Strategy Infrastructure Delivery Plan

2. Where need for additional infrastructure and services and / or impacts on existing infrastructure and services is expected to arise, the Local Planning Authority will seek to secure appropriate infrastructure which is necessary, directly related, and fairly and reasonably related to the scale and kind of the development proposal, including:

- i. Broadband infrastructure;*
- ii. Climate change mitigation / adaptation;*
- iii. Community and cultural facilities and initiatives;*
- iv. Early Years and Education;*
- v. Health and well-being facilities and sport, recreation and leisure facilities;*
- vi. The highway network, traffic management, sustainable transport and disabled people's access;*
- vii. Protection of cultural and heritage assets and the potential for their enhancement;*
- viii. Protection of environmental assets and the potential for their enhancement;*
- ix. Provision of Green Infrastructure including open space;*
- x. Public realm;*
- xi. Safety and security including emergency services.*

This list of potential infrastructure items is neither exhaustive, sequential nor are its elements mutually exclusive

3. Priority for provision will be assessed both on a site-by-site basis and having regard to the mitigation of cumulative impact, together with implementation of the JCS Infrastructure

Delivery Plan

4. Planning permission will be granted only where sufficient provision has been made for infrastructure and services (together with their continued maintenance) to meet the needs of new development and / or which are required to mitigate the impact of new development upon existing communities. Infrastructure and services must be provided in line with an agreed, phased timescale and in accordance with other requirements of this Plan."

- Policy INF7 Developer Contributions

"1. Arrangements for direct implementation or financial contributions towards the provision of infrastructure and services required as a consequence of development, including its wider cumulative impact,

and provision where appropriate for its maintenance, will be negotiated with developers before the grant of planning permission. Financial contributions will be sought through the S106 and CIL mechanisms as appropriate.

2. Where, having regard to the on- and / or off-site provision of infrastructure, there is concern relating to the viability of the development, an independent viability assessment, funded by the developer and in proportion with the scale, nature and / or context of the proposal, will be required to accompany planning applications. Viability assessments will be undertaken in accordance with an agreed methodology and published in full prior to determination for all non-policy compliant schemes. Where necessary the JCS authorities will arrange for them to be independently appraised at the expense of the applicant."

Cheltenham Plan

- Policy CI1 Securing Community Infrastructure Benefits

Development proposals will only be permitted where adequate community infrastructure capacity exists, or where additional capacity is capable of being provided as part of the development without unacceptable impacts on people or the environment. In order to secure community infrastructure improvements, the Council will employ planning obligations as necessary and appropriate. Obligations may relate to:

- a) affordable housing*
- b) green infrastructure, including open space*
- c) suitably designed and located play, recreation, sport and leisure facilities*
- d) education provision*
- e) broadband infrastructure provision*
- f) highway works, traffic management measures, pedestrian and cycling improvements, public transport enhancements and improved access for the disabled*
- g) improvements to the public realm*
- h) health and well-being facilities*
- i) safety and security measures*
- j) flood risk management measures*
- k) environmental protection and enhancement*
- l) climate change mitigation / adaption*

- m) cultural and heritage protection and enhancement*
- n) public art.*



Supplementary Documents

4.4 In addition to the Development Plan, GCC also draws attention to the following documents:

- GCC Local Developer Guide 2021
- DfE Securing Developer Contributions for Education.
- Manual for Gloucestershire Street 2020
- Gloucester Transport Plan 2020 – 2041

National Planning Policy Framework

4.5 Paragraph 55 of the NPPF encourages Local Planning Authorities to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

4.6 Paragraph 57 provides us with the tests associated with planning obligations stating:

"Planning obligations must only be sought where they meet all of the following tests:

- a) Necessary to make the development acceptable in planning terms;*
- b) Directly related to the development; and*
- c) Fairly and reasonably related in scale and kind to the development."*

This paragraph reflects Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended).

4.7 Paragraph 58 proceeds to advise:

"Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage...."

4.8 Chapter 8 promotes healthy and safe communities, paragraph 92 advises:

"Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

- a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;*
- b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, and high-quality public space, which encourage the active and continual use of public areas; and*
- c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling."*

4.9 Paragraph 95 states:

"It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning

authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and*
- b) work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted."*

4.10 Paragraph 110 states:

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users;*
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46; and*
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree."*

4.11 Lastly, paragraph 111 states:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

- 4.12 The NPPF is supported by National Planning Policy Guidance, which provides us with the background and further guidance on planning obligations. (Extracts **at Appendix 1**) Paragraph: 003 Reference ID: 23b-003-20190901 advises:

"Planning obligations, in the form of section 106 agreements and section 278 agreements, should only be used where it is not possible to address unacceptable impacts through a planning condition.

Developers may also contribute towards infrastructure by way of the Community Infrastructure Levy which is a fixed charge levied on new development to fund infrastructure.

Where the Community Infrastructure Levy is in place for an area, charging authorities should work proactively with developers to ensure they are clear about the authorities' infrastructure needs.

Authorities can choose to pool funding from different routes to fund the same infrastructure provided that authorities set out in infrastructure funding statements which infrastructure they expect to fund through the levy.

Plan makers should consider the combined total impact of such requests so they do not undermine the deliverability of the plan."

- 4.13 Paragraph: 004 Reference ID: 23b-004-20190901 advises on where policies on seeking planning obligations should be set out:

"Policies for planning obligations should be set out in plans and examined in public. Policy requirements should be clear so that they can be accurately accounted for in the price paid for land.

Such policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability. This evidence of need can be standardised or formulaic (for example regional cost multipliers for providing school places. See the guidance from the Department for Education on 'Securing developer contributions for education'. However, plan makers should consider how needs and viability may differ between site typologies and may choose to set different policy requirements for different sites or types of development in their plans.

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. Whilst standardised or formulaic evidence may have informed the identification of needs and costs and the setting of plan policies, the decision maker must still ensure that each planning obligation sought meets the statutory tests set out in regulation 122. This means that if a formulaic approach to developer contributions is adopted, the levy can be used to address the cumulative impact of infrastructure in an area, while planning obligations will be appropriate for funding a project that is directly related to that specific development.

Planning obligations assist in mitigating the impact of development which benefits local communities and supports the provision of local infrastructure. Local communities should be involved in the setting of policies for contributions expected from development."

- 4.14 Paragraph: 008 Reference ID: 23b-008-20190315 specifically deals with contributions and education provision, it states:

“Plan makers and decision makers should consider existing or planned/committed school capacity and whether it is sufficient to accommodate proposed development within the relevant school place planning areas. Developer contributions towards additional capacity may be required and if so this requirement should be set out in the plan. Requirements should include all school phases age 0-19 years, special educational needs (which could involve greater travel distances), and both temporary and permanent needs where relevant (such as school transport costs and temporary school provision before a permanent new school opens).

Plan makers should also consider whether pupils from planned development are likely to attend schools outside of the plan area and whether developer contributions may be required to expand schools outside of the area.

When local authorities forward-fund school places in advance of developer contributions being received, those contributions remain necessary as mitigation for the development.”

- 4.15 The revisions to the NPPF now bring the National Design Guide to the forefront in decision making, paragraph 8 of the Design Guide advises:

“The underlying purpose for design quality and the quality of new development at all scales is to create well-designed and well-built places that benefit people and communities. This includes people who use a place for various purposes such as:

- *To live, work, shop, for leisure and recreation, and to move around between these activities; and*
- *Those who visit or pass through.*

It also includes people at different stages of life with different abilities – children, young people, adults, families and other people, both able-bodied and disabled.”

- 4.16 Movement is covered in some detail within the Design Guide, M2 addresses active travel, paragraphs 82 and 83 state:

“Priority is given to pedestrians and cycle movements, subject to location and the potential to create connections. Prioritising pedestrians and cyclists mean creating routes that are safe, direct, convenient and accessible for people of all abilities. These are designed as part of attractive spaces with good sightlines, and well-chosen junctions and crossings, so that people want to use them. Public rights of way are protected, enhanced and well-linked into the wider network of pedestrian and cycle routes.

In well-designed places, people should not need to rely on the car for everyday journeys, including getting to workplaces, shops, schools and other facilities, open spaces or the natural environment. Safe and direct routes with visible destinations or clear signposting encourage people to walk and cycle.”

5.0 **THE APPEAL PROPOSAL**

- 5.1 As can be seen from submissions, the appeal seeks permission for outline planning permission for up to 250 dwellings, associated infrastructure, ancillary facilities, open space and landscaping. The construction of a new vehicular and pedestrian access from Harp Hill and pedestrian/cycle access from Priors Road, are also shown as proposed access points into the site. All matters are proposed to be reserved.
- 5.2 The application submission indicated that the Appellant wished the main access from Harp Hill to be considered and approved as part of this outline application. Given the objection to the proposed junction design from the Local Highway Authority, the Appellant's transport consultants have now confirmed that this element can also be reserved.

6.0 **PLANNING ANALYSIS**
EDUCATION AND LIBRARIES

Appellant's Case

- 6.1 The Appellant advances two basic challenges in respect of education matters, 1, that any contributions towards education provision are covered by CIL payments and that to seek a S106 contribution is double counting and 2, that there is sufficient capacity with the schools within the relevant place planning areas that a contribution is not required. I deal with the CIL v S106 argument, point 2 is dealt with primarily by Mr Chandler, albeit I provide some additional background information, from a planning perspective and my familiarity with planning submissions generally.

Ability to seek a S106 Contribution

- 6.2 The Appellant relies on the examination and the Inspectors report into the Cheltenham CIL charging schedule and the evidence base associated with neighbouring authorities emerging Local Plans as the basis for their argument against a s106 contribution.
- 6.3 In respect of pupil yield, they consider the approach taken by GCC to be flawed and based on a formulaic approach that has not been tested, nor the Infrastructure Delivery Plan 2014 (IDP2014) or the information examined in support of the CIL charging schedule.
- 6.4 The Appellant further considers the school place forecasts to be significantly over-estimated, to include positive manual adjustments for housing delivery, but not corresponding negative adjustments when lesser quantities of housing is delivered and that they include unspecified developments that cannot be taken into account until they gain a planning permission.

6.5 As I have recorded above, the Appellant's have presented no evidence in respect of the library contributions, accordingly, it is assumed that the sums are agreed.

6.6 In respect of highways, the Appellant considers all matters capable of resolution prior to the opening of the Inquiry and that a suitable cost-efficient mitigation package can be agreed.

Planning Policy Position

6.7 The Appellant does not appear to dispute that a scheme can, in principle, be subject to both a CIL charge and a s106 contribution, in accordance with the advice in the NPPG Paragraph: 003 Reference ID: 23b-003-20190901 which states:

"Planning obligations, in the form of section 106 agreements and section 278 agreements, should only be used where it is not possible to address unacceptable impacts through a planning condition.

Developers may also contribute towards infrastructure by way of the Community Infrastructure Levy which is a fixed charge levied on new development to fund infrastructure." (my emphasis)

6.8 CIL has not replaced s106 agreements, the introduction of the CIL Regulations 2010 resulted in a tightening up of the s106 tests but putting the tests formerly set out in case law into statutory form. S106 agreements, in terms of developer contributions, should be focused on addressing the specific mitigation which is necessary to meet the needs arising from a new development. CIL has been developed to address the broader impacts of development and associated need for infrastructure.

- 6.9 The matter in dispute is the nature of the CIL requirements in Cheltenham and what it is funding.
- 6.10 If we consider in the first instance the JCS, this is a strategic policy document, identifying strategic aims across the joint area, strategic site allocations and infrastructure requirements. All documentation associated with the JCS and its evidence base are strategic in nature.
- 6.11 It should be noted that the JCS anticipated a housing supply from the Cheltenham Plan of 1,011 dwellings. However, the adopted Cheltenham Plan allocates housing sites with an anticipated housing supply of 923 dwellings, with a further 329 dwellings benefitting from a planning permission during the consideration of the Local Plan, therefore achieving a total of 1,252 dwellings overall.
- 6.12 This appeal site is not allocated.
- 6.13 The strategic nature of the JCS is further supported in the Examiners Report October 2017 (**Appendix 2**) where she specifically discusses INF6 (then INF7), at Paragraph 247 she states: "*robust evidence from Ove ARUP, submitted during the examination for all the proposed allocations and the cross-border site at Mitton*" (*my emphasis*). In terms of infrastructure delivery, the supporting considerations in respect of the JCS were associated with the allocations proposed within that Plan (i.e. the JCS). The appeal site was not a proposed allocation in the JCS.
- 6.14 She proceeds to advise that "*The analysis shows that at least for the first five years, most infrastructure requirements are likely to be met by developers through planning obligations.*" (para 249).

6.15 The IDP2014 presents the evidence base behind the JCS assessment of infrastructure need and assisted in ascertaining the level of funding that would be required to ensure the JCS allocations were deliverable. The IDP2014 only has regard to the strategic level site allocations and infrastructure requirements, not any sites identified within the Cheltenham Plan or non-allocated sites.

6.16 Policy INF6 is not solely predicated on the delivery of the IDP2014, it is one factor and one that is related to the delivery of the strategic aims of the JCS. This is supported by the text associated with the policy. Paragraph 5.7.5 of the JCS states:

“Delivery

This policy will primarily be delivered through the development management process. Prospective developer should begin identification of infrastructure requirements at an early stage in the formulation of a proposal, seeking advice and guidance from infrastructure providers, local authorities and local communities where necessary. This includes the Gloucestershire County Council ‘Local Developer Guide: Infrastructure & Services within New Development’ (adopted February 2013). There are several policies elsewhere in the JCS that directly or indirectly relate to the provision of infrastructure. Developers should read the JCS as a whole.”

6.17 The reference to the Local Developers Guide (LDG) (**Appendix 3**) was as a direct result of comments by the examining Inspector, she stated “*Also, to ensure its effectiveness, amendments are necessary to clarify that development of all scales and types is covered, and to sign post developers to Gloucestershire County Council’s Local Developer Guide for advice.*”

- 6.18 The LDG provides further guidance to developers on how GCC intent to approach contributions. At paragraph 20 the LDG advises that *'A key purpose of CIL is to help meet envisaged gaps in funding for new infrastructure after other sources have been exhausted.'*
- 6.19 It is clear that policy INF6 has several considerations within it and is not just predicated on the IDP2014, the steer is clear that developers should liaise with infrastructure providers to ascertain infrastructure needs, these can then be considered in land purchase costs, in accordance with PPG 23b-004.
- 6.20 The IDP2014 contained a series of formulas to ascertain pupil generation from housing developments, dependant on the level of education being considered. This document formed part of the evidence base associated with the JCS and reflected the known position at the time of the Examination. Throughout the IDP2014 it is made clear that this is an iterative document supporting the JCS, and that further assessment will be required on an application by application basis. On page 75, the paragraph preceding the formula makes it clear that the assessment was correct at April 2014, almost seven years ago. Further the paragraph following the formula advises *"this indicative assessment has included all potential dwellings in its calculations and has excluded the application of qualifying homes. Any further assessment of need will need to consider the impact of the proposed housing mix and type (i.e. size and tenure) at each location..."*
- 6.21 The PPG advises that 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*. It proceeds to advise that a formula may have been used to inform new planning policies (para 23b-004), but this does not mean that the formula is one that should be used for the purposes of ascertaining infrastructure requirements associated with a specific development, it simply

isn't specific enough, as acknowledged by the text and caveats in the IDP2014.

- 6.22 Paragraph 45 of the LDG directs developers to the GCC webpage, where the Child Yield and Pupil Products in New Development and Cost multipliers are set out.

- 6.23 The LDG was subject to consultation prior to its adoption by GCC and therefore represents the most appropriate formula for a developer to use, if they did not wish to engage with GCC officers prior to the submission of applications.

- 6.24 Appendix 2 of this updated Guide clearly sets out the methodology for ascertaining the impact of a development on education facilities and is consistent with the LDG. The approach taken in respect of this Appeal is also consistent with this emerging Guide.

- 6.25 Following the Coombe Hill decision (APP/G1630/W/20/3257625 **Appendix 4**), GCC have committed to a full review of their PPRs, but for use at present have made suitable adjustments to recognise the Inspector's decision. These adjustments are set out in the Interim Position Statement, which is also published on the Council's webpage.

- 6.26 The position set out in the LDG and INF6 is further reinforced within Policy INF7 pertaining to Developer Contributions, it states that "*Financial contributions will be sought through the S106 and CIL mechanisms as appropriate*", with "*financial contributions towards the provision of infrastructure and services required as a consequence of development*," "*will be negotiated with the developer before the grant of planning permission*".

6.27 The recent appeal decision pertaining to Coombe Hill, Gloucestershire, by the same Appellant, considered the appropriateness of using the IDP2014 as the formulaic basis for pupil yield. The Inspector stated (page 19 paragraph 5):

"JCS policy INF6 requires that, in identifying infrastructure requirements, development proposals will also demonstrate that full regard has been given, where appropriate, to implementing the JCS Infrastructure Delivery Plan (the IDP) of 2014. As the IDP pupil yield factors are based on a 2007 assessment, they are no longer appropriate to use them as a basis for estimates of the effects of development on the demand for and provision of schools."

6.28 The Appellant has accepted that the Inspector considered that IDP2014 was no longer up to date. However, they now assert that it remains the most relevant point, as they now claim that the NEMS Research Survey is based on the IDP2014 PPRs.

6.29 The NEMS Research Survey was instructed by the Appellant and was a survey of properties within new housing developments. A subsequent report based on those findings was then produced by Pegasus. This full report has not been provided to GCC. A headline report was submitted in support of the Coombe Hill case. The headline report consistently compares the NEMS Survey with the Cognisant Report and at no time reflects the IDP2014.

Cheltenham CIL

6.30 Turning to the Cheltenham CIL. Three CIL Charging Schedules, one for each Authority within the JCS area, were prepared and submitted for examination in July 2016. The Examiners Report (**Appendix 5**) makes it clear that the charging schedules are an appropriate basis for the collection of the Levy, as set out in the JCS.

- 6.31 The CBC Charging Schedule specifically states at paragraph 1.8 that specific infrastructure projects will still be funded through s106 Agreements, subject to the CIL 122(2) tests. At the time of adoption, there was a requirement for the LPA to publish a CIL 123 list, setting out how the CIL payments are to be spent.
- 6.32 The CBC Regulation 123 list (**Appendix 6**) made it clear that CIL payments will only be made towards infrastructure that is not directly related to an individual development and that s106 or s278 contributions will be secured for infrastructure directly related to that development.
- 6.33 Whilst the draft CIL Charging Schedule and Regulation 123 may have taken a different form when submitted for Examination, there were numerous changes made during that process and the final, adopted position, was established following the Inspectors Report and adoption of the CIL Charging Schedule.
- 6.34 Regulation 123 has now been repealed following SI 1103 2019 coming into force. With it was the removal of Regulation 123(1) which prevented a planning obligation from constituting *"a reason for granting planning permission for a development to the extent that the obligation provides for the funding or provision of relevant infrastructure"*. Accordingly, this allowed contributions to be sought for relevant infrastructure projects via S106 Agreements.
- 6.35 As a result of amendments to the CIL Regulations in 2019 a Regulation 121A Infrastructure List is a statutory obligation, alongside an Annual CIL Summary Statement. A CIL receiving Authority is now required to publish a Infrastructure Funding Statement annually, pursuant to Regulation 121A(1)a that Statement needs to include a list of the infrastructure projects or types of infrastructure that will be, or may be, wholly or partly funded by CIL.

6.36 CBC reported their first List and Summary Statement to Cabinet on the 1 December 2020. A copy of the documents are at **Appendix 7**. As can be seen, no CIL funds were spent on any education or libraries schemes, similarly there are no education or libraries scheme within the Infrastructure List that replaces the 123 List.

6.37 Whilst the 123 List was repealed prior to the submission of this Application and the subsequent submission of this Appeal, it was used by the Local Planning Authority as a guide to CIL contributions and schemes, in that it was the most up to date list available. The Infrastructure Funding Statement will be the relevant document for the purposes of this Appeal decision.

6.38 Further, GCC have now also published their Infrastructure Funding List (**Appendix 8**). The GCC List shows that no CIL money has been passed to the County for infrastructure projects, only s106 monies.

6.39 It must be noted that CBC is the CIL Charging Authority, GCC has no control over whether any or all CIL payments are paid to GCC for education or any other purpose. CIL payments are paid into a general infrastructure fund and cannot be directed to an infrastructure type or project that seeks to meet the need arising from specific development.

6.40 Furthermore, as stated in the CIL Examiners Report at paragraph 15, there a funding gap in Cheltenham of £109,499,669. This only serves to highlight the importance of s106 contributions to meet the needs of specific developments.

Other Appeal Decisions.

6.41 The Appellant regularly deals with developments within the GCC administrative area and prior to the Coombe Hill case have not disputed the

methodology used by the County in reaching their conclusions on education or library contributions, in January 2020 alone an appeal decision was issued on a site at Fiddington, Ashchurch, nr Tewkesbury ref: APP/G1630/W/18/3210903 (**Appendix 9**). Matters pertaining to education and libraries were not disputed in this case and a s106 Agreement produced to deliver the appropriate mitigation. As can be seen from the calculation at **Appendix 9** the same methodology was applied, based on the formula contained within the LDG (2018). The Inspector concluded that the contributions met the CIL 122 tests.

6.42 Appellants, namely Gladman Developments Ltd in a recent Tewkesbury appeal, ref: APP/G1630/W/19/3229581. Land at Stoke Road, Bishop's Cleeve (**Appendix 10**) sought to argue a similar case to that presented in respect of CIL vs s106 in this case, as can be seen in the Appeal submissions by GCC and the Appellant at **Appendix 11**.

6.43 As can be seen from the Inspectors Decision in the Stoke Road case, he specifically states that contributions towards the same infrastructure project can be pooled from both CIL and s106 contributions (para 65 **Appendix 9**). This was a matter of dispute before the Inspector between GCC and Gladman, the Appellants, as is confirmed by the submissions I produce at **Appendix 11**. At paragraph 70 of the decision letter the Inspector deals with the proposed education contribution, not only does he agree with the contribution complying with the CIL 122 tests, but also considers the financial contributions based on the DfE multipliers as appropriate. At paragraph 71, he similarly concludes that the libraries contribution complies with the CIL 122 tests.

6.44 The Inspectors position is further reiterated at paragraph 75, where he concludes:

"In my view, all of the obligations in the two s106 Planning Obligations are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, they all meet the tests within Regulation 122 of the CIL Regulations and should be taken into account in the decision."

- 6.45 There is no evidence before this Inquiry, at the time of writing, to suggest that this finding should not be replicated in this Appeal case and it is considered that consistency in decision making would indicate that the same approach should be taken to the issue here. Moreover, the position has been further supported by the adoption of the new IFS and List that clearly shows there are no identified CIL funds to be directed to education or libraries.

Library Contributions

- 6.46 There has been no evidence submitted contradicting the Libraries contribution sought.
- 6.47 Libraries receive no funding from the CIL payments received, albeit the CIL Charging Schedule does allow for non-direct library projects to be funded via CIL. There is currently no strategic programme of works proposed. The service generally sees an increase in use of library facilities where new residential development occurs, hence contributions proportionate to the scale of development, in this instance a sum of £49,000 is sought.
- 6.48 The requested contribution is to be used to improve the services offered from the library to enable additional demand to be accommodated, there is doubt in my view as to whether this contribution would fall under the definition of infrastructure in any event so as to be eligible in principle for CIL receipts. The Oxford English Dictionary defines infrastructure as "*the basic physical*

and organisational structures and facilities (e.g. buildings, roads, power supplies) needed for the operation of a society or enterprise.” Whilst the contribution is required to mitigate against the impact of the development, it would not be spent on bricks and mortar but on service improvements to increase capacity.

6.49 This request needs to be assessed against the Regulation 122(2) tests to ensure that it is a lawful request which can be taken into account in the determination of a planning application or appeal. This will be addressed in the GCC CIL Justification.

6.50 Without this contribution the Appeal proposal would fail to mitigate against impact on community services, services that benefit from no other funding, and would be contrary to Policy INF4 of the JCS.

Education Contributions

6.51 Educational need is addressed within the Proof of Evidence of Mr Stephen Chandler.

6.52 In summary, GCC has a statutory duty as the Local Education Authority to ensure the provision of pre-school, primary and secondary school places within its administrative area.

6.53 This includes responding to new growth within the area and ensuring that, where there is an impact that results from development, a request is made for mitigation. This can be in form of a new school, or a contribution towards expansions etc, depending on the scale of development proposed. PPG paragraph 23b-008, supports this approach. Consideration should be given to the relevant school place planning area, but this must be only the starting point. It is necessary to consider the distances and the need to travel between a development site and schools and as such to consider the extent

to which there is capacity at the school nearest to the development site and the source demand.

6.54 Following the adoption of the Local Development Guide 2021, GCC have adopted an approach that considers the whole place planning area relevant to the development site, along with any other schools within the statutory walking distances, but within adjacent place planning areas. GCC have adopted the National Audit Office guidance of 95% being deemed to be at capacity for the purposes of place planning, thus allowing some flexibility for in-year movements.

6.55 As can be seen from Mr Chandlers evidence, the primary place planning area is current at 97% capacity, whilst the secondary place planning area is at 100% capacity. Neither place planning area can therefore be deemed to have any surplus capacity.

6.56 These base forecasts do not include any committed development, only complete and reported development (included on an annual basis). Once committed development is added to this the pressure for places is further compounded.

6.57 There are several schemes that currently benefit from planning permission and are either about to commence on site or have already commenced, which will impact on either or both the primary and secondary place planning areas, these are as follows:

- Pittville School, Albert Road (15/01163/OUT & 19/00053/REM)
58 Dwellings.
REM granted 21 March 2021
Pre-commencement conditions still outstanding.
Completion anticipated 2024/25.
Primary and Secondary place planning areas.

- Premier Products, Bouncers Lane (17/00929/OUT, 18/01527/REM & 20/00780/FUL).
 65 Dwellings.
 Final Planning permission granted 6 May 2021.
 Pre-commencement conditions pending discharge.
 Completion anticipated 2025/26.
 Primary and Secondary place planning areas.
- Old Gloucester Road, Cheltenham (17/01411/OUT & 20/00272/REM & 21/00872/REM).
 85 Dwellings.
 Last REM approved 16 July 2021.
 Last REM also sought approval of pre-commencement conditions.
 Completion anticipated 2024/25
 Secondary place planning area only.
- Land Off Stone Crescent (18/02215/FUL)
 13 Dwellings.
 Planning permission granted 21 December 2018.
 Pre-commencement conditions granted June 2021.
 Completion anticipated 2023/24
 Secondary place planning area only.
- Land Off Brockhampton Lane (18/01234/OUT & 19/01998/REM)
 17 Dwellings.
 REM granted 7 February 2020.
 Conditions granted May 2021.
 Condition submission confirmed commencement on site September 2020.
 Completion anticipated 2022/23.
 Secondary place planning area only.
- Dowty House Residential Home St Margaret's Road (18/01973/FUL)
 28 Dwellings.
 Planning permission granted 2 October 2018.
 A recent s73 application confirmed commencement on site in November 2020.
 Completion anticipated 2022/23.
 Secondary place planning area only.

- Land To The West Of Farm Lane, Shurdington (14/00838/FUL)
369 Dwellings.
154 Dwellings not included in forecasts.
Anticipated completion 2024/25.
Secondary place planning area only.
- GCHQ, Oakley (CB11954/43 & 13/01683/REM)
311 Dwellings.
25 not included in forecasts.
Anticipated completion 2021/2022.
Primary and Secondary place planning areas.
- Starvehall Farm, New Barn Lane (20/01703/FUL)
50 Dwellings.
Planning permission granted 21 May 2021.
Pre-commencement conditions pending discharge.
Completion anticipated 2024/25.
Primary and Secondary place planning areas.

6.58 The following committed sites have been excluded:

- 102 Prestbury Road (17/01266/FUL)
Permission lapses in September 2021.
No conditional submission, therefore, no guarantee of delivery.
- Timbercombe House, Charlton Kings Business Park (19/02524/PRIOR)
Building still in occupation, therefore unlikely to be able to implement in accordance with the permission.
- North Place Car Park and Portland Street (12/01612/FUL)
Whilst conditions have been submitted there is no sign of a material commencement.
- Eagle Star Tower Block (15/01237/P3JPA)
Prior approval now lapsed and no sign of commencement.

6.59 This list is unlikely to be exhaustive as any windfall development below 10 dwellings is not included.

6.60 Of those committed developments, there will be an additional 198 dwellings within the primary place planning area and 495 dwellings within the secondary place planning area, once 1no. bed dwellings are removed this is reduced to 186 dwellings within the primary place planning area and 450 dwellings within the secondary place planning area (a 10% allowance has been made for 1no. beds in the Shurdington development as the exact mix of remaining completions is unknown). This equates to the following PPR:

- Primary - 71.61 pupils.
- Secondary – 76.5 pupils.

6.61 Anticipated completions have been ascertained having regard to the planning stage and whether the development has commenced on site, alongside the guidance within the Lichfields “Start to Finish: What factors affect the build-out rates of large scale housing sites?” second edition (**Appendix 12**)

6.62 Regard should also be given to site allocations adopted as part of either the JCS or the Cheltenham Plan. Whilst the following sites do not yet benefit from any formal planning permission, consideration has been given to the development of the site and its impact on associated infrastructure including education.

6.63 As part of the GCC considerations of the proposed allocations regard should be given to the capacity to accommodate sites within the place planning areas, or whether provision is needed for additional school provision. This enables additional capacity to be factored into the formation of planning policies at the earliest time.

6.64 The following allocated sites affect the primary place planning area:

- HD3 – Bouncers Lane (not consented) – circa 20 dwellings.
- HD4 – Land Off Oakhurst Rise – circa 25 dwellings.

- HD7 – Priors Farm Fields – Circa 50-90 dwellings.

6.65 The following allocated sites affect the secondary place planning area:

- HD1 – Christ College Site B – circa 70 dwellings.
- HD2 – Former Monkscroft Primary School – circa 60 dwellings.
- HD3 – Bouncers Lane (not consented) – circa 20 dwellings.
- HD4 – Land Off Oakhurst Rise – circa 25 dwellings.
- HD7 – Priors Farm Fields – Circa 50-90 dwellings.

6.66 It is evident that with existing pupils on roll, committed development and allocated sites that both the primary and secondary place planning areas associated with this proposed development are stretched, with no residual capacity to accommodate this proposal. For clarity, with committed developments alone, excluding any allocated sites, the capacity in the primary planning area increases to 99% and 101% in the secondary planning area.

6.67 The Appellant will argue that Oakwood Primary School should be considered individually as the base forecast shows that there is 20% residual capacity in the 2023/24 forecast year. However, this doesn't account for the committed development that will be delivered prior to this appeal site coming forward and doesn't allow for any flexibility within the place planning area as a whole. Ultimately, this is a forecast of completed and occupied development only, to look at the entire place planning area and on the basis of 95% being considered full for planning purposes, enables committed, yet to be complete development, to be accommodated and doesn't prejudice early school expansions, undertaken as a result of committed development and allocated sites, from being 'double-counted' for the purposes of speculative submissions.

6.68 On the basis of an additional 250 dwellings, there remains a need to mitigate against the following school place demand arising as a direct result of this development:

- Primary – 96.25 places
- Secondary – 42.5 places
- Post 16 – 15 places

6.69 The cumulative contribution being sought is £2,602,127.50 for 250 dwellings. The full breakdown is contained within Mr Chandler's Proof of Evidence.

Potential Amendment of Appeal Scheme

6.70 The Appellant has advised, via email, that they intend to include provision for 24no 1-bed dwellings within the housing mix, as such reducing the qualifying dwellings to 226 dwellings. At the time of writing this had not been formally submitted to the Inquiry, it was not committed by any legal agreement and the Local Planning Authority were not aware of any such agreement.

6.71 Should it be secured appropriately, contributions for 1-bed units would not be required and any educational demand would be based on 226 dwellings. This would reduce the PPR to:

- Primary: 87 places
- Secondary: 38.42 places
- 6th Form: 13.56 places

6.72 The associated cumulative contribution would be reduced to £2,352,323.26

6.73 Given the place planning areas are currently operating at in excess of 95%, this reduction would have no impact on the need for a contribution.

6.74 As set out above, it is considered that this impact is as a direct result of the proposed development, namely, there would be no additional need of this

nature, over and above forecast demand, if this development were not forthcoming. Accordingly, as explained above, the impact generated is not one covered by any CIL contributions but requires a s106 developer contribution.

Regulation 122 Test

6.75 This request needs to be assessed against the Regulation 122(2) tests to ensure that it is a legitimate request:

a) Necessary to make the development acceptable in planning terms;

6.76 Mr Chandler's Proof of Evidence clearly shows that there is a capacity constraint within the local education provision within ready access of this proposed site. Furthermore, he has clearly set out how GCC ascertain the level of demand a development of the scale will have on the existing provision.

6.77 Based on forecast impact and existing capacity within the schools, at all levels, the failure to mitigate against this impact would result in a detrimental impact on education provision within this area such that it would be contrary to Policy INF6.

6.78 The proposal can be made acceptable with an appropriately worded and agreed s106 Agreement.

b) Directly related to the development; and

6.79 The additional pressure on school places will result from this development directly, additional homes equals additional people within this school catchment area.

c) Fairly and reasonably related in scale and kind to the development.

- 6.80 The calculation of need is based on a robust and up to date methodology that establishes yield or pupil product ratios, as advised in paragraph 8 of the DfE Securing Developer Contributions for Education guidance. This report was previously challenged, and further report produced that corroborated the original Cognisant Research. More detail on this is within Mr Chandler's Proof of Evidence.
- 6.81 The contribution is based on the most up to date Department of Education Place Cost Multiplier that has been subject to annual percentage increase/decrease based on the RICS BCIS Public Service Tender Price Index.
- 6.82 Given that the yield result from the scale of development proposed and then a sum applied, based on Government data, it is considered that the contribution sought are fair and reasonably related in scale and kind to the development.
- 6.83 The proposed request is therefore considered to be in accordance with the Regulation 122(2) test and the failure to enter into any such contribution will result in the proposal failing to mitigate against its own impact on educational facilities and would therefore be contrary to Policy INF6 of the JCS.

7.0 PLANNING ANALYSIS

HIGHWAYS AND TRANSPORTATION

- 7.1 The Proof of Evidence of Mr Stephen Hawley will deal with the technical matters associated with highways and transportation.
- 7.2 The accessibility for all agenda is also a matter that needs to be considered in the planning debate.
- 7.3 It is acknowledged that this application is in outline form with all matters reserved. The Appellant has also now confirmed that this also relates to the main access into the site.
- 7.4 However, as part of the consideration of an application for outline permission, the determining body must be satisfied that the principle of the scale and nature of development proposed is capable of delivery on the site, without straying into detailed reserved matters.
- 7.5 In this case, the Local Highway Authority are concerned about the ability to deliver a site with appropriate gradients that will encourage active travel and the use of non-car modes of transport. The application was supported by four plans showing indicative sections of the site, ref: 333.P.4.A, 333.P.4.b, 333.P.4.C and 333.E.7.1.
- 7.6 Plan ref 333.E.7.1 demonstrates that the levels east-west, following a cut and fill exercise, will achieve levels of approximately 1:20. It further demonstrates that the north-south, even with a cut and fill exercise will only achieve 1:12.5.
- 7.7 Paragraph 110 of the NPPF 2021 advises that, in assessing applications it must be ensures that:

"a) appropriate opportunities to promote sustainable transport modes can be – or have been- taken up, given the type of development and its location;

d) safe and suitable access to the site can be achieved for all users....."

7.8 Paragraph 112 of the NPPF 2021 advises that applications for development should:

"a) give priority first to pedestrians and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitate access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;"

7.9 The scheme as proposed incorporates a footpath/cycleway extending along the northern boundary of the site and out along the former field access to Priors Road. This connects into the roadways within the site, which is also comprised of a series of footpaths and connections leading towards and adjacent to Harp Hill on the southern boundary.

7.10 The National Design Guide, M2 paragraphs 82 and 83 advise:

"Priority is given to pedestrians and cycle movements, subject to location and the potential to create connections. Prioritising pedestrians and cyclists mean creating routes that are safe, direct, convenient and accessible for people of all abilities. These are designed a spart of attractive spaces with good sightline, and well-chosen junctions and crossings, so that people want to use them.

Public rights of way are protected, enhanced and well-linked into the wider network of pedestrian and cycle routes.

In well-designed places, people should not need to rely on the car for everyday journeys, including getting to workplaces, shops, schools and other facilities, open spaces or the natural environment. Safe and direct routes with visible destinations or clear signposting encourage people to walk and cycle."

- 7.11 These are positions that reinforce the content of both the Manual for Streets and Manual for Streets 2 (MfS2) and 'Inclusive Mobility' (2005).

- 7.12 MfS2 is now 11 years old, national guidance, in the form of the NPPF, NPPG and National Design Guide are current and place a much greater emphasis on the need for inclusive design, access for all and active travel, seeking to encourage residents to use non-car modes of transport, a position reinforced within the Manual for Gloucestershire Streets 2020.

- 7.13 The NPPG states that inclusive design is often seen as a Building Regulations matter, to be addressed once planning permission has been obtained, not at the planning application stage. But in fact, the most effective way to overcome conflicting policies and maximise accessibility is for all parties to consider inclusive design from the outset. (Paragraph: 017 Reference ID: 63-017-20190626).

- 7.14 This is an unallocated site, a speculative application in a location that is heavily constrained on three sides, such that changes in gradients are not easily accommodated.

- 7.15 The proposed consistent 1:12.5 gradient south to north will actively dissuade people from using it on their return journeys due to the need for indirect

routes if a flatter gradient is to be achieved or by virtue of the physical gradient if a direct route is incorporated and is therefore contrary to the aims of the NPPF and National Design Guide in seeking to promote active travel and inclusivity for all.

- 7.16 Whilst these issues have been raised with the Appellant, no additional information has been provided to demonstrate that improved gradients could be achieved to maximise the accessibility of the site for those people with protected characteristic.
- 7.17 Changes in gradients and land levels generally will have a potential impact on wider landscape matters which will be addressed by the Borough Council in their evidence.
- 7.18 The proposal, in its current form, has failed to demonstrate that a scheme could be designed to achieve a suitable gradient across the site to deliver appropriate and accessible access to all modes of transport for all users.
- 7.19 It is therefore considered that the Appellant has failed to demonstrate that a scheme could come forward that would seek to give priority to footpath and cycle users and ensure the needs of all users can be adequately accommodated, contrary to the NPPF, National Design Guide and Policy SD4 of the JSC.

8.0 **PLANNING ANALYSIS AND CONCLUSIONS**

Introduction

8.1 There appears to be no dispute that a development of this scale will impact on infrastructure, whether it be libraries or schools.

8.2 On this basis, the Appellant's case, in so far as it pertains to GCC, may be summarised as being that: the LPA and GCC have incorrectly sought s106 contributions that are already covered by CIL contributions, in effect 'double-dipping'; and that GCC have incorrectly calculated the educational need resulting from this development.

8.3 The Appellant has presented no evidence in respect of the library contribution.

Policy Position

8.4 It has been demonstrated by both the LPA and GCC that CIL contributions are required in addition to s106 contributions.

8.5 It has similarly been demonstrated that CIL contributions are associated with infrastructure proposals that are not directly linked to a specific site but are area wide. S106 contributions are directly related to impact of the proposed development itself.

8.6 In order therefore to satisfy the requirements of policies INF4, INF6 and INF7, a s106 Agreement is required providing contributions towards libraries, education and highways and transportation.

Libraries

8.7 It has been demonstrated in evidence that the requested contribution meets the Regulation 122(2) tests and is therefore required in order to satisfy Policy

INF4 which requires new residential development to contribute towards community facilities where the proposed will create or add to a need.

- 8.8 Similarly, it will ensure compliance with paragraph 93 of the NPPF, in that it will ensure that there is sufficient capacity within this much needed community facility to serve the needs of the future occupiers of the proposed development.

Education

- 8.9 It has been demonstrated in evidence that the requested contributions meets the Regulation 122(2) tests and are therefore required in order to satisfy Policy INF6.
- 8.10 It has been demonstrated that direct impacts from developments are not covered by CIL, therefore a S106 Agreement will be required to enable this proposal to meet the tests of Policy INF6 and mitigate against the impact that results from this proposed development on education provision within the locality of the site.
- 8.11 In addition, it will ensure compliance with paragraph 95 of the NPPF by ensuring sufficient school places are available to meet the needs of this new community.
- 8.12 The same argument was advanced and found sound within the Stoke Road appeal. In that case, the S106 Agreement contained a clause advising that the education contribution was to be reduced if any of the CIL contribution was awarded to education provision within the area that would in turn reduce the need for the S106 contribution. GCC are agreeable to a similar approach in this case. The completion of an appropriate s106 Agreement will enable this proposal to comply with the requirements of Policy INF7, which requires contributions to be delivered via s106 or CIL mechanisms, as appropriate.

- 8.13 The failure to deliver appropriate mitigation against the impact of the development on library provision and ensuring sufficient school places, undermines both the social and economic objectives of sustainable development, as set out in paragraph 8 of the NPPF.
- 8.14 This is a material consideration in the determination of this appeal and should carry significant weight in the planning balance against the scheme.

Highways and Transportation

- 8.15 It has been demonstrated that the site fails to promote active travel by virtue of the steep gradient's deliverable across the most direct routes to footpaths and cycleways, namely north-south across the site.
- 8.16 The proposal is therefore considered to be contrary to Policy SD4 of the Joint Core Strategy, the Manual for Gloucestershire Streets 2020, the NPPF 2021 and the National Design Guide.
- 8.17 As set out in Mr Hawley's evidence, it is considered that this proposal will result in a severe impact on the highway network, contrary to paragraph 111 of the NPPF and is therefore a basis for refusing the Appeal.
- 8.18 Both matters are material considerations in the determination of this appeal and should carry significant weight in the planning balance against the proposal.

9.0 **EXECUTIVE SUMMARY AND CONCLUSIONS**

- 9.1 This Appeal seeks permission for the erection up to 250 dwellings, associated infrastructure, ancillary facilities, open space and landscaping at Oakley Farm, Priors Road, Cheltenham.
- 9.2 The Appeal is an appeal against the non-determination of the application; however, the LPA have rationalised matters to 7 putative reasons for refusal. Putative reasons for refusal (PRFR) 3, 6 and 7 relate to County Council matters.
- 9.3 The Appellants consider the contributions sought in respect of education and library provision are covered by the CBC CIL scheme. In addition, they object to the formula for ascertaining educational impact.
- 9.4 As set out in detail within this Proof of Evidence, at all levels of regulation and policy, it is clear that CIL and s106 contributions can be sought from a single development.
- 9.5 The CBC CIL Charging Schedule clearly states that s106 Agreements will be sought for specific infrastructure projects where they are directly related to a development.
- 9.6 This is reinforced by the CBC IFS and List, which shows that CIL contributions have not been used towards education or library projects.
- 9.7 From all the CIL documentation adopted by CBC it is evident that there was, at no point, any intent that CIL should cover any infrastructure costs that arise directly as a result of proposed development and that, subject to meeting the CIL Regulation 122(2) tests, they should be secured via a s106 Agreement.

- 9.8 The Coombe Hill decision resolved that the IDP2014 was not the most up to date evidence to determine a pupil product ratio, bizarrely, the Appellants are now trying to re-insert the relevance of the IDP2014 as the most appropriate formula, through their own assessment, the NEMs Research Survey.
- 9.9 This approach is at odds with guidance in the PPG paragraph 23b-004 which states that formula should not be set out in evidence-based documents.
- 9.10 GCC have sought to ensure their guidance within the LDG is up to date and follows the advice contained within the DfE Securing developer contributions for education. In light of the Coombe Hill decision, GCC have sought to respond to the Inspectors comments and have revised their PPRs, pending a full review. Full details of the mechanisms for arriving at the need arising from this proposed development is contained within the Proof of Evidence of Mr Chandler.
- 9.11 It is for GCC to demonstrate that the contributions sought are compliant with CIL Regulation 122(2). As required by the Inquiry procedure we will produce a CIL Compliance Statement separately, but this proof demonstrates that both the library and education contributions are directly related to the development, necessary to make the development acceptable and fairly and reasonably related in scale and kind to the development proposed.
- 9.12 Accordingly, without appropriate s106 contributions, the proposal would result in a shortfall of pupil places at all levels (0-19yrs) within the school place planning area for this development and within a reasonable distance to avoid reliance on the car, contrary to policies INF6 and INF7 of the JCS and the NPPF.

- 9.13 Further, there would be insufficient capacity within the existing libraries infrastructure to cater for the additional demands that would arise as a result of new development, contrary to policies INF4 of the JCS and the NPPF.
- 9.14 Lastly, full concerns regarding the impact of the proposed development on highways and transportation is set out in the Proof of Evidence of Mr Hawley, however, it is essential for any outline planning application to satisfy the decision maker that the scale and nature of development proposed can be reasonably accommodated on any application site. In this instance, there is a significant concern that development cannot achieve appropriate gradients across the site to ensure access to all modes of transport is achievable for all users.
- 9.15 The proposal is therefore considered to be contrary to policy SD4 of the JCS, the NPPF and National Design Guide.
- 9.16 Lastly, the failure to address the adequate provision of infrastructure and to provide accessible development undermines the social and economic objectives of sustainable development.

10.0 **DECLARATIONS**

10.1 I am retained by Gloucestershire County Council to provide independent expert planning evidence in relation to the proposed residential development at Oakley Farm, Priors Road, Cheltenham, in relation to County Matters.

Statement of Truth

10.2 I confirm that, in so far as the facts stated in my Evidence, are within my own knowledge, I have made clear which they are and I believe them to be true, and that the opinions expressed represent my true and complete professional opinion.

Declaration

10.3 I confirm that my Proof of Evidence includes all facts which I regard as being relevant to the opinions which I have expressed, and that attention has been drawn to any matters which would affect the validity of those opinions.

10.4 I can confirm that my duty to the Planning Inspector as an Expert Witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty as required.

10.5 I confirm that I am not instructed under any conditional fee arrangement.

10.6 I can confirm that I have no conflicts of interest of any kind.

APPENDIX 1

1. Home (<https://www.gov.uk/>)
2. Housing, local and community (<https://www.gov.uk/housing-local-and-community>)
3. Planning and building (<https://www.gov.uk/housing-local-and-community/planning-and-building>)
4. Planning system (<https://www.gov.uk/housing-local-and-community/planning-system>)

Guidance

Planning obligations

Use of planning obligations and process for changing obligations.

From:
Ministry of Housing, Communities & Local Government (<https://www.gov.uk/government/organisations/ministry-of-housing-communities-and-local-government>)

Published
19 May 2016

Last updated
1 September 2019 — See all updates

Print this page

In response to the spread of Coronavirus (COVID-19), MHCLG has published planning guidance on developer contribution matters (<https://www.gov.uk/guidance/coronavirus-covid-19-community-infrastructure-levy-guidance>).

Where plans are being prepared under the transitional arrangements set out in Annex 1 to the revised National Planning Policy Framework (<https://www.gov.uk/government/publications/national-planning-policy-framework--2>), the policies in the previous version of the framework published in 2012 (<http://webarchive.nationalarchives.gov.uk/20180608095821/https://www.gov.uk/government/publications/national-planning-policy-framework--2>) will continue to apply, as will any previous guidance which has been superseded since the new framework was published in July 2018. If you'd like an email alert when changes are made to planning guidance please subscribe (<https://www.gov.uk/topic/planning-development/planning-officer-guidance/email-signup>).

Planning obligations

What are planning obligations?

Planning obligations are legal obligations entered into to mitigate the impacts of a development proposal.

This can be via a planning agreement entered into under section 106 of the Town and Country Planning Act 1990 (<https://www.legislation.gov.uk/ukpga/1990/8/section/106>) by a person with an interest in the land and the local planning authority; or via a unilateral undertaking entered into by a person with an interest in the land without the local planning authority.

Planning obligations run with the land, are legally binding and enforceable. A unilateral undertaking cannot bind the local planning authority because they are not party to it.

Planning obligations are also commonly referred to as 'section 106', 's106', as well as 'developer contributions' when considered alongside highways contributions and the Community Infrastructure Levy.

See related policy: National Planning Policy Framework paragraph 56 (<https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para56>)

Paragraph: 001 Reference ID: 23b-001-20190315

Revision date: 15 03 2019

When can planning obligations be sought by the local planning authority?

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:

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

These tests are set out as statutory tests in regulation 122 (<http://www.legislation.gov.uk/uksi/2010/948/regulation/122/made>) (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework. These tests apply whether or not there is a levy charging schedule for the area.

See related policy: National Planning Policy Framework paragraph 56 (<https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para56>)

Paragraph: 002 Reference ID: 23b-002-20190901

Revision date: 01 09 2019 See previous version (<https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations>)

How do planning obligations relate to other contributions?

Developers may be asked to provide contributions for infrastructure in several ways.

Local authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Developers will have to comply with any conditions (<https://www.gov.uk/guidance/use-of-planning-conditions>) attached to their planning permission. Conditions should be kept to a minimum and only imposed where they are necessary, relevant, enforceable, precise and reasonable.

Planning obligations, in the form of section 106 agreements and section 278 agreements (<http://www.legislation.gov.uk/ukpga/1980/66/section/278>), should only be used where it is not possible to address unacceptable impacts through a planning condition.

Developers may also contribute towards infrastructure by way of the Community Infrastructure Levy which is a fixed charge levied on new development to fund infrastructure.

Where the Community Infrastructure Levy is in place for an area, charging authorities should work proactively with developers to ensure they are clear about the authorities' infrastructure needs.

Authorities can choose to pool funding from different routes to fund the same infrastructure provided that authorities set out in infrastructure funding statements which infrastructure they expect to fund through the levy.

Plan makers should consider the combined total impact of such requests so they do not undermine the deliverability of the plan.

See related policy: National Planning Policy Framework paragraph 34 (<https://www.gov.uk/guidance/national-planning-policy-framework/3-plan-making#para34>) and paragraph 54 (<https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para54>)

Paragraph: 003 Reference ID: 23b-003-20190901

Revision date: 01 09 2019 See previous version (<https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations>)

Where should policy on seeking planning obligations be set out?

Policies for planning obligations should be set out in plans and examined in public. Policy requirements should be clear so that they can be accurately accounted for in the price paid for land.

Such policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability (<https://www.gov.uk/guidance/viability>). This evidence of need can be standardised or formulaic (for example regional cost multipliers for providing school places. See the guidance from the Department for Education on 'Securing developer contributions for education' (<https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>)). However, plan makers should consider how needs and viability may differ between site typologies and may choose to set different policy requirements for different sites or types of development in their plans.

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. Whilst standardised or formulaic evidence may have informed the identification of needs and costs and the setting of plan policies, the decision maker must still ensure that each planning obligation sought meets the statutory tests set out in regulation 122 (<http://www.legislation.gov.uk/uksi/2010/948/regulation/122/made>). This means that if a formulaic approach to developer contributions is adopted, the levy can be used to address the cumulative impact of infrastructure in an area, while planning obligations will be appropriate for funding a project that is directly related to that specific development.

Planning obligations assist in mitigating the impact of development which benefits local communities and supports the provision of local infrastructure. Local communities should be involved in the setting of policies for contributions expected from development.

See related guidance: Viability (<https://www.gov.uk/guidance/viability>) and Plan-making (<https://www.gov.uk/guidance/plan-making>)

Paragraph: 004 Reference ID: 23b-004-20190901

Revision date: 01 09 2019 See previous version (<https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations>)

What evidence is needed to support policies for contributions from development?

Plans should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability that takes into account all relevant policies, and local and national standards including the cost implications of the Community Infrastructure Levy (CIL) and planning obligations. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and the total cumulative cost of all relevant policies will not undermine deliverability of the plan.

See related policy: National Planning Policy Framework paragraph 56 (<https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para56>)

See related guidance: Viability (<https://www.gov.uk/guidance/viability>) and Plan-making (<https://www.gov.uk/guidance/plan-making>)

Paragraph: 005 Reference ID: 23b-005-20190315

Revision date: 15 03 2019

Can planning obligations be pooled to fund infrastructure?

The 2019 amendments to the regulations removed the previous restriction on pooling more than 5 planning obligations towards a single piece of infrastructure.

This means that, subject to meeting the 3 tests set out in CIL regulation 122 (<http://www.legislation.gov.uk/uksi/2010/948/regulation/122/made>), charging authorities can use funds from both the levy and section 106 planning obligations to pay for the same piece of infrastructure regardless of how many planning obligations have already contributed towards an item of infrastructure.

Authorities should set out in an infrastructure funding statement which infrastructure they intend to fund and detail the different sources of funding (see regulation 121A (<http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made>)).

Paragraph: 006 Reference ID: 23b-006-20190901

Revision date: 01 09 2019 See previous version (<https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations>)

What funding is available for education?

Government provides funding to local authorities for the provision of new school places, based on forecast shortfalls in school capacity. There is also a central programme for the delivery of new free schools.

Funding is reduced however to take account of developer contributions, to avoid double funding of new school places. Government funding and delivery programmes do not replace the requirement for developer contributions in principle.

Plan makers and local authorities for education should therefore agree the most appropriate developer funding mechanisms for education, assessing the extent to which developments should be required to mitigate their direct impacts.

The Department for Education has published guidance for local education authorities on developer contributions for education (<https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>).

Paragraph: 007 Reference ID: 23b-007-20190315

Revision date: 15 03 2019

What contributions are required towards education?

Plans should support the efficient and timely creation, expansion and alteration of high-quality schools. Plans should set out the contributions expected from development. This should include contributions needed for education, based on known pupil yields from all homes where children live, along with other types of infrastructure including affordable housing.

Plan makers and decision makers should consider existing or planned/committed school capacity and whether it is sufficient to accommodate proposed development within the relevant school place planning areas. Developer contributions towards additional capacity may be required and if so this requirement should be set out in the plan. Requirements should include all school phases age 0-19 years, special educational needs (which could involve greater travel distances), and both temporary and permanent needs where relevant (such as school transport costs and temporary school provision before a permanent new school opens).

Plan makers should also consider whether pupils from planned development are likely to attend schools outside of the plan area and whether developer contributions may be required to expand schools outside of the area.

When local authorities forward-fund school places in advance of developer contributions being received, those contributions remain necessary as mitigation for the development.

The Department for Education has published guidance for local education authorities on developer contributions for education (<https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>).

Paragraph: 008 Reference ID: 23b-008-20190315

Revision date: 15 03 2019

Can planning obligations be required for permitted development?

By its nature permitted development should already be generally acceptable in planning terms and therefore planning obligations would ordinarily not be necessary. Any planning obligations entered into should be limited only to matters requiring prior approval

(<http://www.legislation.gov.uk/ukxi/2013/1101/contents/made>) and should not, for instance, seek contributions for affordable housing.

Paragraph: 009 Reference ID: 23b-009-20190315

Revision date: 15 03 2019

Are planning obligations negotiable?

Yes. Plans should set out the contributions expected from development towards infrastructure and affordable housing. Where up to date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. Planning obligations can provide flexibility in ensuring planning permission responds to site and scheme specific circumstances. Where planning obligations are negotiated on the grounds of viability it is up to the applicant to demonstrate whether particular circumstances justify the need for viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker.

Paragraph: 010 Reference ID: 23b-010-20190315

Revision date: 15 03 2019

What evidence on viability assessment is required to support negotiations on planning obligations?

Plans should be informed by evidence of infrastructure and affordable housing, and a proportionate assessment of viability that takes into account all relevant policies, and local and national standards, including the cost implications of the Community Infrastructure Levy (CIL) and planning obligations.

Viability assessment should reflect the recommended approach set out in the viability guidance (<https://www.gov.uk/guidance/viability>), including standardised inputs, and should be made publicly available.

Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then.

Paragraph: 011 Reference ID: 23b-011-20190315

Revision date: 15 03 2019

Paragraph: 012 removed

Revision date: 01 09 2019 See previous version

(<https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations>)

When should discussions on planning obligations take place?

Discussions about planning obligations should take place as early as possible in the planning process. Plans should set out policies for the contributions expected from development to enable fair and open testing of the policies at examination. Local communities, landowners, developers, local (and national where appropriate) infrastructure and affordable housing providers and operators should be involved in

the setting of policies for the contributions expected from development. Pre-application discussions can prevent delays in finalising those planning applications which are granted subject to the completion of planning obligation agreements.

Paragraph: 013 Reference ID: 23b-013-20190315

Revision date: 15 03 2019

Can planning obligations or heads of terms be on a local list?

Local planning authorities may wish to consider adding planning obligations or heads of terms for section 106 agreements to their local list.

Local planning authorities are encouraged to inform and involve all parties with an interest in the land and relevant local (and national where appropriate) infrastructure providers and operators, including county councils where appropriate, at an early stage to prevent delays to the process.

Paragraph: 014 Reference ID: 23b-014-20190315

Revision date: 15 03 2019

How can relevant infrastructure issues be taken into account during discussions on planning obligations?

Local planning authorities are encouraged to work with relevant local (and national where appropriate) infrastructure providers, infrastructure providers and operators at an early stage of the planning process when planning obligations are being discussed in order to prevent delays to the agreement of planning obligations. For two tier council areas this should include county councils who provide services such as education. County councils can also be statutory consultees in the planning application process as set out in table 2 of the planning guidance (<https://www.gov.uk/guidance/consultation-and-pre-decision-matters#Statutory-consultees-on-applications>).

Paragraph: 015 Reference ID: 23b-015-20190315

Revision date: 15 03 2019

Are there standard templates for the agreement of planning obligations?

Local planning authorities are encouraged to use and publish standard forms and templates to assist with the process of agreeing planning obligations. These could include model agreements and clauses (including those already published by other bodies), that could be made publicly available to help with the planning application process. Any further information required by the local planning authority, or issues raised by the applicant regarding planning obligations, should be addressed at an early stage of the planning application process. Use of model agreements does not remove the requirement for local planning authorities to consider on a case by case basis whether a planning obligation is necessary to make the development acceptable in planning terms.

Paragraph: 016 Reference ID: 23b-016-20190901

Revision date: 01 09 2019 See previous version

(<https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations>)

Is there a timeframe for negotiating planning obligations?

Planning obligations should be negotiated to enable decisions on planning applications to be made within the statutory time limits (<https://www.gov.uk/guidance/determining-a-planning-application>) or a longer period where agreed in writing between the local planning authority and the applicant.

Paragraph: 017 Reference ID: 23b-017-20190315

Revision date: 15 03 2019

Do applicants have to agree to a planning obligation?

Applicants do not have to agree to a proposed planning obligation. However, this may lead to a refusal of planning permission or non-determination of the application. An appeal may be made against the non-determination or refusal of planning permission.

Paragraph: 018 Reference ID: 23b-018-20190315

Revision date: 15 03 2019

Can local planning authorities draw on other resources and expertise in considering planning obligations?

It may be appropriate in some cases to consider collaborative agreements to make use of the skills of officers from other local planning authorities or contractual arrangements to make use of external third party experts so that planning obligations can be agreed quickly and effectively. Local planning authorities and developers may want to discuss the provision of extra resources to enable the speedy determination of planning obligations, for example when handling large and possibly detailed planning applications.

Paragraph: 019 Reference ID: 23b-019-20190315

Revision date: 15 03 2019

Can an agreed planning obligation be changed?

Planning obligations can be renegotiated at any point, where the local planning authority and developer wish to do so. Where there is no agreement to voluntarily renegotiate, and the planning obligation predates April 2010 or is over 5 years old, an application may be made to the local planning authority to change the obligation where it “no longer serves a useful purpose” or would continue to serve a useful purpose in a modified way (see section 106A of the Town and Country Planning Act 1990 (<http://www.legislation.gov.uk/ukpga/1990/8/section/106A>)).

Paragraph: 020 Reference ID: 23b-020-20190315

Revision date: 15 03 2019

Do local planning authorities have to pay back unspent planning obligations?

Local planning authorities are expected to use all of the funding received by way of planning obligations, as set out in individual agreements, in order to make development acceptable in planning terms. Agreements should normally include clauses stating when and how the funds will be used by and allow

for their return, after an agreed period of time, where they are not.

Paragraph: 021 Reference ID: 23b-021-20190315

Revision date: 15 03 2019

Can there be an appeal against a refusal to change a planning obligation (Section 106 agreement)?

An appeal to the Planning Inspectorate under section 106B of the Town and Country Planning Act 1990 (<http://www.legislation.gov.uk/ukpga/1990/8/section/106B>) must be made within 6 months of a decision by the local authority not to amend the obligation, or within 6 months starting at the 8 weeks from the date of request to amend if no decision is issued. The Secretary of State also has the power to allow appeals that are out of time.

Paragraph: 022 Reference ID: 23b-022-20190315

Revision date: 15 03 2019

Are there any specific circumstances where contributions through planning obligations should not be sought from developers?

Planning obligations for affordable housing should only be sought for residential developments that are major developments. Once set, the Community Infrastructure Levy can be collected from any size of development across the area. Therefore, the levy is the most appropriate mechanism for capturing developer contributions from small developments.

For residential development, major development is defined in the National Planning Policy Framework as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000 square metres or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (<http://www.legislation.gov.uk/uksi/2015/595/contents/made>).

In designated rural areas local planning authorities may instead choose to set their own lower threshold in plans and seek affordable housing contributions from developments above that threshold. Designated rural areas applies to rural areas described under section 157(1) of the Housing Act 1985 (<https://www.legislation.gov.uk/ukpga/1985/68/section/157>), which includes National Parks and Areas of Outstanding Natural Beauty.

Planning obligations should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home.

See related policy: National Planning Policy Framework paragraph 63 (<https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para63>) and glossary (<https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary>)

Paragraph: 023 Reference ID: 23b-023-20190901

Revision date: 01 09 2019 See previous version

(<https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations>)

Do the restrictions on seeking planning obligations apply to Rural Exception Sites?

The restrictions on seeking planning obligations contributions do not apply to development on Rural Exception Sites – although affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension within the curtilage of the buildings comprising an existing home.

Paragraph: 024 Reference ID: 23b-024-20190315

Revision date: 15 03 2019

What is the procedure for claiming a commuted contribution under a planning obligation?

The terms of commuted contributions should form part of the discussions between a developer and a local planning authority and be reflected in any planning obligations agreement. Agreements should include clauses stating when the local planning authority should be notified of the completion of units within the development and when the funds should be paid. Both parties may wish to use the issue of a building regulations compliance certificate (called a completion certificate when given by a local authority and a final certificate when given by an approved inspector) as a trigger for payment.

Paragraph: 025 Reference ID: 23b-025-20190315

Revision date: 15 03 2019

What is the vacant building credit?

National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.

See related policy: National Planning Policy Framework paragraph 63
(<https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para63>)

Paragraph: 026 Reference ID: 23b-026-20190315

Revision date: 15 03 2019

What is the process for determining the vacant building credit?

Where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local P plan. A 'credit' should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided.

The existing floorspace of a vacant building should be credited against the floorspace of the new development. For example, where a building with a gross floorspace of 8,000 square metre building is demolished as part of a proposed development with a gross floorspace of 10,000 square metres, any affordable housing contribution should be a fifth of what would normally be sought.

Paragraph: 027 Reference ID: 23b-027-20190315

Revision date: 15 03 2019

Does the vacant building credit apply to any vacant building being brought back into use?

The vacant building credit applies where the building has not been abandoned.

The courts have held that, in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as:

- the condition of the property
- the period of non-use
- whether there is an intervening use; and
- any evidence regarding the owner's intention

Each case is a matter for the collecting authority to judge.

The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy.

In doing so, it may be appropriate for authorities to consider:

- whether the building has been made vacant for the sole purposes of re-development
- whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development

See related policy: National Planning Policy Framework paragraph 63

(<https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para63>)

Paragraph: 028 Reference ID: 23b-028-20190315

Revision date: 15 03 2019

Why is reporting on developer contributions important?

Reporting on developer contributions helps local communities and developers see how contributions have been spent and understand what future funds will be spent on, ensuring a transparent and accountable system.

Paragraph: 029 Reference ID: 23b-029-20190901

Revision date: 01 09 2019

Who should monitor and report on the Community Infrastructure Levy and planning obligations?

In accordance with the Community Infrastructure Levy Regulations any authority that receives a contribution from development through the levy or section 106 planning obligations must prepare an infrastructure funding statement. This includes county councils.

Parish councils must prepare a report for any financial year in which it receives levy receipts (see also 'What should parish councils report on developer contributions?' (<https://www.gov.uk/guidance/community-infrastructure-levy#para178>)).

County councils should publish an infrastructure funding statement where they receive a contribution entered into during the reported year (Regulation 121A(5)) (<http://www.legislation.gov.uk/ukxi/2019/1103/regulation/9/made>). County councils can also publish an infrastructure funding statement where they have received revenues from the levy passed from the charging authority, or where they hold unspent monies not yet allocated.

Where authorities pass funds to other bodies, this should be on the condition that the other body will provide information back to the authority on how contributions have been spent that reported year, and how they intend to spend future contributions, to inform infrastructure funding statements.

Paragraph: 030 Reference ID: 23b-030-20190901

Revision date: 01 09 2019

How should developer contributions be monitored?

Local planning authorities are required to keep a copy of any planning obligation together with details of any modification or discharge of the planning obligation and make these publicly available on their planning register.

Any local authority that has received developer contributions is required to publish an infrastructure funding statement at least annually.

To collect data for the infrastructure funding statement, it is recommended that local authorities monitor data on section 106 planning obligations and the levy in line with the government's data format (<https://www.gov.uk/guidance/publish-your-developer-contributions-data>).

This data should include details of the development and site, what infrastructure is to be provided including any information on affordable housing, and any trigger points or deadlines for contributions. Local authorities should also record when developer contributions are received and when contributions have been spent or transferred to other parties.

Local planning authorities are expected to use all of the funding they receive through planning obligations in accordance with the terms of the individual planning obligation agreement. This will ensure that new developments are acceptable in planning terms; benefit local communities and support the provision of local infrastructure.

Paragraph: 031 Reference ID: 23b-031-20190901

Revision date: 01 09 2019

How should developer contributions be reported?

For the financial year 2019/2020 onwards, any local authority that has received developer contributions (section 106 planning obligations or Community Infrastructure Levy) must publish online an infrastructure funding statement by 31 December 2020 and by the 31 December each year thereafter. Infrastructure funding statements must cover the previous financial year from 1 April to 31 March (note this is different to the tax year which runs from 6 April to 5 April).

Local authorities can publish updated data and infrastructure funding statements more frequently if they wish. More frequent reporting would help to further increase transparency and accountability and improve the quality of data available. Infrastructure funding statements can be a useful tool for wider engagement, for example with infrastructure providers, and can inform Statements of Common Ground. Local authorities can also report this information in authority monitoring reports but the authority monitoring report is not a substitute for the infrastructure funding statement.

For information on what an infrastructure funding statement must contain see ‘What data should be in an infrastructure funding statement?’.

Paragraph: 032 Reference ID: 23b-032-20190901

Revision date: 01 09 2019

What data should be in an infrastructure funding statement?

Infrastructure funding statements must set out:

- a report relating to the previous financial year on the Community Infrastructure Levy;
- a report relating to the previous financial year on section 106 planning obligations;
- a report on the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the levy (excluding the neighbourhood portion).

The infrastructure funding statement must set out the amount of levy or planning obligation expenditure where funds have been allocated. Allocated means a decision has been made by the local authority to commit funds to a particular item of infrastructure or project.

It is recommended that authorities report on the delivery and provision of infrastructure, where they are able to do so. This will give communities a better understanding of how developer contributions have been used to deliver infrastructure in their area.

The infrastructure funding statement must also set out the amount of levy applied to repay money borrowed, applied to administrative expenses, passed to other bodies, and retained by the local authority. Local authorities will need to choose when to report money passed to other bodies in an infrastructure funding statement, depending on how the date the money was transferred on relates to the date of reporting.

Authorities can also report on contributions (monetary or direct provision) received through section 278 highways agreements in infrastructure funding statements, to further improve transparency for communities.

It is recommended that authorities report on estimated future income from developer contributions, where they are able to do so. This will give communities a better understanding of how infrastructure may be funded in the future.

It is acknowledged that data on developer contributions is imperfect, represents estimates at a given point in time, and can be subject to change (see regulation 121A (<http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made>) and Schedule 2 (<http://www.legislation.gov.uk/uksi/2019/1103/schedule/2/made>)). However, the data published should be the most robust available at the time.

Paragraph: 033 Reference ID: 23b-033-20190901

Revision date: 01 09 2019

What should an infrastructure funding statement say about future spending priorities?

The infrastructure funding statement should set out future spending priorities on infrastructure and affordable housing in line with up-to-date or emerging plan policies. This should provide clarity and transparency for communities and developers on the infrastructure and affordable housing that is expected to be delivered. Infrastructure funding statements should set out the infrastructure projects or types of infrastructure that the authority intends to fund, either wholly or partly, by the levy or planning obligations. This will not dictate how funds must be spent but will set out the local authority's intentions.

This should be in the form of a written narrative that demonstrates how developer contributions will be used to deliver relevant strategic policies in the plan, including any infrastructure projects or types of infrastructure that will be delivered, when, and where.

Paragraph: 034 Reference ID: 23b-034-20190901

Revision date: 01 09 2019

How is infrastructure defined for the purpose of reporting developer contributions?

For any information reported on developer contributions, infrastructure should be categorised as follows:

- Affordable housing
- Education
 - Primary
 - Secondary
 - Post-16
 - Other
- Health
- Highways
- Transport and travel
- Open space and leisure
- Community facilities
- Digital infrastructure

- Green infrastructure
- Flood and water management
- Economic development
- Land
- Section 106 monitoring fees
- Bonds (held or repaid to developers)
- Other
 - Neighbourhood CIL
 - Mayoral CIL
 - Community Infrastructure Levy administration costs

Authorities can choose to report either monetary contributions or direct provision under these categories. Local authorities may use this tool to populate and produce their infrastructure funding statement.

Paragraph: 035 Reference ID: 23b-035-20190901

Revision date: 01 09 2019

How can local authorities fund reporting on planning obligations?

Authorities, including county councils, should work together to ensure that resources are available to support the monitoring and reporting of planning obligations.

Authorities can charge a monitoring fee through section 106 planning obligations, to cover the cost of monitoring and reporting on delivery of that section 106 obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation. Monitoring fees should not be sought retrospectively for historic agreements.

Fees could be a fixed percentage of the total value of the section 106 agreement or individual obligation; or could be a fixed monetary amount per agreement obligation (for example, for in-kind contributions). Authorities may decide to set fees using other methods. However, in all cases, monitoring fees must be proportionate and reasonable and reflect the actual cost of monitoring. Authorities could consider setting a cap to ensure that any fees are not excessive.

Authorities must report on monitoring fees in their infrastructure funding statements (see paragraph (2)(h)(iii) of Schedule 2 (<http://www.legislation.gov.uk/ukSI/2019/1103/schedule/2/made>)).

Paragraph: 036 Reference ID: 23b-036-20190901

Revision date: 01 09 2019

How should monitoring and reporting inform plan reviews?

The information in the infrastructure funding statement should feed back into reviews of plans to ensure that policy requirements for developer contributions remain realistic and do not undermine the deliverability of the plan.

Paragraph: 037 Reference ID: 23b-037-20190901

Revision date: 01 09 2019

How should local authorities and applicants promote the benefits of development to communities?

Local authorities and applicants are encouraged to work together to better promote and publicise the infrastructure that has been delivered through developer contributions. This could be through the use of on-site signage, local authority websites, or development-specific websites, for example.

Paragraph: 038 Reference ID: 23b-038-20190901

Revision date: 01 09 2019

Published 19 May 2016

Last updated 1 September 2019 + show all updates

1. 1 September 2019

Amended paragraphs 002,003,004,006,016,023 Removed paragraph 012 New paragraphs added: 029-038

2. 15 March 2019

Updated complete guide.

3. 19 May 2016

First published.

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APPENDIX 2

Report to Gloucester City Council, Cheltenham Borough Council and Tewkesbury Borough Council

by Elizabeth C Ord LLB(Hons) LLM MA DipTUS

an Inspector appointed by the Secretary of State for Communities and Local Government

Date 26 October 2017

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

REPORT ON THE EXAMINATION INTO THE GLOUCESTER CHELTENHAM AND
TEWKESBURY

JOINT CORE STRATEGY

Document submitted for examination on 20 November 2014

Examination hearings held between 19 May 2015 and 21 July 2017

File Ref: PINS/B1605/429/4

Abbreviations used in this report

AONB	Area of Outstanding Natural Beauty
CBC	Cheltenham Borough Council
CIL	Community Infrastructure Levy
DCLG	Department for Communities and Local Government
DS7	Do Something 7
GB	Green Belt
GCC	Gloucester City Council
GHMA	Gloucestershire Housing Market Area
GTAA	Gypsy and Traveller Accommodation Assessment
HFR	Household Formation Rate
HIS	Housing Implementation Strategy
JCS	Joint Core Strategy
LEP	GFirst Local Enterprise Partnership
LGS	Local Green Space
LTP	Local Transport Plan
MM	Main Modification
MOD	Ministry of Defence
NMSS	Neil McDonald Strategic Solutions
NPPF	National Planning Policy Framework
OAHN	Objectively Assessed Housing Need
ONS	Office for National Statistics
PPG	Planning Practice Guidance
PPTS	Planning policy for traveller sites
SA	Sustainability Appraisal
SALA	Strategic Assessment of Land Availability
SELAA	Strategic Employment Land Availability Assessments
SFRA	Strategic Flood Risk Assessment
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SIDP	Strategic Infrastructure Delivery Plan
SUE	Strategic Urban Extension
TBC	Tewksbury Borough Council
TIS	Transport Implementation Strategy

Non-Technical Summary

This report concludes that the Gloucester Cheltenham and Tewkesbury Joint Core Strategy (JCS) provides an appropriate basis for the planning of the JCS area up to 2031 providing a number of modifications are made to the Plan. The JCS Councils have specifically requested me to recommend any modifications necessary to enable the Plan to be adopted.

All of the modifications to address this were proposed by the Councils but, where necessary, I have amended the detailed wording. I have recommended their inclusion after considering the representations from other parties on these issues.

The Main Modifications can be summarised as follows:

- Expanding the vision and strategic objectives;
- Clarifying the spatial strategy;
- Stating the role and status of Neighbourhood Plans;
- Restating the housing requirement;
- Inserting housing trajectories and altering the approach to calculating annual requirements;
- Committing to early focused reviews of Gloucester's and Tewkesbury's housing supply;
- Amending affordable housing developer contributions;
- Including a requirement for older people's and students' housing;
- Changing the employment strategy;
- Recalculating retail need and committing to an immediate focused review of retail;
- Recalculating the needs of Gypsies, Travellers and Travelling Show-people and amending the strategy for land supply;
- Amending Green Belt policy and making changes to the sites that are to be removed from the green belt;
- Removing and adding strategic allocations;
- Making changes to sustainable development policies;
- Making changes to infrastructure policies;
- Amending the monitoring framework and inserting review mechanisms; and
- Adding a list of superseded policies

Introduction

1. This report contains my assessment of the Gloucester Cheltenham and Tewkesbury Joint Core Strategy (JCS) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate, in recognition that there is no scope to remedy any failure in this regard. It then considers whether the Plan is sound and compliant with the legal requirements. Paragraph 182 of the National Planning Policy Framework (NPPF) makes clear that, to be sound, a Local Plan should be positively prepared; justified; effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local authorities have submitted what they consider to be a sound plan. The basis for my examination is the *Pre-Submission Document* dated June 2014, which is the same as the document published for consultation in June 2014. Whereas the Councils produced a *Submission Version* dated November 2014, this incorporated main modifications of the publication version, which require public consultation. As such consultation had not taken place, the November version could not form the basis of my examination. The Councils also submitted a *List of minor changes to the Submission Version of the JCS*, some of which actually amounted to main modifications that had not undergone public consultation. Therefore, I have dealt with these amendments in the same way as other main modifications.

Main Modifications

3. My report deals with the main modifications that are needed to make the Plan sound and legally compliant and they are identified in bold in the report (MM). In accordance with section 20(7C) of the 2004 Act the Councils requested that I should make any modifications needed to rectify matters that make the Plan unsound and/or not legally compliant and thus incapable of being adopted. These main modifications are set out in the Appendix.
4. The main modifications that are necessary for soundness and legal compliance all relate to matters that were discussed at the examination hearings. Following these discussions, the Councils prepared a schedule of proposed main modifications and an integrated sustainability appraisal (SA) addendum dealing with these amendments, which incorporates Strategic Environmental Assessment, Habitats Regulations Assessment and Health and Equality Impact Assessment. Thereafter, the schedule and additional supporting evidence was the subject of public consultation for six weeks.
5. Following this consultation significant updated traffic evidence was published. Given its importance in underpinning the JCS, comments from examination participants were invited over a three week period. Thereafter, a focussed SA addendum was produced specifically dealing with traffic.
6. Due to the extent of the proposed modifications and the additional evidence received since the previous hearing session in July 2016, and taking account of the large numbers of representors who wished to be heard, main modification hearings were held in July 2017.

7. I have taken account of the consultation responses in coming to my conclusions in this report and in this light I have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of these amendments significantly alter the content of the modifications as published for consultation or undermine the participatory processes and SA that has been undertaken.

Policies Map

8. The Councils must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted Development Plan. When submitting a local plan for examination, the Councils are required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as the JCS Proposals Map Submission 2014 as set out in SUB 103b.
9. The policies map is not defined in statute as a Development Plan document and so I do not have the power to recommend main modifications to it. However, a number of the published proposed main modifications to the Plan's policies require further corresponding changes to be made to the policies map. In addition, there are some instances where the geographic illustration of policies on the submission policies map is not justified and changes to the policies map are needed to ensure that the relevant policies are effective.
10. These further changes to the policies map were published for consultation alongside the proposed main modifications under document reference MM02 entitled *Modified and New Maps*. In this report I identify any amendments that are needed to those further changes in the light of the consultation responses.
11. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Councils will need to update the adopted policies map to include all the changes proposed in *Modified and New Maps* and the further changes published alongside the proposed main modifications incorporating any necessary amendments identified in this report.

Assessment of Duty to Co-operate

12. Section s20(5)(c) of the 2004 Act requires me to consider whether the Councils complied with any duty imposed on them by section 33A of the 2004 Act in relation to the Plan's preparation. Section 33A requires constructive, active and ongoing engagement with neighbouring planning authorities and a variety of prescribed bodies on strategic matters in order to maximise the effectiveness of plan preparation.
13. Details of how the JCS authorities have met their duty to co-operate are set out in their *Duty to Cooperate Statement*. This sets out how the authorities have co-operated between themselves by setting up various levels of governance including a *Cross Boundary Programme Board*, and demonstrates engagement with other authorities and bodies.
14. It shows that regular, meaningful consultation on strategic issues has taken place with relevant bodies including the GFirst Local Enterprise Partnership

(LEP), Highways England, Gloucestershire County Council Highways Authority, the Environment Agency, Natural England, and Historic England. A number of Statements of Co-operation have also been agreed.

15. The JCS authorities have engaged in joint working with other Gloucestershire authorities in preparing a Strategic Housing Market Assessment (SHMA), Gypsy and Traveller Accommodation Assessments (GTAAAs), Strategic Flood Risk Assessments (SFRAs) and Strategic Infrastructure Delivery Plans (SIDP).
16. A Memorandum of Understanding has been signed by all Gloucestershire district authorities and Gloucestershire County Council, which sets out how the authorities worked together in preparing their local plans, and deals with cross border, strategic planning applications and strategic infrastructure. A separate Statement of Co-operation has been signed with Stroud district, which addresses the possibility of Stroud contributing to any identified unmet housing needs within the JCS area. Also, in furtherance of cross border relationships, both the Stroud and the South Worcestershire Local Plans make provision for considering the housing needs of the JCS authorities, and potentially assisting with supply, if required. Furthermore, a Planning Statement has been signed with Wychavon District Council in respect of a development at Mitton, to which I refer further below.
17. From the submitted evidence I conclude that the JCS authorities have fulfilled the legal requirements of the duty to co-operate by maximising the effectiveness of the plan-making process and undertaking constructive and active co-operation and engagement on an on-going basis with all relevant bodies and organisations as required by the Local Planning Regulations.

Assessment of Soundness

Preamble

18. The JCS examination has been long and controversial, attracting considerable interest and participation. Since the Plan's submission, substantial additional evidence has been submitted and round table discussions on various topics have taken place in an attempt to address outstanding issues and ensure proper participant consultation. In order to support the proposed main modifications, updated evidence including reports and surveys were published for consultation alongside the schedule of proposed main modifications.
19. Due to the complexity of the issues and the evolving nature of the evidence base, I produced a number of written notes and reports throughout the examination to keep matters on track and to more effectively manage progress. Amongst them were my Preliminary Findings of December 2015, an Interim Report of May 2016, a Note of Recommendations dated 25 July 2016 and a Retail Note of 26 July 2016, all of which I refer to below.

Main Issues

20. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings I have identified eleven main issues upon which the soundness of the Plan depends.

Issue 1 – Whether the vision and strategic objectives are sufficiently

comprehensive in addressing the key challenges of the area.

21. The Plan's vision and strategic objectives are based on key challenges within each Council's Sustainable Community Strategy, drawn together to reflect the JCS area as a whole. There are nine objectives, collated under three broad ambitions, incorporating the three dimensions of sustainable development. They have developed from a comprehensive evidence base and have evolved through several stages of consultation and SA, resulting in a positive and distinctive approach that identifies issues of local importance without repeating national policy. However, some gaps need to be filled to ensure the strategies are effective and properly reflect what the Plan is seeking to achieve.
22. In this regard, the wider Tewkesbury Town area, which is proposed for strategic growth, should be identified as a key location for housing and economic development (MM001a), and reference made to the proposed enhancement of Ashchurch for Tewkesbury railway station (MM001b). Furthermore, the intended capacity enhancements from extensive proposed improvements to Cheltenham Spa railway station which, amongst other things, should facilitate access to strategic allocations in the West and North West of Cheltenham, should feature in the vision (MM001c).
23. Gloucester City's regeneration programme should be referenced (MM001) and ongoing work at the Kings quarter updated (MM002). Text needs deleting, which no longer supports the new apportionment mechanism for housing (MM003), and the challenges to meeting development needs posed by the flood plain, AONB and Green Belt (GB), should be identified (MM004).
24. Moreover, strategic objective 1 should include the need to increase access to high speed broadband, thereby emphasising its importance for economic growth (MM005). Strategic objective 4 ought to refer to the review of Green Belt within the "Development Plan" rather than the "JCS" to reflect the fact that local changes to the GB might also be made in the forthcoming local plans (MM006). Further to the Written Ministerial Statement of 25 March 2015, strategic objective 6 should not refer to exceeding standards and this needs to be deleted (MM006).
25. Strategic objective 7 requires additional text and rewording to strengthen the ambition to improve opportunities for public and sustainable transport (MM007), and in order to ensure a wide choice of high quality homes, Strategic objective 8 needs to clarify that the Plan's housing provision is a minimum requirement, by adding the words "at least" (MM007). Strategic objective 9 requires additional text to emphasise the role of education, sport, leisure and public transport in promoting healthy communities.
26. Subject to these identified modifications, I am satisfied that the vision and strategic objectives provide balance and a positive framework for the Plan's administrative area.

Conclusion

27. Subject to the identified main modifications, I conclude that the Vision and Strategic Objectives are sufficiently comprehensive in addressing the key challenges of the area. Consequently, I find this part of the Plan to be sound.

Issue 2 – Whether the spatial strategy is the most appropriate for the JCS area.

Overall Approach

28. The JCS authorities intend to follow a two tier approach to land supply with strategic allocations being made in the JCS and local allocations being left to forthcoming District Plans.
29. Part 3 of the Plan sets out the spatial strategy for the JCS area, with Policy SP1 addressing the need for new development and Policy SP2 dealing with its distribution. However, the title of Part 3, being "Strategic Policies", fails to fully reflect its content and could be confusing, particularly as there are other strategic policies within the Plan. Therefore, for reasons of clarity and effectiveness, MM008 is necessary, which changes the title to "The JCS Spatial Strategy".
30. The overall spatial approach has evolved from a number of spatial options for allocating strategic development land. These were considered in the *Spatial Options Topic Paper* and were subjected to SA, with the most sustainable option being found to be the creation of urban extensions to Cheltenham and Gloucester. In accordance with the evidence base, the spatial strategy focuses new growth mainly on Cheltenham and Gloucester with the aim of retaining their economic and social positions as strategically significant settlements in the sub-region and taking advantage of their existing infrastructure capacity.
31. Tewkesbury Town is constrained by the high risk of flooding from the rivers Severn and Avon, and urban extensions to the Town itself are not proposed. Nonetheless, there are significant parts of the wider Tewkesbury Town area, which appear sustainable and are not so constrained. In recognition of this, the JCS incorporates strategic allocations at Ashchurch on the eastern edge of Tewkesbury Town's wider urban area (although one of these sites is now to be withdrawn for reasons of deliverability¹).
32. The amended employment strategy, which is dealt with at Issue 4 below, concentrates growth along the M5 corridor and junctions 9 and 10. Junction 9 lies close to Tewkesbury Town and its wider built up area and, therefore, this strategy is likely to have direct economic growth consequences for Tewkesbury. Accordingly, the Plan should put greater emphasis on the development potential of the wider Tewkesbury Town urban area to reflect its sustainable location for both housing and its planned employment growth.

¹ See Issue 8 on strategic allocations below

The detail of how the Plan should be modified to address this is dealt with below under Issue 3 (Housing), Issue 4 (Employment) and Issue 8 (Strategic Allocations).

33. Besides the proposed development at Ashchurch, Tewkesbury's growth is focused on a hierarchy of rural service centres and service villages as set out in Table SP2c. However, during the examination, new evidence was submitted in the form of the 2015 *Settlement Audit Refresh* and, as a consequence Stoke Orchard is to be added as a service village. Furthermore, as Twigworth village will now have a strategic allocation adjacent to it, it should be removed from the list. These amendments are achieved by MMO30.

Housing Apportionment

34. Gloucester is unable to make any land contribution towards the urban extensions and, therefore, the Gloucester urban extensions consist of land within Tewkesbury district, which lies on the urban edge of Gloucester. Cheltenham makes some contribution towards the urban extensions from land within Cheltenham district. The remainder of the urban extension land lies within Tewkesbury district on the urban edge of Cheltenham. Other strategic allocations lie within the wider Tewkesbury Town area, close to Ashchurch within Tewkesbury district.
35. The JCS was produced on the understanding that each authority would maintain its own five year housing land supply. The JCS Councils intended to apportion supply between the three authorities so that housing on the edge of Cheltenham contributed towards Gloucester's and Tewkesbury's needs, and housing on the edge of Gloucester contributed towards Tewkesbury's needs. However, the proposed methodologies for distributing supply from shared urban extensions as they were built out seemed over-complicated and uncertain, potentially leading to five year housing land supply issues between authorities. None of the methodologies presented appear effective and are, therefore, unjustified.
36. The primary reason for allocating urban extensions around Gloucester and Cheltenham is to meet the unmet needs of Gloucester and Cheltenham where that need arises. The proposed apportionment would not fulfil this aim and, therefore, is unjustified. The most logical and effective way forward is to simply allocate Gloucester's strategic allocations to Gloucester, Cheltenham's to Cheltenham, and those in the wider Tewkesbury Town/Ashchurch area to Tewkesbury. The JCS authorities have accepted this approach, which is reflected in MMO26.
37. The redistribution of land supply in this way has had a consequential impact on the amount of land needed around the three main centres of Gloucester, Cheltenham and Tewkesbury. As a result, there is to be some re-balancing

towards Gloucester and Tewkesbury, the detail of which is addressed by main modifications considered below under Issue 3 (Housing), Issue 4 (Employment) and Issue 8 (Strategic Allocations). However, to reflect more general changes to the spatial strategy and to aid clarity, MMO22 and MMO24 are necessary for this part of the Plan to be sound.

Conclusion

38. Subject to the identified main modifications, I conclude that the spatial strategy is the most appropriate for the JCS area. On this basis, I find this part of the Plan to be sound.

Issue 3 – Whether the Plan's housing requirements are soundly based and whether sufficient provision is made for the supply of housing.

39. The JCS addresses housing supply and demand within Part 3 (Strategic Policies) under Policies SP1 (The Need for New Development) and SP2 (Distribution of New Development) as well as within Part 7 (Monitoring and Review).

Objectively Assessed Housing Need (OAHN)

40. The suggested housing need for the JCS area is set out within Policy SP1. However, the figures are based on outdated evidence and during the examination extensive new evidence was submitted to reflect the up-to-date position. Accordingly, a new assessment was carried out in order to obtain the most appropriate estimate of OAHN, resulting in different figures to the submitted JCS.
41. Assessing housing need is not an exact science and there is no single method of determining an appropriate figure. It is a matter of judgement based on an objective analysis of the submitted evidence. For the JCS authorities, the OAHN has been assessed in a separate document to the Strategic Housing Market Assessment (SHMA), although the two should be read together.
42. The suggested OAHN for the six Gloucestershire districts within the Gloucestershire housing market area (GHMA) is underpinned by two reports from Neil McDonald Strategic Solutions (NMSS). One covers the OAHN for Stroud, Forest of Dean and Cotswold, and the other covers the OAHN for the JCS administrative area. That for the JCS area indicates an OAHN of 30,500 dwellings.
43. Whilst ideally there should be a single OAHN assessment for the entire GHMA, the different timescales of the emerging plans are bound to lead to some divergences, as needs change over time. The starting point is for the JCS authorities and others to identify their own needs within their respective areas drawing upon a proportionate evidence base. An assessment of each authority's own OAHN, coupled with the duty to co-operate on unmet need,

provides a satisfactory mechanism for overall co-ordination. In these circumstances a general consistency of approach is the best that can be achieved and is justified.

44. However, after the publication of these OAHN reports the Department for Communities and Local Government (DCLG) published its 2012-based household projections with updated household formation rates (HFRs). Given that the Planning Practice Guidance (PPG) advises that the most recent projections should form the starting point for estimating OAHN, the OAHN for the JCS area was recalculated. This is consistent with Stroud, who had already done a similar recalculation.
45. Starting with the 2012 Office for National Statistics (ONS) population projections and DCLG's 2012-based household projections, and adjusting to reflect appropriate assumptions and judgements, NMSS re-assessed the OAHN for the GHMA in accordance with the NPPF and PPG. This resulted in a demographic figure for the JCS area of 31,830 dwellings. The overall figure was then segregated into districts resulting in demographic needs of 13,290 dwellings for Gloucester, 9,900 dwellings for Cheltenham and 8,640 dwellings for Tewkesbury. I have found no convincing evidence to reject the workings of NMSS and the resultant demographic figures.
46. Whilst these figures provide a crucial starting point, it is also necessary to consider the impact of economic growth forecasts and aspirations to ensure that there is sufficient housing to support the delivery of job growth. To align the quantity of homes with the Councils' revised economic strategy, I concluded in my Interim Report² that the OAHN should be economically led to accommodate the proposed 39,500 jobs target. This was a shift in strategy from the submitted Plan, whose OAHN was demographically led.
47. Having estimated the population needed at the end of the Plan period (2031) to provide the labour force implied by economic forecasts, the number of dwellings needed was estimated. Given the uncertainties of economic forecasts, a broad-brush approach to assessment is appropriate and, accordingly, it is reasonable to take the average number of required dwellings. With a range between 31,200 and 36,600, this results in an OAHN of 33,500 dwellings, an uplift of 1,670 dwellings on the demographic figure. The OAHN for the JCS area for the Plan period (2011-2031) is therefore 33,500 dwellings and the JCS needs to be modified accordingly for soundness.
48. More recent population projections were published in May 2016 (ONS 2014 sub-national Population Projections) and updated household projections were published in July 2016 (DCLG's 2014-based household projections). NMSS

² EXAM 232, paragraph 7

reviewed these statistics and found that they made no difference to the OAHN, due to it being employment led. I accept NMSS's evidence.

49. In terms of apportioning the economic uplift between the three districts, account has been taken of the main economic growth area along the M5 corridor, which runs through the heart of the JCS area. In broad terms, the additional housing is distributed in accordance with the amount of employment land potential in each authority area and with the spatial strategy. This results in economically led OAHNs of 13,675 for Gloucester, 10,395 for Cheltenham and 9,425 for Tewkesbury.
50. To reflect these changes and to justify the strategic approach, amendments are necessary to the supporting text of Part 3, and new Tables SP1a (demographic OAHN) and SP1b (economic uplift OAHN) are inserted (MM009-MM012 and MM014, MM015, MM017). However, this does not reflect the full housing requirement, which is dealt with below.

Housing Requirement

51. There is a substantial need for affordable housing within the JCS area, but the proportion of affordable housing that is deliverable through market housing schemes, will not meet this need. This is despite the economic uplift, and regardless of whether all strategic allocations and other housing development provide the required contributions of affordable housing (see affordable housing below). Furthermore, it is a real possibility that some strategic allocations will not deliver the affordable housing policy requirement. Although there are other possible sources of affordable housing, as set out in the *Affordable Housing Note*, these numbers are comparatively small and there is no certainty over how much will come forward.
52. The PPG states that an increase in the total housing figure included in a local plan should be considered where it could help deliver the required number of affordable homes. Consequently, to be consistent with sustainable development I consider that a reasonable uplift of 5% is necessary.
53. This would also have other delivery benefits. There are indications that the rate of housing development could result in actual supply falling below planned supply, thereby risking deliverability of the five year housing land supply. As shown in the latest housing trajectories much of the five year housing land supply is expected to come forward from the strategic allocations. However, these allocations have long lead-in times and completions could be delayed, thereby affecting the trajectories' rate of delivery. Increasing supply would give more certainty of delivery and provide choice and flexibility, enabling a positive response to rapid change.

54. I have considered the effect of a 5% uplift in the light of paragraph 14 of the NPPF, and whether the adverse impacts of meeting either the OAHN or the uplift would significantly and demonstrably outweigh the benefits, or whether specific policies in the NPPF indicate that development should be restricted. In my judgement, whilst there will be adverse environmental impacts from development³, and I go on to consider later in the report whether exceptional circumstances exist to meet some of the housing need on GB land⁴, I have not found sufficient reason to justify a lower housing requirement figure. Whilst this may still leave a shortfall in affordable housing, there is a balance to achieve, and in view of the constraints to development within the JCS area and the limited availability of suitable sites, a greater uplift would be inappropriate.
55. For these reasons, it is necessary for a sound plan to increase the economically-led OAHN figure of 33,500 by 5% (1,675 dwellings), which results in a housing requirement of 35,175 dwellings. In order to boost significantly the supply of housing in accordance with national policy, this requirement should be expressed as a minimum figure. Splitting this 5% uplift between the three districts results in minimum housing requirements of 14,359 dwellings for Gloucester, 10,917 for Cheltenham and 9,899 for Tewkesbury.
56. Accordingly, changes are needed to Policy SP1 (*The Need for New Development*) and its supporting text along with the insertion of Table SP1b, which sets out the requirements. This is achieved by MM010, MM012, MM013 and MM017.

Strategic Housing Market Assessment (SHMA)

57. The JCS housing provision is underpinned by a SHMA, as updated, covering the six GHMA districts (Gloucester, Cheltenham, Tewksbury, Stroud, Forest of Dean, Cotswold), which seeks to balance the various types of housing need, including affordable housing. However, the originally submitted SHMA was not fully in accordance with the NPPF and PPG and was based on outdated evidence. For example, certain population groups were not adequately considered, such as the institutional needs of the elderly and students, and the affordable housing need assessment took private rented sector supply into account, contrary to the PPG. Consequently, a further SHMA update was prepared during the examination, which re-assessed the scale and mix of various housing types and tenures in accordance with national policy. This new evidence underlines the need for some amendment to the Plan as follows.

Affordable Housing

58. During the course of the examination, the Government, through the Housing and Planning Act 2016, introduced a duty for local authorities to promote the supply of Starter Homes, which will be included in the definition of affordable

³ See Issue 8 on strategic allocations

⁴ See Issue 7 on GB

housing. Whilst this part of the Act has not yet been brought into force, it is likely to be implemented during the Plan period. Therefore, in order to be effective, an amendment is necessary to update the Plan, making general reference to this.

59. The need for affordable housing was reconsidered during the course of the examination and revised figures produced in the further SHMA update. This bases housing cost affordability on up to 35% of gross income. From this, the unconstrained affordable housing need across the JCS is calculated as 638 units per annum. I have found no convincing evidence to reject this figure and its underlying workings.
60. The SHMA then proceeds to reduce this figure by excluding single person households under 35 years who can afford shared accommodation but cannot afford a one bedroomed self-contained unit. This is because the benefits system only provides assistance for single person households under 35 years old to be housed in shared and not self-contained accommodation.
61. There is no basis in the NPPF or PPG for reducing affordable housing need on the basis of the workings of the benefits system. Consequently, in my judgement, the affordable housing need figure should remain at 638 units per annum and the JCS should reflect this figure as a target for affordable housing.
62. The delivery of most affordable housing is intended to be through market housing schemes. However, following the *West Berkshire* Court of Appeal judgement⁵, which upheld the Secretary of State's Written Ministerial Statement of 28 November 2014, the PPG indicates that affordable housing and tariff style contributions should not generally be sought from sites of 10 units or less, which have a maximum combined gross floor space of no more than 1,000sqm. There is no compelling evidence to justify a departure from this. Consequently, for consistency with national policy and guidance, Policy SD13 (*Affordable Housing*) needs to be amended so that sites of 10 residential units or less are not required to contribute affordable housing.
63. Viability is a key factor in considering the quantum of affordable housing that should be generated through market housing development. New viability evidence submitted during the examination demonstrates that viability across the JCS area and between different development types differs significantly. Therefore, to ensure its effectiveness, the JCS needs to be modified to reflect a more flexible approach. This is achieved by setting down varied requirements for affordable housing contributions, taking account of infrastructure challenges and differing land values, amongst other things.
64. For local sites in Cheltenham and Tewkesbury, a minimum contribution of 40% is to be sought, whilst in Gloucester, the minimum contribution is to be 20%. If a development is unable to deliver the full requirement, any reduced contribution will need to be supported by a viability assessment conforming to an agreed methodology. In the interests of transparency, such assessments

⁵ SoS for Communities and Local Government v West Berkshire District Council [2016] EWCA Civ 441

will in all but exceptional cases be published.

65. It is recognised that strategic allocations present different viability considerations to other sites and each one will have its own deliverability and viability challenges. Therefore, balancing the need to provide for infrastructure with affordable housing contributions, the evidence suggests that generally a minimum figure of 35% affordable housing is likely to be viable. Nonetheless, to maintain flexibility, it is necessary to modify the Plan to ensure detailed viability evidence is submitted with each planning application and to determine the appropriate balance between affordable housing and infrastructure needs.
66. In designated rural areas, as described under section 157 of the Housing Act 1985, local planning authorities may choose to set a lower threshold of 5 units or less. Where a lower threshold is applied, developments of between 6 and 10 units would be subject to affordable housing contributions in the form of commuted payments only. There are parts of the JCS area that fall within this rural designation typology and each JCS authority wishes to retain the ability to apply a lower threshold in their own district, where appropriate. This is a justified approach and consequently, in the interests of a clear plan it is necessary for the JCS to reference the ability of District Plans to provide the details of lower thresholds in certain circumstances.
67. In order to ensure that the JCS is sound, main modifications MM069 to MM071 to Policy SD13 and its supporting text are therefore necessary. Subject to these modifications the viability evidence leads to my conclusion that the Policy is justified.

Older People's Housing

68. In order to be effective and avoid confusion over five year housing land supply figures, the JCS must be clear on the housing types and numbers that are counted towards the OAHN and those that are institutional and are not. This is particularly important because extra-care housing can sometimes be used as an alternative to care homes, somewhat blurring the distinction.
69. The further SHMA update identifies the need for 1,456 C3 use retirement/sheltered market housing units and 1,011 C2 use extra-care units over the Plan period. For the JCS these form part of the OAHN and are absorbed in the OAHN figures.
70. The further SHMA update also identifies the need for 1,558 non-specified institutional class C2 bed spaces for the Plan period, which would usually be provided in care homes or nursing homes. These bed-spaces are to be provided over and above the OAHN.
71. I understand that many of these bed-spaces will have been permitted by the time the JCS is adopted and provision for the remainder will be made through the District Plans. To be effective and provide a basis for any further development within the District Plans, the JCS should be amended to set out this position. This is achieved by MM070a.

Students

72. In order to be competitive, Gloucestershire University requires sufficient accommodation for its students. The further SHMA update indicates that additional growth in student numbers is estimated to result in about 450 new private dwellings in the private rented sector over the plan period, although this growth has largely been accounted for in the OAHN and, therefore, no additional provision is required. However, over and above the OAHN, the evidence suggests a need for 1,500 bed-spaces in campus accommodation.
73. Planning permission was granted in 2015 for the development of a student village at the Pittville campus in Cheltenham, and Gloucester City and the County Council are currently planning for the Gloucester campus and additional student accommodation. Therefore, I understand that many of the required bed-spaces will have already been permitted by the time the JCS is adopted and provision for the remainder will be made through the District Plans. To be effective and provide a basis for any further development within the District Plans, the JCS should be amended to set out this position. This is achieved by MM035 and MM067a.

Housing types overall

74. Subject to the identified modifications, the JCS policies as a whole appropriately address the need for all types of housing. As a result the Plan is consistent with the NPPF regarding inclusive design and accessible environments.

Housing Land Supply

75. Housing land supply is dealt with in several places within the JCS, namely, the section on delivery within the supporting text of SP1, Policy SP2 on distribution and within the monitoring section. However, there is no Housing Implementation Strategy (HIS) or trajectories contrary to the requirements of paragraph 47 (4th bullet). This was rectified by the submission of a HIS during the examination, which is a living document, a version of which was published for consultation alongside the schedule of proposed main modifications.

Shortfall

76. Whilst the JCS authorities have sought to meet the full housing requirement for the Plan period, it is apparent from the HIS that insufficient sites can be identified at present for Gloucester and Tewkesbury. Overall, against the requirement of 35,175, there is currently a supply of 31,824 dwellings, leaving a shortfall of 3,351. However, there appear to be a number of possibilities for locating additional land and, therefore, focused reviews of Gloucester's and Tewkesbury's supply are proposed.
77. Gloucester's shortfall is 1,346 dwellings although it has sufficient housing land for the short to medium term and this allows adequate time to consider additional development options both within and outside the JCS area. It is

therefore intended to explore opportunities within the urban area, as well as potential new Strategic Urban Extensions (SUEs) in Tewkesbury Borough and Stroud District, taking account of the JCS authorities' Memorandum of Agreement with Stroud.

78. Accordingly, there should be an early review of Gloucester's housing land supply to meet its needs in the latter part of the Plan period (see Issue 11 monitoring and review below). This would be in accordance with the *Dacorum* judgement⁶ and guidance in the PPG.
79. Tewkesbury's identified shortfall in its housing requirement is exacerbated by the withdrawal of its main housing land allocation at MOD Ashchurch (2,125 dwellings to 2031) after the Defence Infrastructure Organisation delayed the site's release. This shortfall is approximately 2,400 dwellings.
80. Although parts of the overall site will still be available during the Plan period, including Aston Fields, there are access constraints and issues over how a suitable design could be achieved whilst the army camp remained on site. Consequently, uncertainty over sustainable delivery would make allocation at this stage unsound. Nonetheless, other parts of the land in the control of the Defence Infrastructure Organisation are likely to become available in the future providing a deliverable solution, although timescales are currently unknown.
81. Whilst I previously suggested⁷ that a site at Fiddington might be a possibility for allocation, on the evidence now before me, this would not be justified at present. Nonetheless, it could possibly be allocated in whole or in part in the future. The problem with allocation now is that part of the site has the potential to locate off-line improvements to the A46 corridor, which could address significant traffic flow matters that are constraining growth in the area. Without capacity enhancements to the A46, future development around the Ashchurch area would be limited. Furthermore, there are implications for wider regional highways strategies including Highways England's South Midlands Route Strategy that highlights capacity and safety issues around the M5 Junction 9 and the A46 through Ashchurch. At this stage, given the importance of establishing the most appropriate traffic solution, deliverability and site capacity at Fiddington are uncertain.
82. The JCS authorities have indicated that there are other options in the Tewkesbury town and Ashchurch area which have not been put forward through the JCS process but which are within the Tewkesbury Strategic Assessment of Land Availability (SALA). However, more investigation and evidence gathering needs to be undertaken to establish whether these sites are sustainable options for allocation.
83. Tewkesbury has not had sufficient time to respond to the significant changes to its housing land supply resulting from MOD Ashchurch. Consequently, I consider that, rather than prolonging the JCS examination further, an immediate review of Tewkesbury's supply should take place upon adoption of this Plan to explore additional possibilities (see monitoring and review). This review should be informed by masterplanning of the Ashchurch area, part of

⁶ Grand Union Investments Ltd. v Dacorum Borough Council [2014] EWHC 1894 (Admin)

⁷ Interim Report EXAM 232 paragraphs 156-159

which would assess housing delivery options including an access and transport strategy. This review has already started and consultants were commissioned in June 2017.

84. Furthermore, I understand that Tewkesbury Borough Council has submitted a bid for the Homes and Communities Agency Capacity Fund to support the delivery of growth in this area and unlock housing sites both within and beyond the Plan period. This includes exploring the potential to bring forward land parcels on the MOD Ashchurch site and considering the impacts and opportunities of an off-line A46 route.
85. Outside the JCS area Wychavon District Council has agreed to contribute 500 dwellings to Tewkesbury's supply through a housing-led development at Mitton. Developers are currently preparing an outline planning application, which is scheduled for submission in October 2017.
86. Tewkesbury Borough Council on behalf of the JCS Councils and Wychavon District Council on behalf of the South Worcestershire Councils have signed a Planning Statement setting out the direction of travel for the delivery of this cross-boundary site. It also contains an in principle agreement to develop a more formal Memorandum of Agreement, if deemed necessary. Moreover, as part of any review of the South Worcestershire Development Plan, The Councils will co-operate in considering whether any longer term unmet need in Tewkesbury Borough could reasonably be delivered at Mitton.
87. Whilst development at Mitton may arguably conflict with the Bredon Parish Neighbourhood Plan, which was made on 26 July 2017, this does not necessarily prevent development at Mitton, although it is a material consideration. Having read the submitted legal opinions and in light of Tewkesbury's need for housing, I am not persuaded that the JCS approach or that of Wychavon District Council is unsound or unlawful. It is an appropriate outcome to a duty to co-operate matter.
88. Therefore, taking all considerations into account, I am satisfied that Tewkesbury's housing land supply position is sound subject to immediate review as provided for by MM123c. This is in accordance with *Dacorum* and national guidance.

Trajectories and charts

89. In accordance with MMs124-128, trajectories and charts will be added to the JCS showing estimated delivery against requirements. Sources of supply are shown to come from strategic allocations and the cross-boundary Mitton site in Wychavon, District Plan potential, commitments, existing allocations (within adopted local plans) and windfall development.
90. I am satisfied that the estimated supply from strategic sites is based on realistic assumptions on lead-in times, and build-out rates and that potential District Plan allocations are supported by robust, up to date SALAs. The windfall allowance is appropriate and reflects past provision, and a suitable lapse rate has been applied to non-allocated, small sites of up to four dwellings, which takes the number of extant, non-implemented permissions in a base year and calculates the number of permissions lapsing over the next

five years to get an average.

91. In accordance with the NPPF, paragraph 47 (2nd bullet), the most appropriate buffers have been applied to the five year requirements for each authority, resulting in 5% for Gloucester, and 20% for Cheltenham and Tewkesbury due their persistent under delivery. These housing land supply buffers have been applied to both the housing requirement and the plan period shortfalls.
92. Although a 20% buffer is appropriate for Tewkesbury at present, Tewkesbury's supply position has recently been improving and, overall, it does not have a shortfall since the start of the Plan period. However, the situation is different for Gloucester and Cheltenham, which have accumulated shortfalls since the start of the Plan period. In accordance with the *Liverpool* approach, these shortfalls have been spread over the remainder of the Plan period. Whilst the PPG favours *Sedgefield*, it supports *Liverpool* in appropriate circumstances. In this case the Councils' reasons for wishing to pursue *Liverpool* are its partial reliance on large strategic allocations, which require the provision of significant infrastructure prior to the completion of dwellings. Using *Liverpool* would allow time for these sites to come forward to help meet the shortfall and deliver on-going annual requirements. In these circumstances, I take the view that the *Liverpool* method is justified.
93. The conventional approach to deriving the annual housing requirement is to divide the total number of dwellings for the Plan period by its number of years' duration to obtain a fixed, average annual figure. However, there is no specific policy or guidance necessitating this methodology. In the interests of ensuring that the future growth of the area can be guided by the Development Plan, the JCS authorities consider that a stepped approach is necessary for Cheltenham Borough.
94. For Cheltenham, as the strategic sites will take time to deliver, providing significant numbers in the mid to latter stages of the Plan, I consider that a stepped approach is justified. Consequently, the housing requirement during the early stages of the Plan has been set at a level that allows the authority to demonstrate a low-risk five year supply from the anticipated adoption of the JCS, increasing to a more ambitious target for the latter half of the Plan period. It is, therefore, recommended that the requirements for Cheltenham Borough be set at 450 dwellings per annum from 2011/12 to 2021/22, with a stepped increase to 663 dwellings per annum from 2022/23 to 2030/31.
95. For Tewkesbury, delivery has been strong over the past four years and as of July 2017 there was an oversupply of 254 dwellings against the annualised housing requirement of 495 for the Plan period. This strong delivery is expected to continue over the coming years until about 2020/21, as committed development is delivered, potentially producing an oversupply in the order of 1,400 dwellings. Cumulatively, on the current evidence, Tewkesbury is able to meet its housing requirements until 2024/25, when delivery is estimated to drop substantially with a shortfall likely to occur in 2025/26.

96. A step down in Tewkesbury's housing requirement from 2024/25 was proposed in the main modifications consulted upon in Spring 2017 in order to maintain a rolling 5 year supply. However, it is now considered that a review to allocate additional supply will be completed before this date, and Tewkesbury's identified supply would meet requirements until then, rendering a step down unnecessary. This timescale for review is an appropriate response and is preferable to a stepped approach.

Five year supply

97. The anticipated adoption of the Plan is within the 2017/18 monitoring year and, accordingly, the five year supply has been calculated for the period 1 April 2017 to 31 March 2022. Using the methodology set out above, Gloucester can demonstrate at least 5.8 years of housing land supply, Cheltenham 6.00 years and Tewkesbury 5.3 years. However, by the time of adoption, it is estimated that Tewkesbury's supply will have risen to 6.3 years with a 20% buffer applied. Given Tewkesbury's strong delivery record to date during the early Plan period, this buffer could drop to 5% in the future, rendering the 5 years supply even greater.

Main Modifications required

98. On the basis of the updated housing evidence and particularly the HIS, a range of main modifications are required for the Plan to be effective.
99. The section on delivery needs to reflect clearly the contribution of strategic allocations, and local allocations in the forthcoming District Plans. The role and status of Neighbourhood Plans, which are also part of the Development Plan, should be referenced to reflect their potential to identify local sites and policies for future neighbourhood growth. Also, in the interests of positive planning, the JCS should reflect the support the authorities intend to give to the neighbourhood planning process.
100. References to over-supply should be deleted and the table setting out the JCS area's housing requirement needs to be amended. Changes are needed to recognise the contribution Wychavon is making to Tewkesbury's supply and to indicate that each of the JCS authorities is committed to considering the requirements of other authorities both within and outside the GHMA.
101. These amendments are achieved by MM018 and MM019.
102. Policy SP2 (*Distribution of New Development*) and its supporting text also requires substantial alteration. Consequently, it has been re-written to reflect the revised figures and to explain where the supply is now intended to come from.

103. For Gloucester City, it states that the JCS will make provision for at least 14,359 new homes. At least 13,287 dwellings are intended to be brought forward from within the Gloucester City administrative boundary including the Winnycroft strategic allocation, and from the SUEs at Innsworth and Twigworth, South Churchdown and North Brockworth within Tewkesbury Borough, and sites covered by any Memoranda of Agreement.
104. For Cheltenham it states that the JCS will make provision for at least 10,996 new homes. These are intended to be brought forward from within the Cheltenham Borough administrative boundary and cross-boundary SUEs at North West Cheltenham and West Cheltenham, both of which are partly in Tewkesbury Borough, and commitments covered by any Memoranda of Agreement.
105. For Tewkesbury Borough, outside the SUEs to Gloucester and Cheltenham, the JCS will make provision for 9,899 new homes. At least 7,445 will be provided through existing commitments, development at Tewkesbury Town, Rural Service Centres and Service Villages, and sites covered by any Memoranda of Agreement or similar. It is intended that the Tewkesbury Borough Plan and Neighbourhood Plans will allocate in the order of 1,860 new homes in Rural Service Centres and around 880 new homes in Service villages. However, these numbers are set out as absolutes in the Plan and more flexibility is required to allow for changing circumstances and to ensure effectiveness.
106. The unmet needs of Gloucester and Cheltenham, beyond their administrative boundaries, are only to be delivered on identified strategic allocations and any other sites with an agreed sharing mechanism through a Memorandum of Agreement. In order to allocate any additional SUEs, a review of the Plan would be necessary.
107. It also needs to be clearly stated that local allocations made through the District Plans would have to be in conformity with the JCS spatial strategy and any allocations made through Neighbourhood Plans would have to be in general conformity with the Plan's strategic policies. Reference should also be made to consideration being given to meeting need within another local authority where it is clearly established that need cannot be fully met within the JCS area.
108. Table SP2a (*Distribution of development in the JCS area*) is to be replaced by a new table and retitled "Sources of housing supply in the JCS area". This sets out the figures from the various general sources of supply for each authority, including the contribution from Wychavon District of 500 dwellings to help meet Tewkesbury's requirement.
109. Table SP2b (*Geographical location of strategic allocation sites*) is also replaced by a new table that is retitled "*Apportionment of Strategic Allocation Sites*".

This lists the various allocations and the contribution each makes to the housing land supply and, together with figures for the district capacities, indicates the total supply of 31,824 dwellings against the requirement of 35,175.

110. Corresponding changes to the supporting text are also necessary, referencing updated SALAs, reflecting updated trajectories, explaining why the shortfalls in Gloucester and Tewkesbury have come about and how these shortfalls are to be addressed.
111. These amendments are appropriately dealt with by MMO20, MMO21, MMO23, MMO27, MMO28 and MMO29.

Conclusion

112. Subject to the identified main modifications, the Plan's housing requirements are soundly based. Although the JCS is unable to provide sufficient, deliverable housing at the current time, it appears that there are credible options for identifying additional supply within the Plan period. Accordingly, by giving a policy commitment to undertake early focused reviews of Gloucester's and Tewkesbury's supplies, this part of the Plan is made sound.

Issue 4 – Whether the Plan is based on a robust, objective assessment of employment needs and provides sufficient opportunities for economic growth.

113. A core principle of the NPPF (within paragraph 17, 3rd bullet) is to proactively drive and support sustainable economic development by identifying and then meeting business needs, whilst responding positively to wider opportunities for growth. However, the submitted Plan did not sufficiently consider economic development needs and how they should be met and, moreover, its economic policies were underpinned by inadequate evidence.
114. Consequently, amendments are required to those policies which address the Plan's economic strategy, namely Strategic Policies SP1 (*The Need for New Development*) and SP2 (*Distribution of New Development*), and also Sustainable Development Policy SD2 (*Employment*), as well as Policy SA1 (*Strategic Allocations Policy*).
115. During the examination extensive new employment evidence was submitted and round table events held to discuss economic issues. This evidence includes past trends, an analysis of supply and demand (including loss of employment land) and the most recent economic forecasts, which were considered against local intelligence on industry growth to provide projected economic trends. As

I previously indicated in my Interim Report⁸, this new evidence provides a robust basis for the recommended main modifications discussed below.

116. Of significance is the *Nathaniel Lichfield and Partners Employment Land Assessment Update* of October 2015, which indicates that the current lack of employment land within the JCS area threatens the economy by undermining the ability of existing companies to expand and new firms to invest in the area. It therefore concludes that the JCS should target the creation of 39,500 new jobs (in place of the 28,000 new jobs in the Plan) and set a framework for the delivery of a minimum of 192ha of B-class employment land (in place of the 64.2ha of employment land in the Plan).
117. On the basis of the new evidence and in the interests of positive planning the Councils propose an amended economic strategy reflecting the above conclusions which, although aspirational, is nonetheless realistic. This incorporates a vision which promotes a vibrant, competitive economy with increased job opportunities, taking account of the LEP's Strategic Economic Plan and the proposed growth focussed on the M5 corridor and particularly Junctions 9 and 10.
118. Reference is also made to the task force that has been established for evidencing the case for upgrading Junction 10 to an all movements junction, which would support accelerated growth of the area's economy. Aligned to this is the notion of a Principal Urban Area within the County, based around the promotion and regeneration of key urban centres and the balancing of economic potential with housing provision in the JCS area as a whole.
119. The sources of employment land supply are to include a mix of high quality and well-located strategic sites, existing undeveloped available employment sites, and potential smaller sites in the urban and rural areas. Amendments to Strategic Policy SP2 are required to reflect the new strategy.
120. The strategic allocations are expected to deliver at least 84ha of B-class employment land and the District Plans 48ha which, together with existing capacity of 63ha, is intended to give about 195ha of B-class employment land. Together with non B-class employment land, the strategic allocations are now set to deliver in the order of 112ha of employment land and to reflect this, amendment is needed to the strategic allocations chapter and specifically Table SA1, which sets out indicative development capacities.
121. Using information from the SALAs, the *JCS Economic Update Note* of February 2016 assesses the potential additional B-class capacity for each district as 7ha in Gloucester City, 1ha in Cheltenham Borough and 40ha in Tewkesbury Borough. This land is proposed for local employment allocations

⁸ EXAM 232 paragraph 29 & 30

in the District Plans, which are also intended to provide for start-ups and flexible workspaces.

122. Furthermore, in order to prevent the incremental loss of existing employment land to non-employment uses, it is reasonable for the three districts to wish to evaluate the implications of safeguarding district employment sites. Therefore, to achieve this it is necessary to modify the JCS to enable District Plans to provide for change of use in certain defined circumstances only.
123. Accordingly, provision should be made within the JCS for setting employment policies in those District Plans. This approach should ensure an adequate supply of employment land and premises and give choice and flexibility to support the intended employment growth.
124. It is not clear from the employment chapter whether it covers retail as an employment type. As the intention is to deal with retail separately, to be effective, its content should be modified to make clear that retail and other "A" class uses are not included. The title to the chapter should also be amended to reflect this.
125. Policy SD2 states that employment related development will be supported at strategic allocations in line with Policy SA1. However, whilst this is generally intended to refer to B class uses (except where non B class uses would support residential and B class development) the Plan does not state this and is, therefore, ineffective and requires amendment.
126. Priority is to be given to key growth sectors and specific local sectors. It is also proposed that support be given to new and existing enterprises and suitable education and training facilities to develop work-place skills. Moreover, employment-generating farm diversification projects, the re-use of rural buildings and appropriate rural new build are to be encouraged. These are justified aims and objectives and, in order to be effective, Policy SD2 needs modification to reflect all of this and to identify the key growth sectors.
127. Cheltenham racecourse, Gloucestershire airport and Gloucestershire university are of significant economic importance to the JCS area and, in order to be sound, more support needs to be given to their development within the Plan. Modifications are recommended to address this in context by setting out the substantial contributions they make to the economy.
128. Despite the importance of tourism to the JCS area, little mention is made of it within the Plan. Therefore, to address this and to provide a supporting framework for appropriate tourist development, modifications are necessary to outline each district's strategies for promoting tourism.

129. Regeneration is a high priority for certain identified urban areas within Gloucester, Cheltenham and Tewkesbury and each of these districts has economic strategies to bring about development in these areas. However, the Plan makes no reference to them, rendering it ineffective in this regard. Consequently amendments are necessary to incorporate references to the relevant strategies, the documents within which they are contained, and the bodies involved, as appropriate, thereby ensuring the Plan's consistency with these strategies and providing a framework for any regeneration policies that might be included within the forthcoming District Plans.
130. To maximise promotion of the economy, support is to be given to employment related development within other areas. However, not all intended types of location have been identified in the JCS. Consequently, to ensure its effectiveness, amendments are needed to express support for development at the following: allocations within the Development Plan; land in existing employment use; where there is a change of use on an appropriate scale from non-B class to B class; within Gloucester City, the Principal Urban Area of Cheltenham, or Tewkesbury Town; locations within or adjacent to existing employment areas; where it would allow expansion of existing businesses; and where it would support small to medium enterprises.
131. In order to incorporate all of the above into the JCS, amendments are required to Policies SP1, SP2, SD2 and SA1 along with changes to the supporting text and tables. This is achieved by MM010, MM013, MM016, MM020, MM025, MM032 to MM036, and MM103.

Conclusion

132. Subject to the identified main modifications, I conclude that the Plan is based on a robust, objective assessment of employment needs and provides sufficient opportunities for economic growth. On this basis, I find this part of the Plan to be sound.

Issue 5 – Whether the retail strategy properly addresses need and supply and complies with national policy.

133. The evidence underpinning Policy SD3 (*Retail*) and its supporting text was updated during the course of the examination with the production of a *JCS Retail Study Update*. This shows that, on a constant market share basis, a substantial unmet comparison goods need will arise for Cheltenham and Gloucester after 2021. Until then, it suggests that both centres will have sufficient supply, with the shortage becoming apparent thereafter.
134. However, with respect to Gloucester, two commitments have been counted in the comparison goods supply for the period up to 2021, which ought to be removed for reasons of deliverability. In considering this I have drawn an analogy with NPPF footnote 11 of paragraph 47, which gives direction on how

to assess deliverable housing sites. Footnote 11 advises that, amongst other things, to be deliverable there must be a realistic prospect that housing will be delivered on the site within five years. It also states that sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years.

135. Whilst the commitment at Tesco Extra St. Oswalds has been subject to a technical start, and as a matter of fact has been implemented, the evidence suggests that minimal work has been done and then only to keep the permission alive. It is common ground that the site is being marketed for sale and, therefore, it is highly unlikely that the scheme will progress. A common sense approach should be taken and, as there is little prospect of the Tesco permission being delivered in practice, it should be discounted.
136. With respect to the other commitment at the Interbrew site, the evidence suggests that Costco (the end user of the retail planning permission) has confirmed to Gloucester City Council that it no longer has an interest in proceeding. Marketing sales particulars and an e-mail from an interested party indicates that the site will be refurbished for existing uses. On this basis it appears highly unlikely that the retail planning permission will be delivered and, therefore, it should be discounted.
137. Subject to adjustments being made for the removal of the sales areas for the two identified commitments, working on a constant market share basis, I accept the figures in the *Retail Study Update* which, in the interests of positive planning, should be expressed in the Plan as minima and not caps. There is, however, an issue over whether the figures should be based on a constant market share basis. Nonetheless, I do not propose to deal with this in my report, as I am recommending an immediate review of retail policy for the reasons given below and it would be more appropriately addressed at that stage.
138. The NPPF at paragraph 23 (sixth bullet) requires suitable sites to be allocated to meet retail needs in full, and there is an identified need during the Plan period which, having discounted the identified commitments from the supply, is immediate. The JCS indicates that supply will be dealt with in the forthcoming District Plans. However, this takes no account of the strategic nature of the sites under consideration, which are for major developments of more than local importance. In accordance with the NPPF, paragraph 156 (second bullet), the JCS should make clear that it covers strategic retail allocations, whilst local allocations are to be left to the District Plans.
139. However, in view of the dearth of site evidence before me, the lack of any SA on retail sites, and the fact that no call for strategic retail sites has been made during the preparation of the JCS, I am not in a position to make strategic retail allocation recommendations. Waiting for this evidence would cause a significant delay to the JCS and would not be in the public interest. Therefore,

considering the *Dacorum* judgement⁹, in order to resolve this soundness issue, a policy commitment should be made within the JCS to undertake an immediate review of retail policy.

140. Furthermore, contrary to paragraph 23 (third bullet) of the NPPF, town/city centre boundaries for Gloucester, Cheltenham, and Tewkesbury, which are centres with more than local impact, have not been defined. This is of particular concern in relation to Gloucester, which has no extant local plan and, therefore, no existing defined town centre boundary.
141. The emerging Gloucester City Plan has a draft City Centre boundary for Gloucester, a Primary Shopping Area and Primary and Secondary Shopping Frontages and it is proposed that these all be incorporated into the JCS. The Policies map will require corresponding changes to ensure the soundness of this policy. These boundary designations will be included in the immediate review of retail policy, which will consider their justification in the light of forthcoming retail evidence.
142. With respect to Cheltenham and Tewkesbury, insufficient work has been carried out to identify updated town centre and shopping frontages although, there are relevant saved policies in both the existing Cheltenham and Tewkesbury local plans. Consequently, pending an immediate review of designations and their inclusion in the JCS, new retail development will be encouraged in accordance with the saved local plan policies. This should be explicitly set out in Policy SD3.
143. Other amendments to the supporting text of Policy SD3 are proposed to set out structural changes in the retail market due to internet shopping, and to explain regeneration strategies.
144. Modifications MM037 to MM043 address all of these matters.

Conclusion

145. Even with the identified main modifications, I conclude that there are shortcomings in the Plan's retail strategy. However, subject to an immediate review of Policy SD3, this strategy can be made sound, and in these circumstances the shortcomings are not fatal to the overall soundness of the Plan.

Issue 6 – Whether the Plan makes sufficient and appropriate provision for Gypsies, Travellers and Travelling Show-people.

⁹ Grand Union Investments Ltd. v Dacorum Borough Council [2014] EWHC 1894 (Admin)

146. The JCS identifies a strategic need for Gypsy and Traveller accommodation, based on now superseded national policy, and proposes that much of this be met on strategic housing sites. There has been considerable objection to this and little support. Following the publication of new national policy in *Planning policy for traveller sites* (PPTS), August 2015, an updated GTAA dated March 2017 was prepared. This demonstrates a reduction in the need for Gypsy and Traveller pitches from 151 pitches to 83, due largely to temporary planning permissions having been made permanent and the evidence-based use of lower HFRs.
147. Taking the re-definition for planning purposes of Gypsies, Travellers and Travelling Showpeople in the PPTS, which excludes non-travelling households, the need for 83 pitches is shown to further reduce over the Plan period. There is a slight increase in the need for Travelling Show-people plots, mainly due to the large numbers of children on site who are likely to form their own households during the Plan period, with the GTAA (March 2017) identifying a need for 30 plots for those who meet the PPTS (2015) definition, and 10 plots for those whose status is not known; of which the GTTA identifies that 70% are likely to meet the definition.
148. The methodology behind this assessment incorporates a full demographic study of all occupied pitches, a comprehensive effort to undertake interviews with Gypsy and Traveller households, and consideration of the implications of the new national policy. I am satisfied that the GTAA provides a robust and credible evidence base and I accept its findings.
149. The previous 2013 GTAA stated that, if transit pitches were considered necessary, a transit site of at least 10 pitches should be provided in Gloucestershire or a temporary toleration policy be established for Gypsies and Travellers moving through the County. Since then, two transit sites have been granted planning permission in Gloucestershire creating 14 transit pitches in total. Consequently, this need has been met. However, the 2017 GTAA presents alternative options to further meet any future need in any event.
150. The evidence now demonstrates that for those Gypsies and Travellers that fall within the PPTS (2015) definition there is a five year land supply. For Travelling Showpeople there is confidence that the five years supply will be further addressed through local allocations in district level plans and windfall sites guided by Policy SD14. Although there is currently an unknown element to the need for both groups, the evidence is that 10% of Gypsy and Traveller and 70% of Travelling Showpeople households are likely to meet the PPTS (2015) definition. As such there is no longer a strategic requirement for Gypsy, Traveller or Travelling Showpeople sites and therefore no need to site pitches or plots at strategic allocations. Further site allocations will be explored through the district level plans. Consequently, to ensure appropriate

and effective delivery, modifications to the Plan are recommended removing the requirement for strategic allocations.

151. Section 124 of the Housing and Planning Act 2016 broadens the duty on local authorities to consider the needs of the wider community who reside in caravans or houseboats. This includes people who are no longer classified as Gypsies, Travellers and Travelling Showpeople. Consequently, the JCS authorities should make provision for those people who fall outside the PPTS definition but who have a need to reside in caravans.
152. To address this, such provision, including culturally appropriate accommodation, is to be considered as part of the overall housing mix and will be dealt with through the forthcoming District Plans. This should ensure that needs are planned for in appropriate accommodation in line with DCLG's *Draft guidance to local housing authorities on the periodical review of housing needs: caravans and houseboats* (March 2016). Accordingly, I recommend modifications to Policy SD12 (*Housing Standards*).
153. Furthermore, as part of the mix of affordable housing provision, it is necessary to consider the affordable housing needs of Gypsies, Travellers and Travelling Showpeople. The affordable housing requirement of the travelling community, identified as "public" in the GTAA, will be addressed as part of the overall affordable housing requirement, as set out in Policy SD13 (*Affordable Housing*).
154. According to a *note* produced during the examination, namely *Viability and Impact of Gypsy and Traveller*, there appears to be sufficient headroom for residential sites to contribute to Gypsy and Traveller site provision. Therefore, taking account of the *West Berkshire* Court of Appeal judgement¹⁰ and the Written Ministerial Statement of 28 November 2014, a modification to chapter SD13 is justified for soundness. This would ensure that financial contributions from market housing development towards affordable Gypsy, Traveller and Travelling Showpeople pitches and/or plots are considered, as appropriate.
155. Furthermore, in seeking to maintain supply, existing permanent residential and transit sites are to be protected from alternative use development but do not need to be shown on the policies map.
156. To reflect this updated position and ensure the strategy is effective, modifications MM072 to MM077 to Policy SD14 (*Gypsies, Travellers and Travelling Showpeople*) and its supporting text are necessary. A corresponding amendment to the policies map will also be required to ensure the soundness of this policy. Similarly, modifications MM067 to Policy SD12 (*Housing Mix*

¹⁰ SoS for Communities and Local Government v West Berkshire District Council and Reading Borough Council, 11 May 2016, [2016] EWCA Civ 441

and Standards), and MM0071 to the supporting text of Policy SD13 (*Affordable Housing*) are necessary.

Conclusion

157. Having regard to the public sector equality duty and article 8 of the European Convention of Human Rights, I am satisfied that, subject to the identified main modifications, the Plan makes sufficient and appropriate provision for Gypsies, Travellers and Travelling Show-people. Accordingly, I find this part of the Plan to be sound.

Issue 7 – Whether exceptional circumstances exist for the proposed removal of land from the Green Belt.

158. Policy SD6 (*Green Belt*) sets out the Plan's strategic direction for release of land from the GB, also for development within the GB and for GB protection.

159. The Gloucester/Cheltenham GB is one of the smallest in England and the large areas proposed for removal represent a significant proportion of its entirety. In accordance with paragraph 83 of the NPPF, GB boundaries should only be altered in exceptional circumstances.

160. The main purpose of GB designation between Gloucester and Cheltenham is to prevent the merger of Gloucester and Cheltenham, with other purposes being the prevention of urban sprawl and the preservation of open character. The purpose of a subsequent GB extension north of Cheltenham is to prevent the coalescence of Cheltenham with Bishop's Cleeve.

161. From the submitted evidence, and particularly *The Broad Locations Report*, it is clear that development opportunities are constrained in large parts of the JCS area by significant flood risks and potential impacts on The Cotswolds AONB, amongst other things. Following a sequential approach to sustainable site identification, it is apparent that there is insufficient deliverable/developable, non-GB land within the JCS area to meet its development needs. This is borne out by the Strategic Housing Land Availability Assessments (SHLAAs), Strategic Employment Land Availability Assessments (SELAAs) and SALAs.

162. The possibility of making contributions to the JCS area's housing land supply from cross-border sites in other local authority areas has also been explored under the duty to co-operate. However, apart from about 500 dwellings in Wychavon, no other sites are currently accessible to the JCS authorities. Discussions are continuing with Stroud and Wychavon and options will be assessed as part of the forthcoming housing land supply review for Gloucester and Tewkesbury. Nonetheless, without the use of GB land, there would be no prospect of meeting the housing requirement for the JCS area.

163. Therefore, taking full account of constraints and the outcomes of cross-border exploration, removal of land from the GB is needed, so far as is justified, to contribute to housing provision and the five year supply. In coming to this conclusion, I have considered paragraph 14 of the NPPF. For the GB releases identified below, I find that the adverse impacts of removing land from the GB would not significantly and demonstrably outweigh the benefits of contributing towards housing and other development needs. Nor are there policies within the NPPF that indicate that development on this land should be prevented in principle.
164. The JCS authorities relied on AMEC's 2011 GB assessment in carrying out their review of the GB and selection of strategic allocations. This report is the most up-to-date analysis of the area's GB and considers how strategic segments of the GB perform against the purposes of including land within the GB. I am satisfied that its methodology results in a robust evaluation.
165. I have also taken account of the 2007 AERC Report (covering Cheltenham administrative area only), which I find to be robust in its consideration of local, smaller GB segments.
166. From these reports and other submitted evidence, and for the reasons set out in my Preliminary Findings¹¹, Interim Report, and July 2016 Note of Recommendations, I have drawn the following conclusions.
167. There are exceptional circumstances for GB release at four of the five proposed strategic allocations within the GB. These are Innsworth (plus land at Longford), South Churchdown, Brockworth and North West Cheltenham. However, exceptional circumstances do not exist for GB release at the fifth proposed strategic allocation of North Churchdown¹².
168. North Churchdown would have contributed to Gloucester's housing supply and, as previously indicated, Gloucester is unable to meet its housing requirement for the full Plan period. Nonetheless, there are exceptional circumstances for land to be removed from the GB at Twigworth, which would contribute a greater level of housing supply to Gloucester than North Churchdown. Accordingly, Twigworth is recommended as an additional strategic allocation.
169. Part of identified land at West Cheltenham, which is proposed for GB release as safeguarded land in the Plan, is now recommended as an additional strategic allocation (see below). It is in a sustainable location and its release is justified for development.

¹¹ See particularly *Inspector's Preliminary Findings on Green Belt Release, Spatial Strategy and Strategic Allocations* (EXAM 146) paragraphs 67-120

¹² Ibid paragraphs 78-81

170. To be effective, the JCS should state what strategic allocations are within the GB and make clear that the relevant land is to be released from the GB. It does not do this and, therefore, requires modification.
171. As regards potential future development needs, the Plan contains two areas of safeguarded land proposed for GB release at North West Cheltenham and West Cheltenham. This is in accordance with paragraphs 83 and 85 (3rd & 5th bullets) of the NPPF, which seek the endurance of reviewed GB boundaries for the long term beyond the Plan period and, where necessary, the identification of safeguarded land to meet future development needs.
172. The North West Cheltenham safeguarded land cannot be allocated as a SUE at present for reasons of deliverability largely due to traffic issues, but has potential for future development. The West Cheltenham safeguarded land cannot currently be allocated as a SUE pending relocation of the Hayden Sewage Treatment Works by Severn Trent Water, due largely to odour emission issues. An area of GB around the works is identified in the Cheltenham and Tewkesbury Local Plans as a Development Exclusion Zone. The JCS will replace this designation with an odour monitoring zone where odour modelling will take place to demonstrate where development can occur. This should identify potential areas for future development.
173. Both the North West Cheltenham and West Cheltenham proposed areas of safeguarded land are in sustainable locations, although it should be made clear that any future development is to be well integrated and physically linked to Cheltenham as part of the SUEs. Exceptional circumstances exist for the release of these areas from the GB and their safeguarding is justified.
174. Additional land is recommended to be safeguarded at Twigworth, which is currently not identified within the Plan. This land is in a sustainable location, adjacent to the proposed Twigworth strategic allocation, and together these two areas provide strong and defensible GB boundaries in accordance with paragraph 85 (6th bullet) of the NPPF. Whilst there are currently deliverability issues, this area has the potential to contribute to Gloucester's housing supply later in the Plan period, although the JCS should make clear that development is to be well-integrated and physically linked to the urban area of Gloucester. Exceptional circumstances exist for the release of this land from the GB and its safeguarding is justified.
175. The Plan also identifies other, relatively small, local alterations to the GB boundary. Apart from releases at Shurdington, exceptional circumstances exist for the removal of all of these areas from the GB¹³. Whilst not identified in the Plan, the Policies Map also shows land being released from the GB within the AONB south east of Brockworth. It was agreed at the hearing sessions that exceptional circumstances do not exist for this release.

¹³ Ibid paragraphs 115-120

Therefore, it is recommended that the Plan makes clear that this area is retained within the GB and that, to ensure the soundness of the GB strategy, a corresponding change is made to the Policies Map.

176. Two other relatively small areas are proposed for GB release, which are not identified within the Plan. One is located at Grovefield Way in the area of The Reddings where development is being built out. The other is in the area of the Old Gloucester Road and Arle Nurseries, which would provide a more appropriate GB boundary to the north of the West Cheltenham allocation and to the south of the North West Cheltenham allocation. Exceptional circumstances exist for both of these releases.
177. In addition to the extensive review of the GB underpinning the Plan, the JCS authorities wish to have the option of carrying out a limited review of the GB through their forthcoming District Plans. It is reasonable for limited alterations to be made to the GB boundary through the District Plans where this is justified by exceptional circumstances. However, the JCS does not provide the framework for this. Therefore, in order to be effective, SD6 requires modification so that the JCS provides reasonable flexibility to allow this process to take place.
178. The Plan designates Gloucestershire Airport, Cheltenham Racecourse, and waste management sites (allocated in the Gloucestershire Waste Core Strategy) as developed sites within the GB, where co-location of additional development that is essential to the use of these facilities could have wider benefits and, therefore, be justified. However, to provide more flexibility to the waste industry, existing waste management facilities operating in accordance with extant planning permissions should also be included in the designation but do not need to be shown on the policies map. Therefore, in the interests of effectiveness, it is necessary to modify the Plan to reflect this.
179. Also, the wording of Policy SD6 does not reflect the more positive approach to waste management development within the GB that is set out in the Waste Core Strategy. Therefore, in the interests of consistency and to ensure that the Waste Core Strategy is properly considered, SD6 should be modified to state that future waste development on allocated sites in the GB will be in accordance with the Development Plan (which includes the Waste Core Strategy), as well as national policy.
180. With respect to the Racecourse, in recognition of its national standing and importance to the local economy, there should be support for more racecourse related development. The Racecourse Policy Area, within which the JCS provides for appropriate development to take place, is too limited. Therefore, to be effective, the Racecourse Policy Area should be increased and the Policy modified to allow for a new hotel or conferencing facilities.
181. In order to reflect all the above, amendments are required to Policy SD6 and its supporting text. These are addressed by MM050 to MM055. Corresponding changes are also to be made to the Policies Map to ensure the soundness of this Policy.

Conclusion

182. Subject to the main modifications identified, I conclude that exceptional circumstances exist for the proposed removal of land from the GB. Consequently, I find this part of the Plan to be sound.

Issue 8 – Whether the proposed strategic allocations are justified and whether they provide sufficient direction for proposed development.

183. The JCS strategic allocations are set out in Policy SA1 (*Strategic Allocations Policy*). In my Preliminary Findings, Interim Report and Note of Recommendations I addressed both the strategic sites within this Policy and omission sites in some detail, and for the reasons given in those documents I draw the following conclusions.
184. The strategic allocations of Innsworth (A1), South Churchdown (A3), North Brockworth (A4), North West Cheltenham (A5), and Ashchurch (A9) are sound. However, the allocation at North West Cheltenham should ensure that a green buffer remains around Swindon village within which Local Green Space may be designated, the detailed boundaries of which are to be left to the forthcoming Cheltenham Local Plan. Whilst Ashchurch is allocated for employment uses in the JCS, outline planning permission was granted in March 2016 by the Secretary of State for retail-led development. Therefore, to be effective, modifications are needed to amend the use of this allocation to “employment generating” development, which would include retail.
185. The strategic allocations at North Churchdown (A4) and Leckhampton (A6) are unsound. However, a reduced local allocation could be made at Leckhampton in the forthcoming Cheltenham Local Plan, which should also designate Local Green Space within this area. Whilst I previously commented that an allocation in the order of 200 dwellings at Leckhampton might be reasonable, this was only an approximation and intended to indicate a scale below the strategic threshold for the JCS. The final figures should be based on a full assessment of the area to provide the evidence base to underpin an appropriate allocation.
186. Whereas I previously found the MOD site at Ashchurch (A8) to be sound, due to the Defence Infrastructure Organisation since deciding to retain the majority of the site for at least the next 10 years, the JCS authorities propose removing it from the Plan. I accept that, for reasons of deliverability, its allocation is no longer sound and it is appropriate to remove it.
187. The remaining capacity within the strategic allocations is insufficient to meet the housing and employment requirements for the JCS area. Therefore, the sites of Winnycroft, Twigworth and West Cheltenham are proposed as additional strategic allocations.
188. The majority of the site at Twigworth is located in Flood Zone 1. However, concerns have been raised about flooding, particularly pluvial flooding which present some challenges. Nonetheless, updated flood risk evidence commissioned by the JCS authorities indicates that proposed development of the site would not be unsafe and there are no flooding reasons that should prevent allocation. This was debated by the relevant experts and others at the

modification hearings and, having considered all representations on the matter and undertaken visits to Twigworth, I am persuaded that flood risk can be made acceptable by appropriate mitigation measures at application stage.

189. With respect to heritage, although the JCS authorities' consultant has some concerns over the impacts of development at Winnycroft and Twigworth, these issues are not insurmountable and could be addressed at application stage. Consequently, heritage constraints do not prevent the sites being allocated.
190. Winnycroft now has the benefit of outline planning permission for 420 dwellings on part of the site and an application for up to 250 dwellings is being considered on the other part. Consequently, it should contribute to Gloucester's five year housing land supply. There has been some debate over whether the allocation could be expanded to incorporate adjacent land which is being promoted by developers and would increase supply further. However, there are significant issues on this land that require further detailed assessment before it could be allocated, and it would be unreasonable to delay the JCS any further pending such investigations. Therefore, this additional land cannot be included in the JCS.
191. Since writing my Interim Report, the proposed area for the West Cheltenham strategic allocation has increased, using more of the previously proposed safeguarded land in order to uplift housing numbers from 500 to 1,100 dwellings and to provide a Cyber Business Park adjacent to GCHQ, which will be a dedicated facility of national importance. I am told that the proposed Cyber Business Park has been awarded £22 million of government Growth Deal funding, secured through the LEP and Department for Transport to accelerate its development and underpin highway infrastructure needs.
192. Although there is local concern over this allocation, having undertaken site visits and considered carefully all representations, I am satisfied that appropriate design and mitigation measures can overcome the issues. Furthermore, the increase in housing numbers will assist with the viability of re-locating the Hayden Treatment Works on the safeguarded land, for which Severn Trent Water is exploring options. As indicated previously, this site is in a sustainable location and, given Cheltenham's requirement for additional housing and employment land during the Plan period, its allocation is essential in meeting Cheltenham's development needs.
193. In summary, there are no overriding constraints that would prevent Twigworth, Winnycroft or West Cheltenham being allocated. Therefore, on this basis and for the reasons set out in my Interim Report and Note of Recommendations, I find these proposals to be sound.
194. As a result of these alterations in allocations, the quantity and location of housing and employment land supply has changed and, therefore, to be effective, the Plan needs to reflect this. Consequently, Table SA1, which sets out the housing and employment targets for each site, should be modified accordingly.
195. Policy SA1 and the indicative site layouts do not provide sufficient detail to give clarity to developers, local communities and other interested persons about the nature and scale of development and, therefore, do not conform to

NPPF paragraph 157 (fifth bullet) and the PPG. Whilst the intention was to provide a comprehensive master-plan in addition to and separate from the JCS, it is inappropriate to defer important details to an un-examinable document.

196. Therefore, I recommend that, rather than having one general strategic allocations policy, each strategic allocation has its own specific policy setting out the key principles on what it is expected to deliver, along with revised indicative site layouts. An amended Policy SA1 is to remain, giving general direction to developers to ensure sustainable development with comprehensive infrastructure across the site and an appropriate transport strategy to support delivery. A comprehensive masterplan is required for the whole area of each allocation. Nonetheless, to be effective, and to avoid potential unintended delivery consequences, (such as part of an allocation being stopped from coming forward due to masterplanning on another part being delayed), a modification is necessary to introduce flexibility into the policy.
197. To reflect all of the above, amendments are required to the strategic allocations chapter of the Plan. This is achieved by MM101 to MM120, which also remove remaining references to the former strategic allocation A7 at Up Hatherley Way, South Cheltenham, which was taken out of the Plan at pre-submission stage. Corresponding changes to the Policies Map are also required to ensure the soundness of the policies.

Conclusion

198. Subject to the identified main modifications, I conclude that the proposed strategic allocations are justified and provide sufficient direction for proposed development. I therefore find this part of the Plan to be sound.

Issue 9 – Whether other Sustainable Development Policies are sufficiently comprehensive and justifiable.

199. Part 4 of the Plan contains the Sustainable Development Policies SD1 to SD15, some of which have been dealt with above (SD2, SD3, SD6, SD13 and SD14). Policies SD5 (*Design Requirements*) and SD7 (*Landscape*) are sound as written, the former making sufficient provision for inclusive design and accessible environments in accordance with the NPPF. Issue 9 addresses the remainder of the Sustainable Development Policies (SD1, SD4, SD8 to SD12 and SD15).

Policy SD1 (Presumption in Favour of Sustainable Development)

200. Policy SD1 simply reflects the NPPF. As it is no longer a requirement of Government to include such a policy in local plans, it is proposed to remove it. MM031 does this.

Policy SD4 (Sustainable Design and Construction)

201. Policy SD4 requires amendments to comply with the Written Ministerial Statement of 25 March 2015 and the PPG relating to technical standards for new dwellings. Accordingly, references to exceeding national standards, zero

carbon buildings, the Code for Sustainable Homes, BREEAM, and a 10% target reduction of carbon dioxide emissions from energy demand through on-site renewables, should all be removed. Furthermore, there ought not be any reference to forthcoming District Plans setting requirements in this regard.

202. Also, to ensure compliance with the Waste Hierarchy, National Planning Policy for Waste and the Gloucestershire Waste Core Strategy, the Policy should set out an expectation that all development incorporates the principles of waste reduction and re-use.

203. Pending the designation of Minerals Safeguarding Areas in the forthcoming Minerals Local Plan for Gloucestershire, the JCS should include a requirement for a minerals assessment where development might sterilise mineral resources. The wording of the existing requirement should be modified in the interests of clarity and effectiveness.

204. MMO44 to MMO49 address these amendments.

Policy SD8 (The Cotswolds Area of Outstanding Natural Beauty)

205. Policy SD8 aims to protect the Cotswolds AONB. However, no mention is made of the potential impact of development "within the setting of" the AONB. Therefore, to ensure its coverage is comprehensive and justified, MMO56 is necessary to make reference to "setting".

Policy SD9 (Historic Environment)

206. Whereas Policy SD9 requires development proposals at strategic allocations to have regard to the *JCS Environment Assessment*, it does not explicitly require potential impacts on heritage assets and mitigation measures to be assessed. Therefore, to ensure it is effective, MMO57 inserts this requirement into Policy SD9.

Policy SD10 (Biodiversity and Geodiversity)

207. The provisions of Policy SD10 do not explicitly extend to preventing unacceptable impacts of development both within and surrounding designated sites. To be effective, this needs to be made clear in the Policy. Furthermore, to comply with paragraph 117 (2nd bullet) of the NPPF, the Policy should identify and map components of the local ecological networks. It is therefore proposed to incorporate the Gloucestershire Nature Map within the Plan to comply with National policy. These amendments are addressed by MMO58 to MMO60.

Policy SD11 (Residential Development)

208. Policy SD11 guides new housing development to sustainable and accessible locations. However, to be effective it needs to clarify what housing locations it relates to, and amended policy wording is necessary to do this. Also, the reference to the evidence base for carrying out annual assessments of land availability needs to be updated to refer to the SALA rather than the SHLAA.

209. The supporting text in the Plan encourages proposals that bring empty space back into use. The proposed main modifications that were consulted upon in

Spring 2017 erroneously removed this text. It has now been re-instated.

210. MM061 to MM064 deal with these amendments.

Policy SD12 (Housing Mix and Standards)

211. Policy SD12 is not consistent with the Written Ministerial Statement of 25 March 2015 on technical standards for new dwellings. This changes National policy so that it now requires minimum standards to be dictated by Building Regulations, although local plans have the option of incorporating tighter national standards in respect of access, water and space where there is evidence of local need and where viability is not compromised. The JCS does not propose incorporating the national optional standards but provision is to be made for the forthcoming District Plans to re-visit this matter, if appropriate. This will allow flexibility when local circumstances are considered further. Accordingly, amendments are required to reflect the updated position.

212. With respect to housing mix, the Plan does not adequately address the needs for all types of housing and the different groups in the community, as set out in paragraphs 50 and 159 of the NPPF. To rectify this, reference should be made to the needs of the disabled, as well as the cultural needs of Gypsies, Travellers and Travelling Showpeople. Also, the reference to the evidence base for the housing mix should include the 2015 SHMA update. Subject to the required amendments, dealt with by MM065a to MM068, this Policy complies with national policy.

Policy SD15 Health and Environmental Quality

213. A health impact assessment is required by this Policy for proposed development at strategic allocations and other locations at the discretion of the local planning authority. However, to be justified, a more flexible approach is required. Therefore, it is proposed that such assessments be submitted "as appropriate" and that applications which may require health impact assessments be screened in the first instance to determine whether it is necessary for a full assessment to take place. These amendments are dealt with by MM078 and MM079.

Conclusion

214. Subject to the identified main modifications, I conclude that these other Sustainable Development Policies are sound.

Issue 10 – Whether appropriate, evidence-based provisions for delivering suitable infrastructure have been made.

215. Part 5 of the Plan deals with the specific Infrastructure Policies identified as INF1 to INF8.

Policies INF1 (Access to the Transport Network) and INF2 (Safety and Efficiency of the Transport Network)

216. At the start of the examination there was very little transport evidence submitted to support the Plan and, given the extent of outstanding, controversial issues, this was a serious omission. To address this shortcoming, a JCS Transport Evidence Working Group was set up to produce the evidence necessary to underpin the JCS.
217. This Group consists of officers and their appointed consultants from Gloucestershire County Council, Highways England and the JCS authorities. It has now produced a comprehensive *Transport Evidence Base*, which sets out the relevant transport evidence for the JCS area, including an assessment of the strategic allocations and proposed mitigation packages.
218. Over the course of the examination the JCS authorities submitted several transport mitigation scenarios prepared by consultants to demonstrate how potential highway capacity and safety problems could be reduced. Until recently these scenarios were all based on the Central Severn Vale SATURN 2008 base year peak hour models, which were somewhat outdated.
219. An updated 2013 based Central Severn Vale SATURN model was therefore developed, which was validated in March 2017. This was used to test various modelled traffic scenarios to understand the cumulative impact of development including schemes completed since 2013, future committed schemes and the proposed strategic allocations.
220. Although the volume of traffic in the JCS area is set to significantly increase during the Plan period, the evidence suggests that JCS development will only account for a small proportion of this overall traffic growth. The updated modelling scenario *Do Something 7* (DS7) indicates that mitigation strategies could be developed to significantly reduce the cumulative impact of the growth envisaged by the JCS including the traffic impact of the strategic allocations.
221. These strategies are set out in the JCS authorities' Transport Implementation Strategy (TIS), which is a living document that sits alongside the JCS. It concludes that the DS7 scenario represents an effective and viable transport strategy to support delivery of the JCS. It demonstrates how additional trips from JCS development can be accommodated on the network, whilst ensuring the transport network is able to adequately function. This has involved balancing affordability, new infrastructure and travel choices with a key element being the greater use of alternatives to the car.
222. The TIS complements Gloucestershire County Council's *Local Transport Plan 2015-2031* (LTP), which is the key document for dealing with local transport network strategies in Gloucestershire. In order for the JCS to be effective, it should be in general conformity with the LTP. However, the LTP is a living document, which is updated and amended to reflect changing circumstances, and the JCS authorities have liaised closely with the County Council to minimise any discrepancies between the two documents. The LTP has already been reviewed to take account of the JCS and could respond further if appropriate.
223. SATURN does have limitations in that it is a strategic model and the DS7 proposals are high level. Furthermore, DS7 does not resolve all congestion issues across the JCS area. Nonetheless, more focussed modelling and

mitigation design to deal with allocated development issues can be left to application stage.

224. Highways England are content that, from a strategic road network perspective, the JCS is sound and residual issues are not fundamental. Gloucestershire County Council, the local highways authority, is satisfied that the proposed planned growth in the JCS area can be safely accommodated on the local highway network without a cumulative severe impact, and that residual issues are not fundamental to the safe and efficient operation of the local transport network. Both indicate that residual issues are capable of resolution and can be dealt with through further detailed assessment and mitigation as sites come forward. I give considerable weight to the opinions of these bodies.
225. Also, a high level air quality study has provided a strategic overview of the potential air quality impacts that could result from the greater vehicle flows attributed to the scale of planned growth. This tests the DS7 scenario to 2031 and includes an assessment of potential cumulative impacts of the increased traffic on strategic travel corridors. In producing this document, the *Wealdon* judgement¹⁴ has been taken into account, which dealt with the approach to assessment of in-combination effects of vehicle emissions on protected habitats. Whilst more detailed air quality assessments will be required by Policy SD4 at application stage, this high level study does show that there would be no significant air quality issues that would prevent the SUEs being allocated.
226. I am now satisfied that the submitted evidence properly supports the JCS and that the TIS sufficiently resolves transport issues for allocation of the identified strategic sites to proceed.
227. The thrust of Policies INF 1 and 2 is to ensure that any traffic congestion that is likely to arise from development is mitigated to ensure that the highway can operate safely within its design capacity. However, having two policies gives rise to some duplication, which is unjustified. Therefore, modifications are necessary to amalgamate these provisions into one policy and to re-name it INF1 (Transport Network). Consequently, significant changes are required to the Policy wording to provide the required streamlining.
228. Furthermore, to ensure consistency with national policy, additional text is necessary to promote non-car use by ensuring that opportunities are taken for enhancing walking, cycling and public transport networks. The need for Transport Assessments has also been added to include cumulative impacts, and amendments made to allow for travel plans to be requested where appropriate.
229. Other changes to the supporting text are necessary to update the transport position and aid clarity. These include making the link with the TIS, Policy SA1 (*Strategic allocations*), and Policy SD5 (*Design Requirements*) with regard to masterplanning, design and layout when considering sustainable travel modes, providing further explanation of travel plans and the LTP, and directing developers to an infrastructure guide.

¹⁴ *Wealdon District Council v Secretary of State for Communities and Local Government, Lewes District Council and South Downs National Park Authority* [EWHC 351] March 2017

230. All these modifications are satisfactorily achieved by MM080 to MM083.

INF3 (Flood Risk Management)

231. Flooding is a significant issue in the JCS area, which covers parts of the Severn and Avon rivers and a large number of smaller watercourses. Accordingly, the JCS is supported by Level 1 and Level 2 SFRA, the latter of which includes site assessments for all sources of flood risk in the area (fluvial, pluvial, tidal, sewers and artificial sources) for sites with a proportion of land in Flood Zones 2 and/or 3. Appropriate methods are also discussed for reducing flood risk on site and sustainable drainage techniques, although the suitability of a particular development is left to a site specific Flood Risk Assessment at the application stage.

232. The Level 2 SFRA demonstrates that for all but one of the sites (Twigworth) development on site can be located away from flood risk and designed to be safe from flood risk. For the remaining site, Twigworth, further detailed evidence indicates that, despite a greater flood risk in part of the site, there are no overriding flooding issues which would prevent its allocation for development. I consider all of this evidence to be robust and convincing and I accept its conclusions.

233. The JCS directs built development towards areas of low flood risk in accordance with the sequential test. However, to be effective, Policy INF3 and its supporting text should be amended to ensure that development in flood risk areas is subjected to a Flood Risk Assessment which, amongst other things, incorporates the latest available updates to modelling, so that the most up-to-date flood risk information is available to decision takers.

234. Although the evidence does not take full account of recent climate change guidance suggesting a new 70% fluvial allowance in place of the previous 20% allowance, the Environment Agency are satisfied that this could be dealt with at the planning application stage. Consequently, they have no soundness objections to the Plan.

235. Sustainable drainage schemes should also be properly considered at application stage and, to ensure consistency with national policy, the Plan's supporting text should direct developers to guidance from the Lead Local Flood Authority. For similar reasons, explanatory text requiring consideration of cumulative effects and the demonstration of deliverable flood risk management solutions is also required.

236. Finally, and more specifically, to ensure the effectiveness of ongoing flood defence work in Gloucester City, an amendment is proposed to refer to the co-ordinated approach that is required to development, particularly at key regeneration sites to realise wider flood benefits.

237. All these amendments are satisfactorily achieved by MM084 to MM087.

INF4 (Green Infrastructure)

238. The JCS authorities have produced a Green Infrastructure Strategy based on an assessment of the area's environmental assets. The strategy identifies two key regional/sub-regional green infrastructure assets in the area, namely The

Cotswolds AONB and the River Severn and its washlands. The River Severn area is being promoted as a Regional Park in recognition particularly of its special habitat qualities and its importance to the quiet enjoyment of the countryside. It is therefore necessary for the effectiveness of Policy INF4 that a change be made to its supporting text to make reference to the potential Regional Park.

239. Also, for reasons of effectiveness, the Policy should recognise that the growth proposed by the JCS will increase demands on green spaces and that this will require careful management and collaborative working with key stakeholders. Accordingly, an amendment is needed to insert additional supporting text to reflect this.

240. Furthermore, it is recommended that the North West Cheltenham SUE retains a green buffer around Swindon Village. An amendment to the strategic allocations chapter of the Plan is necessary to reflect this, as mentioned under Issue 8. Reference to this green buffer and its intended allocation as Local Green Space in the forthcoming Cheltenham Local Plan should also be made in the supporting text of INF4 for reasons of effectiveness.

241. These changes are all properly dealt with by MM088 and MM089.

INF5 (Social and Community Infrastructure)

242. INF5 makes provision for social and community infrastructure associated with proposed development. As its delivery will be influenced by existing social sustainability initiatives that the JCS and District Plans intend to take forwards, to be effective, reference to these initiatives should be made in the supporting text. Accordingly, MM090 is necessary to reflect this.

INF6 (Renewable Energy and Low Carbon Energy Development)

243. Policy INF6 is a criteria based policy that supports appropriate renewable and low carbon energy development including wind turbines. However, the Written Ministerial Statement of 18 June 2015 indicates that planning permission should only be given to wind energy development where the site is identified in the Development Plan, amongst other things. The JCS authorities intend to address any such allocations through their District Plans. Consequently, to conform to national policy, INF6 requires amendment to remove wind turbines from its remit and to refer to potential allocations being made at district level.

244. The Policy's supporting text also refers to 10% on site renewable energy generation for new development. However, as referred to above for Policy SD4 in Issue 9, for consistency with the Written Ministerial Statement of 25 March 2015 and the PPG relating to technical standards for new dwellings, references to exceeding national standards should be removed.

245. These amendments are satisfactorily dealt with by MM091, MM093 and MM094.

INF7 (Infrastructure Delivery)

246. The JCS does not make clear at least for the next five years what

infrastructure is required to deliver the planned development as envisaged in the PPG. Furthermore, the SIDP identifies a funding gap of nearly £750 million during the Plan period with little indication being given of how it is intended to be met.

247. However, detailed, robust evidence from Ove ARUP, submitted during the examination for all the proposed allocations and the cross-border site at Mitton, adequately identifies priority infrastructure for at least the next five years and how it will be provided. This is reflected in the main modifications to the strategic allocations chapter in Part 6 of the Plan which, as amended, sets out satisfactorily the requirements for each allocated site.
248. New analysis of the funding gap by Ove ARUP demonstrates that the SIDP estimated costs at a high level and is an optimistic snapshot in time. When the funding is broken down, the report says that the funding gap reduces to about £73 million for critical infrastructure, with the majority of projects and costs being within the "desirable" category. Moreover, it indicates that projects and associated costs have changed as time has progressed and schemes have evolved. The analysis shows that at least for the first five years, most infrastructure requirements are likely to be met by developers through planning obligations.
249. The evidence indicates that for most infrastructure a fully funded package of deliverable solutions has been agreed between service providers and promoters for at least the first five years of projected completions. Nonetheless, there is some uncertainty over certain critical infrastructure over the Plan period, due to a lack of information or discussions still ongoing between parties. However, I accept that infrastructure planning is an iterative process and there will be opportunities to address any outstanding issues as schemes advance. Whilst there is an expectation that issues will be resolved in the detailed master planning of sites, strategies are in place to minimise risks to delivery to an acceptable level. I find the Ove ARUP work to be robust and convincing and I accept its conclusions.
250. Some longer term transport schemes will depend on other sources of funding as identified in the TIS. Monies have also been secured for Gloucestershire through the third round of the government's Growth Deal in the sum of £29.13 million (with £26.5 million covering the JCS area), part of which will be used to ease traffic flow. Further investment is possible for motorway improvements through the Road Investment Strategy. Bidding for additional funding is ongoing.
251. On the basis of this evidence I am satisfied that there are reasonable prospects of at least the identified critical infrastructure coming forward over the first five years from adoption of the Plan.
252. To ensure that INF7 is in accordance with national policy in seeking to secure the delivery of appropriate and proportionate infrastructure, it should take account of the *National Infrastructure Delivery Plan 2016-2021*. To do this, a change should be made to its supporting text to reference and reflect this plan. Also, to ensure its effectiveness, amendments are necessary to clarify that development of all scales and types is covered, and to signpost developers to Gloucestershire County Council's *Local Developer Guide* for

advice.

253. Furthermore, to be justified, alterations to the Policy are necessary to clarify that infrastructure will only be required that is necessary, directly related, and fairly and reasonably related to the scale and kind of development proposed. Amendments to the list of types of infrastructure that might be needed is also necessary in the interests of effectiveness.

254. These amendments are satisfactorily achieved by MM095 to MM098.

INF8 (Developer Contributions)

255. Policy INF8 provides for developers to make direct arrangements for implementing infrastructure requirements or to make financial contributions. To ensure its effectiveness, the Policy should be modified to make clear that financial contributions will be sought through section 106 of the Town and Country Planning Act 1990 and the Community Infrastructure Levy (CIL) under the Planning Act 2008.

256. Similarly, for non-policy compliant schemes, it is proposed that viability assessments be submitted which, if necessary, the JCS authorities will have independently appraised at the applicant's expense. Such assessments will usually be published in the interests of transparency.

257. These amendments are properly dealt with by MM099 to MM100.

Conclusion on infrastructure

258. Subject to the identified modifications, I conclude that appropriate, evidence-based provisions for delivering suitable infrastructure have been made, and that this part of the Plan is sound.

Issue 11 – Whether the provisions for implementation, monitoring, review and ongoing co-operation are satisfactory.

Monitoring Framework

259. Part 7 of the Plan addresses the monitoring and review of JCS policies to assess the effectiveness of their implementation and delivery. It contains a monitoring framework with targets and monitoring indicators that are to be reviewed periodically. In general, this is a comprehensive tool although, to be effective, it requires amendment to reflect the modifications to the JCS and to remove indicators for which data sources are no longer available or are more appropriate for monitoring at District Plan level.

260. Furthermore, the supporting text requires amendment to demonstrate how the Plan is able to be flexible and responsive to change in accordance with national policy. It is therefore recommended that, if monitoring indicates that delivery problems are emerging or that circumstances are changing in other ways, the JCS authorities will consider implementing certain measures to bring forward development. These include the early release of safeguarded land, particularly if improvements to Junction 10 are forthcoming, and cross-boundary working

with Stroud and Wychavon District Councils that might allow for further housing land supply. Also, to be effective, it needs to be clarified that monitoring outcomes will be reported through a single JCS Authority Monitoring Report.

261. All of these amendments are satisfactorily dealt with by MM122 and MM129 to MM133.

Housing Implementation Strategy and Trajectories

262. Amendments are necessary to refer to and set out information from the HIS in order to ensure that the Plan is clear and therefore effective. This includes explanations of what the JCS authorities intend to do should there be any barriers to delivering the development proposed by Policies SP1 and SP2 and how to respond to changing circumstances. There are calculations of the five year supplies for each authority and charts and trajectories for market and affordable housing illustrating estimated delivery against requirements together with accompanying explanations. The expected delivery from each of the strategic allocations and Mitton in Wychavon is also set out in table format and contingencies put in place to respond to any significant under-delivery.

263. These changes are addressed by MM121 and MM124 to MM128.

Reviews

264. In order to ensure flexibility and effectiveness, the Plan needs amendment to include a housing supply review mechanism with a trigger for full or partial review. Solely for monitoring purposes, a 10% buffer is to be applied to the housing requirement of each JCS authority on an annual basis. If completions fall below 110% of an authority's supply trajectory then this acts as an early warning for the authorities to review and take corrective action. If strategic allocations cumulatively delivered less than 75% of their projected completions over three consecutive years, this would trigger the need to consider a partial or full JCS review. In this way the authorities would get early warning of a potential imminent housing shortfall so that corrective action could be taken.
265. Moreover, the six Gloucestershire district councils have been jointly working on a Gloucestershire devolution bid seeking to better align services and resources to jointly grow the economy. A Statement of Intent has been submitted to DCLG although it may be some time before it is taken forward in light of other government priorities. The Plan is intended to be reviewed within five years in accordance with the PPG and it is the wish of the JCS authorities that any full or partial review is aligned with those of other Gloucestershire authorities. This is reasonable. Therefore, amendments are necessary to reflect this in the interests of effectiveness.
266. The above changes are addressed in MM123.
267. As referred to above, in response to shortfalls in the Plan's provisions, a number of focussed reviews to the JCS will be necessary¹⁵. This accords with PPG guidance. Without these reviews the JCS would be unjustified and,

¹⁵ As set out in more detail in the sections of this report on housing shortfall and retail

therefore, unsound.

268. As Gloucester is unable to meet its housing requirement for the full Plan period, there should be an immediate review of Gloucester's housing supply following adoption of the JCS. This would allow consideration of options that become available both within and outside the JCS area and could include further development opportunities that are not currently deliverable.
269. The JCS authorities' Statement of Co-operation with Stroud District provides a tool for exploring the possibility of housing land supply in Stroud contributing to the JCS authorities' needs, where it is reasonable to do so and consistent with achieving sustainable development. Consequently, to achieve maximum co-ordination and to ensure that potential development sites are comprehensively explored using agreed site assessment criteria, it is recommended that the Gloucester housing supply review is undertaken in tandem with Stroud's Local Plan review, which is currently underway.
270. With regards to Tewkesbury, as already noted, its housing land supply position has significantly changed since submission, leaving it with a substantial shortfall, which can only properly be dealt with by a comprehensive assessment of the options, which will take time. Consequently, to avoid further delay in adoption of the JCS, an immediate review of the Plan is the most appropriate way forward to identify appropriate housing allocations.
271. The JCS authorities are committed to an immediate review of both Gloucester's and Tewkesbury's housing supply following adoption of the JCS. To address this, a new policy is proposed by MM123c, Policy REV1: (*Gloucester and Tewkesbury Housing Supply Review*), which is accompanied by explanatory text for Gloucester at MM123a and for Tewkesbury at MM123b.
272. With respect to retail, as set out under Issue 5 (Retail), a review of retail policy SD3 is required to make the Plan sound. This is to take place immediately upon adoption of the JCS and will take approximately two years to complete. MM123 is recommended to deal with this.

Conclusion

273. Subject to the identified modifications, I conclude that the provisions for implementation, monitoring, review and ongoing co-operation are satisfactory and that this part of the Plan is sound.

Assessment of Legal Compliance

274. Regulation 8(5) of the Town and Country Planning (Local Planning)(England) Regulations 2012 requires local plans to identify any policies that it intends to supersede. The JCS does not do this and, therefore, MM134, MM134a and MM134b are necessary, which insert lists of superseded policies into the JCS for each authority.
275. Some participants raised concerns about the SA and particularly its consideration of alternative strategic sites. Whilst the SA was generally adequate, and appraised most reasonable alternatives for meeting the Plan's objectives, it rejected certain alternatives too early in the process for what

appeared to be non-land use planning reasons. However, in accordance with *Cogent Land LLP v Rochford District Council*, this inadequacy has been cured by an additional SA report, which explains matters raised throughout the examination, as well as addressing relevant main modifications.

276. Issues were also raised in relation to climate change, particularly with respect to flooding. However, I am satisfied that the Plan contains policies designed to secure that the development and use of land in the JCS area contribute to the mitigation of, and adaptation to, climate change, thereby ensuring legal compliance with section 19(1A) of the Planning and Compulsory Purchase Act 2004.

277. Whilst there were some adverse comments from participants to the examination about the nature, adequacy and conduct of public consultation, the JCS authorities' consultation reports generally demonstrate adequate consultation. Where additional consultation was considered constructive, round table discussions were set up during the examination process to capture participants' submissions. Consequently, there was no breach of the 2012 Regulations in this regard.

278. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that, subject to the identified main modifications, the Plan meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	At the time of submission the approved LDSs of each of the Councils were those adopted in April 2011 (GCC), November 2009 (CBC) and April 2013 (TBC) [SUB114]. Subsequent to submission, CBC and GCC each updated their LDS in January 2015 (GCC) and February 2015 (CBC) [EXAM23A & B]. The JCS is identified in each LDS with timing based on information available at the time and dependent on the progression of the JCS examination. The TBC LDS of April 2013 anticipated adoption of the JCS in December 2014, GCC LDS of January 2015 in October 2015 and the CBC LDS of February 2015 in Autumn 2015. Since the final examination hearing in July 2017 each of the Councils has approved a new LDS in October 2017 updating the timing. The JCS content is compliant with each of the Council's LDSs and compliant with the timing within the LDSs adopted by the Councils in October this year.
Statement of Community Involvement (SCI) and relevant regulations	At the time of submission the approved SCIs of each of the Councils were those adopted in July 2005 (GCC), July 2014 (CBC) and May 2013 (TBC) [SUB115]. Consultation on the JCS, including consultation on the post-submission proposed 'main modification' changes, complies with the SCIs'

	requirements, or with those of their corresponding predecessor documents as applicable.
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Habitats Regulations Assessment (HRA)	The Habitats Regulations Assessment Report (May 2014) [SAPR114-119] concludes that the submission JCS would not have adverse effects, alone or in-combination, on the integrity of the identified European Sites. The Sustainability/Integrated Appraisal Addendum Report (October 2016) [Document MM003] concludes and sets out how the proposed modifications (as consulted upon) would not have adverse effects, alone or in-combination, on the integrity of the identified European Sites.
National Policy	The JCS complies with national policy except where indicated and modifications are recommended.
2004 Act (as amended) and 2012 Regulations.	The JCS complies with the Act and the Regulations, except in respect of identifying the policies that are superseded by it. That failure to comply is overcome by MM134, 134a & 134b.

Overall Conclusion and Recommendation

279. Whilst there are issues with the Plan, which cannot be immediately resolved, it is in the public interest to have an adopted Plan in place as soon as possible to reduce continuing ad-hoc, unplanned development. Rather than delaying matters further, the balance is in favour of finding the Plan sound now subject to an immediate partial review.

280. The Plan has a number of deficiencies in relation to soundness and/or legal compliance for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.

281. The Councils have requested that I recommend main modifications to make the Plan sound and/or legally compliant and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Elizabeth C Ord

Inspector

This report is accompanied by the Appendix containing the Main Modifications

APPENDIX 3



The Gloucestershire County Council Local Development Guide 2021

Infrastructure to support new development

Foreword

The National Planning Policy Framework sets out that the purpose of the planning system is to contribute to sustainable development. The provision of social and economic infrastructure, such as roads, schools, libraries, surgeries and community facilities, is crucial to that objective.

There are six local planning authorities in Gloucestershire, who determine most of the planning applications. However, much of the necessary infrastructure required to support that growth is the responsibility of Gloucestershire County Council.

The purpose of this Local Development Guide is to provide information to local planning authorities, developers and all stakeholders on the types of infrastructure which Gloucestershire County Council is responsible for and may seek funding towards; and where S106 contributions and/or Community Infrastructure Levy payments may be necessary to mitigate the impacts of a development, and make it acceptable in planning terms.

The Guide is not prescriptive, as each development proposal will be considered on its merits, and any obligations sought will need to meet the relevant tests. However, it is intended to aid, and improve transparency and consistency, in decision-making; and to provide guidelines to inform the preparation of development plans and other planning documents, as well as assisting in the determination of planning applications.

The Local Development Guide was presented and adopted at Gloucestershire County Council's Cabinet meeting on 24 March 2021. It was subject to a targeted public consultation. Consequently, whilst it is not a Development Plan Document nor a Supplementary Planning Document, it is a material consideration in the determination of planning applications.

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Introduction

1. A fundamental aspect of achieving sustainable development is providing infrastructure in the right place and at the right time. Indeed, as part of its social and economic objectives, the National Planning Policy Framework ('Framework') sets out the importance of identifying and coordinating the provision of infrastructure and accessible services to reflect current and future community needs.
2. Gloucestershire County Council ('GCC') plays a key role in achieving sustainable development, partly through its role as an infrastructure provider. Indeed, whilst the local planning authorities ('LPAs') deal with most planning applications, all of the Infrastructure Delivery Plans ('IDPs') within Gloucestershire indicate that GCC is responsible for delivering most of the necessary strategic community infrastructure to support that growth. Whilst other funding sources will be explored, developer contributions are extremely important to achieving this.
3. Identifying infrastructure priorities and expectations early on in a scheme brings about a greater degree of consistency and certainty, which should assist developers in their negotiations with landowners, and ensure viability. This will also reduce delays at planning application stage, and enable development and infrastructure to be more promptly delivered.
4. For groups involved in neighbourhood planning, the Local Development Guide ('LDG') should enhance an understanding of the relationship between infrastructure and growth. GCC will support all groups involved in plan preparation to integrate infrastructure priorities into emerging proposals. GCC will also positively support the LPAs in identifying future infrastructure requirements through their IDPs; and funding mechanisms as set out in their Infrastructure Funding Statements ('IFS').
5. In summary, the LDG provides information to LPAs, developers and all stakeholders on the types of infrastructure that may be necessary to mitigate the impacts of development. It should inform the preparation of development plan documents, IDPs, IFSs and supplementary planning documents, as well as being a material consideration in the determination of planning applications.

The Legislative and Planning Policy Context

6. The Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. This includes accessible services that reflect current and future needs and support communities' health, social and cultural well-being.

7. At paragraph 20 it states that:

"Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for:

a) housing (including affordable housing), employment, retail, leisure and other commercial development;

b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);

c) community facilities (such as health, education and cultural infrastructure); and

d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation."

8. It continues at paragraph 34 that:

"Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan."

9. As set out in the Framework, it is critical that contributions do not harm the viability of a proposal or the deliverability of the plan. Further advice on viability can be found in the Planning Practice Guidance ('PPG')¹. Ultimately, it is the LPA's responsibility to assess the necessity of requested contributions, and their combined impact on viability.
10. There are various mechanisms through which developer contributions towards infrastructure may be sought. Occasionally, this may be through planning conditions attached to a planning permission. Many LPAs also secure generic financial contributions towards infrastructure across their area through the Community Infrastructure Levy ('CIL').
11. However, in many cases, there may also be a need for a planning obligation attached to a planning permission to mitigate the direct impacts of a proposal on local infrastructure.

¹ www.gov.uk/government/collections/planning-practice-guidance

12. Finally, developer contributions and/or works in support of highways infrastructure may also be secured through provisions within the Highways Act 1980. These different mechanisms are described in greater detail below.

Planning Conditions

13. Whilst planning conditions are the preferred way for making development acceptable in planning terms, they are not usually appropriate to secure financial contributions. They may, however, cover minor infrastructure requirements, such as local site-related transport improvements, waste or water supply infrastructure or flood risk solutions.
14. Conditions should only be used to make otherwise unacceptable development acceptable. At paragraph 55 the Framework sets out that they should be:
 - necessary;
 - relevant to planning and to the development to be permitted;
 - enforceable;
 - precise; and
 - reasonable in all other respects.
15. 'Grampian conditions' are negatively worded, and prohibit the commencement of development until a specified action on land not controlled by the applicant has taken place. Such conditions may exceptionally be considered by GCC.

The Community Infrastructure Levy

16. CIL allows LPAs (known for this purpose as the 'Charging Authority') to secure support from chargeable development to help deliver new or improved infrastructure and services. CIL is applied on a formulaic basis to generate a pot of money which is spent on infrastructure across the CIL Charging Area. This is in contrast to S106 contributions which are site specific and required to directly mitigate the impacts of development and therefore make it acceptable in planning terms.
17. The PPG sets out that CIL is the most appropriate mechanism for capturing developer contributions from small developments of under 10 dwellings or 0.5ha, or for non-residential development of under 1,000sqm.
18. CIL should ensure that development makes a reasonable and proportionate contribution towards the cost of infrastructure across the area. Although not an exhaustive list, such infrastructure may include flood defence, open space, recreation and sport, roads and transport facilities, libraries, education and health facilities.
19. Charging Authorities are responsible for setting CIL rates and are also the Collecting Authority. CIL is charged per square metre on chargeable development and is index linked in accordance with the CIL Regulations 2010 (as amended). When deciding the CIL rates, an appropriate balance must be struck between additional investment to support

development, and the potential effect on viability. Achieving the right balance is central to the charge-setting process.

20. A key purpose of CIL is to help meet envisaged gaps in funding for new infrastructure after other sources have been exhausted. Understanding funding gaps is an essential part of the local plan-making process, particularly in demonstrating how a development plan will be delivered. Consequently, CIL can only be introduced once an up-to-date plan has been prepared, or is sufficiently advanced, to properly understand the infrastructure requirements needed to support growth.
21. Some LPAs in Gloucestershire have adopted a CIL Charging Schedule. Please refer to the LPA websites for the most up to date information, the links to these at the time of writing, are set out below:
 - Charging schedule **for Cheltenham Borough Council** can be found at:
https://www.cheltenham.gov.uk/info/46/planning_policy/1137/community_infrastructure_levy_cil
 - Charging schedule for **Cotswold District Council** can be found at:
<https://cotswold.gov.uk/planning-and-building/community-infrastructure-levy/calculate-your-cil-charge>
 - Charging schedule **for Gloucester City Council** can be found at:
<https://www.gloucester.gov.uk/planning-development/planning-policy/community-infrastructure-levy-cil/>
 - Charging schedule for **Stroud District Council** can be found at:
<https://www.stroud.gov.uk/environment/planning-and-building-control/community-infrastructure-levy-cil/liable-development-and-charging-schedule>
 - Charging schedule for **Tewkesbury Borough Council** can be found at:
<https://www.tewkesbury.gov.uk/community-infrastructure-levy>
22. As GCC is responsible for a significant proportion of strategic infrastructure provision, it will positively work with LPAs on their IDPs, and on strategic infrastructure analysis, in support of this process.
23. In many cases, even where there is a CIL charge in place, developer contributions through S106 planning obligations will also remain important to mitigate the direct impacts on local infrastructure; as well as where the infrastructure is to be provided on-site and is directly related to the development. In such cases and where appropriate, contributions from several geographically located developments may be pooled to provide the required infrastructure, or contributions secured from developers towards recovering the cost of

large scale infrastructure, where appropriate, as set out in GCC's Infrastructure Recovery Strategy guidance note². While CIL can run alongside S106 planning obligations, there should be no situation where a developer is paying twice – through CIL and S106 - for the same specific element of infrastructure in relation to the same development. This is known as 'double-dipping'.

24. Allowances also need to be made for up to 25% of CIL receipts to be spent on schemes supported by the local community through adopted Neighbourhood Plans. These schemes do not necessarily need to be listed in the IFS nor be included in the IDP. Such receipts could be used to help fund broader infrastructure needs where the Neighbourhood Plan and the local community is supportive. Also 5% of CIL receipts are retained by the Charging Authorities for administration purposes.

Planning obligations

25. Legally binding agreements can be made between developers, landowners, local authorities and other interested parties. These agreements are used to secure planning obligations and are known as Section 106 Agreements ('S106') as they are covered by Section 106 of the Town and Country Planning Act 1990.
26. A planning obligation may also be secured by a Unilateral Undertaking ('UU'). This does not require the agreement of the LPA, nor any other third parties. UUs are often seen as a simpler way for developers to commit to infrastructure and other matters, needed to make new development acceptable, and may be put forward at planning appeal, particularly where S106 agreements have not been secured.
27. Under S106 of the Town and Country Planning Act, a planning obligation may be used to:
- restrict the development or use of the land in any specified way;
 - require specified operations or activities to be carried out in, on, under or over the land;
 - require the land to be used in any specified way; and/or
 - require a sum or sums to be paid to the authority on a specified date or dates or periodically.
28. In essence, planning obligations may be in the form of financial contributions, works, on site provision, or land. Further guidance on the use of planning obligations is set out in the PPG. At ID: 25-167-20190901 it sets out that:

"The levy is not intended to make individual planning applications acceptable in planning terms. As a result, some site-specific impact mitigation may still be necessary for a development to be granted planning permission. Some of these needs may be provided for through the levy but others may not, particularly if

² Infrastructure Recovery Strategy Guidance Note: <https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/infrastructure-recovery-strategy/>

they are very local in their impact. There is still a legitimate role for development specific planning obligations, even where the levy is charged, to enable a local planning authority to be confident that the specific consequences of a particular development can be mitigated.”

29. The tests for planning obligations relating to ‘chargeable development’ are set out at CIL Regs 122(2). This states that a planning obligation may only constitute a reason for granting planning permission if the obligation is:
 - necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
30. Those same requirements, but applicable to both ‘chargeable’ and ‘non-chargeable’ development, are also included as policy at paragraph 56 of the Framework.
31. The CIL Regs originally placed legal restrictions on the use of S106 agreements, particularly for infrastructure that might be eligible for funding through CIL. However, following amendments in 2019, planning obligations may be used for the provision of infrastructure which is to be funded, wholly or partly, by CIL; and more than five S106 agreements can be used to support a particular item of infrastructure. Charging authorities can therefore use both CIL and S106 contributions to fund the same piece of infrastructure, so long as there is no ‘double-dipping’ where a developer is, in effect, being asked to pay twice.
32. GCC will work with LPAs to an agreed format and in line with the 3 tests set out in the CIL Regs 122(2) to prepare S106 agreements to cover the necessary infrastructure requirements for a development.
33. All signatories to S106 agreements may request the reconsideration of planning obligations at any time where they were made before the 6th April 2010, or are over five years old. This is intended to help bring forward stalled developments, and to ensure viability where obligations were agreed under more buoyant market conditions. However, such renegotiations must not result in unacceptable development being permitted. When reconsidering planning obligations, GCC will follow the legal tests, planning policy, and the advice set out in the PPG.

What Types of Infrastructure and Services will GCC seek Developer Contributions for?

34. Developer contributions, whether through CIL or S106, passed to GCC will be spent in accordance with the agreed priorities and with details of the expenditure recorded and reported to the Charging Authority.

35. Where contributions are sought through S106 planning obligations, the decision on the type and scale of infrastructure and services deemed necessary for developer contributions will always be made on a case-by-case basis, in accordance with the CIL Regulations. This will occur following the careful consideration of demonstrable need, the policy aspirations of the development plan and other reasonable material factors that may inform decision makers as to the appropriate provision of infrastructure. Assessments should measure the degree of adverse impacts that might result from new development balanced against potential benefits or opportunities. In all cases the reasonableness and proportionate nature of any subsequent contributions must be in accordance with the legal tests and guidance that govern their use.
36. The following section of the guide outlines the type of infrastructure and services that GCC is likely to seek to secure with new development. These will be funded through CIL, and/or secured through S106 planning obligations. Applicants should check with the relevant LPA regarding their planning policy requirements for infrastructure and services provision which are not County Council functions.

Education Infrastructure

37. The two-tier system of local government in Gloucestershire requires GCC to ensure there are sufficient school places available in the locality to accommodate pupils. Where there is housing growth, the Education Place Planning team within GCC are consulted to assess whether there are sufficient places in an appropriate location to meet the demand for school places arising from new housing developments. If additional places are required to accommodate pupils arising from the development, developer contributions will be requested to provide new schools and land, or expansions to existing schools, depending on the size of the housing development being provided.
38. The Framework sets out the importance of education facilities. At paragraph 94 it states:
- “It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:*
- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and*
- b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.”*
39. The PPG provides advice on how LPAs should prepare plans to take account of education requirements. At ID: 23b-008-20190315 it sets out that plans should support the efficient and timely creation, expansion and alteration of high-quality schools. This should include

contributions based on known pupil yields. It continues that requirements should include all school phases from 0-19 and special educational needs.

40. The DfE Guidance ‘*Securing Developer Contributions for Education*’ (November 2019)³ (‘DfE Guide’) sets out at paragraph 4 that:

“In two-tier areas where education and planning responsibilities are not held within the same local authority, planning obligations may be the most effective mechanism for securing developer contributions for education, subject to the [relevant] tests. The use of planning obligations where there is a demonstrable link between the development and its education requirements can provide certainty over the amount and timing of the funding you need to deliver sufficient school places.”

41. The DfE Guide recommends that planning obligations allow enough time for developer contributions to be spent (often this is 10 years, or no time limit is specified). It also states at paragraphs 7, 28 and 29:

“Where new schools or school expansion is necessary to mitigate the impacts of development, and those new facilities are to be forward funded (for example by local authorities borrowing money to fund school development prior to receiving Section 106 monies or by using capital reserves), it may be possible to secure developer contributions to recoup the monies, including interest, fees and expenses as well as the principal sum spent.”

“Strategic planning of urban extensions and new settlements often includes place-making objectives about the early provision of infrastructure, to establish a sense of community and make the place attractive to residents. Early delivery of a school can be problematic if it precedes new housing and draws pupils from existing schools, threatening their viability and resulting in unsustainable travel-to-school patterns. We advise local authorities with education responsibilities to work jointly with local planning authorities and other partners to agree the timing of new school provision, striking an appropriate balance between place-making objectives, education needs and parental preference.”

“Schools can be delivered in single or multiple phases; the best approach will depend on local circumstances and characteristics of the development. Where appropriate, for instance in the early stages of development while the need for school places is growing, developer contributions can be secured for temporary expansions to existing schools if these are required, and transport costs for pupils travelling further than the statutory walking distance. This will allow a permanent new school to be provided in a single construction phase once the development has generated sufficient pupil numbers, rather

³ Available at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/909908/Developer_Contributions_Guidance_update_Nov2019.pdf

than phased construction over a longer period. While the existing pupil cohort may not switch schools initially, children living in the development will usually have priority for admission to the new school and will take up these school places over time.”

42. The two-tier system of local government in Gloucestershire requires GCC to ensure that there are sufficient school places available in the locality to accommodate pupils. Where there is housing growth, its Education Place Planning team are consulted to assess whether there are sufficient places to meet the demand for school places arising from new housing developments. If additional places are required to accommodate pupils, developer contributions will be requested to provide new schools and land, or the expansion of existing schools, depending on the need and the size of the development.
43. In accordance with the PPG, GCC will assess the need for education infrastructure relating to pre-school, primary and secondary provision, as well as special educational needs.
44. In assessing this need, in accordance with the PPG, GCC applies a countywide calculation of the number of pupils expected to occur per 100 new ‘qualifying’ dwellings. This is known as the pupil product ratio (‘PPR’). A ‘qualifying’ dwelling is a house or flat that has no restricted occupancy for age or health reasons and at least two bedrooms. All one-bedroom units are excluded because the evidence suggests that the yield is small. However, ‘affordable housing’ affords no special consideration as it often appeals to family occupation and consequently generates significant pupil numbers.
45. The PPRs are periodically reviewed so that they reflect up to date circumstances. A review was undertaken in 2019 following the receipt of a report from an independent research company, Cognisant. That report, which was jointly commissioned by GCC and local housebuilders - Crest Strategic Projects, Redrow Homes Ltd and Taylor Wimpey Strategic Land, surveyed and assessed the numbers of children arising out of new housing developments. The report and the latest cost multipliers and PPRs can be found at:
<https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/gloucestershire-local-development-guide/>
46. GCC will also consider any additional information brought to its attention. Contributions will be sought in line with current legislation to enable development to go ahead which would otherwise be refused. For education provision, in accordance with the DfE Guide, this will typically involve S106 obligations to ensure that the direct impacts of a development are mitigated.

Pre-school Places

47. GCC has a lead role in facilitating the local childcare market within the broader framework of shaping childrens’ services in partnership with the private, voluntary and independent sector. One of its key duties is to make sure that there are enough flexible childcare places to meet the free entitlement available for local children aged 3 and 4 years, and 2 year olds from economically disadvantaged families.

48. An extra 15 hours of free childcare has been made available in England from September 2017 for eligible 3 and 4 year olds who live in households where either a single parent or both parents work or otherwise meet the criteria. This is on top of the existing universal provision of 15 hours of free childcare⁴. This has had an impact on childcare provision in the County, as take-up rates are high. This is reflected in the latest PPRs that were updated in November 2019.
49. Childcare in Gloucestershire is principally delivered through day nurseries and pre-school playgroups, which provide full and sessional day care. Other local options include child-minders, nursery classes within independent schools, and privately operated nurseries.
50. Residential development creates demand for local pre-school childcare places. Where this adversely impacts on the ability of the existing local childcare market to provide a reasonable and flexible offer for parents, GCC will seek developer contributions to resolve this.
51. This funding will be used to increase capacity. Funds may be channelled into supporting the expansion of an existing facility – such as an extension or re-location to new, larger premises; increasing opening days/hours; or increasing places through additional or more efficient and adaptable equipment, or training.
52. Larger developments might reasonably require the provision of land and funding towards the construction of new pre-school childcare facilities. Where a new primary school is being provided, there is an assumption that it will include a pre-school/nursery. The DfE Guide states at paragraph 9:

“All new primary schools are now expected to include a nursery. Developer contributions have a role to play in helping to fund additional nursery places where required as a result of housing growth, however, they may be provided, in particular where these are proposed as part of school expansions or new schools”.

53. Reasonable access to facilities must be achieved for new residents. This means ensuring that people can carry out day-to-day activities (i.e. utilising childcare) within a reasonable walking distance of their home⁵.

⁴ The latest School Places Strategy is available at <https://www.gloucestershire.gov.uk/education-and-learning/school-planning-and-projects/gloucestershire-school-projects/>

⁵ Statutory walking distances are set out in the DfE Home-to-school travel and transport statutory guidance, and are supported locally through the Gloucestershire Local Transport Plan.

Primary and Secondary Schools

54. It is the statutory responsibility of GCC to ensure that every child in the community has fair access to local schools and the highest standards of teaching.
55. GCC will assess the impact of new development in terms of the ability of local primary and secondary schools to offer places to children arising from it. The impact from a new development will be assessed on the local schools within a 2mile statutory walking distance for children under 8 years of age and within a 3mile statutory walking distance for those aged 8 years and over , in the local school planning area. It may not be possible to expand the nearest school due to factors that could include the educational capacity or governance of the school, or site constraints such as the need to mitigate flood risk, archaeology or traffic or highways issues.
56. Where nearby schools have sufficient surplus places, the assessment will identify whether these can be matched up with the anticipated demand. However, where a school is at, or above, 95% capacity, it is considered to have no surplus places⁶. Developer contributions may then be sought for capital works to extend, remodel, upgrade and improve capacity.
57. For large scale schemes, and on strategic allocations, in accordance with the DfE Guide, the expectation will usually be that land and schools to meet the needs will be provided on-site. GCC will require a contribution to cover the full cost of building a new school, including site infrastructure, playing fields together with the necessary internal equipment (such as fixed furniture and ICT) to enable it to be opened as an operational school. All new schools provided in this way will need to meet applicable GCC design standards.
58. Where a new school is provided, the land on which it is located should be capable of future expansion, taking account of minimum site sizes for new schools (starting at 2FE) at Appendix 3. Consequently, whilst a development will only ever be required to contribute towards mitigation proportionate to its impact, there may be a need for additional land.
59. Where it is not possible to access a school place along a safe walking route within statutory distances from a proposed development, GCC will seek a contribution towards funding the provision of home to school transport. This will be determined on a case-by-case basis, in line with the DfE Guide and the statutory policy for provision of home to school transport. This states that where a child lives more than the statutory walking distance from the nearest school, transport arrangements are the Local Authority's responsibility.
60. In addition, GCC may use the opportunity of new or reconfigured local schools to help accommodate other community infrastructure. Integrated solutions accord with a number of wider planning objectives⁷ and conform with a key GCC objective of *"improving*

⁶The Audit Commission recommends authorities plan for a 95% occupancy rate across an area in order to achieve a match between pupils and places, efficient and educationally effective outcomes and to offer diversity and choice to parents.

⁷The National Planning Policy Framework refers at paragraph 92 to the need for an integrated approach to community facilities and shared spaces and services.

*customer service and creating efficiencies by sharing facilities”*⁸. Shared uses may include pre-school and after-school childcare; parental support including access to information and family learning opportunities; and community access for life-long learning, sport, arts and ICT.

61. The decision on whether an integrated solution will be pursued will be taken on a case-by-case basis. As new schools may be set-up and managed by organisations other than GCC, they will also need to deliver shared-use facilities. Some shared good practice can be found in the Turley Report⁹.

Special Schools

62. Special schools require more space per pupil than mainstream schools¹⁰. It is recommended that developer contributions for special or alternative school places are set at four times the cost of mainstream places. This is reflected in the cost multipliers.

Academies and Free Schools

63. The expansion of academies and the introduction of free schools have not diminished the responsibility of GCC in ensuring sufficient school places are made available for local communities. Therefore, developers must continue to negotiate directly with GCC and not with individual education establishments when considering schools infrastructure with new development. An in-principle agreement made with an individual school or group of schools may not accord with GCC’s more holistic position and may result in a development proposals being objected to and recommended for refusal.

Adult Social Care

64. Adult social care involves a variety of services aimed at providing care and extra support through local authorities and partner organisations¹¹. It is primarily concerned with older people, those with learning disabilities and/or physical disabilities, and people with mental health problems, drug and alcohol dependency problems and carers. Adult social care services are a core function of GCC and are underpinned by a number of laws, regulations and national guidance across health care and local government.
65. Adult social care traditionally incorporates residential care homes, day centres, equipment and home adaptations, meals services and home care. However, it may extend to other

⁸This is set out in the Gloucestershire County Council Strategy 2019 – 2022 - ‘Looking to the Future’

⁹[Turley Report](https://www.turley.co.uk/comment/s106-education-contributions-key-lessons)

<https://www.turley.co.uk/comment/s106-education-contributions-key-lessons>

¹⁰ Department for Education *Securing Developer Contributions for Education*, 2019 paragraphs 10 to 13

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/909908/Developer_Contributions_Guidance_update_Nov2019.pdf

¹¹For Gloucestershire (after April 2013) partner organizations will include: - Clinical Commissioning Groups CCG’s responsible for commissioning most local health-related services; the specialist mental health services provider – 2gether Foundation Trust; and Gloucestershire Care Services – the core local provider of community and social care services.

measures such as: – funding for gym membership; art therapy; life coaching, personal assistants; emotional support counselling; well-being and life-skills classes. It also covers the services made available to carers.

66. Despite being one of the healthiest Counties in England¹², adult social care and services focused on aged-related conditions has become a high priority for Gloucestershire. The county already has a higher than average older population¹³, which is set to expand at a faster rate compared with the rest of the country¹⁴. This circumstance will lead to more people living with long-term conditions and chronic diseases that need caring for and extra support. It will also generate a significant demand for more carers within the local population.
67. Modern adult social care services are strongly focused on supporting adults to live fulfilling and independent lives for as long as possible to delay the need for residential or nursing care. Where illness or surgery has occurred, services are geared towards getting people back to an optimal way of living through re-equipping them to attain lost skills or by making good use of technology to assist in independent living and / or to monitor their condition¹⁵.
68. These demographic challenges facing existing local provision should not be exacerbated by new residential development. This means GCC must seek to ensure that adult social care is not adversely affected or degraded as a result of additional demands that are attributable to new development.
69. In the majority of cases, GCC will focus its attention on facilitating greater efficiency in the delivery of local services through ‘designed-in’ solutions with new housing as a means of expanding service capacity. LPAs will be advised by GCC on the use of conditions rather than seeking planning obligations.
70. ‘Designed-in’ solutions may include adherence to “Lifetime Homes” standards for new social and open market housing¹⁶, or a requirement to install or enable the future conversion to assistive technology in homes and community facilities linked to the development¹⁷. GCC considers this a reasonable and proportionate approach to assisting Gloucestershire’s LPAs with local housing need¹⁸.

¹² See for example Public Health England’s local overviews: <https://fingertips.phe.org.uk/static-reports/health-profiles/2019/E10000013.html?area-name=Gloucestershire>

¹³ Data taken from the Census 2011 - *the proportion of Gloucestershire’s population of older people stands at 13.6%, compared with 10.9% for England and Wales.*

¹⁴ Data as headlined within Your Health, Your Care – The 5-year Action Plan for Health & Social Care prepared by Gloucestershire County Council and the Gloucestershire Health Community in March 2012.

¹⁵ These form part of the two overarching principles from the adult element of Your Health, Your Care – The 5-year Action Plan for Health & Social Care.

¹⁶ Lifetime Homes are ordinary homes designed to incorporate 16 Design Criteria that can be universally applied to new homes at minimal cost. Each design feature adds to the comfort and convenience of the home and supports the changing needs of individuals and families at different stages of life.

<http://www.lifetimehomes.org.uk/pages/revised-design-criteria.html>

¹⁷ Assistive Technology is an umbrella term that includes assistive, adaptive, and rehabilitative devices for people with disabilities and also includes the process used in selecting, locating, and using them. AT promotes greater independence by enabling people to perform tasks

71. The increasing numbers of people who are limited in their mobility often need equipment or support from one or two carers to get on the toilet, or other assistance with toileting or changing. Standard accessible toilets (disabled toilets) do not provide changing benches or hoists and most cannot accommodate carers, which can put the person with disabilities at risk.
72. GCC accepts and expects that everyone has a right to live in the community, to move around within it and access all its facilities. Government policy promotes the idea of community participation and active citizenship, but for some people with disabilities the lack of a fully accessible toilet is denying them this right. Although the numbers are increasing, there are not enough Changing Places toilets across the country, and Gloucestershire has very few at all. Working with LPAs, GCC will promote provision in public places to make a dramatic difference to the lives of thousands of people who need these facilities.
73. Developer contribution monies will be spent by GCC to provide appropriate adult social care infrastructure. Outside of CIL Charging Authorities, or where CIL is not applicable or the most appropriate mechanism to directly mitigate for the impact of a planned development, GCC will assess major new development and may seek a financial contribution through S106 planning obligations. This may be either solely, or in conjunction with other key healthcare partners to support an increase in service capacity.

Libraries

74. GCC has a statutory duty to provide a comprehensive and efficient library service for all persons desiring to make use of it and who live, work or study in the County¹⁹. This duty applies not only to the existing population of the County, but also to new residents generated through new development which add to the demand on a specific library that those new residents can be expected to use.
75. The current Library service is provided through a network of local public library buildings, customer access points, e-resources and a virtual online reference library. A modern library service is not just about book stock and information provision, libraries offer free public access to PCs, Wi-fi and digital equipment. They also provide activities and events aimed at all age groups within their local communities and support job and home seekers, address social isolation and support those wanting to gain new skills.

Approach to Planning Obligations

that they were formerly unable to accomplish, or had great difficulty accomplishing, by providing enhancements to, or changing methods of interacting with, the technology needed to accomplish such tasks.

¹⁸The NPPF sets out the policy framework for assessing and influencing the requirement for new homes. The considers the need for different types of housing for different groups in the community such as (amongst others) older people and people with disabilities

¹⁹ The Public Libraries and Museums Act 1964

76. New housing development will be assessed by GCC to determine its likely impact on existing local library services and the scope of resultant mitigation works required.
77. As part of this assessment, qualitative considerations are taken into account, together with the existing physical capacity of the local library which is currently calculated having regard to the national recommended floorspace benchmark of 30 sq metres per 1,000 population (as set out in the Public Libraries, Archives and New Development: A Standard Charge Approach, 2010). GCC periodically reviews and updates its benchmark for levels of local library provision.
78. Where GCC identifies that improvement works are required to local library provision to mitigate the impact of increased demand from a new housing development, it will usually seek to secure this via a planning obligation, and typically in the form of a financial contribution proportionate to the size of the development. The planning obligation must comply with the legal tests set out at Regulation 122(2) of the CIL Regulations 2010 (as amended).
79. Details of the requested planning obligation, including the name of the local library to which it will be directed, are provided as part of GCC responses to planning application and pre-application advice consultations.
80. In the majority of cases, financial contributions are requested towards increased customer access to existing services and can include (but are not restricted to): increasing existing lending capacity through additional stock, furniture and fittings; facilitating an increase in opening hours; increasing accessibility and support for digital and IT facilities; and/or reconfiguration and refurbishment of library floorspace.
81. Where new development generates a requirement for a planning obligation towards new library floorspace and fit out (e.g. extension to an existing building or construction of a new building) GCC will consider the details, including the financial contribution, on a case-by-case basis. Any such requirement will also be explored in terms of its potential to facilitate shared local facilities.

Community-run Libraries

82. A number of community-run libraries are in operation across Gloucestershire. These are library services for local communities that occur outside the provision made by GCC. GCC may factor in this local provision on a case-by-case basis when determining the anticipated impact of new development upon existing libraries services.

Archives

83. GCC is required to make proper arrangements for the security, preservation and access of public documents and records it belongs to or it has become a custodian of²⁰. This includes an array of local material from councils, churches, schools, estates, businesses and individuals. Archives are an increasingly important social resource, which supports local communities to develop their community identity.
84. Gloucestershire Archives is the county's record office. However, it also includes a substantial resource for the neighbouring unitary authority area of South Gloucestershire, which formed part of a larger historic Gloucestershire. The Archive comprises a central storage facility with space for users – individuals and visiting groups, to consult material onsite. An electronic 'virtual' resource is also being developed to allow increased remote access.
85. As with library services, any CIL expenditure will be in accordance with the Charging Authorities' priorities. Where development occurs that is not liable for CIL contributions, GCC will determine whether existing demand for the local archive service is not unduly exacerbated as a result of new development. In doing so, careful consideration will be given to current levels of provision compared against the nationally recommended benchmark of the Arts Council - formerly put together by Museums, Libraries and Archives Council (MLA)²¹.
86. Where an undue impact is identified and mitigation deemed justified, GCC will look to secure a proportional financial contribution through a S106 planning obligation. Funds would be used to support capacity improvements such as increasing the amount of the physical archive space available or facilitating increased public access to records through longer opening times and/or an expansion of the evolving online resource.

Health and Public Health

87. LPAs should ensure that health and wellbeing, and health infrastructure are considered in local and neighbourhood plans and in planning decision making. Public health organisations, health service organisations, commissioners and providers, and local communities should refer to the NPPG to help them work effectively with LPAs in order to promote healthy communities and support appropriate health infrastructure.
88. The link between planning and health has been long established. The built and natural environments are major determinants of health and wellbeing. Links to planning and health are found throughout the NPPF²² e.g. in the core planning principles and the policies

²⁰ Local authority archiving requirements are set out within the Public Records Act (1958) and Local Government Act (1972)

²¹ The Public Libraries, Archives and New Development A Standard Charge Approach (May 2010) sets out a recommended benchmark of six square metres of new or refurbished archive space per 1,000 population.

²² The National Planning Policy Framework (Paragraph 17, 156 & 162) <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

on transport, high quality homes, good design, climate change, and the natural environment.

89. GCC will expect LPAs to engage with relevant organisations when carrying out their planning function. In the case of health and wellbeing, the key contacts include GCC Public Health, and the Gloucestershire Clinical Commissioning Group (CCG). Engagement with these organisations will help ensure that local strategies to improve health and wellbeing, and the provision of the required health infrastructure (NPPF paragraphs 7, 156 and 162) are supported and taken into account in local and neighbourhood plan making and when determining planning applications.
90. Appropriate infrastructure will be secured either through S106 planning obligations, or where health infrastructure is required to be funded through CIL and a CIL Charging Schedule is in place, CIL monies may be used to provide infrastructure in accordance with local IDPs and agreed priorities.

Fire and Rescue

91. GCC is the local Fire and Rescue Authority (FRA): It is responsible providing the services of extinguishing fires, protecting life and property, rescuing people from road traffic accidents, undertaking urban search and rescue and dealing with industrial incidents²³. Gloucestershire Fire & Rescue Service (GFRS) carries out the functions of the Gloucestershire FRA.
92. It is essential that new development is provided with effective fire and rescue infrastructure. In the majority of cases this can be achieved through the provision of fire hydrants affixed to water mains and the carrying out of other appropriate engineering works to ensure the correct and consistent volume and pressure for the water supply. The preference of GCC is for this matter to be dealt with through planning conditions and GCC expect sufficient hydrants to be provided within all appropriate new developments.
93. Provision will need to be agreed at the time that infrastructure is planned to serve the new development, with the involvement of the relevant Water Companies (Severn Trent and Thames Water) which, in most cases, will be the infrastructure provider. GFRS will need to agree the location and number of hydrants. GCC will provide relevant informatives when responding to planning applications and will expect planning conditions to ensure provision where appropriate.
94. The provision of sprinklers or other automatic fire suppression systems may also be considered where local fire risk could demonstrably be heightened. This may include, new residential neighbourhoods where groups of more vulnerable residents are anticipated to live and, or congregate (e.g. residential care homes, supporting living accommodation, community centres, day facilities and schools etc.). A risk-cost-benefit analysis may be applicable to determine the reasonableness of any requirement for this level of fire &

²³ The Fire and Rescue Service Act 2004 and Fire and Rescue Services (Emergencies) (England) Order 2007

rescue infrastructure²⁴. GCC expects that providing for, or facilitating, the future installation of sprinklers and associated water supply infrastructure can also be achieved through planning conditions and compliance with building regulations rather than planning obligations.

95. There may be circumstances where more significant developer contributions, sought through S106 planning obligations may be necessary. This is likely to cover substantial major development, where the existing capacity of local services could be unduly impacted. Funding may be sought to help expand local physical infrastructure – stations and equipment. Where major re-modelling is anticipated, GCC may also look to promote an integrated approach that would facilitate a shared solution in partnership with other local infrastructure services.

Sustainable Drainage (SuDS)

96. SuDS infrastructure should be properly planned and integrated into new development. As Lead Local Flood Authority (“LLFA”), GCC is a statutory consultee for SuDS on major developments. Appropriate sustainable drainage measures will be an important material consideration with planning proposals²⁵, including ongoing maintenance of SuDS. Compliance with existing national SuDS standards will be a key factor for all proposed drainage systems²⁶.
97. Site-specific SuDS and flood alleviation measures will be secured through GCC’s role as LLFA, and statutory consultee on major developments. Where flood alleviation is required to support growth more generally, or flood alleviation measures are required for existing flood risk from ordinary watercourses, surface and ground water sources, County Council will look to solutions from other funding sources including CIL. GCC will spend CIL monies in accordance with the Charging Authorities’ IDPs and agreed priorities. This means that it could be appropriate to spend CIL Money on strategic flood defences, enhanced SuDS or Natural Flood Management (NFM).

Waste and Recycling Facilities

98. GCC is the Waste Disposal Authority. It commissions the services of five Waste & Recycling Centres across the County. The service has been benchmarked against other comparable authorities, and provision is lower in Gloucestershire than in many other parts of the UK.

²⁴ Information and advice on the installation of sprinklers and other automatic fire suppression systems in domestic, residential care and school premises can be found on the Chief Fire Officers Association (CFOA) website.
<http://www.cfoa.org.uk/10043>

²⁵ This will be especially important for development proposals in areas of risk of flooding, wherein the NPPF stipulates that all major developments and those in areas at risk of flooding ‘should incorporate sustainable drainage systems’ (paragraph 163/165).

²⁶ In March 2015, the Department for the Environment, Food and Rural Affairs (DEFRA) published English non-statutory SuDS standards: <https://www.gov.uk/government/publications/sustainable-drainage-systems-non-statutory-technical-standards>. These should be applied in conjunction with the CIRIA SuDS Manual: <https://www.ciria.org/ItemDetail?iProductCode=C753F&Category=FREEPUBS>

99. There is likely to be a need for an additional HRC(s) (Household Recycling Centre) to meet the needs of housing population growth.
100. The HRC(s) will need to be funded and GCC will look to source capital and grant monies where possible. Developer contributions, either through CIL or S106 planning obligations may also be sought to fund the HRC(s), or to site a facility where it is justified.
101. Future large-scale site allocations will need to demonstrate the availability of access to HRC facilities for the likely growth in population, as well as complying with other GCC guidance on provision of space for waste and recycling materials on a household scale.

Transport

102. GCC has a duty to manage the local road network (other than special and trunk roads) with a view to securing the expeditious movement of traffic.
103. The LPAs in Gloucestershire look to the advice of GCC on most transport related matters, particularly regarding the maintenance of highway safety and in assessing and identifying solutions to resolve transport challenges resulting from new development. This process of engagement can be obtained by contacting the County Council's Highways Development Management team devcoord@gloucestershire.gov.uk.
104. Nearly all types of development create a level of new or re-directed travel demand, for all modes and including freight and home deliveries. Typically this results in more cars using the local transport network. Those involved in promoting new development are expected to demonstrate that any impacts on the transport network are insignificant, that they demonstrate consideration of modal shift, public transport accessibility and increasingly, electric vehicles. They are also expected to demonstrate that improvements can be cost effectively undertaken and that the reliability of the transport network will not be severely degraded²⁷.
105. GCC expects to be fully involved at the earliest possible stage in assessing new development proposals. This should avoid unnecessary delays in decision making process and help facilitate the best possible transport solutions²⁸. GCC's suite of highway traffic models are available to assist in assessing the impact (Local and Strategic) of any given land use proposal or scheme. Details of how to access the suite of models and associated access charges can be provided by contacting Highways Development Management; devcoord@gloucestershire.gov.uk. Where a mitigation package for transport is needed, GCC will look favourably upon proposed measures that will seek to limit the number of additional car journeys upon the local network; deliver modal shift and aid walking and cycling over short distances²⁹; stimulate the use of local public transport for accessing

²⁷ Paragraphs 108-109 of the NPPF sets out the criteria by which transport issues associated with new development should be assessed.

²⁸ Detailed information on Travel plans, transport assessments and statements can be found on the following link www.gov.uk/guidance/travel-plans-transport-assessments-and-statements

²⁹ Specific local advice on this matter is set out in <https://www.gloucestershire.gov.uk/media/2090454/s-transportplanningprojects-strategy-planning-cwis-csv-cwip-2018-combined-report-20190701-ii.pdf>

community services, leisure purposes and school based journeys; and which will facilitate opportunities to use regionally or nationally orientated public transport including rail and coach for long distance travel. Other important outcomes include assisting access for efficient local deliveries of goods and services incorporating for community social care providers and preventing the degradation of key local environmental indicators such as noise and air pollution.

106. Demonstrating the deliverability of a transport mitigation package is of key importance to GCC. Therefore, where the existing local transport infrastructure is insufficient, GCC will require that developers provide the necessary transport infrastructure to mitigate any significant impact of proposed development on the highway and transport networks and ensure that the opportunities for sustainable travel have been taken up. Travel plans, along with Delivery and Servicing Plans, will be required where appropriate to promote sustainable modes of transport. Developers are to identify and incentivise sustainable transport mitigation measures ahead of delivering necessary highway capacity deficit. The mitigation package will be secured through a combination of planning conditions and/or S106 planning obligations or via provisions within the Highways Act 1980.
107. The developer contributions sought through S106 planning obligations must solely assist in mitigating the adverse impacts of new development on the local transport network. They cannot be used as an alternative funding stream for addressing pre-existing infrastructure issues, unless in doing so it can be justified as a demonstrable mitigation measure. However, there may be circumstances where proposed mitigation aligns with pre-identified infrastructure priorities set out within the adopted and emerging Gloucestershire Local Transport Plan³⁰. Consequently, GCC will seek to promote technology based 'smart' solutions which future proof infrastructure and allow demand management and travel solutions to make use of advances in technology.
108. GCC will spend CIL monies in accordance with the Charging Authorities' IDPs and agreed priorities. This means that CIL monies can appropriately be spent on more strategic infrastructure for walking, cycling, public transport and highways in combination with S106 planning obligations which may be required to mitigate the site-specific issues where they are justified including mitigating the impacts of overspill parking in neighbouring areas, plus the encouragement of car/permit-free developments, etc.
109. All new infrastructure concerned with the local highway must be designed in accordance with either national guidance set out in the Design Manual for Roads and Bridges (DMRB)³¹ or relevant local guidance, which is presently contained within Gloucestershire's Technical Specification for New Streets 2nd Edition February 2020³². For all transport-related

³⁰The Gloucestershire Local Transport Plan 2015 – 2031 (LTP3)

www.gloucestershire.gov.uk/transport

³¹ <http://www.standardsforhighways.co.uk/ha/standards/>

³² <https://www.gloucestershire.gov.uk/media/2095270/technical-specification-for-new-streets-2nd-edition.pdf>

mitigation proposals, appropriate audits must be undertaken covering road safety, mobility, walking, cycling and quality, before any final designs can be approved.

Broadband

110. Improving the provision of local broadband is an on-going infrastructure priority for Gloucestershire. The recently approved (December 2019) revised Fastershire Broadband Strategy³³ follows GCC's economic stimulus package, Grow Gloucestershire³⁴ and as a consequence GCC is continuing to make a significant investment into a major cross-authority joint project with Herefordshire Council that aims to enable all Gloucestershire residents and businesses to access the connectivity they need and encourage people to use faster broadband to do more online, boost business growth and achieve their potential.
111. The project known as "Fastershire" is a non-profit making collaboration between Herefordshire Council, GCC and several broadband infrastructure providers.³⁵
112. Therefore, GCC is keen to work with LPAs and developers to support the provision of the digital infrastructure required at the outset of any new development. GCC is keen to ensure that early discussions are held with developers and telecom providers to ensure the necessary delivery of ducting at the outset of any new housing or employment development. More detail can be found in Appendix 3.

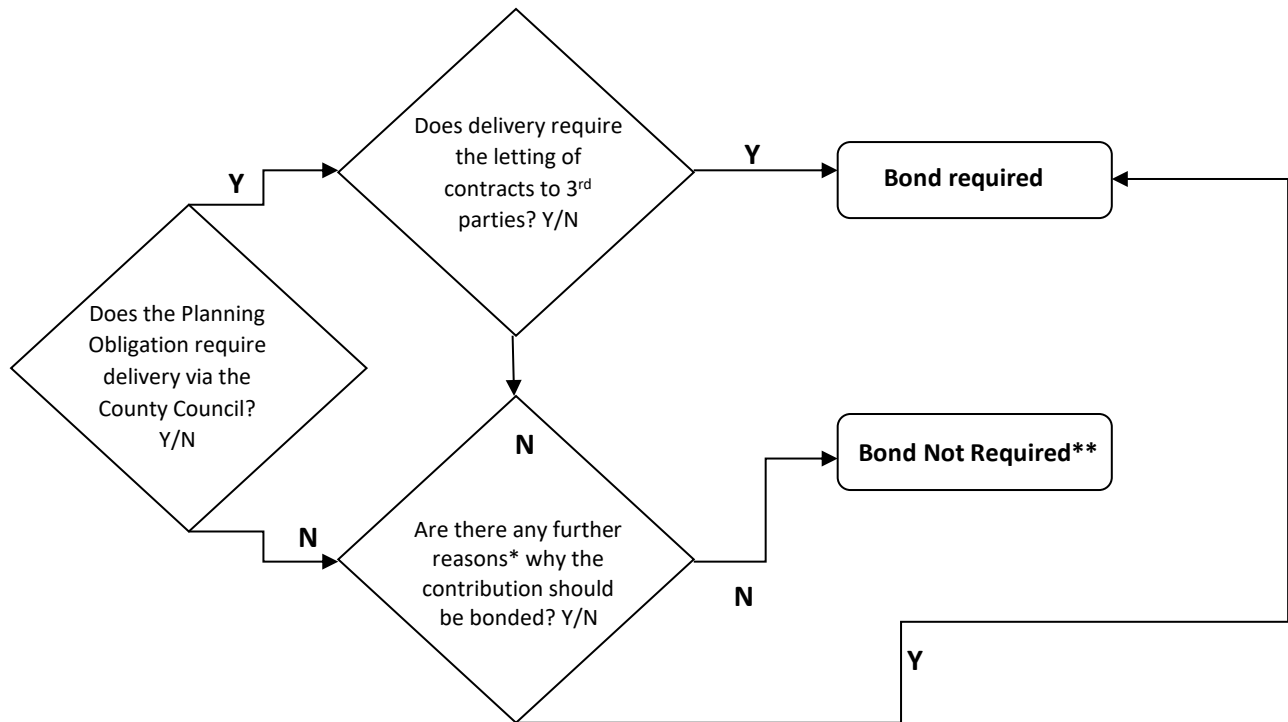
³³ <https://www.gloucestershire.gov.uk/gloucestershire-county-council-news/news-december-2019/faster-broadband-on-its-way-to-the-county-s-hardest-to-reach-properties/>

³⁴ Grow Gloucestershire is an economic stimulus package for investing in and encouraging further investment in skills and infrastructure improvements across the county. One of its three priorities include: '*... connecting the county through improved infrastructure, from roads to broadband.*' <http://www.gloucestershire.gov.uk/grow>

³⁵ Details regarding the 'Fastershire' project can be found online at:- <http://www.fastershire.com>

Appendix 1: Approach to Bonding / Sureties in GCC Planning Obligations

The following process flowchart will be used for determining whether or not a bond or other form of surety is required to guarantee third party security in connection with planning obligations. Where a bond is required it should normally be in place prior to commencement of the development.



*Such reasons for bonding include:

- Provision of infrastructure in-kind through third party contract;
- Risk assessment-based consideration of delivery of infrastructure warrants bonding of contribution, or for an individual component or part of the value of the obligation;
- Other factors on a case-by-case basis at GCC's discretion.

**Where a bond is not required, consideration should be given to any other assurances which might be required

Appendix 2: Child Yields and Pupil Products

The current PPRs have been in operation since November 2019, based on data collected in 2018 and 2019. The following PPRs are adopted and have been in operation since November 2019:

- 30 pre-school children per 100 dwellings
- 41 primary school children per 100 dwellings
- 20 secondary school children (11-15) per 100 dwellings
- 7 post 16 children (16-18) per 100 dwellings
- 0.52 Special Educational Needs per 100 dwellings at primary and secondary level

Full details of the PPR study are available on the GCC website at:

<https://www.gloucestershire.gov.uk/media/2093765/gloucestershire-county-council-ppr-report-703.pdf>

Costs and multipliers are reviewed annually and updated where required. The most up to date costs for education contributions are set out on the Local Development Guide page of GGC's website:

Minimum Site Sizes –

Primary schools

1FE* (210 places): 1.2ha to 1.5ha

2FE (420 places) 1.8ha to 2.0ha

3F (630 places): 2.6ha to 2.8ha

4FE (840 places): 3.2ha to 3.4ha

Secondary Schools – minimum size for 11-16:

5 FE (750 places): 5.8 hectares

6 FE (900 places): 6.8 hectares

7 FE (1,050 places): 7.7 hectares

8 FE (1,200 places): 8.7 hectares

9 FE (1,350 places): 9.6 hectares

*1Form Entry (FE) is below the size which DfE suggests is viable, so generally a new school will be 2FE. For Primary – minimum sizes, range indicates whether or not Early Years provision is made on-site.

Appendix 3: Broadband Information

In the coming decades, fixed and mobile networks will be the enabling infrastructure that drives economic growth. The Government is committed to providing the UK with world-class digital connectivity that is gigabit-capable, reliable, secure and widely available across the UK - and to do so at pace. They have set an ambitious target of making gigabit-capable networks available to 15 million premises by 2025, with nationwide coverage by 2033.

Whilst previously targets of making gigabit-capable networks available to 15 million premises by 2025, with nationwide coverage by 2033 were set by the previous Government. It is becoming increasingly apparent with the new Government that these targets will become even more ambitious with commitments being made for gigabit capable networks being delivered UK wide by 2025.

To enable this aspiration of delivering Gigabit connectivity and improving mobile coverage, legislation and policy instruments are currently being reviewed which it is believed will address perceived barriers to deployment, promote investment and accelerate delivery in the current months and years.

The availability, reliability and speed of mobile and fixed broadband provision is now a key consideration for most house buyers as well as visitors and many view it as essential as the traditional utilities. Similarly, it is also a key concern for the business sector.

LPAs, through local planning policy and engaging early with developers, can play an important role in helping to achieve the transformation in mobile and broadband provision. Local authorities have a pivotal role to play in encouraging and supporting developers to future-proof their developments and maximise their value by installing high-speed broadband and by working with mobile telecoms companies to ensure the provision of the appropriate infrastructure.

There is a comprehensive and reliable network that minimises the impact on the Gloucestershire landscape. It is in this context that LPAs must consider their strategies and guidelines for developers in the knowledge that such measures are likely to be superseded by Government policy and potentially legislation in the future. However, whatever the outcome to these impending reviews and projected changes, this fibre aspiration needs to be seen as an opportunity for local authorities to play a key enabler role.

As a County Council we welcome and actively support the move towards Fibre to the Premises (FTTP) as the de facto technical solution. In particular, GCC welcomes the commitment of key parts of market to work with developers and invest, at their cost, in delivering a fibre to the premise solution in all new developments of over 10 dwellings.

In contributing to this enabling role, LPAs should give due consideration to the progress of a series of options and work streams outlined below:

Broadband Fibre to the Premises: FTTP uses fibre-optic cable direct from the exchange to a business or home.

Recommended Way Forward – Fibre to the Premises Enabling Role

Promotion of the Fibre to the Premises (FTTP): All residential developments over 10 dwellings and all employment developments will enable FTTP. For schemes under these thresholds the Council's expectation is that provision for FTTP will be achieved, where practical. Where it can be demonstrated that fibre to the premises is not practical due to special circumstances then non Next Generation Access (NGA) technologies that can provide speeds in excess of 24Mbps should be delivered wherever practical.

Policy: Adopt as part of any respective Local Plans and subsequent Telecom Supplementary Planning Document (SPD) the following requirement:

Market Awareness: LPAs to support the Fastershire programme in engaging with fibre providers to determine any future deployment plans.

Developer Engagement: Engage with developers at a pre-application stage with a view to ascertaining what provision developers are making in the provision of digital infrastructure with their applications

Notification: Involve any interested fibre network providers at the pre-application stage of residential and commercial planning applications³⁶. Fibre providers to be notified as part of the pre-application utility notification stage of impending development applications referencing the issue in pre-application discussions and adding it to planning application validation lists as a consideration.

Council Assets: Where possible local authorities identify ways in which Council owned infrastructure and assets could be utilised to extend or encourage digital infrastructure deployment e.g. access to ducting.

Highway Policy: Implement wayleave policies that only seek to cover costs and work with landowners to improve connectivity.

Fastershire Programme: To continue to work with and support the Fastershire Team to ensure that the enhanced broadband infrastructure is delivered to those remaining properties and any new developments within the county.

³⁶ Under non-disclosure agreements where required

Mobile Coverage Improvements Enabling Role:

Market Engagement: To support Fastershire team in engaging with mobile operators to determine future deployment plans in Gloucestershire and to understand how the Shared Rural Network (SRN) will be delivered across the County.

Council Assets: Where possible local authorities identify ways in which Council owned infrastructure and assets could be utilised to improve mobile coverage (access to street furniture assets/buildings/fire towers).

Policy: Ensuring Local Plans and Economic Strategies recognise the benefit of reliable connectivity and include actions to be taken at local level to support the improvement of connectivity. LPAs should consider the inclusion of a policy for new major development sites (over 10 dwellings) and large scale buildings should include infrastructure design from the outset to sympathetically locate masts, and/or provide backhaul ducting to negate the need for retro-fix infrastructure

Guidance: Respond positively to requests for any pre-application advice, where new or upgraded infrastructure is proposed the potential impacts on the local environment will need to be considered.

Appendix 4: List of Acronyms

CCG	Clinical Commissioning Group
CIL	Community Infrastructure Levy
CIL Regs	Community Infrastructure Levy Regulations (as amended)
DfE Guide	DfE Guidance 'Securing Developer Contributions for Education' November 2019
DMRB	Design Manual for Roads and Bridges
FTTP	Fibre to the Premises
FRA	Fire and Rescue Authority
GCC	Gloucestershire County Council
GFRS	Gloucestershire Fire & Rescue Service
HRC	Household Recycling Centre
IDP	Infrastructure Delivery Plan
IFS	Infrastructure Funding Statement
LDG	Local Development Guide
LLFA	Lead Local Flood Authority
LPA	Local Planning Authority
MLA	Museums, Libraries and Archives Council
NFM	Natural Flood Management
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
PPR	Pupil Product Ratio
S106	Legal agreement made under S106 of the Town and Country Planning Act 1990
SPD	Supplementary Planning Document
SRN	Shared Rural Network
SUDS	Sustainable Drainage
UU	Unilateral Undertaking

APPENDIX 4



Appeal Decision

Inquiry Held on 22-25 and 30-31 March and 1 and 20-21 April 2021

Site visit made on 19 March 2021

by P W Clark MA(Oxon) MA(TRP) MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 1st June 2021

Appeal Ref: APP/G1630/W/20/3257625

Land off the A38, Coombe Hill, Gloucestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Bovis Homes Limited & Robert Hitchins Limited against Tewkesbury Borough Council.
 - The application Ref 20/00140/OUT, is dated 11 February 2020.
 - The development proposed was originally described as residential development (up to 150 dwellings), associated infrastructure, ancillary facilities, open space and landscaping. Construction of a new vehicular and pedestrian access from the A38 and pedestrian access to the A4019.
-

Decision

The appeal is allowed and outline planning permission is granted for residential development (up to 95 dwellings), associated infrastructure, ancillary facilities, open space, landscaping and construction of a new vehicular and pedestrian access from the A38 and pedestrian access to the A4019 on Land off the A38, Coombe Hill, Gloucestershire in accordance with the terms of the application as amended, Ref 20/00140/OUT, dated 11 February 2020, subject to the twelve conditions appended to this decision.

Procedural matters

Some time before the opening of the Inquiry, the appellant sought to amend the description of the scheme. The description would change, replacing "up to 150 dwellings" by "up to 95 dwellings". The appellant advertised the intention for an appropriate period as widely as the Council had itself consulted on the original application. For that reason, and because the descriptive quantity "up to 95" is contained within the descriptive quantity "up to 150", **I am satisfied that nobody** would be prejudiced by considering the appeal on the basis of the revised description of development, which is what I have done.

The application form states that the application was made in outline with all matters reserved. At the opening of the Inquiry, the appellant advised that the way the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the Order) defined access had caused confusion and had led to an inaccurate completion of the application form. In the Order, the definition of "access", in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. The appellant intended that most details of access to and within the site

should remain as reserved matters but, as part of the submitted Transport Assessment, had included a detailed drawing of one pedestrian and vehicular access from the A38 into the site and had intended that that access should be given detailed consideration at this stage.

The Borough Council had not understood that to be the intention of the appellant but acknowledged that, had it correctly inferred **the appellant's intention**, it would have relied on the advice of the highway authority in coming to a conclusion on the acceptability of the details. The highway authority, which had been consulted by the Borough Council on the application, acknowledged that it had treated the application as though detailed consideration was to be given to the access in question and had given that detailed consideration and advised that the access would be acceptable. From third party comments on file, it appears that members of the public had also considered the application to be made in the way understood by the highway authority and intended by the appellant and have commented accordingly. I therefore take the view that nobody would be prejudiced if I now do the same.

No request for an EIA screening opinion was made, nor was any given. Instead the appellant elected to submit an Environmental Statement following a Scoping Opinion sought and issued. The Environmental Statement includes two parameter plans (subsequently amended in accordance with the revised description of development) covering Land Use, Access and Movement and Building Heights. In accordance with decisions of the courts¹ these parameter plans must be applied by condition, if permission is granted, so as to establish an envelope within which the detailed design and discharge of reserved matters can proceed, irrespective of whether or not they would be otherwise required to make the development acceptable (condition 4).

The appeal has therefore been considered as an application made in outline with all matters reserved except for details of one access onto the A38. Other details of access, appearance, landscaping, layout and scale remain to be considered at a later date (condition 1).

An informal, unaccompanied site visit was made before the Inquiry opened. By agreement at the Inquiry, no further accompanied visit was made.

Main Issues

At the time the appeal was made, seven issues could be identified;

- Whether the appeal site would be an appropriate location for new residential development of the scale proposed.
- The effect of the quantity of development proposed on the character and appearance of the area.
- The effects of the proposal on the Coombe Hill Canal SSSI and the Severn Estuary SPA (including the adequacy of on-site mitigation and ecological enhancements).
- The effects of the proposal on flooding on and off the site.
- The effects of the proposal on the supply of market and affordable housing.
- The effects of the proposal on the demand for, and provision of, Schools.

¹ R v Rochdale MBC ex parte Tew and Others [1999] 3 PLR 74 and R v Rochdale MBC ex parte Milne [2000] EHCW 650 (Admin)

- The effects of the proposal on the demand for, and supply of, open space, outdoor recreation, sports and community facilities.

An eighth matter, viability, was identified as a possible issue consequent on the sixth and seventh issues but, in the event, was a matter of little dispute at the Inquiry.

By the time the Inquiry had opened, agreement had been reached on the fourth issue (the effects of the proposal on flooding on and off the site) and a believed betterment of the existing position at the site is provided for within a submitted Unilateral Undertaking. A degree of agreement had also been reached on the provision of affordable housing, enshrined in a Unilateral Undertaking and so debate on the fifth issue during the Inquiry concentrated on the degree to which the Council fell short of a five-year housing land supply.

Two planning obligations by way of Unilateral Undertakings were submitted during consideration of the appeal. Regulation 122(2) of the Community Infrastructure Regulations (CIL) sets out three tests with which planning obligations must comply. Subject to my certifying compliance with the CIL regulations, the undertakings would provide the County Council with index-linked financial contributions of;

- £32,000 to enlarge the culvert under the A4019 road,
- £18,620 for library facilities in Tewkesbury,
- £107,050 for pre-school facilities,
- £397,980 for primary school provision,
- £224,069 for secondary school provision,
- £38,657 for sixth form provision and
- **for the authority's technical charges and monitoring fees.**

The undertakings would provide the Borough Council with;

- 40% of the number of dwellings as affordable housing, split 60: 40 between affordable renting and shared ownership,
- £73 per dwelling for the provision of recycling and waste bins,
- arrangements for the maintenance of public open space,
- £100,000 for the benefit of the Gloucestershire **Wildlife Trust's** Coombe Hill Canal and Meadows Reserve,
- £4,750 for the preparation and distribution of Household Information Packs and
- **£54 per dwelling for one year's membership of the Gloucestershire Wildlife Trust for each dwelling,**
- **together with the authority's technical charges and monitoring fees.**

Nevertheless, other than the provisions for dealing with flooding, the Unilateral Undertakings do not resolve any other issues which were the subject of dispute during the Inquiry. I report upon compliance with the CIL regulations as I consider each issue in turn.

Reasons

Appropriate location

At present, Coombe Hill is a tiny hamlet of about 50 dwellings (some say 42, others say more). Yet it benefits from surprisingly frequent² bus services in three directions to Gloucester, Cheltenham and Tewkesbury, all reached within about fifteen minutes. Within the hamlet is a public house and a petrol filling station with convenience store. A well-provisioned farm shop and café is on the northern edge of the hamlet. A little way outside the hamlet is the Knightsbridge Business Centre with further retail facilities amongst other employment uses.

Hardly surprising then that the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS), adopted in December 2017, identified Coombe Hill as a Service Village in its Settlement hierarchy (table SP2c). Policy SP2, clauses (4) and (5), assert that at least 7,445 dwellings will be provided to meet the needs of Tewkesbury Borough through existing commitments, development at Tewkesbury Town itself and smaller-scale development at Rural Service Centres and Service Villages and that Service Villages will accommodate in the order of 880 new homes, to be allocated through the Tewkesbury Borough Plan and Neighbourhood Plans. According to JCS policy SP2 (6), policy SD10, referred to in the Borough **Council's putative reasons for refusal**, would apply in the remainder of the rural area **but it does not say "only"** so I deduce that JCS policy SD10 is also intended to apply within the Service Villages, as indeed, its internal content implies.

The Housing Background Paper to the emerging Tewkesbury Borough Plan 2011 to 2031 disaggregated the 880 new homes to be provided between the twelve defined service villages to suggest an allocation of 22 dwellings at Coombe Hill. But, in **addition to that "top down" approach, it also recommended that a "bottom up"** process of considering the availability of sustainable sites at each settlement will also be a factor in determining a distribution of development. Two such sites were identified at Coombe Hill. One is a site on the west side of the A38, next to The Swan public house. That has since received planning permission for 25 dwellings and was under construction at the time of my site visit. The other is the appeal site.

The Housing Background Paper identified the capacity of the appeal site as between 50 and 80 dwellings. Paragraph 11.12 of the Housing Background Paper suggested that capacity be limited to 50 with significant opportunities for landscaping and open space. That recommendation was carried forward into the emerging Local Plan submitted for examination in May 2020 in which policy RES1 allocates site COO1 (the appeal site) for 50 dwellings.

But the policy includes a note to the effect that all site capacities are an approximation and that detailed design proposals may indicate that more or fewer dwellings can be accommodated on a site. Moreover, notwithstanding the provision of emerging policy COO1 that the density of development be relatively low, adopted policy SD10(6) requires residential development to seek to achieve the maximum density compatible with good design, the protection of heritage assets, local amenity, the character and quality of the local environment and the safety and convenience of the local and strategic road network.

There are several representations to the effect that the proposal would be disproportionate to the size and function of the existing village (a criterion in JCS policy SP2(5)) **but it is clear from the Borough Council's** Housing Background Paper and from emerging policy COO1 that the two sites being allocated in Coombe Hill are intended to create a new character for the settlement. Charming though the

² Even when reduced during the pandemic occurring at the time of my site visit

hamlet is at present, I do not demur from the analysis of the Housing Background Paper that the village lacks a cohesive form and does not have a well-defined village character.

The aim of the settlement boundary (which would result from the two allocations) is to create a well-defined nucleated village and establish a sense of place, rather than exacerbating the already dispersed nature of the village. The combined figure of 75 additional dwellings proposed in the emerging plan would be transformative in the context of an existing settlement of about 50 dwellings. The addition of a further 45 dwellings would break no greater threshold of character change than transformative.

The Council has already resolved to grant planning permission for up to 40 dwellings on a small part of the site (described as Part Parcel 0120). In an e-mail of 19 March 2018 an officer of the Council, having discussed that earlier application with senior colleagues, invited a single application for the whole site in line with the Borough Plan (Housing Background Paper) consideration of 80 dwellings, so as to allow for a village focus and a sense of place which that previous scheme did not deliver. I concur with that view.

Nothing in the evidence before me suggests that the figure of 50 dwellings proposed in the emerging Local Plan is arrived at following a feasibility study or detailed analysis of the criteria itemised by JCS policy SD10(6). Rather, the evidence points to the selection of a nominal or even arbitrary figure to be given greater and more refined consideration in a pragmatic way during the consideration of a planning application.

During the consideration of this appeal, the emerging Leigh Neighbourhood Plan was passing through its regulation 14 consultation stage. Shortly after the conclusion of the Inquiry, it was approved for submission in accordance with regulation 15. Although the emerging NP is a material consideration, it remains at an early stage in the plan making process. No party sought to place any particular reliance on the emerging Neighbourhood Plan as part of its case in this appeal. In any event, the emerging Neighbourhood Plan anticipates that the site will be allocated for development through the emerging Tewkesbury Local Plan and so I have taken the latter plan into greater account in determining this appeal.

The appellant concedes that there is a nominal conflict between the proposal and both JCS policies SP2 and SD10 because no adopted plan has ever been subsequently produced designating non-strategic sites for development in Tewkesbury. Nevertheless, I conclude that the appeal site would be an appropriate location for new residential development in accordance with JCS policy SP2 and that the scale should be determined pragmatically by a consideration of the criteria set out in that policy and in JCS policy SD10(6). These are largely covered by the other issues in this appeal, to which I now turn.

Character and appearance

The Council's case, in relation to this issue, was more a criticism of the supporting Design and Access Statement (DAS), than of the development proposed. Because the proposal is for a number of dwellinghouses greater than ten, it is defined in the Town and Country Planning (Development Management Procedure)(England) Order 2015 (the DMPO) as a major development.

Article 9 of the DMPO requires an application for major development to be accompanied by a DAS. A DAS is intended;

- to explain the design principles and concepts that have been applied to the development,

- to demonstrate the steps taken to appraise the context of the development and how the design of the development takes that context into account,
- to explain the policy adopted as to access, and how policies relating to access in relevant local development documents have been taken into account,
- to state what, if any, consultation has been undertaken on issues relating to access to the development and what account has been taken of the outcome of any such consultation and
- to explain how any specific issues which might affect access to the development have been addressed.

The application was made in outline as a proposal in principle only. All matters, namely access (except for one pedestrian and vehicular access to the site), appearance, landscaping, layout and scale are reserved, to be submitted later, in the event that outline permission is granted. The Borough Council has powers, under Article 5(2) of the DMPO, to require details to be submitted of any reserved matter, if it considered that the application could not be determined without them. The Borough Council made no such requirement in the present case. The application was validated without details of any reserved matter other than for the main vehicular access.

The submitted DAS does not include a design code but there is no requirement in the DMPO, or in adopted JCS policy or emerging Local Plan policy that it should. JCS policy SD4 states that a masterplan and design brief may be required but clause (2) of the policy makes it clear that they are optional and the application was registered and validated without a design brief being required. Nor is the submitted DAS specific to a scheme for a fixed number of dwellings but that is hardly surprising as the number of dwellings is not fixed; as submitted the application was for any number up to 150 dwellings and as amended, it is for any number up to 95 dwellings. Neither of those points impair its validity.

Not all outline applications have all matters reserved but, where a matter is reserved, a DAS can do little more in relation to that matter than explain the obvious, namely that the design principles and concepts to be applied to the development have yet to be formulated and will be explained at reserved matters stage. Nevertheless, the submitted DAS does in fact go further than that.

A comparison with the requirements of the DMPO shows that an extensive section 2 in the DAS demonstrates the steps taken to appraise the context of the development and how the design of the development will take that context into account. In section 4 it sets out a series of Design Principles and Design Proposals, explaining at paragraphs 4.14, 4.19 and 4.20 the policy adopted as to access, at paragraphs 4.15 and 4.20 how policies relating to access in **the government's** Manual for Streets (rather than the JCS) have been taken into account and at paragraph 4.17, summarising the consultation which had taken place with the highway authority and its outcome. I therefore find that the DAS complies with the requirements of the DMPO.

Turning from an appraisal of the DAS to an appraisal of the development proposed; the emerging local plan policy COO1 sets requirements, compliance with most of which could only be demonstrated at reserved matters stage. The master plan which accompanies the appeal is illustrative only. Nevertheless, in the next three paragraphs, I consider its provisions in relation to the requirements of emerging policy COO1.

The masterplan does demonstrate a continuity of active frontages along the A38 north of the petrol filling station. If followed in the reserved matters application(s), these, in conjunction with the development now under way on the opposite side of the road, would link several of the currently dispersed elements of the settlement to help create a nucleated village in the way described in the Housing Background Paper.

As recorded in a later section of this decision, the quantity of open space proposed (which is required to be provided by paragraphs 1.26, 5.2 and Schedule 3 of the Unilateral Undertaking to Tewkesbury Borough Council) would be sufficient to provide for use by the wider community. **The Borough Council's contribution to Inquiry Document 17** confirms that the open space could contribute to the wider Green Infrastructure (GI) network envisaged in the supporting text to JCS policy INF3. There is no dispute that biodiversity net gains on the site itself would be delivered (the dispute, which I consider below, relates to **residents' recreational** effects on biodiversity off site, in relation to the Severn Estuary SPA). A later section of this decision concludes that mitigation of recreational pressure on the SSSI would be achieved. The design requirements for enhanced pedestrian connectivity can also be required by conditions (6(ii)) and (10(i)).

The illustrative masterplan indicates that public open space would address the A4019 frontage and the prominent corner location at the junction of the A38 and A4019 and so demonstrates how a reserved matters application could feature a landmark (albeit not a building) as envisaged by the emerging policy. It shows landscaped open space surrounding the development which demonstrates how the detailed layout could be landscape-led. At about 20 dwellings per hectare, the density of development would be relatively low.

Insofar as the Council makes any substantive comment on the character of the development proposed, **the Council's urban design officer** observes that the illustrative layout shows almost every dwelling to be a terraced property and expresses doubt that that would be in keeping with the character of the area. It is true that terraced properties do not dominate the existing character of the area, although there are some at the Wharf and a pair of semi-detached properties to the north of the graveyard and former chapel. Nevertheless, I note that Leigh Parish Council, in its representations to policy COO1 of the emerging local plan comments that a village survey recorded the need for smaller 2 and 3 bedroomed accommodation and for social housing. It follows that, if the illustrative layout were to be followed in the reserved matters applications then it is likely that an acknowledged deficiency in the character of the settlement would be made good.

The Council's evidence to the Inquiry commented on the storey heights implied by the parameters plan, commenting that although there are examples of 2.5 storey dwellings in the settlement, these are few and far between. But in fact, section 2 of the **appellant's** DAS shows several examples of taller buildings, including Walton Grange to the north of the site and the former police station at the crossroads. **The appellant's Response to the Urban Design Officer's response shows several three storey buildings to be present in Coombe Hill.** **The Council's evidence also commented on the parameter plan's implication of cut and fill to provide a level building platform** but on my site visit, I observed that this was characteristic of existing buildings to the east of the A38 in the hamlet.

Without prejudice to consideration of detailed reserved matters applications, I conclude that there is nothing in the material before me to demonstrate that the effect of the quantity of development proposed on the character and appearance of the area need be anything other than acceptable. The proposal would therefore comply with those elements of JCS policy SD10(6) which require compatibility with good design and with the character and quality of the local environment.

Ecology (the SSSI and the SPA)

There are two parts to this issue. One is concerned with the possible adverse effects of the development proposed upon the integrity and conservation objectives of the Severn Estuary Special Protection Area and Ramsar Site (the SPA) either through hydrological effects in functionally linked watercourses on migratory fish species or through recreational effects on birds using Functionally Linked Land (FLL) in the vicinity of Coombe Hill (which may, or may not, be coterminous with **Gloucestershire Wildlife Trust's Coombe Hill Canal and Meadows Reserve**). The second is concerned with possible adverse effects upon the Coombe Hill Canal SSSI and on **Gloucestershire Wildlife Trust's Coombe Hill Canal and Meadows Reserve** in general. I deal with the SPA concern first.

The Habitats Regulations 2017 (as revised) require that before any planning permission is given for a project which is likely to have a significant effect on what is known as a European site (in this case the Severn Estuary SPA), an appropriate assessment must be made of the implications of the project in view of the **SPA's** conservation objectives and that I must ascertain that the project would not adversely affect the integrity of the SPA. I can take account of conditions which may be imposed. This is a two-stage process; first of all establishing a likely significant effect and then secondly making an appropriate assessment of that likely significant effect.

The possible effects on fish may be swiftly disposed of. No party contests the findings **of the appellant's submitted** Environmental Statement that best practice methods and effective engineering solutions to ensure contaminated run-off is prevented from entering the local watercourses would ensure a minor beneficial effect. **Natural England, which is the government's adviser on these matters**, agrees that adverse effects on water quality in functionally linked watercourses including the Rivers Chelt and Severn are unlikely to occur provided that the proposed sustainable drainage measures are secured by condition. I have no reason to disagree. Condition (8(iv)) requires details of drainage to be submitted, at which point the Council can ensure that they include the matters described in paragraph 3.7 of the Ecology Statement of Common Ground.

For birds, the SPA's **1993 citation** included six elements or qualifying features;

- An internationally important wintering population of **Bewick's swan**
- A wetland of international importance supporting in winter over 20,000 waterfowl (wildfowl and waders)
- Supporting in winter internationally important numbers of five species of migratory waterfowl; European white-fronted goose, shelduck, gadwall, dunlin and redshank
- A nationally important wintering population of ten species; wigeon, teal, pintail, pochard, tufted duck, ringed plover, grey plover, curlew, whimbrel and spotted redshank
- During passage periods, nationally important numbers of ringed plover, dunlin, whimbrel and redshank
- A nationally important breeding population of lesser black-backed gulls

A Natura 2000 Standard Data Form for the SPA dated December 2015 includes **entries for Bewick's swan**, European white-fronted goose, shelduck, gadwall, dunlin and redshank and for a waterfowl assemblage. Advice given by the Countryside Council for Wales and Natural England in June 2009 lists the internationally important assemblage of waterfowl as **Bewick's swan, European white-fronted**

goose, dunlin, redshank, shelduck, gadwall, wigeon, teal, pintail, pochard, tufted duck, ringed plover, grey plover, curlew and whimbrel.

The concern that the development proposed on the appeal site might be likely to have a significant effect on the SPA arises from the concept that the residents of the proposed development would use the surrounding countryside for recreational walking. During that recreational activity, particularly if dog walking, they could disturb the birds which represent qualifying features of the SPA when they also use the surrounding countryside in a way which identifies it as Functionally Linked Land (FLL). That could prejudice both the extent and distribution of the habitats of the SPA birds and also their population, the maintenance of which are among the site conservation objectives for the SPA.

The concept of Functionally Linked Land is endorsed in paragraph 27 of *RSPB v SofSCLG* [2014] EWHC 1523 (Admin), 2014 WL 1976410; **"while no particular legal status attaches to FLL, the fact that land is functionally linked to protected land means that the indirectly adverse effects on a protected site, produced by effects on FLL, are scrutinised in the same legal framework just as are the direct effects of acts carried out on the protected site itself."** FLL is defined in a 2016 report NECR207 commissioned by Natural England; *Functional linkage: How areas that are functionally linked to European sites have been considered when they may be affected by plans and projects - a review of authoritative decisions*. It refers to the role or function that land beyond the boundary of the SPA might fulfil in terms of supporting the population for which the SPA was designated.

FLL does not include all land which the designated species use; **"Sometimes, the mobility of qualifying species is considerable and may extend so far from the key habitat that forms the SAC or SPA that it would be entirely impractical to attempt to designate or classify all of the land or sea that may conceivably be used by the species."** Instead, the specific birds which form the population using the SPA have to use the other land in question for it to be identified as functionally linked.

Moreover, there is an additional requirement for land to be identified as functionally linked. **"In practice, therefore...supporting habitat in areas beyond the boundary of a SAC or SPA which are connected with or "functionally linked" to the life and reproduction of a population for which a site has been designated or classified should be taken into account in a Habitats Regulations Assessment (HRA)."** I take this to mean that a simple demonstration that land is used by birds of the same species as listed in the SPA designation would not justify the identification of FLL; what is needed is a demonstration not only that the land is used by the same individual birds as use the SPA land but also that they use it in a way which is necessary to their life and reproduction.

For this reason, explored further in the following paragraphs, I am not entirely convinced by the conclusions of the report to Natural England by Link Ecology **dated September 2020, entitled "Identification of Land with Proven or Possible Functional Linkages with the Severn Estuary SPA Phase 5 (Gloucestershire and Worcestershire)"**, (the FLL report) (although endorsed by the advice of Natural England). This states that that **ten sites (including land at Coombe Hill) "appear to be or have been Functionally Linked to the Severn Estuary SPA as shown by regular or intermittent movements of individual birds and for identifiable flocks in the past ten years."**

The report itself immediately qualifies its finding in respect of Coombe Hill and two other sites by stating "The Functional Linkage between this complex of sites and the SPA must therefore be considered, on the basis of evidence to date, to be diminishing for two of the main species and is at best unproven for most other SPA Interest Species that occur within them". In addition to that, the reason for my scepticism is that, with the exception of Black-tailed godwit (which is not a listed

SPA species) and curlew (which is a listed SPA species as part of the important assemblage of waterfowl) the conclusions are mostly based upon what appear to be opportunistic uses of the ten sites by SPA birds on occasions when the sites' condition presents an optional alternative to use of the SPA itself, rather than usage essential for the SPA species to complete its life cycle in circumstances where the SPA land itself cannot offer that usage.

There are analogies in human life where a location (be it a park, restaurant or music venue) is famed for attracting large numbers of users. The fact that some individuals amongst those users may also attend other locations at other times does not prove that those other venues are functionally linked to the main venue; the other locations are simply used as a matter of choice in parallel with the use of the famed attraction; their use is not essential for the desired experience.

But, for the Black-tailed godwits, fattening themselves up for their migration, for which the SPA does not provide enough resource, I accept that the land identified in map 20 of the FLL report, including land in the vicinity of Coombe Hill, does represent FLL although Black-tailed godwits are not an SPA listed species.

Likewise, for the curlews, needing to breed away from their winter residence on the SPA I accept that the land identified in map 19 of the FLL report, including land in the vicinity of Coombe Hill, represents FLL in that land suitable for breeding is essential for the species to complete its life cycle and thus to maintain its population within the SPA. Curlew as a species is known to be sensitive to disturbance and as a ground-nesting species, its breeding success is known to be sensitive to the presence of dogs. For that reason, I accept that there may be a likely significant effect on the SPA from the development proposed and that an appropriate assessment must be made.

Appropriate assessment

The Conservation Objectives for the Severn Estuary SPA are recently restated by Natural England in a document published in February 2019. They are to ensure that the integrity of the site is maintained or restored as appropriate, and to ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

The SPA is also a European marine site for which objectives were stated by Natural England and the Countryside Council for Wales in 2009. For the internationally important assemblage of waterfowl these are to maintain the waterfowl assemblage and its supporting habitats (Intertidal mudflats and sandflats, Saltmarsh and Hard substrate habitats (rocky shores)) in favourable condition, as defined below:

The interest feature waterfowl assemblage will be considered to be in favourable condition when, subject to natural processes (the dynamic physical process within the estuary), each of the following conditions are met:

- (i) the 5 year peak mean population size for the waterfowl assemblage is no less than 68,026 individuals (ie the 5 year peak mean between 1988/9 - 1992/3);
- (ii) the extent of saltmarsh and their associated strandlines is maintained;
- (iii) the extent of intertidal mudflats and sandflats is maintained;
- (iv) the extent of hard substrate habitats is maintained;
- (v) extent of vegetation of <10cm throughout the saltmarsh is maintained;
- (vi) the abundance and macroscale distribution of suitable invertebrates in intertidal mudflats and sandflats is maintained;
- (vii) the abundance and macroscale distribution of suitable invertebrates in hard substrate habitats is maintained;
- (viii) greater than 25% cover of suitable soft leaved herbs and grasses during the winter on saltmarsh areas is maintained;
- (ix) unrestricted bird sightlines of >500m at feeding and roosting sites are maintained;
- (x) waterfowl aggregations at feeding or roosting sites are not subject to significant disturbance.

Of these conditions, item (i), the 5-year mean population size for the waterfowl assemblage is the condition at risk from the recreational activity expected from the appeal site. Items (ix) and (x) are relevant to a degree. Restricted bird sightlines may lead to disturbance prejudicial to successful breeding in the vicinity of Coombe Hill and so might affect the maintenance or restoration of **the species' population** size on the SPA. Nevertheless, the appeal development would make no difference to the extent of bird sightlines at feeding and roosting sites in the vicinity of Coombe Hill, because these are reported to be near the appeal site, not on it. The issue is whether the residents of the development would cause disturbance with the sightlines as they exist now at Coombe Hill.

The population size for the waterfowl assemblage as a whole is large. In the five-year period 1988/9-1992/3 the average peak count was 68,026 (17,502 wildfowl and 50,524 waders). In the 2015 Natura 2000 Standard Data Form, it was reported as 84,317 for the five-year period 1991/2-1995/6. In an SPA review carried out in 2001 it is stated that the area regularly supports 93,986 individual waterfowl in winter.

In the 1993 SPA citation 3,096 were reported as curlew. That could be interpreted to mean **that the loss of the entire curlew component of the SPA's assemblage** would mean an effect of 4.5% on the waterfowl assemblage as a whole but the point of an assemblage is that it comprises a variety of species; the loss of a component of that assemblage would reduce that variety and so could be disproportionately harmful. For that reason, I focus on the population size of the curlew alone in this assessment, rather than on the size of the assemblage overall. All parties accept the FLL report as an authoritative study of the relationship between birds using the SPA and those using various sites in Gloucestershire and Worcestershire. The FLL report records that curlew has experienced a major decrease in numbers in the last twenty or more years across northwest Europe. Karen Colebourne writes in her evidence that between 1995 and 2008 the curlew population in the UK declined by 42%.

In contrast, the five-year mean peak for curlew on the Severn estuary had increased from 3096 in 1993 to 3398 by 2014/5-2018/9. Within that five-year mean there has been substantial fluctuation; 3546 in 2013/4, 3696 in 2014/5, peaking at 4203 in 2015/6, reducing to 2998 in 2016/7, increasing to 3411 in 2017/8 and reducing to 2680 in 2018/9, so it is by no means clear that the population of curlew on the SPA is not being maintained or that it requires restoration or that it is not contributing to the conservation objectives of the SPA. Of these numbers, the FLL report records that some 30-35 pairs of curlew (i.e. 60-70 birds) regularly attempt to nest in traditional hay meadows along the entire Severn and Avon river system north of Gloucester (not just at Coombe Hill). Even if all the nesting birds were to come from the SPA, that would represent just about 2% of the numbers of curlew using the SPA. The vast majority breed elsewhere (Scotland, northern England, Wales, Northern Ireland, other parts of the English lowlands, the Netherlands, Lower Rhine, Finland, Sweden and Eastern Poland are all mentioned in the FLL report).

The area around Coombe Hill is important as a roost before and after the breeding season but appears to be less important for breeding. Coombe Hill is reported as a strongpoint for breeding curlews but it is only one of many sites (at least thirteen are named in paragraph 4.690 of the FLL report) sharing the 30-35 pairs identified as nesting in the Severn and Avon valleys, so numbers are small at each individual site and at Coombe Hill.

The FLL report names the hay meadows along the Avon from Tewkesbury to Eckington as the area with the highest number of breeding curlew. It notes that of the 30-35 pairs of curlew nesting in its study area, some 20 pairs nest in hay meadows along the Avon north of Tewkesbury and about 15 pairs nest along the Severn between Gloucester and Worcester (the area which includes Coombe Hill). Again, in contrast to the decline seen across northwest Europe, the FLL report notes that this population seems to have remained stable for the last 40 years. It speculates that this is because there has been little change in farming methods in the area.

No more than three pairs of curlew are reported to use the area around Coombe Hill for nesting (FLL report, paragraph 5.267). That represents less than 0.09% of the curlew using the SPA as part of its winter assemblage of waterfowl. That figure is well within what might be the expected range of annual natural variation and also within the likely range of accuracy of the enumeration methods for counting curlew.

Natural England advises (in section B3 of its report NECR207) that **"the extent to which an effect might 'undermine the conservation objectives' where it occurs** beyond the boundary of the European site will be influenced by the role or function that the area serves and its importance to the maintenance of the population for which the site has been designated, classified or listed" and (in section B1 of the same report) that "assessment will need to determine how critical the area may be to the population of the qualifying species and whether the area is necessary to maintain or restore the favourable conservation status of the species." Even if all three of these pairs of birds were prevented from breeding at Coombe Hill as a result of disturbance caused by residents of the development proposed (as opposed to disturbance caused by pre-existing conditions), whether alone or in combination with other developments in the area, it would have almost no effect on the maintenance of the population for which the SPA has been designated and so there would be no practical effect on the integrity of the SPA or its conservation objectives, let alone any significant effect.

Moreover, even that figure of 0.09% exaggerates the effect which the development could have on the integrity of the SPA and its conservation objectives because

there is no evidence in the material before me that the curlews nesting at Coombe Hill are successful in breeding. Rather, the evidence points to the opposite.

Paragraph 8.17 of Karen Colebourn's evidence on behalf of the Borough Council reiterates without contradiction the information **given in the appellant's** Information to Inform a Habitats Regulation Assessment; curlew nests were recorded within 35-150m of public footpaths around Coombe Hill in 2013 and 2016 but they did not breed successfully then, nor since. Paragraph 4.688 of the FLL report notes that productivity is low at all the Severn and Avon nesting sites because of habitat change, predation and early hay cutting. The three colour-marked birds which the FLL report notes as clearly demonstrating the links between the SPA and the Severn and Avon Vales, normally attempted to breed at Queenhill (outside the **report's study area**), Haslam Ham and Upham Meadow respectively, not Coombe Hill. One of the three birds surprised observers by moving from Upham Meadow to Coombe Hill in 2019 where it **"attempted to breed, almost certainly unsuccessfully"** (indicated by its early departure from the breeding area).

Existing issues of disturbance to birds in the area around Coombe Hill are noted in paragraphs 5.260 to 5.262 of the FLL report. The canal provides a convenient out and back walk popular with dog-walkers, facilitated by the provision of a car park intended to serve **the Gloucestershire Wildlife Trust's reserve** but generally available for other users of the unusually intense network of footpaths through the countryside in the vicinity. During my site visit I observed several parties arrive by car and set off with their dogs. I overheard one couple remark that as the canal path was very muddy they would instead let their dogs run in the adjacent fields. It is those adjacent fields, **not necessarily within the GWT's reserve**, that are used by the curlew during the breeding season **as the appellant's plan ECO1 revision B**, contained within its Shadow Habitats Regulations Assessment, demonstrates. The FLL report also notes that frequent helicopter overflights are an additional source of disturbance.

For all the above reasons, I doubt that the area around Coombe Hill presently contributes as much to the integrity and objectives of the SPA through maintenance of the population of curlew on the SPA as would be implied by even the minimal numbers of curlew attempting to breed at Coombe Hill. Consequently, the adverse effects of the development proposed, either alone or in combination with other developments, would be even less significant than the minimal extent identified earlier. They would be reduced still further by the offer of alternative dog-walking facilities on site and by publicity for alternative circular walks confined to the east of the A38 and so not affecting curlew breeding areas.

But the objectives of the SPA are not just maintenance of populations of wintering waterfowl but also their restoration. Paragraphs 5.263, 5.264 and 8.3 of the FLL report suggest ways in which the area could be enhanced for waterfowl, including more scrapes, the creation of buffer zones, footpath diversion and/or screening, fencing and planting. The Gloucestershire Wildlife Trust has also made suggestions for the enhancement of its reserve, including a warden scheme, which would benefit the wider area, though **it would be wrong to conflate the GWT's reserve** with the wider area within which curlew seek to nest.

The burden of seeking to restore the contribution which the Coombe Hill area could make to restoring the integrity and objectives of the SPA does not fall to this appeal development alone. The responsibility lies in combination with other developments in the area whose residents are also likely to make visits to the area and so disturb wildfowl unless their presence is properly managed. But the sum of £100,000 which is offered through the Unilateral Undertaking meets all the requests which the GWT has made and so I conclude that it represents a proportionate contribution to be made from this development.

In concluding this appropriate assessment I take into account condition (10(vi)) and the unilateral undertaking to Tewkesbury Borough Council which would require open space provision on site offering an alternative dog-walking facility, a homeowners pack publicising alternative walking routes, and a financial contribution to the GWT. I find that the proposal would have no significant adverse effects upon the integrity and conservation objectives of the Severn Estuary Special Protection Area and Ramsar Site (the SPA) through recreational effects on birds using Functionally Linked Land (FLL) in the vicinity of Coombe Hill. It would have a proportionate beneficial effect through its financial contribution to the management of visitors to the part of the area which is controlled by the GWT. It would therefore comply with JCS policy SD9 (2(i)) which requires European and National protected species to be safeguarded in accordance with the law.

The SSSI

I turn now to the other element of this issue, namely the SSSI. The Coombe Hill Canal SSSI is designated for its nationally rare and scarce invertebrates and nationally scarce plants. The invertebrate interest centres on beetles but flies and a diverse fauna from other invertebrate groups are also present. Several nationally scarce plants such as golden dock, corky-fruited water-dropwort, greater dodder and true fox-sedge are listed in the citation. The citation also mentions that the SSSI is also locally important for its diverse breeding bird assemblage, particularly resident and migrant warblers and waders such as curlew and snipe. None of the material before me expresses any concern about the effects of the development proposed on the nationally rare and scarce invertebrates or on the nationally scarce plants. Paragraph 3.8 of the Ecology Statement of Common Ground asserts that impacts from the scheme are unlikely to give rise to a significant effect on the interest features for which the Coombe Hill Canal SSSI is currently notified. Only the effects on the locally important breeding bird assemblage is of concern.

What is known about the breeding bird assemblage in the area is derived from the authoritative FLL report referred to in an earlier section of this decision. But, care must be taken to recognise that the FLL report covers a much more extensive area than the **GWT's** Coombe Hill Canal and Meadows Reserve, which is in turn much more extensive than the SSSI and so, comments made in the FLL report do not necessarily apply with equal force to the GWT reserve or to the SSSI.

The FLL report notes that in spring the wet fields of riverside meadows traditionally provided nesting sites for waders notably lapwing, curlew, redshank and snipe. In relation to breeding birds at Coombe Hill, the report mentions mallard, shelduck, gadwall, tufted duck (a diving duck rather than a wader; one or two pairs), lapwing, redshank, oystercatcher and curlew, though the site only ranks of high importance in spring to gadwall and mallard and of moderate importance to shoveler, tufted duck, whimbrel and ruff. It notes that in overall terms the success of nesting attempts by all wader species in recent years has been very poor but also records that despite the declining numbers of birds involved, Coombe Hill remains one of the most important sites for breeding waders in the Severn Vale. The SSSI citation is for a breeding bird assemblage, which would occur in springtime. But the FLL report also notes that Coombe Hill has always been an important site for wintering waterbirds such as swans, geese, ducks and some waders like lapwing. Information about wintering birds may be gleaned from Table 1 of the **appellant's submitted Information to Inform a Habitats Regulations** Assessment which summarises **the British Trust for Ornithology's** Wetlands Bird Survey wintering bird data (also used in the FLL report) for the period 2013/4 – 2017/8. In order of frequency, the species recorded with a significant presence are

wigeon, teal, canada goose, greylag goose and pintail. None met nationally important threshold numbers. The FLL report also mentions shoveler and lapwings. It records the site's importance in winter as high for shoveler, gadwall, wigeon, mallard, pintail, teal and lapwing.

A third category of interest is transitory migratory birds. Notable at Coombe Hill are black-tailed godwit and whimbrel. The FLL report mentions other species in smaller numbers.

Not all birds are disturbed by human presence. Although the black-tailed godwit demonstrates a functional link with the SPA (though not an SPA designated species), it is not considered further in **Karen Colebourne's evidence for the Borough Council** because, as she writes in paragraph 9.4 of her proof, there is **"evidence that this species may not be significantly affected if disturbed while feeding."** Mallard are also notoriously tolerant of human presence.

In recent years, the GWT has deliberately enhanced the meadows for breeding, feeding and roosting wetland birds so as to be more compatible with human visitors, for whom it provides car parking, hides and information boards.

Paragraphs 8.18 and 8.19 of **Karen Colebourne's evidence** and paragraph 5.258, 5.259 and 5.261 of the FLL report describe the works. The northern meadows of **the GWT's reserve** have been acquired, a circular walk has been laid out and signposted from the canal towpath. Two viewing hides have been provided along with information boards and signage requesting dogs to be kept on leads. Ditches have been deepened to create a no-go area where birds are free from disturbance. Land is managed to cut hay late. The FLL report suggests further enhancements, such as a mechanism to retain water levels in the scrapes over summer.

These measures already taken by the GWT help to secure their reserve against the effects of disturbance which, as the FLL report notes, is a problem at Coombe Hill because of the number of footpaths and the popularity of the canal as an out and back walk for dogs. Earlier passages of this decision record my on-site observations of the effects of **the GWT's car park in facilitating this activity**.

A letter from the GWT to the Borough Council dated 14 December 2020 records that its membership recruiters who have been stationed at Coombe Hill when permissible during 2020 report 50 visitor groups a day in autumn, with the car park being full for most of the day during good weather. Visitors included a mix of demographics. Around one-third were dog walkers. They included locals as well as residents from Gloucester, Tewkesbury and Cheltenham.

It is therefore clearly not the case that the Reserve is managed so as to exclude or even to deter visitors, with or without dogs, or to restrict them to locals only, or to accredited ornithologists. It is open to all, including dogwalkers, and that sets a context within which any potential impact of the development needs to be measured so that it can be managed and mitigated. **Although the GWT's letter** warns that it would reluctantly have to consider closing its reserve to the public in order to protect its biodiversity features if necessary, that clearly is not its intention. Rather, what is sought is adequate mitigation, including measures to divert recreational demand.

In order to establish the effects of the development, it is not necessary to have carried out a visitor survey of the existing **use of the SSSI or the GWT's reserve**. Knowledge of the patterns of usage of visitors to the reserve from the wider area in general and the distance they have travelled may well be of use to the GWT in deciding how to promote to the public and manage the reserve for the future. But that knowledge is not necessary in order to ascertain the likely recreational demand from residents of the appeal site and to judge how likely that recreational demand is to be met by facilities provided on the appeal site as opposed to on the **GWT's reserve**.

The information needed to assess the scheme is provided in paragraphs 4.29 and **4.30 of the appellants' Shadow Habitats Regulations Assessment**. This estimates that the development would generate between 23 and 46 dog walking trips per day. If all were to be walked on the GWT reserve (crossing the A38 road and descending and ascending a narrow, shared surface country lane to and from the Wharf) to the exclusion of all other options, then something approximating a doubling of dog walking on the reserve would ensue. In my view, that degree of use would be unlikely given the greater convenience of a dog walking route to be provided on site. On the other hand, I do accept that the dog walking route to be provided on the appeal site would be unlikely to draw existing users away from the **GWT's reserve** as it would be on the wrong side of the A38 for most existing residents of the hamlet.

The mitigation measures proposed would publicise alternative circular walks, at least one of which involves no crossing of any main road and gives fine, eastward views. The attractions and detractors of these alternatives are fairly stated in **paragraph 10.23 of Karen Colebourne's proof, except** that I did not find the footpath along the wide verge of the A38 in front of Walton Grange Farm to be narrow (though it is somewhat overgrown). Nor is the footway narrow alongside the A4019 from Knightsbridge.

In combination, I consider that the provision of the dog walking route on site as proposed, together with the publicity given to other alternative walking routes on **the development's side of the A38 would go a considerable way towards** dissuading residents of the development from walking their dogs on the GWT reserve.

Nevertheless, there would inevitably be some residual increase in use.

The GWT has put forward proposals to deal with this, in an e-mail of 4 January 2021, including setting up a volunteer warden scheme at a cost of £7,900 pa for five years and identifying some infrastructure changes that would better define public rights of way and restrict access to the most sensitive bird habitat at a cost of around £50,000, using volunteers and spreading the work over five years, all of which seem to me to be reasonable and likely to be effective. In its unilateral undertaking, the appellant has agreed to fund the GWT to a degree commensurate with the estimated costs of the measures which the GWT seeks to put in place. That all seems both necessary and reasonable and compliant with the CIL regulations.

Taking that into account, I conclude that the effects of the proposal on the Coombe Hill Canal SSSI would be acceptable. The proposal would comply with JCS policy SD9 (2(i)) which requires European and National protected species to be safeguarded in accordance with the law and with JCS policy SD9 (2(iv)) which encourages the creation, restoration and beneficial management of priority landscapes, habitats and populations of priority species, for example by securing improvements to Strategic Nature Areas as set out on the Gloucester Nature Map.

Flooding

A few weeks before the opening of this Inquiry, the parties (in this instance, the appellants and the County Council as Lead Local Flood Authority) agreed a Statement of Common Ground on matters relating to Drainage and Flooding. Essentially, the site drains to a ditch on its east side, which in turn flows through a 300mm diameter culvert underneath the A4019. From time to time the limited capacity of the culvert causes water to back up the ditch, extend over adjoining land (including the lowest part of the site and an adjoining dwelling known as The Bellows) and flood over the A4019.

As the appeal proposal was applied for in outline, drainage details are not supplied. Condition (8(iv)) would require their submission. **The appellant's Flood Risk**

Assessment and Flood Risk Assessment Addendum have now convinced the Lead Local Flood Authority that it would be possible to design a drainage system with an attenuation pond unaffected by flood levels which would attenuate peak run-off from the development so as to be 20% less than in its undeveloped state. In consequence, flood levels would be at least 20mm lower than if the site were to remain undeveloped, even if no alterations were made to the culvert under the A4019.

As originally submitted, no improvement works or increasing capacity to the existing pipe under the A4019 was envisaged so as to ensure that flood risk downstream of the development would not be increased. But further study showed that enlargement of the culvert to reduce flooding at the Bellows and on the lowest part of the site still further would not increase downstream flooding because it would simply mean that peak flows of water in extreme events would flow through the culvert rather than over the road. The attenuation measures envisaged for the on-site drainage would reduce peak flows in any event and so reduce downstream flood risk slightly.

The provision of drainage details for subsequent approval can be required by condition (8(iv)). The unilateral agreement makes provision for a financial contribution towards the cost of enlarging the culvert. These arrangements appear to be both necessary and reasonable and would comply with the CIL regulations. With these arrangements in place I am satisfied that the effects of the proposal on flooding on and off the site would be beneficial. The proposal would comply with JCS policy INF2 which, amongst other matters, requires development proposals not to increase the level of risk to the safety of occupants of a site, the local community or the wider environment and, where possible, to contribute to a reduction in existing flood risk.

Housing

There was a putative reason for refusal concerning the absence of a commitment to provide affordable housing in the proposal as submitted but that could have been resolved by a condition requiring the submission of a scheme of affordable housing had permission been granted. In the current appeal, a Unilateral Undertaking provides for 40% of the number of dwellings as affordable housing, split 60:40 between affordable renting and shared ownership. The undertaking would be necessary to ensure compliance with JCS policy SD12(1(ii)) which requires a minimum of 40% affordable housing. It complies with the CIL regulations and so I have taken it into account.

The Borough Council would have preferred the rented element to have comprised social renting rather than affordable renting based upon its Local Housing Needs Assessment of September 2020. But, although that shows a greater need for the former rather than the latter, it does not show that the latter is not needed. Consequently, the provisions of the Undertaking would still serve to satisfy local affordable housing needs.

The Borough Council also had concerns about accessibility standards applied to both market and affordable housing but JCS policies SD4(vi) and SD11(2(ii)) which require new development to provide access for all potential users, including people with disabilities, and for housing to be accessible and adaptable will continue to apply to any reserved matters application which may be made. There is nothing to suggest that the current outline application which is before me would contravene any of those policies.

The point at issue during this Inquiry does not arise from any putative reason for refusal but from a dispute about the significance of the benefit which would arise from the provision of housing. The government seeks to boost the supply of

housing, so any housing proposal must be regarded as providing a degree of benefit to set against any harm which the development may cause. The **significance of the benefit is judged by reference to the Borough's housing need** and its performance in meeting that need.

At its simplest, the provision of up to 95 dwellings would represent approximately 19% of the annual average housing requirement ascribed to Tewkesbury by the JCS, or nearly 4% of its averaged five-year requirement, or just under 1% of the total housing requirement for Tewkesbury for the plan period. At typical roll-out figures, the development would probably be developed over two years, so it would contribute about **10% of Tewkesbury's annual average requirement** for each year of a two-year period, which in turn represents about 10% of the JCS plan period. In straightforward numerical terms, whichever way it is looked at, that is a significant contribution to the supply of housing in Tewkesbury and therefore a significant benefit.

The courts have held that greater significance should be given to the benefits of housing provision, in proportion to the size of shortfalls in housing supply. In this case, both parties are agreed that there is both a plan period shortfall of allocated sites and also that the Council cannot demonstrate a five-year housing supply. In a statement of common ground on housing need and supply the parties agree that there was a plan period shortfall of 2455 homes on adoption of the JCS (25% of the requirement for Tewkesbury) which is currently a plan period shortfall of 1525 dwellings (15% of the requirement for Tewkesbury). Hopes of closing that gap through the emerging local plan and a review of the Joint Core Strategy can only be aspirational at the current time and depend in part on approval being given to the allocation and development of the current appeal site. For the purposes of this appeal there remains a substantial shortfall in the identified housing land supply for the plan period. This adds significantly to the significant benefit which has already been identified as accruing to the appeal proposal.

The parties differ over the size of the shortfall in the five-year housing land supply. The calculation of a five-year supply is made by reference to an averaging of the plan period requirement. But, that does not reflect a reality in which supply can fluctuate wildly year by year. Thus, the trajectory for Tewkesbury contained within paragraph 7.1.36 of the JCS predicted a cumulative shortfall in delivery for the first four years of the plan period. This shortfall would be erased by year five (thus demonstrating an anticipated 6.3-year supply, on adoption, as stated in paragraph 7.1.19). Subsequently, there would be a considerable cumulative surplus in supply lasting until 2024-25. Thereafter, a cumulative shortfall would arise requiring ever more demanding annual requirements if the housing requirement for the plan period were to be met.

That prediction of a wildly fluctuating supply seems to have turned out in practice. The expected cumulative shortfall for 2024-5, is now expected to occur a year later **than anticipated, according to the Council's December 2020 Housing Land Supply Position Statement**. It is reflected **in the Council's** calculation of its five-year supply. The Council's **claim of a 4.35-year supply** would have been even lower had it looked only to the future and not taken account of past performance exceeding **the annual average of the plan's requirement**. That seems to me to be a just approach, because it reflects reality, not a theoretical formula applied without consideration of actual outturns. Nevertheless, it should not blind one to the pressing need to identify land for housing for the remainder of the plan period. As is usual in these matters, the appellant seeks to throw doubt on the accuracy of **the Council's calculation of its five-year supply** by challenging the delivery programme of two of its component sites. The evidence for the deliverability of these two sites is contradictory but, in truth, it matters little. Whether the Council

has an identified supply of 4.35 years or a lesser figure if the two sites in contention are discounted, the fact is that it simply does not have a five-year supply now. Unless further sites for development are identified, either through emerging local plans or through the development management process, it is likely to have an even lower identified supply in future.

Consequently, in addition to enhancing the value which is placed on the benefit of providing housing, the shortfall means that paragraph 11(d) of the NPPF applies. This deems the policies which are most relevant for determining the application as out of date. It applies the presumption in favour of sustainable development. This means granting permission unless NPPF policies to protect areas or assets of particular importance provide a clear reason for refusal or unless any adverse effects of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. This NPPF paragraph is not disapplied by NPPF paragraph 177 because the appropriate assessment carried out earlier has concluded that the project would not adversely affect the integrity of the Severn Estuary SPA.

Schools

It is accepted by both parties that the effect of the proposal on the demand for and provision of schools should be ascertained with reference to Department for Education guidance, *Securing developer contributions for Education* (November 2019).³ Paragraph 3 of this guidance advises that it is important that the impacts of development are adequately mitigated, requiring an understanding of:

- **The education needs arising from development, based on an up-to-date pupil yield factor;**
- **The capacity of existing schools that will serve development, taking account of pupil migration across planning areas and local authority boundaries;**
- **Available sources of funding to increase capacity where required; and**
- **The extent to which developer contributions are required and the degree of certainty that these will be secured at the appropriate time.**

Pupil yield factors (also known as pupil product ratios) are used to estimate the numbers of children that would arise from a development. They should be based on up-to-date evidence from recent housing developments. In Gloucestershire the most up to date evidence from recent housing developments is to be found in what is known as the Cognisant Study of 2019, examining 8690 dwellings at seven settlements.

JCS policy INF6 requires that, in identifying infrastructure requirements, development proposals will also demonstrate that full regard has been given, where appropriate, to implementing the requirements of the JCS Infrastructure Delivery Plan (the IDP) of 2014. As the IDP pupil yield factors are based on a 2007 assessment, they are no longer the most up to date evidence from recent housing developments and so it is no longer appropriate to use them as a basis for estimates of the effects of development on the demand for and provision of schools.

However, the use of the Cognisant Study is itself problematic and has been opposed, although not technically challenged, by some of the very bodies which commissioned its production. It has produced results which are startlingly high

³ By following this advice, I have no need to come to a view on the allegation of the adoption by the County Council of a "new formulaic approach" denounced in national Planning Practice Guidance.

when compared with previous figures for the area and with other local authority areas. The reasons remain not fully explained.

The Cognisant Study appears to be based on survey results weighted to correct the balance of participating returns so as to correspond with actual mix of dwellings of different sizes on the developments surveyed. The survey was by face to face interviews with residents who agreed to participate, so was self-selecting. There is no report of any check on whether participants were representative of those who chose not to participate (perhaps because they had no children and so would not have been interested in a survey intended to establish child product ratios) nor any consequent weighting. Nor, as Mr Tiley points out, was any adjustment made for second homes or vacant dwellings. It would be wrong to presume that new developments are immune from the vicissitudes of life which cause dwellings to become vacant. For both these reasons, the child product ratio identified by the Cognisant Study will have been exaggerated. Nevertheless, it is the best and most recent evidence available.

In translating its child product ratios into pupil product ratios, the advice of paragraph 13 of the DfE advice is relevant. It does not require their moderation with regard to their effects on the viability of a development but it does observe that; **"All education contributions are based on an assessment of probability and averages, recognising that the precise mix of age groups and school choices cannot be known before a development is built."**

By contrast, the County Council's pupil product ratios take a fail-safe approach (or worst case scenario **as the County Council's advocate described it in paragraphs 52, 56 and 57 of his closing submissions**) of seeking to ensure provision for all contingencies rather than an assessment of probability and averages.

Consequently, as Mr Tiley points out, no allowance is made for parents who may choose to have their children educated outside of the state sector⁴. Paragraph 102 of **the County Council's previously adopted** Local Developer Guide noted that child yield was reduced to take account of these factors but the emerging Local Developer Guide (now adopted) does not. This omission contributes to exaggerate further the pupil product ratios used by the County Councils⁵.

This particular cause of exaggeration would apply forcefully to early years calculations where, although local authorities have a duty to ensure early years childcare provision within the terms set out in the Childcare Acts and the DfE has scaled up state funding of early-year places, many early years settings fall within the private, voluntary and independent (PVI) sector, as paragraph 9 of the DfE advice points out. But the exaggeration also applies, to a lesser degree, to the primary and secondary sectors.

Finally, as Mr Tiley correctly points out, **the County Council's** calculations of pupil product ratios take no account of the fact that most house moves take place over short distances with the result that many prospective child residents are already in attendance at Gloucestershire schools and would not be new to the system. **The County's view that such house moves would be backfilled by** new residents with equal demands on the school system is mistaken because, as is well known, average household sizes nationally are falling as a result of the fragmentation of families, delays in family formation and the greater longevity of elderly households whose children have left home. Gloucestershire is not exempt from these phenomena.

⁴ Although Mr Chandler, at paragraph 6.12 of his evidence, asserts that the Cognisant study only took account of pupils educated in state schools.

⁵ I do not need to consider arguments about the status of **the County Council's** Local Developer Guide. What matters are the pupil product ratios themselves, not the vehicle in which they travel.

For all the above reasons, together with the **County Council's record of overestimation of numbers of pupils in its forecasts**⁶, I am not convinced by the **County Council's calculations of the** pupil demand likely to arise from the proposal. **I find Mr Tiley's calculations more convincing, supported as they are by the "sense check" of the NEMS Market Research survey and by comparisons with other Local Education Authority areas.** Nevertheless, in case I am mistaken, and to ensure the robustness of my decision, for the purposes of the remainder of this section of my **decision, I use the "worst case scenario" of the County Council's figures**, as does **the appellant's expert**, Mr Tiley; 28.5 pre-school places, 39 primary school places, 19 secondary school places and 6.5 post-16 places.⁷

The second bullet point of the DfE advice is to examine the capacity of existing schools that would serve the development. There is further DfE advice on how this is to be done in the form of its *School Capacity Survey 2019 Guide to forecasting pupil numbers in school place planning*. Projections of pupil numbers are to be made for primary years (reception to year 6) and for secondary years (years 7 to 11 (or 13 where schools have sixth forms)) using one set of planning areas for the primary projections and a second set for secondary years.

The planning areas should be mutually exclusive groups of schools that represent admissions patterns and reasonable alternatives to one another. National Planning Practice Guidance similarly refers to a need to consider school capacity within the relevant school place planning areas. There is no suggestion that the examination of capacity should be limited to only one primary and one secondary school to serve the development, yet this is what the County Council has done in basing its attitude towards the development on the view that Norton Primary School and All Saints Academy secondary school lack the capacity to serve the development. In fact, in the current case, even to base an assessment on school planning areas rather than individual schools may be unrealistic because the site is located on the cusp of three primary school planning areas (Churchdown/Innsworth school planning area D35, Tewkesbury school planning area D10 and Hesters Way Cheltenham school planning area D32) and two secondary school planning areas (Tewkesbury D48 and Cheltenham D53). It lies within but close to the edges of Churchdown/Innsworth primary school planning area and Tewkesbury secondary school planning area.

The County Council seeks to justify its choice of examining capacity in a more limited way with reference to the distance to be travelled (incurring less public expenditure on transport costs) and the desirability, in terms of social cohesion, of accommodating all the pupils deriving from the development at a single school. I am not persuaded by these arguments for the following reasons.

Firstly, they do not appear to take account of parental choice. Secondly, in terms of social cohesion, there is no evidence to suggest that all present child residents of Coombe Hill attend the same primary and secondary schools together. Not all parents would support such attempts at social engineering in any event. Thirdly, Norton, at a distance of 2.9 miles from the appeal site may be the closest primary school to the appeal site but that is still at a distance which primary school children are unlikely to walk (although a footpath is provided the full length of the A38, it is not continuously on the same side of the road and so would require crossing the main road twice between Coombe Hill and Norton, an implausible proposition for unaccompanied children of primary school age) and so motorised transport is likely. If transported by car, the differences in distances involved (3 miles to Tredington, 3.2 miles to the other options) are unlikely to figure largely in parents'

⁶ Demonstrated in amended figures 10.3 and 10.4 of Mr Tyler's evidence

⁷ Paragraph 7.5 of Mr Chandler's proof of evidence

choices. If transported by public transport, the greater frequency of bus services to John Moore Primary School, even with a five minute walk to and from the bus stop, is likely to make an accompanied round trip more convenient than using the less frequent service to Norton. Fourthly, the difference in travel times and distances between the two secondary schools in contention; All Saints Academy (3.2 miles) and Tewkesbury School (4.7 miles) is again unlikely to be determinative of parental choice.

For all the above reasons, I am persuaded more by the appellant's approach to analysis of school capacity available to serve the development than by the County Council's analysis. There is a further dispute between the parties as to whether capacity means 100% occupancy of a school or (as the County Council argues) 95%. I accept **the advice given in the Audit Commission's publication** *Trading Place: the Supply and Allocation of School Places* that a sensible approach would be to plan for a 95% occupancy rate at schools and accept some variation, say plus or minus 10% around this target. That is to say that capacity means a figure of between 85 and 105% occupancy. In practice, it does not make any difference to the outcome in this case, when assessed across school planning areas or groups of proximate schools.

For pre-school provision, I note that paragraph 2.23 of the Statement of Common Ground on Educational Contributions acknowledges that **"capacity may be available to meet demand."** Nothing that I subsequently heard during the Inquiry causes me to reach a different conclusion. The SOCG notes that the utilisation of that capacity must be funded but that is an ongoing revenue cost. It is incurred whether the capacity is used by residents of existing or new development. Insofar as it is publicly funded, it is publicly funded from the taxes or rates of both new and existing residents as a revenue cost. There should not be an expectation of any capital contribution from new development on that account.

For primary **schools, even using the County Council's exaggerated** pupil product ratios, there would be sufficient capacity in 2023 within the Churchdown/Innsworth primary school planning area in which the appeal site lies to absorb the demand arising from the development without the need for expanding accommodation (between 92 and 203 spaces available, 39 required, resulting in 89.8-96.7% occupancy). Alternatively, looking across primary school planning areas to the nearest primary schools to the appeal site, there would be sufficient capacity to absorb the demand arising from the development without the need to expand accommodation. Indeed, one school (Queen Margaret Primary School) could accommodate all the children arising from the development without exceeding 95% occupancy.

Similarly, for secondary schools and sixth form demand, even using the County Council's **exaggerated pupil product** ratios, there would be sufficient capacity within the Tewkesbury Secondary School planning area in which the appeal site lies to accommodate the demand arising both from the development and from other committed developments, without any need for expanded premises. Tewkesbury School itself is forecast to have a surplus capacity of at least 373 places in 2024/5, more than sufficient to accommodate pupils expected to arise from other committed developments (161.5) as well as those which the Council expects to arise from the appeal proposal (19).

The Council argues that the capacity should be reserved for other allocations in its emerging Local Plan but there is no guarantee that they would be found sound or come forward, nor any reason why capacity should be reserved for those prospective developments rather than for the appeal in hand. Appraisals of the consequences of demand arising from new development are usually made on the basis of actual proposals as applications are made, together with committed

permissions. On that basis, there would be no shortfall requiring the appeal proposal to contribute to an expansion of capacity.

I therefore conclude that the effects of the proposal on the demand for and provision of schools would be acceptable without the need for any provision of expanded facilities. The appeal proposal would comply with Policy GNL11 of the Tewkesbury Borough Local Plan to 2011 (adopted March 2006) and Policies INF4, INF6 and INF7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031. Amongst other matters, these require that planning permission will not be given unless the infrastructure and public services necessary to enable the development to take place are available.

It follows that I do not need to consider the third and fourth bullet points of the DfE advice on securing developer contributions for Education. It also follows that the provisions of the Unilateral Undertaking for financial contributions to be made in respect of Education contributions (the pre-school years contribution, the primary education contribution, the secondary education contribution and the sixth form education contribution) are unnecessary and so, do not meet the statutory tests of the CIL regulations. I have therefore taken no account of them in reaching my decision.

It also follows that I do not need to opine on a matter which took a considerable amount of inquiry time. That issue was the propriety and reasonableness of levying a CIL charge (apparently introduced and originally justified on the basis of raising money to be spent on the provision of education but subsequently the subject of a decision to divert the revenue to other causes) whilst simultaneously seeking contributions to education capital expenditure through planning obligations.

Open space, outdoor recreation, sports and community facilities

The County's case for seeking a financial contribution towards the provision of additional or improved library facilities in Tewkesbury to serve the development was not contested and appears to be well-founded. The inclusion of a financial contribution for this purpose within the Unilateral Undertaking would satisfy the need to make such a contribution towards the provision of that particular community facility. It appears to be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to it in scale and kind and so it would comply with the CIL regulations.

Paragraphs 1.26 and 5.2 and Schedule 3 of the Unilateral Undertaking to the Borough Council commit the developer to provide no less than 2.4ha of public open space on site, designed in such a manner as to encourage recreation activity to be diverted away from the Coombe Hill Canal SSSI, including a Locally Equipped Area for Play (LEAP) and laid out prior to the first occupation of any dwelling on site. The undertaking also makes provision for future maintenance of the open space. These arrangements would exceed the requirements of policy RCN1 of the Tewkesbury Local Plan to 2011 adopted in March 2006, which specifies a quantity of open space to be provided on site in proportion to the expected population, amounting to a total of 0.28 ha in this case. The proposals would comply with policies INF4, INF6 and INF7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031. Amongst other matters, these require that planning permission will not be given unless the infrastructure and public services necessary to enable the development to take place are available.

The quantity of open space proposed would also be adequate to serve the site under development adjacent to the Swan public house at Coombe Hill and so the arrangements would also comply with policy COO1 of the emerging local plan

which would require accessible open space to be provided on site for use by the wider community, contribute to the wider green infrastructure network envisaged by the JCS, deliver biodiversity net gains and mitigate against increased recreational pressures on the Coombe Hill Canal SSSI.

These arrangements set out in the Unilateral Undertaking would be necessary to make the development acceptable in planning terms, would be directly related to the development and would be fairly and reasonably related to it in scale and kind. They would therefore comply with the CIL regulations and so I have taken them into account in making this decision.

Other matters

A built heritage statement submitted with the application identifies a minor degree of harm to be caused to a Grade 2 listed building, Grange Farm Barn at Walton Grange Farm, to the north of the site. This might be thought to trigger the statutory duty set out at s66 of the Planning (Listed Buildings and Conservation Areas Act 1990) to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

There is no suggestion that the development would have any effect on the preservation of the listed building but its setting does need to be considered. The barn can be seen across the site from the A4019 but, in that view, it can be seen that the barn is set within a huddle of buildings which comprise the farm complex and which is itself a part of the group of buildings which comprises the northernmost element of the scattered Coombe Hill settlement.

I do not demur from the opinion expressed in the appellant's built heritage statement that the primary experience of the listed building is in the immediate setting of its surrounding farm complex. Although the appeal site currently makes a minor positive contribution as a small part of the wider agricultural landscape which surrounds the hamlet of which the barn and farm buildings are a part, the essential character of the barn is that it is set within that hamlet and is not free-standing within the countryside.

Similarly, I concur with the conclusion of the built heritage statement that overall, the proposed development will likely result in a minor degree of harm to the significance of the Barn through a change to the wider setting of the heritage asset and the erosion of part of the wider agricultural context. Nobody other than the **appellants' own consultant has commented on this matter and so I conclude that** the harm would be so much less than substantial as to be practically imperceptible. Nevertheless, it is a harm to be weighed against the public benefits of the proposal which I do in the concluding section of this decision.

Planning balance

As it turns out, subject to some of the Unilateral Undertakings and with the conditions attached to this permission, the planning balance is almost entirely one-sided. The site is an entirely appropriate location for new development of the scale proposed. There is nothing in the material before me to demonstrate that the effect of the quantity of development proposed on the character and appearance of the area need be anything other than acceptable. There would be an almost imperceptible degree of harm to the setting of a listed building. The proposal would have no significant adverse effects upon the integrity and conservation objectives of the Severn Estuary Special Protection Area and Ramsar Site. The effects of the proposal on the Coombe Hill Canal SSSI would be acceptable.

The proposal would not increase the level of risk to the safety of occupants of the site, the local community or the wider environment and would contribute to a

reduction in existing flood risk. The housing to be provided would make a significant contribution to the supply of housing in Tewkesbury. Its benefit would be enhanced when considerations of both the inadequacy of supply inherent in the local plan and shortfalls in the current five-year housing land supply are taken into account. The effects of the proposal on the demand for and provision of schools would be acceptable without the need for any provision of expanded facilities. Provision for open space, outdoor recreation, sports and community facilities would meet and exceed development plan requirements. Overall, the public benefits of the proposal would clearly outweigh any minor harm to the setting of the nearby listed building and so the appeal should be allowed.

Conditions

The parties suggested thirty-six conditions which they felt might be necessary in the event of my allowing the appeal. I have considered these in the light of national guidance and the tests set out in the NPPF, preferring where appropriate the model wording of the annex to the otherwise superseded circular 11/95, *the use of conditions in planning permissions*.

The first three conditions are required by law. The fourth applies the decisions of the courts in respect of parameter plans and is necessary to give effect to the **appellants' request for the access to the site to be considered in detail**. Condition (5) is necessary because the effects of the development have been considered in relation to a maximum number of dwellings.

Conditions (6), (7) and (8) are pre-commencement conditions necessary to secure details (or the implementation of details) of matters which would not necessarily be included in reserved matters. Some of these requirements (e.g condition 8(ii) are **recommended by the appellants' consultants**). Other requirements of these conditions are necessary to comply with an aspect of development plan policy. Conditions (9) and (10) are likewise intended to secure details (or the implementation of details) of matters which would not necessarily be included in reserved matters but which do not need to be pre-commencement conditions.

Condition 11 is necessary because Coombe Hill currently has no street lighting and the Parish Council is anxious to retain that rural characteristic; the condition would allow the Borough Council to give careful consideration to the characteristics of any lighting scheme proposed.

I have not included a requirement for the submission of a design principles document because I have found the previously submitted DAS to be adequate in establishing principles of design. JCS Policies SD3, SD4 and SD6, which apply design considerations, will continue to apply to reserved matters applications and to applications for the discharge of conditions; approval of this outline application does not override the need to comply with those policies when detailed applications are made.

Nor have I included a requirement for the submission of precise details or samples of external facing, roofing or hard surfacing materials because appearance is a reserved matter, details of which are anyway required by condition (1). The definition of appearance in the DMPO includes architecture, materials, decoration, lighting, colour and texture.

Likewise, I have not included a condition requiring the submission of details of boundary treatment because landscaping is also a reserved matter defined in the DMPO as including screening by fences, walls or other means. For similar reasons, other than the imposition of condition (7) applying the tree protection **recommendations of the appellants' consultant**, I have not included the suite of suggested conditions relating to landscaping and landscaping management plans because landscaping is a reserved matter, detailed submissions of which are

required anyway by condition (1) and which may obviate the necessity of the additional conditions suggested. If the detailed submissions give rise to the need for further conditions, they can be applied at that stage.

I have not included conditions requiring a survey of visitors to the Coombe Hill Canal and Meadows nature reserve for reasons explained earlier or for the preparation of a visitor management plan because that is best left to the discretion of the Gloucestershire Wildlife Trust. I have not included conditions requiring the provision of open space because that is required by the Unilateral Undertaking given to the Borough Council. The provision of a LEAP is shown on plan 2 attached to the Undertaking, forming part of the definition of On Site Open Space in paragraph 1.26 of the obligation.

I have included condition 10(vi) because I am not entirely satisfied that the provisions of the Unilateral Undertaking to Tewkesbury Borough Council which would provide the Council with money to be used towards the preparation and provision of household information packs for each dwelling would necessarily ensure that each household would receive the packs containing the appropriate material as intended. Much of the intended content of the packs would need to be **derived from material contained within the appellants' consultants'** documentation and it would be the appellants who would have knowledge of the intended first occupation dates of each dwelling, so I do not think it would be sufficient simply to devolve responsibility to the Council by means of a payment.

P. W. Clark

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Meyric Lewis	Of counsel, instructed by Jeremy Patterson of Tewkesbury Borough Council
He called	
Karen Colebourn	Director and Principal Ecological Consultant at Ecological Planning & Research Ltd (EPR)
BSc(Hons) FCIEEM	Urban Design Officer, Tewkesbury Borough Council
Alice Goodall BSc MA MRTPI	Joint Core Strategy Planning Policy Manager
Hannah Millman B.Sc.(Hons), MSc, MRTPI	
Paul Hardiman LLB(Hons), PG Dip, MBA, MSc, CMILT, MRTPI	Community Infrastructure Levy (CIL) Manager for the three Joint Core Strategy (JCS) Councils of Cheltenham Borough, Gloucester City and Tewkesbury Borough

Rachel Hill and Gary Spencer took part in the discussion on obligations and conditions

FOR THE COUNTY COUNCIL:

Douglas Edwards QC	instructed by Bridgette Boucher, Senior Lawyer, Gloucestershire County Council
He called	
Stephen Chandler	Place Planning Manager, Gloucestershire County Council
BSc(Hons)	
Liz Fitzgerald BA(Hons) DipTP MRTPI	Barker Parry Town Planning

Bridgette Boucher and Stephen Hawley took part in the discussion on obligations and conditions

FOR THE APPELLANT:

Paul G Tucker QC	Assisted by Constanze Bell, of Counsel, instructed by David Hutchison of Pegasus Group
He called	
Tim Goodwin BSc(Hons) MSc MEnvSc MCIEEM	Director, Ecology Solutions
Neil Tiley BSc(Hons) AssocRTPI	Director, Pegasus Group
Paul Harris BA DipLA CMLI	Director, MHP Design Ltd
David Hutchison BSc(Hons) DipTP MRTPI	Executive Planning Director, Pegasus Group

Robyn Evans took part in the discussion on obligations and conditions

INTERESTED PERSONS:

Colin Withers
John Arkell
Mike Smart
Andy Eagle

Coordinator of Leigh Parish Neighbourhood Plan
Leigh Parish Council
Ornithologist
Local resident

Additional DOCUMENTS submitted during the Inquiry

- 1 Notification letters of date, time and nature of Inquiry
- 2 Ecology Statement of Common Ground
- 3 Statement of Common Ground on Educational Contributions
- 4 Statement of Common Ground on Housing Need and Supply
- 5 Statement of Common Ground on Matters relating to Drainage and Flooding
- 6 Planning Statement of Common Ground
- 7 Pre-Action Protocol letter from Robert Hitchins Group dated 15 March 2021 re Gloucestershire CC Local Development Guide
- 8 Response dated 22 March 2021 from Gloucestershire CC to Pre-Action Protocol letter
- 9 Mike Smart; Comments on ecological issues
- 10 Letter dated 23 March from Dr Gareth Parry of Gloucestershire Wildlife Trust
- 11 Gloucester County Council CIL Compliance Statement dated 9 February 2021 (150 unit scheme)
- 12 Submission from Andy Eagle dated 24 March 2021
- 13 Natural England clarification of differences between editions of the Functionally Linked Land report
- 14 Gloucestershire County Council CIL Compliance Statement dated 24 March 2021 (95 unit scheme)
- 15 Natural England email confirming no material changes relating to Curlew or to Coombe Hill between editions of Functionally Linked Land report
- 16 Tewkesbury School Capacity
- 17 Borough Council CIL Compliance Statement
- 18 Report and Appendix B to Gloucestershire County Council Cabinet 24 March 2021 recommending adoption of revised Local Development Guide
- 19 Joint Statement of Mr Chandler and Mr Tiley
- 20 Technical Note: Drainage and Flood Risk
- 21 E-mail dated 16 April 2021 attaching Pioneer Property Services Briefing Paper: Affordable Housing Proposal
- 22 E-mail dated 18 April **2021 from Liz Fitzgerald confirming GCC's** no comment on Technical Note: Drainage and Flood Risk
- 23 Inquiry Note; The potential regional park
- 24 JCS Green Infrastructure Strategy June 2014
- 25 E-mail from Borough Council concerning contaminated land
- 26 **Appellant's response to e-mail concerning contaminated land**
- 27 Completed Unilateral Undertaking to Tewkesbury Borough Council
- 28 Completed Unilateral Undertaking to Gloucestershire County Council

CONDITIONS

- 1) Details of access (other than that approved in condition (4) below), appearance, landscaping, layout, and scale of each phase of development (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development of the relevant phase takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan reference 100.P.1.2, Land Use, Access & Movement Parameters Plan reference P20-1585_03 REV: A, Building Heights Parameters Plan reference P20-1585_04 and unnumbered drawing included at Appendix D of the submitted Transport Assessment by Wood Environment & Infrastructure Solutions UK Limited entitled Access Junction and Visibility Splays.
- 5) The development hereby permitted shall provide no more than 95 dwellings.
- 6) No development shall take place until details of the following have been submitted to and approved in writing by the local planning authority;
 - (i) the phasing of development and the numbers of dwellings of each size and type to be provided within each phase of development.
 - (ii) off-site highway works, namely; widening of footway to 2m on A38; bus stop improvements on A38; bus stop signage and marking improvements and; informal crossing of A38.
 - (iii) a Construction Management Plan and Construction Waste Management Plan and Construction Ecological Management Plan.
 - (iv) notwithstanding the submitted archaeological evaluation report by Worcestershire Archaeology, a programme of archaeological work in accordance with a written scheme of investigation which has been previously submitted to and approved in writing by the local planning authority.

The development shall be carried out in accordance with the approved details.
- 7) No development on any phase of development shall take place until the tree protection measures detailed in the arboricultural impact assessment and tree protection plan, drawing number 19228.502, relevant to the phase in question, included as Appendix 4 of the submitted Arboricultural Survey, Impact Assessment and Protection Plan by MHP arboricultural consultants have been put in place. The tree protection measures shall be retained in place until the completion of the relevant phase of development.

- 8) No development on a phase of development shall take place until details of the following in relation to that phase have been submitted to and approved in writing by the local planning authority;
- (i) existing and proposed ground levels and finished floor levels above ordnance survey datum.
 - (ii) mitigation measures to achieve compliance with BS8233: 2014 recommended internal and external noise levels.
 - (iii) notwithstanding the findings of the submitted Preliminary Geotechnical Design Report, any remedial measures which may be identified following an examination (in accordance with a methodology previously submitted to and approved in writing by the local planning authority) of potential contamination (a) by polycyclic aromatic hydrocarbons migrating from the adjacent petrol filling station and (b) from two septic tank locations identified in the submitted Preliminary Geotechnical Design Report.
 - (iv) Foul and surface water drainage.
 - (v) Construction and loading capacity of the highways.
- The development shall be carried out in accordance with the approved details.
- 9) No development above ground on a phase of development shall take place until details of the following, in relation to the relevant phase, have been submitted to and approved in writing by the local planning authority;
- (i) Facilities for the storage of waste, refuse and recycling materials for each dwelling.
 - (ii) Secure and covered cycle storage facilities for each dwelling.
- The development shall be carried out in accordance with the approved details, which shall thereafter be retained for their intended use.
- 10) No dwelling shall be first occupied until the completion and bringing into use of the following;
- (i) The off-site highway works referred to in condition 6 (ii).
 - (ii) Its means of access for vehicles, cycles and pedestrians.
 - (iii) Its associated vehicle parking.
 - (iv) An associated electrical vehicle charging point.
 - (v) A full Travel Plan which shall have been previously prepared, submitted to and approved in writing by the local planning authority.
 - (vi) A scheme of providing each dwelling with a Homeowner Information Pack detailing the location and sensitivities of the Coombe Hill Canal SSSI **and the GWT's Coombe Hill Canal and Meadows Nature Reserve and** alternative dog walking and recreational facilities.
- 11) No street lighting or other external lighting shall be installed without the prior submission of details to, and written approval of, the local planning authority. The development shall be carried out in accordance with the approved details.

- 12) No more than 40 dwellings of the development hereby permitted shall be occupied until the approved (as shown in PFA Consulting drawing ref H605-0101D General Arrangement), or approved alternative, scheme for the A40 Longford Roundabout has been implemented and is open to traffic.

APPENDIX 5

Report to Gloucester City, Cheltenham Borough and Tewkesbury Borough Councils

by Elizabeth C Ord LLB(Hons) LLM MA DipTUS

an Examiner appointed by the Councils

Date: 31 July 2018

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT GLOUCESTER, CHELTENHAM and TEWKESBURY COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULES

Charging Schedule submitted for examination on 28 July 2016

Examination hearings held between 15 May 2018 and 17 May 2018

File Ref: PINS/B1605/429/1

Non Technical Summary

This report concludes that, subject to modifications, the Gloucester, Cheltenham and Tewkesbury Community Infrastructure Levy charging schedules provide an appropriate basis for the collection of the levy in the three Council areas, as set out in the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, adopted in 2017.

The modifications to the schedules that are needed to meet the statutory requirements are summarised as follows:

- Adding another category of residential development, namely 450 dwellings and over; charged at £35 per square metre in Cheltenham and Tewkesbury and nil rated in Gloucester;
- Restricting the 11 plus dwelling category to between 11 and 449 dwellings;
- Reducing the out of centre retail rate from £100 per square metre to nil;
- Adding West Cheltenham to the Tewkesbury charging schedule.

Subject to these modifications, the Councils have sufficient evidence to support the schedules and can show that the levies are set at a level that will not put the overall development of the areas at risk.

The specified modifications recommended in this report are based on matters discussed during the public hearing sessions and do not substantially alter the basis of the Councils' overall approach or the appropriate balance achieved.

Introduction

1. This report contains my assessment of the Community Infrastructure Levy (CIL) Charging Schedules for Gloucester City Council, Cheltenham Borough Council and Tewkesbury Borough Council as required by Section 212 of the Planning Act 2008. It considers whether the schedules are compliant in legal terms and whether they are economically viable as well as reasonable, realistic and consistent with national guidance.
2. The three Councils have a Joint Core Strategy (JCS) which includes strategic allocations (SAs), other strategic matters, and development management policies. The JCS was adopted by Gloucester City Council on 27 November 2017, by Cheltenham Borough Council on 11 December 2017 and by Tewkesbury Borough Council on 5 December 2018. Following on from the JCS, each Council is aiming to have its own district level plan, which will include non-strategic allocations.
3. The Councils worked jointly to prepare the draft CIL charging schedules, (DCSs) which were published for consultation between 13 May 2016 and 24 June 2016. These schedules were amended by way of Statements of

Modifications (SoMs) in order to align the DCSs with the emerging modified JCS. Additional Ordnance Survey maps were appended to the schedules to reflect the changes. Consultation on the SoMs was held from 28 July 2017 to 29 August 2017 and then extended to 5 September 2017. It is the submitted DCSs as amended by the SoMs which form the basis of my examination and to which I refer in this report as the "modified DCSs".

4. In response to my Matters, Issues and Questions and points raised in the hearing sessions, the Councils put forward further modifications to the "modified DCSs", which are set out in CILEXAM006. These modifications have not been formally consulted upon and consequently do not form part of the "modified DCSs". Nonetheless, I have taken them into account in writing my report.
5. To comply with the relevant legislation the local charging authorities must set CIL rates in a charging schedule which strike an appropriate balance. This is determined by considering, on the one hand, the desirability of CIL funding for infrastructure required to support the development of their areas and, on the other hand, the potential effects of the CIL on the economic viability of development across their areas.
6. In the modified DCSs the Councils propose residential CIL rates differentiated by scale and geographical location. The CIL, which is expressed as £s per square metre (psm), would be as follows:

Gloucester

- | | |
|-----------------------------|---------|
| ▪ 10 dwellings and under | £0 psm |
| ▪ 11 dwellings and over | £45 psm |
| ▪ Winnycroft strategic site | £0 psm |

Cheltenham

- | | |
|---------------------------------------|----------|
| ▪ 10 dwellings and under | £148 psm |
| ▪ 11 dwellings and over | £200 psm |
| ▪ Northwest Cheltenham strategic site | £35 psm |
| ▪ West Cheltenham strategic site | £35 psm |

Tewkesbury

- | | |
|-----------------------------------|----------|
| ▪ 10 dwellings and under | £104 psm |
| ▪ 11 dwellings and over | £200 psm |
| ▪ Innsworth strategic site | £35 psm |
| ▪ South Churchdown strategic site | £35 psm |
| ▪ Brockworth strategic site | £35 psm |

- Northwest Cheltenham strategic site £35 psm
 - Twigworth strategic site £35 psm
7. Only the Cheltenham modified DCS proposes a CIL for older persons sheltered retirement and extra-care homes, which would be as follows:
- Retirement homes £200 psm
 - Extra Care homes £100 psm
8. For retail development the CIL in the modified DCSs is zoned so that retail development outside the city/town centres of Gloucester, Cheltenham and Tewkesbury is proposed at £100 psm and development within the town centres is nil rated. No other CIL charges are proposed and, therefore, all other non-residential uses are nil rated.
9. Other material published alongside the modified DCSs, such as the proposed Regulation 123 lists and instalments policy does not come within the scope of my examination. Although the draft Regulation 123 lists are a component of the submitted evidence, it is for the Councils to consider the representations made in relation to these matters, and the approach to be taken to exemptions relief. 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".

Are the charging schedules supported by background documents containing appropriate available evidence?

Infrastructure planning evidence

10. The Gloucester, Cheltenham and Tewkesbury JCS sets out the main elements of growth that needs to be supported by infrastructure provision in the period to 2031. Further detail is provided in the Infrastructure Delivery Plan (IDP) of August 2014 [INF001], updated by the IDP Addendum of December 2017 [CILEXAM003] and the various IDPs for the Strategic Allocations, which take account of the JCS DS7 transport modelling mitigation schemes. Statements of Common Ground and Position Statements obtained for the SAs provide additional information on infrastructure requirements within the next five years to enable these sites to go forward.
11. The key categories of infrastructure to which the Councils propose to direct CIL revenue are transport, education, community and culture, flood risk management, healthcare, and green infrastructure. The 2017 IDP Addendum indicates that some transport infrastructure funding has been secured from Highways England and the Local Growth Fund and that other monies will be sought from ad-hoc government funding opportunities. Nonetheless, that leaves a significant funding gap.
12. The 2014 IDP estimated a total infrastructure cost within the JCS area of £813.6 million and a funding gap in excess of £741 million. However, the estimated funding gap has changed as applications for SAs have come forward

and bids for external funding have been successful. For instance the transport DS7 mitigation, estimated at around £500 million at the time of issuing DS7, may reduce by as much as half due to external funding.

13. The *Infrastructure Funding Gap Analysis* of September 2016 [INF004] draws together and refines the IDP information to determine key requirements. It explains that initial benchmark-based assessments and delivery routes in the 2014 IDP are in large part not critical to delivery of the Plan, at least in the short term. After consultation with key service providers, confirmed priorities have evolved, resulting in a critical estimated funding gap, which is significantly less than the overall gap for all projects (critical, essential and desirable) set out in the 2014 IDP.
14. An analysis was done in 2016 and 2017 on the critical infrastructure related to SAs, based on feedback from developers, infrastructure prioritisation, funding options assessment and management of routes and implementation risks. For the first five years from when each SA comes forward, the funding gap for their critical infrastructure is estimated at approximately £73 million, excluding the "missing link" highway project, which is no longer considered critical in the delivery of the JCS.
15. The estimated strategic road infrastructure costs for the JCS area are £251,500,000, and there is no known funding for this; for Gloucester City Council, estimated infrastructure costs are £94,284,885 and known funding amounts to £31,391,429, leaving a gap of £62,893,456; for Cheltenham Borough Council costs are £150,499,669 and funding is £41,000,000, leaving a gap of £109,499,669; for Tewkesbury costs are £176,446,071 with funding of £80,500,000, leaving a gap of £95,946,071. Consequently, the overall costs are estimated at £672,730,625 and the known funding is £152,891,429, leaving a total funding gap of £519, 839,196, which includes the £73 million stated above.
16. Based on the information before me, the following CIL receipts are anticipated, taking account of relevant reductions for affordable housing (which is not liable for CIL), 5% of receipts allocated for administration, and an average 20% of CIL receipts passed on to Parish and Town Councils.
 - Gloucester City Council £4,706,910,
 - Cheltenham Borough Council £21,499,003
 - Tewkesbury Borough Council £14,266,344
17. The SAs currently without planning permission are estimated to contribute just over £9 million to these figures.
18. Although the expected CIL receipts are modest in comparison to the overall sizeable funding gap, they would nonetheless make an appreciable contribution towards infrastructure. I am satisfied that the figures are based on sound sources of evidence and that the introduction of a CIL regime is justified.

Economic viability evidence

19. The Councils commissioned a series of viability studies to support both the emerging JCS and the emerging DCSs. The most recent of these reports is the *Plan viability, Community Infrastructure Levy and affordable housing study*, of January 2016 [VIA009], which was supplemented by two reports for additional strategic sites [VIA007 & VIA008]. However, further updates to some of the assumptions underpinning these reports have been provided in the *GCT CIL MIQs Responses – Viability*, of December 2017 [CILEXAM002(a)], as has the note on *Residential Viability Assessment of Strategically Large Sites in the JCS Area* [CILEXAM007(b)]. For ease of reference, I refer to all of this body of evidence as the Viability Assessment (VA).
20. The VA follows a structured methodology, based on the Local Housing Delivery Group's 2012 report *Viability Testing Local Plans*, also known as "the Harman Report". This involves subtracting the costs of development (including profit and s106 costs but excluding land purchase) from the gross development value (GDV) to obtain a residual value for a site. A benchmark/threshold land value (the price at which a typical willing landowner would sell) is then subtracted from the residual value to determine whether there is any surplus remaining. If so, this "headroom" is the maximum amount theoretically available to pay CIL.

Residential

21. Testing for sales values was based on a large sample of 1,253 new build transactions to provide high level assurances that the assumptions upon which the proposed CIL levels are based would not undermine the delivery of the JCS targets, particularly with regard to affordable and general housing provision. Using the Councils' most recent Strategic Housing Land Availability Assessments, generic "typology" sites were created, which are hypothetical sites that reasonably represent the types and sizes of development that are likely to come forward in the JCS area over the Plan period.
22. For residential properties, eleven or twelve typologies were modelled for each of the three authority areas, including brownfield and greenfield sites ranging from 2 dwellings to 400 dwellings, and consisting of houses, flats and mixed developments. Modelling for larger generic sites was generally based on assumptions similar to those used for SAs (ranging from about 500 dwellings to over 4,000 dwellings) with some proportionate adjustments.
23. Assumptions were made on the amount of net developable area for each typology as residential land values are based on the net area that can be built upon. Similarly, density, type and size of unit were modelled as this informs estimates of revenue based on saleable floor space. Taken as a whole, I consider that the assessments are representative of the types of development that are likely to come forward in the JCS area.
24. GDV for residential development was derived from a range of sources. New build sales prices for the period between January 2015 and August 2017 were analysed from Land Registry data and websites such as RightMove. Direct research with developers and agents operating in the area was also undertaken. By analysing price differentials by postcode, eight value zones were established, (three in Gloucester, three in Cheltenham and two in Tewkesbury), each with its own sales value (psm) for houses and flats.

25. Viability thresholds were calculated by determining planning led benchmark land values, which reflect policy requirements, potential planning obligations and, where applicable, CIL. The approach took the existing use value (EUV) plus an uplift, based on evidence of sites on the market to provide an informed guide to existing values. This is in accordance with the advice in the PPG (as revised in July 2018), which explicitly supports the use of EUVs plus a premium as the basis for benchmark land values. A review of viability appraisals in support of planning applications, published data on land values and discussions with JCS authorities' officers and the local development industry was also undertaken to provide comparative evidence.
26. A range of benchmark land values have been used, adjusted according to location. For greenfield typologies, the benchmark land value was taken as the average agricultural price for the South West plus a premium. According to Government published advice, £21,000 per hectare was used, uplifted between 10 and 20 times depending on location and an analysis of land transactions. For brownfield land, transaction data from the District Valuer Service and COSTAR (a commercial property database) was used to obtain likely reuse values and an industry standard premium of about 25% was applied.
27. Although there is a margin of uncertainty in the assumptions used, the benchmark land values are consistent with the approach in the PPG and provide adequate high level approximations of what may be considered to be a reasonable return to a willing landowner.
28. The VA assumes that the JCS policy target for affordable housing will be met. For SAs, other than Winnycroft, for which the VA indicates no contribution for affordable housing could be supported, this amounts to a minimum requirement of 35%. Non-strategic sites of 11 dwellings or more or with a maximum combined floorspace greater than 1,000sqm have a minimum requirement of 20% in Gloucester and a minimum 40% requirement in Cheltenham and Tewkesbury. No affordable housing contribution is sought on sites with 10 dwellings or less.
29. Following the Rent Review in July 2016, transfer values are based on what is typically offered by three local Registered Providers. For affordable rented properties, values have been estimated at 55% of market housing, social rent at 45% of market housing and for intermediate properties, a figure of 65% has been used. The mix of affordable rented, social rent and intermediate properties tested varied with each local authority and whether in respect of a strategic allocation or otherwise. This seems reasonable.
30. Build costs are based on 2016 quarter three data from the Build Cost Information Service (BCIS), published by the Royal Institution of Chartered Surveyors, and rebased to JCS area prices using BCIS defined adjustments. Higher costs are estimated for small to medium sized developers who are unlikely to be able to achieve economies of scale, as is more common for volume and regional house builders. This is a reasonable approach that reflects appropriate industry costs and aligns well with the time period for updated sales values (January 2015 to August 2017).

31. Assumptions for opening up costs such as utilities, land preparation, sustainable drainage systems and spine roads, are scaled in progressive tiers according to the number of dwellings on site. This appropriately reflects proportionate growth in infrastructure costs which increase with the size of development.
32. For brownfield sites an allowance of £200K per hectare has been made for abnormal costs such as remediation and demolition. For any additional abnormal costs that might arise, it would be expected that they be taken off the benchmark land value as they would reflect a sub-standard site for delivering housing, which would reduce the sale price of the land accordingly.
33. 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.
34. An average developer profit of 20% of GDV was assumed for all open market units, which is a commonly used figure in high level viability assessments of this nature. A reduced level of 6% was assumed for affordable homes to reflect the lower risk to the developer, and is in accordance with Homes England's recommendations.
35. Assumptions for other costs appear to reflect industry standards such as externals (eg garden space around dwellings and car parking and those elements that make up the gross internal area, including circulation space within apartment blocks) at 10% of build costs, professional fees at 10% of build costs plus externals, and a contingency at 4% of build costs plus externals.
36. Similarly land purchase costs relating to surveyors fees (1% of land value), legal fees (0.75% of land value) and development finance (6.5% of land value), and sales fees on open market housing (3% of GDV) all seem reasonable and in conformance with industry norms. Stamp duty land tax assumptions reflect the changes brought about in legislation from April 2016.
37. Bespoke assessments were undertaken for each of the SAs within the JCS. The threshold land values were based on professional judgement and the research that informed the generic site typology testing. Sales value analysis followed that for generic typologies except that a premium of 7.5% was applied to reflect the investment made in creating new places, and place making evidence which supported this uplift.
38. Estimates for SA opening up costs were derived from experience and site promoter consultation. The various levels assumed fall within the suggested range set out in the Harman Guidance, which puts strategic infrastructure costs typically at between £17,000 and £23,000 for larger scale schemes. Section 106/278 costs are assumed at £15,000 per dwelling based on discussions with the promoters of two SAs, consultation with the JCS authorities and experience elsewhere. This appears to fall at the upper end of obligation agreements already reached and hence makes reasonable provision.

Older persons housing

39. The VA tested four areas for sheltered retirement and extra-care properties, namely the three urban areas of Gloucester, Cheltenham and Tewkesbury, and the rural area of Tewkesbury. Some assumptions are the same as for residential, although there are also differences in several key assumptions.
40. Many of the assumptions used were informed by the Retirement Housing Group (RHG) guidance. The RHG consists of developers and housing managers who provide strategic advice on best practice for policy decisions affecting the retirement housing sector and it is appropriate that their guidance be taken into account.
41. In setting threshold land values, there were only a few examples of land acquisitions that the VA could draw upon. Nonetheless, taking the information available, as for residential above, the existing use value plus a premium was appropriately established. It was assumed that older persons housing would be located within or close to the town centre and would be a brownfield alternative use site. Therefore, the threshold land value was based on an employment use plus at least 25% uplift for securing an alternative use. Land values tested in Gloucester were around £750,000 per hectare rising in Cheltenham to about £1,500,000 per hectare.
42. In accordance with RHG guidance, sales values for 1 bed and 2 bed sheltered properties were respectively taken at 75% and 100% of a 3 bed semi-detached dwelling. As a sense check, the resulting psm price was compared to retirement properties on the market and found to be comparable. Although there were no retirement properties on the open market in the JCS area at the time of compiling the VA, examples elsewhere with similar values were relied upon in accordance with RHG guidance. To calculate sales values for extra-care properties, again based on RHG guidance, a 25% uplift was applied to sheltered property values. Sizes and densities were established by analysing a number of existing schemes.
43. Costs were taken from BCIS data but reflect the "Gloucestershire wide" figure for 1-2 storey flats uplifted by 9% for sheltered retirement and 13% for extra-care. This takes account of an additional allowance made for demolition and remediation associated with brownfield land of £200K per net hectare within the town centre and £100K per net hectare elsewhere. Other assumptions reflect local market conditions or follow industry standards.

Commercial

44. Whilst non-residential development was also tested, apart from retail development outside the city/town centres, CIL was generally found to render development unviable. Consequently, apart from out of town centre retail, the modified DCSs set a nil rate for these other types of development.
45. I was not satisfied with the robustness of the evidence for out of centre retail and, at the hearing sessions, the Councils therefore agreed that the proposed CIL charge for out of centre retail should be withdrawn in order to obtain more

supporting evidence and review retail CIL rates. This would be done in conjunction with the JCS retail review currently underway. I find this to be a pragmatic and sensible step to take and, consequently, I consider the evidence for non-residential CIL rates no further.

Conclusion

46. The modified DCSs are underpinned by a comprehensive IDP. The VA is logical and overall, subject to my specific findings below, the methodology and assumptions used are reasonable. On this basis, the evidence which informed the modified DCSs is robust, proportionate and appropriate.

Are the charging rates informed by and consistent with the evidence?

Residential rates

47. Some criticism was made of the value zones that were derived from house prices analysed by postcode. However, these value zones show that each local authority area itself provides an appropriate CIL charging zone since, in broad terms, the values differ significantly between each authority area. Although there is some information indicating differing land values within the identified value zones, these are not so marked as to justify amending the boundaries or introducing any further complexity to the schedules through additional CIL zones. This is in accordance with the Planning Practice Guidance (PPG) which advises that undue complexity should be avoided when setting differential rates.
48. Concerns were raised over any CIL charge that might be imposed on the MOD site at Ashchurch, which was initially proposed as a SA in the JCS and then withdrawn because of delivery issues. There are suggestions that at least part of the site might come forward during the Plan period and viability evidence indicates that this large brownfield site would be unviable with CIL at the generic sites rate for 11 dwellings and over. However, the Ashchurch area of the JCS is currently being reviewed and there are other brownfield and greenfield sites that are also under consideration in that area. Consequently, it would be premature to select parts of the MOD site now for special treatment when viability and CIL rates for the wider area will be revisited as part of the review.
49. In accordance with the PPG, the Councils have not set CIL rates at the margin of viability but have allowed for a buffer to respond to changing markets and to avoid the need for frequent updating. This provides a safeguard in the event that GDVs have been over-estimated or costs (including abnormal costs) under-estimated, and to allow for variations in costs and values between sites. The Councils have assumed that the charges should be no more than two thirds of the overage/headroom, leaving a buffer of at least one third. However, for many generic typologies and strategic sites, the buffer is significantly larger, allowing for greater variation in the cost and value assumptions without compromising viability, and providing greater scope to absorb abnormal costs, should these arise.
50. The evidence for the SAs demonstrates that in Cheltenham and Tewkesbury a CIL rate of £35 psm as proposed is viable, although in Gloucester, charging CIL would not be so, and therefore £0 psm is appropriate for the Winnycroft SA. For generic typologies, the VA indicates differences in headroom according to site

size, with larger sites of 11 plus units having more headroom than smaller typologies. Therefore, the differential rates proposed for typologies of 11 dwellings or over, and for 10 dwellings or under, are justified.

51. However, large generic sites of a strategic size, namely those of 450 dwellings and over, are likely to be subject to significant site infrastructure costs, similar to those for SAs. Consequently, the test results for these larger generic sites indicate that they would not viably support the higher generic CIL rate. However, they would support a SA rate of CIL.
52. Therefore, the modified DCS should be amended to reflect a charging rate for sites of 450 dwellings or over of £35 psm in Cheltenham and Tewkesbury and £0 psm in Gloucester. Consequently, the 11 dwellings and over rate should be restricted to developments of between 11 and 449 dwellings. I therefore recommend Modification 1, which sets out these changes.
53. It was argued by developers that the infrastructure costs for some SAs have been underestimated to the extent that a contribution towards CIL would not be viable. However, that is not borne out by the evidence. In any event, the sizable buffer applied should generally absorb any variations.
54. Concerns were expressed over changes made to the DS7 transport infrastructure mitigation package, which feeds into the SA opening up costs and section 106 obligations. However, during the JCS examination it was made clear that DS7 was only one potential package of overall mitigation measures, which could change. Infrastructure provision is an iterative process and is expected to evolve. From the submitted evidence, I am satisfied that appropriate account has been taken of potential transport costs when setting the CIL rates.

Older persons' housing rates

55. Assuming a buffer of a third of the headroom, the testing indicates that only sheltered retirement and extra-care properties in Cheltenham would be viable. Older persons' housing in Gloucester and Tewkesbury have therefore appropriately been nil rated.
56. Within Cheltenham, the headrooms for sheltered retirement and extra-care properties are enough to withstand the proposed CIL charges of £200 psm and £100 psm respectively. They should also be broadly sufficient to absorb variations in the assumptions used.

Commercial rates

57. The nil rate proposed for all commercial uses apart from out of town centre retail is supported by the submitted evidence. Furthermore, as indicated above, the out of town centre retail rate in the modified DCS has been appropriately withdrawn by the Councils pending an immediate review. Consequently, I recommend Modification 2, which reduces the rate for out of town retail development from £100 psm to £0 psm.

Conclusion

58. Overall, subject to the modifications indicated, the proposed CIL rates are informed by and consistent with the evidence.

Does the evidence demonstrate that the proposed charging rates would not put the overall development of the area at serious risk?

59. The Councils' proposals to set CIL rates on the basis described above for dwellings and older persons housing are based on reasonable assumptions about development values and likely costs. The evidence suggests that most residential and older persons development will broadly remain viable across the JCS area if the proposed charges are applied.
60. The exceptions to this are larger generic typologies of at least 450 dwellings, which are more akin to SAs. To preserve viability, the evidence suggests that these larger sites should be charged the CIL rate for SAs of £35 psm for Cheltenham and Tewkesbury and £0 psm for Gloucester, rather than the higher generic typology rates.
61. Furthermore, there is insufficient evidence to demonstrate a commercial CIL rate of £100 psm for out of town centre retail. Consequently, so as not to adversely impact on viability, pending an immediate retail review, out of centre retail development should be nil rated.
62. As noted above, the rate of £35 psm for the West Cheltenham SA is viable. This is a cross boundary site with a part in Tewkesbury Borough Council's area as well as Cheltenham Borough Council's area. I have noted that the SoM for Tewkesbury does not refer to the West Cheltenham SA in its text as regards amendments for Table 1.2, although an Ordnance Survey map is appended to the SoM for this SA. This is clearly an unintended omission and I therefore recommend Modification 3 to rectify this.
63. Subject to these identified modifications, the evidence demonstrates that broadly the proposed CIL rates provide sufficient flexibility to allow for variations in costs and values without adversely affecting viability or putting the overall development of the area at serious risk.

Overall Conclusion

64. In setting the CIL charging rate the Councils have had regard to detailed evidence on infrastructure planning and economic viability for the development markets in Gloucester, Cheltenham and Tewkesbury. The Councils have reviewed this evidence where necessary to ensure that there will be no serious risk to the viability of development. Subject to the modifications that I recommend, I find the Councils' approach to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the JCS area.

LEGAL REQUIREMENTS

National Policy/Guidance	Subject to the recommended modifications, the "modified DCSs" comply with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	Subject to the recommended modifications, the "modified DCSs" comply with the 2008 Act and the 2010 Regulations, including in respect of the statutory processes, public consultation and consistency with the adopted JCS and IDP, and are supported by adequate financial appraisals.

65. I conclude that subject to the modifications set out in Appendix A the "modified DCSs" for Gloucester, Cheltenham and Tewkesbury satisfy the requirements of Section 212 of the 2008 Act and meet the criteria for viability in the 2010 Regulations (as amended). On this basis, I therefore recommend that the "modified DCSs" be approved.

Elizabeth C Ord

Examiner

This report is accompanied by:

Appendix A (attached) – Modifications that the examiner specifies so that the Charging Schedules may be approved.

Appendix A

Modifications specified by the examiner so that the "modified DCSs" may be approved.

These modifications apply to the Draft Charging Schedules [SUB001, SUB002, SUB003] as modified by the Statements of Modifications [SOM001, SOM002, SOM003]. The explanatory text in the schedules should be amended to reflect these modifications.

Modification 1

In Table 1.2 *Residential CIL Rates*, under "*Generic Sites*" make the following amendments:

- add another category: "450 dwellings and over";
- for Cheltenham and Tewkesbury insert a CIL rate of £35 psm for this category;
- for Gloucester insert a CIL rate of £0 psm for this category;
- change "11 dwellings and over" to "between 11 and 449 dwellings"

Modification 2

In Table 1.3 for Gloucester and Tewkesbury and Table 1.4 for Cheltenham, *Non-Residential CIL Rates*, make the following amendments:

- For "*Retail development outside town centre*" change the rate from £100 psm to £0 psm.

Modification 3

In Table 1.2 for Tewkesbury, *Residential CIL Rates*, add another row:

- "B1 West Cheltenham" and insert a rate of £35 psm for this SA.

APPENDIX 6

Cheltenham Borough Council

Community Infrastructure Levy

Regulation 123 List

1 Introduction

- 1.1 Regulation 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) indicates that a Charging Authority can publish on its website a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL (other than CIL to which regulation 59E or 59F applies).
- 1.2 Infrastructure listed below – Regulation 123 list - Infrastructure Projects or Type (that may be wholly or partly secured through CIL) – will no longer be secured through S106 planning obligations or through S278 of the Highways Act (unless as part of the Highways England network). The exceptions to this are set out below in Exclusions from the Regulation 123 List (to be secured through S106, S278 or alternative means).
- 1.3 The intention is to ensure that there is no duplication in the use of both CIL and S106 from the same application for development for the same infrastructure project.
- 1.4 The list does not signify a commitment by the Council to deliver the project, nor does it indicate the Council's CIL spending priorities.

2 Regulation 123

2.1 The Regulation 123 List

Regulation 123 list – Infrastructure Projects or Type (that may be wholly or partly secured through CIL)	Exclusions from the Regulation 123 List – (to be secured through S106, S278 or alternative means)
Primary Education (including Early Education Child Care) that is NOT 'directly related to an individual development' ¹	Provision that meets the CIL Regulation 122 tests- that is 'necessary to make a specific development acceptable in planning terms' ² and 'fairly and reasonably related in scale and kind to that development' ³ and IS 'directly related to that development'
Secondary Education (including Sixth Form within a Secondary School) that is NOT 'directly related to an individual development'	Provision that meets the CIL Regulation 122 tests- that is 'necessary to make a specific development acceptable in planning terms' and 'fairly and reasonably related in scale and kind to that development' and IS 'directly related to that development'
Further Education (outside	Provision that meets the CIL Regulation 122 tests.

¹ The Community Infrastructure Levy Regulation 2010 (as amended) Regulation 122,(2),(b)

² The Community Infrastructure Levy Regulation 2010 (as amended) Regulation 122,(2),(a)

³ The Community Infrastructure Levy Regulation 2010 (as amended) Regulation 122,(2),(c)

of Secondary Schools) that is NOT “directly related to an individual development”	that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and IS ‘directly related to that development’
Special Educational Needs Facilities that are NOT “directly related to an individual development”	Provision that meets the CIL Regulation 122 tests- that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and IS ‘directly related to that development’
<p>Social and Community facilities including:</p> <ul style="list-style-type: none"> • Community halls • Indoor sports and leisure facilities • Libraries • Faith and spiritual • Museums • Youth facilities • Health <p>that are NOT “directly related to an individual development”</p>	Provision that meets the CIL Regulation 122 tests- that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and IS ‘directly related to that development’
Road network, cycle ways, & footpaths that are NOT “directly related to an individual development”	Provision that meets the CIL Regulation 122 tests- that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and IS ‘directly related to that development’
Other transportation infrastructure that is NOT “directly related to an individual development”	Provision that meets the CIL Regulation 122 tests- that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and IS ‘directly related to that development’
Public Realm, Art and Culture that is NOT	Provision that meets the CIL Regulation 122 tests- that is ‘necessary to make a specific development

“directly related to an individual development”	acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and IS ‘directly related to that development’
Open Space and green infrastructure that is NOT “directly related to an individual development”	Provision that meets the CIL Regulation 122 tests: that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and IS ‘directly related to that development’
Strategic flood mitigation measures that is NOT “directly related to an individual development”	Provision that meets the CIL Regulation 122 tests: that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and IS ‘directly related to that development’
Waste recycling that is NOT “directly related to an individual development”	Provision that meets the CIL Regulation 122 tests: that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and IS ‘directly related to that development’
Economic Development Infrastructure that is NOT “directly related to an individual development”	Provision that meets the CIL Regulation 122 tests: that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and IS ‘directly related to that development’

2.2 The Council may seek to secure S106/S278 contributions towards other projects where it is satisfied that the need meets the tests in Regulation 122 (2) of the CIL Regulations 2010 (as amended) and Paragraph 56 of the NPPF (2018) and it is not referred to above in the Regulation 123 List as funding for infrastructure to be wholly or partly funded by CIL.

2.3 The Council may spend CIL on projects not specified in the Regulation 123 list, above, where it funds infrastructure to support the development of its area.

2.4 The Council will regularly review the list to ensure that it reflects the Infrastructure Delivery Plan (IDP).

END

APPENDIX 7

Cheltenham Borough Council

Cabinet – 1st December 2020

Infrastructure Funding Statement (IFS) Approval for Publication

Accountable member	Cllr Victoria Atherstone, Cabinet Member Economy and Development
Accountable officer	Tracey Crews, Director of Planning
Ward(s) affected	All
Key/Significant Decision	No
Executive summary	The purpose of this report is to update Cabinet on the preparation of the Infrastructure Funding Statement (IFS) for 2020 including the required 'Infrastructure List'.
Recommendations	Cabinet are recommended to: Approve the publication of the Infrastructure Funding Statement (IFS) for 2020; and Note that the Annual Community Infrastructure Levy (CIL) Rates Summary Statement will be published alongside the IFS.

Financial implications	None direct. Contact officer: Andrew Knott, Business Partner Accountant (Deputy Section 151 Officer) andrew.knott@cheltenham.gov.uk
Legal implications	<p>The production of an IFS, including a regulation 121A Infrastructure List, is a statutory obligation as a result of amendments to the Community Infrastructure Levy Regulations 2010 (the Regulations) by the Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019. As is the publication of the Annual CIL Rates Summary Statement.</p> <p>Those amendments also revoked, as of 1 September 2019, Regulation 123 of the Regulations thereby removing the restrictions there had been previously, both on the pooling of monies from s106 obligations and also the spending of both CIL and s106 monies on the same infrastructure.</p> <p>The "regulation 123 infrastructure list" previously published alongside the adoption of CIL by the Council remains the Council's infrastructure list until replaced by the regulation 121A 'Infrastructure List' within the IFS.</p> <p>Contact officer: Cheryl Lester, Solicitor, One Legal Cheryl.lester@Cheltenham.gov.uk</p>

HR implications (including learning and organisational development)	<p>None – work will be undertaken within existing capacity.</p> <p>Contact officer: Clare Jones, HR Business Partner, Publica clare.jones@publicagroup.uk</p>
Key risks	<ol style="list-style-type: none"> 1. Failure to publish the required statements would be a breach of Regulations. 2. Though the Infrastructure List will not dictate how funds must be spent, it will set out the Council's intentions and its publication as part of the IFS will provide clarity and transparency for communities and developers on the infrastructure that is expected to be delivered. 3. Not having a clear prioritisation of infrastructure projects may risk that CIL receipts are not targeted towards the most critical infrastructure needed to deliver development.
Corporate and community plan Implications	None directly.
Environmental and climate change implications	None directly, though the effective use of CIL receipts has the potential to have a positive impact on all 3 dimensions of sustainable development through the provision of infrastructure necessary to facilitate growth including environmental infrastructure.
Property/Asset Implications	<p>Not relevant for this report.</p> <p>Contact officer: Dominic.stead@cheltenham.gov.uk</p>

1. Introduction/Background

- 1.1 Regulation 121A requires Charging Authorities to produce an IFS which, in accordance with Schedule 2, provides details of not only CIL but also S106 income and expenditure and an "Infrastructure List".
- 1.2 The CIL Report, on the previous financial year ("the reported year") must include the answers to specific questions on billed and received income, committed and spent expenditure.
- 1.3 The S106 Report, again on the same 'reported year', must include answers to specific questions on not only balances, income, allocation and expenditure of financial contributions but also non-financial contributions that have been secured, such as affordable housing.
- 1.4 The 'Infrastructure List' is "a statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL" (other than CIL which relates to the neighbourhood portion).
- 1.5 The Council must also produce an Annual CIL Rates Summary Statement applying the Royal Institute of Chartered Surveyors (RICS) CIL index, published in November each year, to the existing Charging Schedule to produce a Charging Schedule for the following calendar year. Regulation 121C(1) requires it to be published "no earlier than 2nd December and no later than 31st December".

2. Report Details

Infrastructure Funding Statement – CIL Report

- 2.1** Cheltenham Borough Council and JCS partners in Gloucester and Tewkesbury began charging CIL on planning permissions granted on or after 01 January 2019, however the first payment was made on 28 June 2019, within the reporting year.
- 2.2** CIL Receipts for the reporting year were £73,982.72 from this we deduct:
- £3,699.13 paid towards administrative expenses;
 - £3,283.20 'Neighbourhood Fund' which was distributed to Parish Councils;
 - £7,814.21 'Neighbourhood Fund' which was held by the Borough Council; and this leaves a balance of -
- £59,186.18 'Infrastructure Fund', for infrastructure required to deliver planned development, held by the Borough Council.
- 2.3** The CIL Report also provides details of the £329,174.53 in Demand Notices issued during the reporting year which, in line with the Council's adopted Instalments Policy, will be received over the next two years.

Infrastructure Funding Statement – S106 Report

- 2.3** At the start of April 2019 there was a balance of £2,732,629. During this year we received £25,081 and spent £481,089. At the end of March 2020 there was a closing balance of £2,276,621.
- 2.4** The S106 report also provides details of the £266,660 off-site financial contributions secured and the 38 affordable homes secured on site in agreements entered into in the reporting year.

Infrastructure Funding Statement – Infrastructure List

- 2.5** In the adopted JCS IDP a number of projects were identified as critical. This was updated in 2017 and 2020 and it is those projects that have been selected for inclusion in the 'Infrastructure List.
- 2.6** The Borough Council and JCS partners will review this list, as a minimum, on an annual basis, alongside the preparation of their Infrastructure Funding Statement(s).

The Annual CIL Rates Summary Statement

- 2.7** The Annual CIL Rates Summary Statement (Appendix 2) is based on the RICS CIL Index published on the 26th October ready, as required by the regulations, for the 1st November.

3. Next Steps

- 3.1** Publication of both reports on the Borough Council's website and notification to DHCLG in December 2020

4. Other Options Considered

- 4.1** None as the publication of the IFS and CIL rates summary statement are a statutory requirement.

Report author	Contact officer: Paul Hardiman, CIL Manager paul.hardiman@cheltenham.gov.uk
Appendices	<ol style="list-style-type: none"> 1. 'DRAFT Cheltenham Borough Council Infrastructure Funding Statement 2020' 2. 'DRAFT Cheltenham Borough Council Annual CIL Rates Summary Statement 2020' 3. Risk Assessment
Background information	An introduction to Infrastructure Funding Statements.

Infrastructure Funding Statement for Cheltenham Borough Council

2019/2020

Approved for Publication by Cabinet on the 1st December 2020

Cheltenham Borough Council
December 2020

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Community Infrastructure Levy (CIL) Report

Cheltenham Borough Council

December 2020

Introduction

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) require Contribution Receiving Authorities to publish:

“Annual infrastructure funding statements ... no later than 31st December in each calendar year”.

Regulation 121A(1)

The annual ‘infrastructure funding statement’ (IFS) must include:

“ a report about CIL, in relation to the previous financial year ("the reported year"), which includes the matters specified in paragraph 1 of Schedule 2 ("CIL report")”.

Regulation 121A(1)(b)

Questions and Answers

Schedule 2 sets out a series of questions that must be answered in the annual infrastructure funding statement. The structure of this report is based around answering each of those questions.

Question 1. The total value of CIL set out in all demand notices issued in the reported year?

Regulation 121A(1)(a)

Answer £329,174.53

Question 2. The total amount of CIL receipts for the reported year?

Regulation 121A(1)(b)

Answer £73,982.72

Question 3. The total amount of CIL receipts, collected by the authority, or by another person on its behalf, before the reported year but which have not been allocated?

Regulation 121A(1)(c)

Answer £0 (commenced charging on 1st January 2019 no receipts until 20th December 2019)

Question 4. The total amount of CIL receipts, collected by the authority, or by another person on its behalf, before the reported year and which have been allocated in the reported year?

Regulation 121A(1)(d)

Answer £0

Question 5. The total amount of CIL expenditure for the reported year?

Regulation 121A(1)(e)

Answer Regulation 59A Neighbourhood £0
 Regulation 61 Administration £3,699.13
 Regulation 59(1) Infrastructure £0

Question 6. The total amount of CIL receipts, whenever collected, which were allocated but not spent during the reported year?

Regulation 121A(1)(f)

Answer £0

Question 7. In relation to CIL expenditure for the reported year, summary details of—

Regulation 121A(1)(g)

Question 7(i) The items of infrastructure on which CIL (including land payments) has been spent, and the amount of CIL spent on each item?

Answer None (apart from administrative costs under Regulation 61 income up to 31st March 2020 has been rolled forward in to the 2020/21 financial year)

Question 7(ii) The amount of CIL spent on repaying money borrowed, including any interest, with details of the items of infrastructure which that money was used to provide (wholly or in part)?

Answer £0

Question 7(iii) The amount of CIL spent on administrative expenses pursuant to regulation 61, and that amount expressed as a percentage of CIL collected in that year in accordance with that regulation?

Answer Regulation 61 Administration £3,699.13 (5%)

Question 8. In relation to CIL receipts, whenever collected, which were allocated but not spent during the reported year, summary details of the items of infrastructure on which CIL (including land payments) has been allocated, and the amount of CIL allocated to each item?

Regulation 121A(1)(h)

Answer £0

Question 9. The amount of CIL passed to –

Regulation 121A(1)(i)

Question 9(i) Any parish council under regulation 59A or 59B?

Answer £0

Question 9(ii) Any person under regulation 59(4)?

Answer £0

Question 10. Summary details of the receipt and expenditure of CIL to which regulation 59E or 59F applied during the reported year including -

Regulation 121A(1)(j)

Question 10(i) The total CIL receipts that regulations 59E and 59F applied to?

Answer £0

Question 10(ii) The items of infrastructure to which the CIL receipts to which regulations 59E and 59F applied have been allocated or spent, and the amount of expenditure allocated or spent on each item?

Answer Description: None

Amount: £0

Question 11. Summary details of any notices served in accordance with regulation 59E, including -

Regulation 121A(1)(k)

Question 11(i) The total value of CIL receipts requested from each parish council?

Answer £0

Question 11(ii) Any funds not yet recovered from each parish council at the end of the reported year?

Answer £0

Question 12. The total amount of—

Regulation 121A(1)(l)

Question 12(i) CIL receipts for the reported year retained at the end of the reported year other than those to which regulation 59E or 59F applied?

Answer £70,283.59

Question 12(ii) CIL receipts from previous years retained at the end of the reported year other than those to which regulation 59E or 59F applied?

Answer £0

Question 12(iii) CIL receipts for the reported year to which regulation 59E or 59F applied retained at the end of the reported year?

Answer £0

Question 12(iv) CIL receipts from previous years to which regulation 59E or 59F applied retained at the end of the reported year?

Answer £0

Regulation 121A(2)

For the purposes of paragraph 1—

- (a)** CIL collected by an authority includes land payments made in respect of CIL charged by that authority;
- (b)** CIL collected by way of a land payment has not been spent if at the end of the reported year—
 - (i)** development (within the meaning in TCPA 1990) consistent with a relevant purpose has not commenced on the acquired land; or
 - (ii)** the acquired land (in whole or in part) has been used or disposed of for a purpose other than a relevant purpose; and the amount deemed to be CIL by virtue of regulation 73(9) has not been spent;
- (c)** CIL collected by an authority includes infrastructure payments made in respect of CIL charged by that authority;
- (d)** CIL collected by way of an infrastructure payment has not been spent if at the end of the reported year the infrastructure to be provided has not been provided;

- (e)** the value of acquired land is the value stated in the agreement made with the charging authority in respect of that land in accordance with regulation 73(6)(d);
- (f)** the value of a part of acquired land must be determined by applying the formula in regulation 73(10) as if references to N in that provision were references to the area of the part of the acquired land whose value is being determined;
- (g)** the value of an infrastructure payment is the CIL cash amount stated in the agreement made with the charging authority in respect of the infrastructure in accordance with regulation 73A(7)(e).

Section 106 (S106) Report

Gloucester City Council

December 2020

Introduction

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) require Contribution Receiving Authorities to publish:

“Annual infrastructure funding statements ... no later than 31st December in each calendar year”.

Regulation 121A(1)

The annual ‘infrastructure funding statement’ (IFS) must include:

“A report about planning obligations, in relation to the reported year, which includes the matters specified in paragraph 3 of Schedule 2 and may include the matters specified in paragraph 4 of that Schedule ("section 106 report")”

Regulation 121A(1)(c)

Questions and Answers

Schedule 2 sets out a series of questions that must be answered in the annual infrastructure funding statement. The structure of this report is based around answering each of those questions.

Question 1. The total amount of money to be provided under any planning obligations which were entered into during the reported year?

Regulation 121A(3)(a)

Answer

Planning Reference	Location	Date	Amount
19/00334/OUT	Land off Kidnappers Lane Cheltenham	22 January 2020	£85,160.00
18/02171/OUT	Land Adjacent to Oakhurst Rise Cheltenham	22 August 2019	£0.00
19/00111/FUL	Land known as Telephone Repeater Station Parabola Road Cheltenham	6 March 2020	£181,500.00
TOTAL			£266,660.00

Question 2. The total amount of money under any planning obligations which was received during the reported year?

Regulation 121A(3)(b)

Answer £25,080.94

Question 3. The total amount of money under any planning obligations which was received before the reported year which has not been allocated by the authority?

Regulation 121A(3)(c)

Answer £2,732,629.18

Question 4. Summary details of any non-monetary contributions to be provided under planning obligations which were entered into during the reported year, including details of—

Regulation 121A(3)(d)

Question 4(i) In relation to affordable housing, the total number of units which will be provided?

Answer

Planning Reference	Location	Date	Number (Dw)
19/00334/OUT	Land off Kidnappers Lane Cheltenham	22 January 2020	10
18/02171/OUT	Land Adjacent to Oakhurst Rise, Cheltenham		28
TOTAL			38

Question 4(ii) In relation to educational facilities, the number of school places for pupils which will be provided, and the category of school at which they will be provided?

Answer As a two –tier authority area Gloucestershire County Council will be publishing an Infrastructure Funding Statement and will include details of planning obligations it has secured by way of S106, as well as S278 in its areas of competence.

Question 5. The total amount of money (received under any planning obligations) which was allocated but not spent during the reported year for funding infrastructure?

Regulation 121A(3)(e)

Answer £0.00

Question 6. The total amount of money (received under any planning obligations) which was spent by the authority (including transferring it to another person to spend)?

Regulation 121A(3)(f)

Answer £481,088.65

Question 7. In relation to money (received under planning obligations) which was allocated by the authority but not spent during the reported year, summary details of the items of infrastructure on which the money has been allocated, and the amount of money allocated to each item?

Regulation 121A(3)(g)

Answer

ALLOCATED BUT NOT SPENT

Title	Description	Allocation	Reference	Received
				£0.00
				£0.00

Question 8. In relation to money (received under planning obligations) which was spent by the authority during the reported year (including transferring it to another person to spend), summary details of—

Regulation 121A(3)(h)

Question 8(i) The items of infrastructure on which that money (received under planning obligations) was spent, and the amount spent on each item?

Answer

SPENT

Source	Purpose	Parish/Supplier	For	Amount
10/01243/OUT	Public Open Space	1 st Instalment of grant to Prestbury Parish Council	Sport & Play Facilities at Parish Recreation Ground	£4,723.50
13/00756/FUL	Affordable Housing	Cheltenham Borough Council	Transferred to HRA to fund Capital Programme (commuted sum acquisitions)	£287,500.00
2017/18 receipts from Hatherley Lane & Leckhampton Road developments	Affordable Housing	Cheltenham Borough Council	Transferred to Revenue for CBH Housing Strategy and late payment interest for increased in-year costs	£184,722.60
2012/13 receipts from Devon Avenue development	Public Art	Cheltenham Borough Council	Transferred to Revenue	£1,564.54
2013/14 receipts from Spirax Sarco St Georges Road development	Public Art	Cheltenham Borough Council	Transferred to Revenue	£2,578.01
TOTAL				£481,088.65

Question 8(ii) The amount of money (received under planning obligations) spent on repaying money borrowed, including any interest, with details of the items of infrastructure which that money was used to provide (wholly or in part)?

Answer £0

Question 8(iii) The amount of money (received under planning obligations) spent in respect of monitoring (including reporting under regulation 121A) in relation to the delivery of planning obligations

Answer £0

Question 9. The total amount of money (received under any planning obligations) during any year which was retained at the end of the reported year, and where any of the retained money has been allocated for the purposes of longer term maintenance ("commuted sums"), also identify separately the total amount of commuted sums held?

Regulation 121A(3)(i)

Answer Rolled Forward TOTAL £2,276,621.47

Of which Commuted Sums TOTAL £73,035.00

There are also matters which may be included in the section 106 report for each reported year —

Regulation 121A(4)

(a) Summary details of any funding or provision of infrastructure which is to be provided through a highway agreement under section 278 of the Highways Act 1980 which was entered into during the reported year?

- (b) Summary details of any funding or provision of infrastructure under a highway agreement which was provided during the reported year?
- Answer As a two –tier authority area Gloucestershire County Council will be publishing an Infrastructure Funding Statement and will include details of planning obligations secured in its areas of competence as Local Highways and Passenger Transport Authority.

Regulation 121A(5)

For the purposes of paragraph 3 -

- (a) where the amount of money to be provided under any planning obligations is not known, an authority must provide an estimate;
- (b) a non-monetary contribution includes any land or item of infrastructure provided pursuant to a planning obligation;
- (c) where the amount of money spent in respect of monitoring in relation to delivery of planning obligations is not known, an authority must provide an estimate."

Joint Core Strategy (JCS) Authorities of Gloucester City Council, Tewkesbury Borough Council and Cheltenham Borough Council Community Infrastructure Levy (CIL)

Infrastructure List

Approved for Publication by Cheltenham Borough Council
Cabinet on the 1st December 2020

Introduction

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) require Contribution Receiving Authorities to publish:

“Annual infrastructure funding statements ... no later than 31st December in each calendar year”.

Regulation 121A(1)

The annual ‘infrastructure funding statement’ (IFS) must include:

“A statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL (other than CIL to which regulation 59E or 59F applies) (“the infrastructure list”)”

Regulation 121A(1)(a)

The removal of the Regulation 123 ‘pooling restriction’, by the 2019 Amendment Regulation, is intended to make it easier to deliver major infrastructure projectsⁱ. It allows local authorities to combine CIL and 106 revenues towards the same infrastructure project or item.

The inclusion of a project within the Infrastructure List does not represent a commitment that the Councils will necessarily spend CIL monies on that item and for clarity, there is no priority implied by the order in which infrastructure projects/types appear in the List.

Projects have been selected from those identified as ‘critical’ to the delivery of the Cheltenham, Gloucester and Tewkesbury Joint Core

Strategy (JCS) 2011 to 2031 and the adopted and emerging District Level Plans, in the JCS Infrastructure Delivery Plan (IDP) 2014, as updated in the 2017 Addendum and the most up to date information from an annual review to present progress as of July 2020 in the JCS IDP Project Tracker. This has included cross-referencing with projects that partners have included in the Gloucestershire Economic Growth Capital Investment Pipeline (CIP). The projects are required for the delivery of the quantum of development planned up until 2031 in the JCS.

As set out at CIL Regulation 122, planning obligations such as a section 106 agreements, will continue to be sought alongside the CIL to secure infrastructure which is “necessary to make the development acceptable in planning terms, “is directly related to the development and is “fairly and reasonably related in scale and kind to the development”.

The JCS Councils will review this list at least annually as part of the preparation of their Infrastructure Funding Statement(s) but will update details regarding project progress and funding as and when possible to ensure funding decisions are based on up to date information.

Infrastructure List - Scheme	Description	Purpose	Stage	Cost Est.	Secured	Sought S106/S278	Sought CIL	Notes
A40(T) Innsworth Gateway Project Roundabout	New signalised junction on A40 between Longford and Elmbridge Court roundabouts	To facilitate development in SA1 Innsworth & Twigworth	Planning	£3,000,000	£1,500,000	Tbc	£1,500,000	
A4019/ B4634 Old Gloucester Rd	Revised A4019 traffic signals at site access junction identified in the draft LTP3	To facilitate development in SA2 South Churchdown	Feasibility	Unknown	£0	Tbc	Tbc	
New junction on A38	New priority junction on A38 giving priority to new highway link accessing to new junction on A40 (scheme 17)	To facilitate development in SA1 Innsworth & Twigworth	Feasibility	£3,000,000	£0	Tbc	£3,000,000	Outcome of Public Inquiry: Still Necessary? Still Possible?
A38-A40 highway link	New 50 mph highway link, joining upgraded junctions on A40 and A38 through development site	To facilitate development in SA1 Innsworth & Twigworth	Feasibility	£7,500,000	£0	Tbc	£7,500,000	Outcome of Public Inquiry: Still Necessary? Still Possible?
A38 Tewkesbury Road	A38 Tewkesbury Road to be downgraded between A40/A38 Longford signalised crossroads and new A38/Twigworth junction to 20mph and encourage as a sustainable travel corridor. Access from A38 north is restricted	Reducing forecast congestion - Demand reduction to ensure efficient operation of the highway network and encourage	Feasibility	£1,000,000	£0	Tbc	£1,000,000	Outcome of Public Inquiry: Still Necessary? Still Possible?

	to one lane entry to crossroads, A40 west to A38 north - right hand turn banned with alternative route via A40 / A38 Link Road.	more sustainable modes of travel						
A38 Tewkesbury Road	Upgrade A38 Tewkesbury Rd / Down Hatherley Lane junction, to include a dedicated right turn from A38 south.	Reducing forecast congestion - Capacity increase to ensure the efficient operation of the highway network	Feasibility	£1,000,000	£0	Tbc	£1,000,000	
A417 Brockworth Bypass	Signalising the westbound and eastbound 'Off-slips'.	Reducing forecast congestion – Flow management to ensure the efficient operation of the highway network	Feasibility	£1,000,000	£0	Tbc	£1,000,000	
A38 / A4173 St. Barnabas roundabout	Remove roundabout and signalising junction (with removal of Reservoir Rd approach arm) Part-funded by Gfirst LEP	Reducing forecast congestion – Flow management to ensure the efficient operation of the highway	Feasibility	£7,500,000	£1,000,000	Tbc	£6,500,000	

		network						
A430/A417 Castlemeads	Upgrade signals to MOVA or SCOOT operation to optimise signal timings	Reducing forecast congestion – Flow management to ensure the efficient operation of the highway network	Feasibility	£1,000,000	£0	Tbc	£1,000,000	
A38 Coombe Hill	Optimise signals	Reducing forecast congestion – Flow management to ensure the efficient operation of the highway network	Feasibility	£1,000,000	£0	Tbc	£1,000,000	
New junction west of M5 J10	New 50 mph dual carriageway two-lane link road, providing free-flow access from A4019 / M5J10 to West of Cheltenham site only.	To facilitate development in SA7 West Cheltenham	Feasibility	£22,500,000	£0	Tbc	£22,500,000	
West of M5 J10	Major/Minor Priority Junction on new 50 mph dual carriageway two-lane link road, with Minor junction arm for West of Cheltenham residential site access	To facilitate development in SA7 West Cheltenham and Reducing forecast	Feasibility	£3,000,000	£0	Tbc	£3,000,000	

	only.	congestion - Capacity increase to ensure the efficient operation of the highway network						
West of M5 J10	Change to highway priorities west of M5J10, with a new Major/Minor Priority Junction, with A4019 (West) as Minor junction arm.	Reducing forecast congestion – Flow management to ensure the efficient operation of the highway network	Feasibility	£7,500,000	£0	Tbc	£7,500,000	
A4019 / A4013 Kingsditch	A4019 / A4013 Kingsditch (Centrum Park) Roundabout – replacing existing roundabout with traffic signals,	Reducing forecast congestion – Flow management to ensure the efficient operation of the highway network	Feasibility	£3,000,000	£0	Tbc	£3,000,000	
West of B4634 Old Gloucester Road	New A4019 traffic signals site access junction, west of B4634 Old Gloucester Rd	To facilitate development in Cheltenham Borough Plan HD8 Old Gloucester	Feasibility	£3,000,000	£0	tbc	£3,000,000	

		Road						
A4019 / B4634 Gallagher Retail Park	Revised A4019 traffic signals site access junction at B4634 Old Gloucester Rd / Gallagher Retail Park	To facilitate development in JCS SA4 North West Cheltenham	Feasibility	£3,000,000	£0	Tbc	£3,000,000	
A4019 Tewkesbury Road	Upgrade signals to SCOOT operation to optimise signal timings with bus priority along A4019 corridor junctions including: B4634 Old Gloucester Rd/A4019 Junction Hayden Road/A4019/Manor Road Junction A4019 / Elm Street Junction B4633 Gloucester Rd / A4019 /Townsend Street	Reducing forecast congestion - Demand reduction to ensure efficient operation of the highway network and encourage more sustainable modes of travel	Feasibility	£7,500,000	£0	Tbc	£7,500,000	
Withybridge Lane	Close access onto A4019	Reducing forecast congestion – Flow management to ensure the efficient operation of the highway network	Feasibility	£1,000,000	£0	Tbc	£1,000,000	
A435 / Hyde Lane / Southam Lane Signalised	Signalised Junction - Upgraded to provide additional straight-	Reducing forecast congestion -	Feasibility	£1,000,000	£0	Tbc	£1,000,000	

Junction	ahead lanes on all junction approaches	Capacity increase to ensure the efficient operation of the highway network						
A435/ Stoke Road and A435 / Finlay Way Roundabouts	Capacity Improvements by approach arm widening	Reducing forecast congestion - Capacity increase to ensure the efficient operation of the highway network	Feasibility	£1,000,000	£0	Tbc	£1,000,000	
A435/GE Aviation Roundabout	Capacity Improvements by increasing the number of circulatory lanes to 2, and the A435 south bound exit to two lanes	Reducing forecast congestion - Capacity increase to ensure the efficient operation of the highway network	Feasibility	£3,000,000	£0	Tbc	£3,000,000	
A435 / Racecourse Roundabout	Capacity Improvements by approach arm widening	Reducing forecast congestion - Capacity increase to ensure the efficient operation of	Feasibility	£1,000,000	£0	Tbc	£1,000,000	

		the highway network						
Leckhampton Lane	Upgrade A46 / Leckhampton Lane priority junction, to include a dedicated right turn from A46 south into Leckhampton Lane.	Reducing forecast congestion - Capacity increase to ensure the efficient operation of the highway network	Feasibility	£3,000,000	£0	Tbc	£3,000,000	
A46 / Moorend Park Road	A46 Shurdington Road northbound approach to Moorend Park Road – additional highway space for right turning traffic by providing a longer stacking lane.	Reducing forecast congestion - Capacity increase to ensure the efficient operation of the highway network	Feasibility	£3,000,000	£0	Tbc	£3,000,000	
London Road / Denmark Road Junction improvement	Project within the Countywide revenue highway project delivery priorities (2015-2031).	To facilitate development in Gloucester City Plan including SA03: Former Prospect House, 67-69 London Road, SA04: Former Wessex	Feasibility	£0	£0	Tbc	Tbc	

		House, Great Western Road and SA08: King's Quarter						
				£88,500,000	£2,500,000	£0	£86,000,000	

The Gloucestershire Economic Growth Capital Investment Pipeline (CIP) is shared across GFirst LEP, Gloucestershire County Council and the 6 District Councils in Gloucestershire, to maintain a viable pipeline of capital projects that have the potential to support significant economic growth, and are seeking public funding, where ever it may come from.

[GECIP Interactive Map](#)

ⁱ The government response to the CIL consultation recorded support for this change from 35 local authorities "because of the additional flexibility to fund and deliver infrastructure" these changes provide.

APPENDIX 8



Infrastructure Funding Statement, 2019-2020

Gloucestershire County Council

December 2020

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1.0 Introduction

On 1 September 2019, the Community Infrastructure Levy Regulations (CIL) 2010 (as amended) came into force, requiring that contribution receiving authorities must produce an annual Infrastructure Funding Statement (IFS).

As the county council is not a CIL charging authority this statement will report solely on S106 contributions and spend until such time as the county council is in receipt of any CIL contributions allocated by our Local Planning Authority (LPA) partners.

LPAs may charge CIL and are required to report on receipts and spend. The requirement to publish this information in their own annual IFS, including a full disclosure of S106 obligations on the planning application file and register, is intended to improve transparency and publicise that development is accompanied and mitigated by infrastructure. The requirements in the 2019 Regulations replaces the requirement to produce a Regulation 123 list, which served a partially similar function to the IFS.

2.0 Section 106 and CIL in Gloucestershire

CIL is a non-mandatory charge which can be levied by local authorities on new development in their area. It can be an important tool for local authorities to use to help them deliver the infrastructure needed to support development in their area, particularly where strategic infrastructure is required to support growth.

CIL only applies in areas where a local authority has consulted on, and approved, a charging schedule which sets out its CIL rates and has published the schedule on its website. Most new development which creates net additional floor space of 100 square metres or more, or creates a new dwelling, is potentially liable for the levy.

Currently, five of the six Local Planning Authorities in Gloucestershire have adopted CIL.

Table 1: CIL charging status in Gloucestershire by LPA

District Local Authority	CIL charging status
Cheltenham Borough	Implemented 2019 – Cheltenham CIL
Cotswold District	Implemented 2019 – Cotswold CIL
Forest of Dean District	CIL not implemented – FoD CIL
Gloucester City	Implemented 2019 – Gloucester CIL
Stroud District	Implemented 2017 – Stroud CIL
Tewkesbury Borough	Implemented 2018 – Tewkesbury CIL

2.1 Relationship between LPAs and Gloucestershire County Council for S106 and CIL

The county council is responsible for delivering specific infrastructure and services – including highways, schools and libraries – and ensuring new developments do not adversely impact upon the capacity of existing services or the ability to deliver them. The provision of support for social and economic infrastructure is crucial in making a development acceptable in planning terms. The county council's requirements for s106 contributions are set out in the Local Developer Guide.

Where the LPA has adopted a CIL charging schedule, the way in which infrastructure providers seek developer contributions changes. Some projects which may have previously been funded by planning obligations in S106 agreements might now be funded via the CIL mechanism.

Except where charging authorities expect specific projects or types of project to be wholly or partly funded by a CIL, the county council will continue to use S106 to seek planning obligations on behalf of its service areas.

In line with the current legislative context, the county council will ensure its obligations are handled in a fair, open and reasonable way and that they enable development to go ahead which would otherwise be refused. This Statement forms part of this process.

2.2 Contributions collected by Gloucestershire County Council

The county council is responsible for the provision of a range of services to our existing residents and to those that move into new developments. S106 contributions are sought from development that would have an additional impact on service provision.

3.0 S106 Contributions

Schedule 2 of the CIL regulations (as amended)¹ sets out the matters to be included in Infrastructure Funding Statements. These are addressed in the following sections.

3.1 New agreements in 2019/20

Gloucestershire County Council entered into 20 s106 agreements in the year from 1 April 2019 to 31 March 2020. The total amount of money to be provided under any planning obligations totals £9.4m.

These contributions have not yet been paid to the county council. Payments will be calculated and requested at the agreed trigger points over the coming years.

The new agreements are listed in table 2 below.

¹ <https://www.legislation.gov.uk/ukdsi/2019/9780111187449/schedule/2>

Table 2: New S106 agreements in 2019/20

Planning Application	Location	Total Agreed (£)
19/02029/CONDIT	GCHQ Benhall, Hubble Road, Cheltenham	456,000
19/01503/FUL/H	Fosse Garden Centre, Stow	25,000
16/05169/FUL/H	Fosseway Garden Centre, Stow Road (A429), Moreton-In-Marsh	25,000
P1190/18/OUT	Land off Bradfords Lane, Newent	213,374
18/00249/OUT/CIL	Land At Stoke Road Bishops Cleeve GL52 7D	2,936,255
17/04765/OUT/CIL	Moore Land, Collin Lane, Willersey, Broadway, WR12 7PE	329,356
P0825/18/OUT	Land to the East of Rodley Manor Way, Lydney, Gloucestershire	180,659
17/04587/FUL/ED/LB	Land Parcel Between Sandy Lane Court And Southgate Court, Upper Rissington	182,030
10/01216/OUT/DOV	Land at Cleevelands, Dean Farm, Bishops Cleeve	0
16/01172/FUL/DOV	Land south west of Wainlode Lane, Norton, Gloucestershire	0
17/02224/FUL/ED	Land to the north of The Knoll, Whelford Road, Kempford, Gloucestershire	200,000
17/02224/FUL/H	Land to the north of The Knoll, Whelford Road, Kempford, Gloucestershire	320,000
P1330/18/OUT/LB	Land North of Southend Lane, Newent, Gloucestershire	45,000
S.19/0368/VAR	Rooksmoor Mills, Bath Road, Woodchester	0
18/01127/FUL	Land South Of Winnycroft Farm Corncroft Lane Gloucester GL4 6BX	0
17/00520/OUT/H	Land at Fiddington, Ashchurch, Glos	904,425
17/00520/OUT/ED/LB	Land at Fiddington, Ashchurch - Robert Hitchins Ltd	3,250,000
17/00520/OUT/H/Mit	Land at Fiddington, Ashchurch, Glos	125,000
18/01615/FUL/ED/LB	Land at Ullenwood Court, Ullenwood, Gloucestershire	106,000
P1232/18/OUT/ED/LB	Yew Tree Cottages, Gloucester Road, Corse	97,000

3.2 Total received

A total of £8.61m was received during the reporting period.

Receipts by development in 2019/20 are set out below in table 3.

Table 3: Contributions received in 2019/20 from any planning obligation by development

Development	Reference	Amount
Land at Bakers Quay	14/00709/FUL/02/2019-06	£363,694.75
Land at Draycott Road, Blockley, Moreton in Marsh	15/01020/OUT/01/2019-11	£128,749.00
Land at Former Aggregate Industries Site, 'The Mallards'	10/03916/OUT/03/2019-13	£101,676.68
Former RAF Quedgeley	06/01242/OUT/05/2019-14	£11,400.89
Land off Broad Marston Road, Mickleton	14/02365/OUT/05/2019-15	£11,932.26
Land off Banady Lane, Stoke Orchard	14/00074/OUT/02/2019-16	£3,000.00
Land at Box Road, Cam	S.11/1682/FUL/03/2019-17	£107,925.02
Land at Bakers Quay	14/00709/FUL/03/2019-18	£3,273.11
Land at Fire Service College, London Road	14/01483/OUT/03/2019-19	£788,318.11
Land at Tewkesbury Road Twigworth	15/01149/OUT/01/2019-20	£89,359.94
Land at London Road, Fairford	13/03793/OUT/03/2019-21	£288,955.76
Land at Cleavelands	10/01216/OUT/05/2019-22	£2,158,367.24
Land on North Side of Ross Road	P0969/14/OUT/02/2019-23	£17,874.89
Former RAF Quedgeley	06/01242/DOV/03/2019-24	£8,099.72
Land at GCHQ Oakley	CB.11954/43/OUT/07/2019-25	£111,072.97
Land to the south of the B4077 Toddington	15/00394/OUT/01/2019-26	£60,343.98
Land south west of Wainlode Lane, Norton	16/01172/FUL/01/2019-27	£16,688.23
Land at former Police HQ, Lansdown, Cheltenham	17/00337/FUL/02/2019-28	£101,620.89
Land at Farm Lane, Leckhampton	14/00838/FUL/05/2019-29	£513,938.16
Land to the south of the B4077 Toddington	15/00394/OUT/02/2019-30	£53,270.22
Land at Colethrup Farm, Hunts Grove	S.15/1498/VAR/03/2019-31	£203,149.49
Land at GCHQ Oakley	CB.11954/43/OUT/08/2019-32	£109,750.68
Land at Columbine Road, Tewkesbury	17/00347/FUL/03/2019-33	£361,939.94
Land at Longford	11/00385/05/2019-34	£119,505.61
Land at Tewkesbury Road Twigworth	15/01149/OUT/02/2019-35	£37,881.18
Land at Gloucester Road, Tutshill	P1530/14/OUT/03/2019-36	£20,897.91
Land South of Grange Road	16/00165/OUT/01/2019-37	£123,905.54
Land East of Lydney (Area B)	P0361/15/OUT/01/2019-38	£942,766.65
Land Off Nup End Ashleworth	15/00965/OUT/01/2019-39	£67,710.59
Former RAF Quedgeley,	06/01242/OUT/06/2019-40	£55,954.29
Land at former Bishops College	16/00631/OUT/01/2019-41	£329,361.50
Land on North Side of Ross Road	P0969/14/OUT/03/2020-01	£17,961.30
Land adj to Newark Farm	15/01494/FUL/02/2020-02	£144,889.55
Land at Colethrup Farm (Hunts Grove	S.15/1498/VAR/04/2020-03	£138,426.40
Land at Gloucester Road, Tutshill	P1530/14/OUT/04/2020-04	£19,627.06

Land South of Grange Road	16/00165/OUT/02/2020-05	£52,257.07
Land South of Grange Road	16/00165/OUT/03/2020-06	£565,173.66
Land at former Bishops College, Estcourt Road	16/00631/OUT/02/2020-07	£55,503.76
Land East of Lydney (Area B)	P0361/15/OUT/02/2020-08	£285,538.61
Land at Waterwells Business Park, Baird Road	06/01159/FUL/03/2020-10	£1,000.00
Land at Gloucester Road, Tutshill	P1530/14/OUT/05/2020-13	£21,005.85
Total		£8,613,768.46

3.3 Total s106 money received that was spent by the county council

The county council spent £5,206,273 in 2019/20.

Table 4: s106 money allocated and spent by service area over time (£)

Service	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Education	2,045,254	1,215,349	4,530,349	10,467,650	8,051,561	3,013,530
Libraries	5,000	144,470	160,662	215,946	210,156	58,848
Highways	1,387,134	1,885,250	1,540,823	-92,613	3,571,231	1,327,737
Transportation / bus services	669,633	763,928	954,463	915,077	732,454	806,158
Total	4,107,021	4,008,997	7,186,297	11,506,060	12,565,402	5,206,273

The following table details the projects funded by s106 contributions in 2019/20.

Contributions for transportation / bus services although listed in table 4 are not infrastructure and are therefore not included in table 5.

Table 5: s106 spend in 2019/20 by item of infrastructure (£)

Contributions 2019-20	Capital Scheme Code	2019-20 Financing	Capital Scheme Title
SCHOOLS			
Land West of Bredon Road, Tewkesbury	Y-0814-05554	29,242.00	Mitton Manor Primary outdoor learning
Land off Banady Lane, Stoke Orchard, Chelt	Y-0328-05268	62,638.14	Cleeve School 1FE expansion
Land adjacent to 74 Evesham Road, Bishops Cleeve	Y-0328-05800	183,555.11	Cleeve School dining facilities
Land at Fire Service College, Moreton-in-Marsh	Y-0332-05556	8,860.01	Chipping Campden School 6th Form/Hive
	Y-0332-05804	185,702.25	Chipping Campden School Performing Arts
Land at Kingshill, London Rd, Cirencester	Y-0334-05803	37,600.68	Cirencester Kingshill dining room
Land at Box Road, Cam, Coaley	Y-0346-05709	37,676.39	Rednock School sports hall
Land at London Road, Fairford	Y-0349-05413	51,228.32	Farmors School, s106 adaptations
Former RAF Quedgeley, Naas Lane (Kingsway), Glos	Y-0369-05264	618,295.72	Severn Vale School 1FE expansion
Land East of Willow Bank Rd, Alderton, Tewkesbury	Y-0386-05705	48,097.25	Winchcombe School expansion
Land at rear of Church Row, Gretton, Gloucestershire	Y-0386-05705	71,330.33	Winchcombe School expansion
176 Chelt Rd East Edu Contrib-New Millenium	Y-0389-05538	17,438.00	Barnwood Park School 1FE expansion
Land at Pamington Lane, Ashchurch, Tewkesbury	Y-0534-05545	32,593.99	Ashchurch Primary replace temps
Station Rd/Roman Rd, Bourton-on-the-Water	Y-0563-05414	30,947.32	Bourton-on-the-Water Primary, expansion
Former Lister Petter Site, Dursley, Glos	Y-0630-05682	116,156.55	Dursley Primary remodelling
Land off Swallowcroft, Eastington	Y-0635-05805	16,341.00	Eastington Primary outdoor teaching area
Land at London Road, Fairford	Y-0645-05469	150,885.98	Fairford Primary 2 classrooms
	Y-0656-05245	11,261.41	Grangefield Primary, ICT/FFE
Land at Homelands Farm (Homelands 2), Bishops Cleeve	Y-0656-05250	9,315.16	Grangefield Primary, expansion
Land off Woodside Lane, Kings Stanley	Y-0686-05558	970.10	Kings Stanley Primary adaptations
Todenham Rd & Dulverton Place, M-in-M	Y-0722-05675	197,296.41	St. David's Primary expansion
Land at Banady Lane, Stoke Orchard, Chelt	Y-0795-05546	17,355.26	Tredington Primary additional classroom
Land off Banady Lane, Stoke Orchard, Chelt	Y-0795-05546	84,632.10	Tredington Primary additional classroom
Quercus Park, Quercus Rd, Tetbury	Y-0810-05478	3,118.39	St. Mary's Primary, remodelling

Land at Columbine Road, Walton Cardiff, Tewks	Y-0812-05552	224,314.37	The John Moore Primary expansion
Land at Columbine Road, Walton Cardiff, Tewks	Y-0812-05552	766,677.48	The John Moore Primary expansion
SCHOOLS TOTAL		3,013,529.72	
LIBRARIES			
Valley Road, Cinderford	Y-0040-08252	2,988.80	Cinderford Library
Library Manor Farm, Chargrove Ln 10/1894/FUL	Y-0040-08262	1,495.45	Up Hatherley Library
Cold Pool Lane or Manor Farm Contribution	Y-0040-08262	-804.60	Up Hatherley Library
Sellars Farm, Hardwicke	Y-0040-08264	-2,397.00	Gloucester Library
Cala Homes 3rd instalment Fire College Moreton	Y-0040-08265	1,905.91	Moreton-in-Marsh Library
Cala Homes 3rd instalment Fire College Moreton	Y-0040-08265	2,475.67	Moreton-in-Marsh Library
Linden Homes, Onslow Road Newent	Y-0040-08266	-213.00	Newent Library
Library Cont - S106 Top Road, Kempsford 28.04.14	Y-0040-08273	1,632.72	Fairford Library (2)
Land Known as Egg Meadows, Greet Road, Winchcombe	Y-0040-08274	1,472.33	Winchcombe Library
Spitfire Properties Berrington Mill Nurseries	Y-0040-08275	1,161.30	Chipping Campden Library
Owen Farm, Staunton Road, Coleford	Y-0040-08280	7,882.12	Coleford Library
13/00938/FUL/1-6CP	Y-0040-08281	-128.54	Cheltenham Library
13/03363/OUT Bovis Quercus Park Library cont	Y-0040-08291	2,383.25	Tetbury Library
1st instalment Library	Y-0040-08293	327.00	Charlton Kings Library
Starvehall Farm Library	Y-0040-08294	420.41	Prestbury Library
S.13/01834/FUL Lioncourt Homes Stonehouse Library	Y-0040-08295	38,504.12	Stonehouse Library Relfurbishment - STC
David Wilson Homes	Y-0040-08288	-365.54	Cirencester Library
DWH - 13/024942/OUT/03/2018-11 Kingshill	Y-0040-08288	283.01	Cirencester Library
S.11/1682/FUL/2017-34 Land at Box Road, Cam, Coaley	Y-0040-08283	-175.27	Dursley Library
LIBRARIES TOTAL		58,848.14	
HIGHWAYS			
Wheatpieces II site, Tewkesbury	Y-0078-06801	9,890.00	Upgrade Bus Stops & RTP1 Tewkesbury
Land at Bakers Quay, Llanthony Wharf Monk meadow	Y-0080-00974	730,662.61	GHURC link 1 - Quays to Southgate Street
Starvehill Farm, Prestbury, Cheltenham, Gloucestershire	Y-0080-01040	68,984.98	Cheltenham to Bishops Cleeve Cycle Track
Land at Up Hatherley - ASDA at Cheltenham	Y-0080-04073	111,065.55	Arle Court roundabout MOVA
Fire Service College	Y-0081-02261	3,175.52	Moreton in Marsh Transport Strategy

C1718f04 14/01483/OUT MIM Transport Strategy	Y-0081-02261	4,282.81	Moreton in Marsh Transport Strategy
Land at Kingsmeadow Services, Cricklade Road	Y-0081-02274	6,164.80	Kingsmeadow Roundabout
Land off Roman Road, Bourton on the Water	Y-0081-02760	6,858.00	Bourton-o-t-Water Xing & Pedestrian Facilities
Bus Contribution Kingshill North	Y-0081-02801	1,640.00	Bus Stops & Shelter - Kingshill North
HDM/P.00/0749/OUT	Y-0081-03095	-31,525.34	Newhaven Road Kingsway – Traffic Calming
Former RAF Quedgeley, Naas Lane, (Kingsway)	Y-0081-03625	401,027.11	Gloucester to Quedgeley Canal Cycletrack
C1718I06 11/00385 Longford Walking/Cycling Cont Int&Ind	Y-0081-03757	1,505.09	Longford to Gloucester Ped & Cycle Imps
Kingsway sustainable transport	Y-0081-03834	52.98	Kingsway Bus Gates and TROs
Devon Ave Chelt	Y-0081-04113	177.50	Alstone Ln & Bedford Ave Cheltenham SSZ
Pittville Campus, Albert Road, Cheltenham, Gloucestershire	Y-0081-04126	3,887.73	Albert Drive TRO
Land at Homelands Farm, Gotherington Lane Phase 2	Y-0081-06030	45,533.84	A435 Bishops Cl' to Racecourse Capacity
Land to rear of Invista, Green Street, Brockworth	Y-0081-06717	7,222.46	Ermin St Brockworth Pedestrian Island
Land off Onslow Road, Newent. Glos	Y-0081-71011	4,095.91	Gloucester Road Junction Pedestrian Imps
C1718s14 South Side Tetbury Road 16/00027/DMPO	Y-0081-72011	8,231.18	RTPI - Cirencester
C1819d09 S15/2804/OUT Public Transport Facilities	Y-0081-75041	3,541.76	RTPI at Cam & Dursley Station
C1819d07 S15/2804 Cam Station Passenger Facilities	Y-0081-75042	2,999.50	Cycle Parking at Cam & Dursley
GCHQ Oakley, Priors Road, Cheltenham	Y-0094-04054	19,913.66	Hales Road/Priors Road Congestion
GCHQ Oakley, Priors Road, Cheltenham	Y-0094-04822	32,582.50	Parking Control Measures at Arle Ct P&R
GCHQ Oakley, Priors Road, Cheltenham	Y-0095-04053	2,110.19	Whaddon Rd Traffic Calming
Interest for Contributions	Y-0096-05401	-118,000.00	B4008 Stonehouse Town Centre
Noverton Lane	Y-0098-27240	1,657.00	Noverton Road EA Drainage Scheme
HIGHWAYS TOTAL		1,327,737.34	

3.4 Developer Contributions received but unspent 2019/20

Funds retained at the end of 2019/20 are as follows. These funds may be formally allocated or identified for projects which are in development.

Table 6: The total amount of S106 receipts retained at the end of the year by service area

Service	£
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Adults	74,202
Education	11,540,446
Libraries	1,439,840
Highways	6,236,124
Transportation / bus services	6,613,633
Business Support	10,000
Total	25,914,245

4.0 Future Funding Priorities

The types of infrastructure that the county council intends to fund, either wholly or in part, by the use of planning obligations is set out in the Local Developer Guide².

Development and growth requires associated infrastructure. In some cases, agreements are needed between developers, the council and other providers to make sure this happens. Without reaching agreement, proposals for new developments may be refused. Where contributions are sought through S106 planning obligations, the decision on the type and scale of infrastructure and services deemed necessary for developer contributions will be made on a case-by-case basis.

The types of infrastructure and services the county council will seek developer contributions (S106 and CIL) for include:

- Pre-school childcare
- Primary and secondary schools
- Special schools
- Libraries
- Adult Social Care
- Health and Public Health
- Fire and Rescue Services
- Sustainable Drainage Systems (SUDS)
- Waste and Recycling Facilities
- Transport
- Broadband

² <https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/gloucestershire-local-development-guide/>

APPENDIX 9



Ministry of Housing,
Communities &
Local Government

Our ref: APP/G1630/W/18/3210903

Rob Riding
Principal Planner
Pegasus Group
Rob.riding@pegasusgroup.co.uk

22 January 2020

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY ROBERT HITCHINS LTD
LAND AT FIDDINGTON, ASHCHURCH NEAR TEWKESBURY
APPLICATION REF: 17/00520/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Philip J G Ware BSc DipTP MRTPI who held a public local inquiry on 11 June 2019 into your client's appeal against the non-determination by Tewkesbury Borough Council of your application for planning permission for a residential development (up to 850 dwellings), a primary school, local centre (comprising up to 2,000 m² gross internal floor area) (A1, A2, A3, A4, A5 and D1 uses) with no single A1 comparison unit exceeding 500 m² gross internal floor area, supporting infrastructure, utilities, ancillary facilities, open space, landscaping, play areas, recreational facilities (including changing facilities and parking), demolition of existing buildings, new access to the A46(T) and Fiddington Lane in accordance with application ref: 17/00520/OUT dated 12 May 2017.
2. On 17 September 2018, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission be granted.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. He has decided to allow the appeal and grant permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

5. The Secretary of State has received post inquiry correspondence from two members of the public regarding concerns about flood risk and attenuation ponds. However, the Secretary of State does not consider that this correspondence raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.

Policy and statutory considerations

6. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case the development plan consists of saved policies from the Tewkesbury Borough Local Plan to 2011 (adopted 2006) (BLP), and the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017) (JCS). The most important policies in relation to the appeal are identified and set out in section 7 of the Planning Statement of Common Ground, copies of which can be made available on request to the address given at the foot of page 1 of this letter.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'). The revised National Planning Policy Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this letter are to the 2019 Framework. The Secretary of State has also taken account of Supplementary Planning Guidance documents prepared by the Council, the most directly relevant of which is that dealing with Affordable Housing.
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.
10. In accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Emerging plan

11. Work has begun on an emerging Tewkesbury Local Plan. Since the close of the Inquiry into this appeal, a pre-submission version of the plan was consulted on between October and November 2019, but it is yet to undergo Examination. The Secretary of State notes that the area was designated as a Neighbourhood Plan area in 2013, and that there was a Regulation 14 draft consultation in 2018. All parties agree that this should not be afforded any weight at this stage, and there is no 'made' Neighbourhood Plan covering the site.
12. When adopted, the intention was that the JCS was to be the subject of an immediate review, and a consultation on an Issues and Options paper ran to January 2019. There is currently no further timetable for the review.
13. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. Given its relatively early stage of development, the Secretary of State concludes that the emerging Tewkesbury Local Plan attracts only limited weight at present, and the JCS review attracts no weight.

Main issues

The plan led approach

14. The Secretary of State has carefully considered the Inspectors assessment of the proposal's impact on the plan led approach at IR48-58 and he notes that the site is not identified for any purpose in either part of the development plan (the BLP or JCS) and is classified as countryside in policy terms. He further notes the Inspector's consideration at IR48 that given the size of the site and the scale of the development proposed, it would normally be appropriate for the site to be identified as a strategic site in the JCS. He also notes that the Council agree that there will be a need to review boundaries within the emerging Local Plan due to the housing requirement (IR48).
15. The Secretary of State agrees with the Inspector's view at IR49 that the proposal would be classed as a strategic site, but was not included in the final adopted version of the JCS due to highways issues which have now been resolved. He agrees with the Inspector's conclusion that the proposal is in conflict with policies SP2(8), REV 1 and SD10 of the JCS (IR50).
16. The Secretary of State also agrees with the Inspector's consideration at IR52-53 that there is a serious housing shortfall, as agreed between the parties, and he considers that, given the substantial shortfall in housing land supply, the tilted balance outlined in paragraph 11 of the Framework applies.
17. The Secretary of State agrees with the Inspector's view that appeal site only failed to be in the JCS as a strategic site due to the now resolved highways issues and that the site is available and is deliverable at least in part during the next five year period (IR57). Given the lack of progress on the JCS review and the limited weight to be attached to the emerging Local Plan, and the lack of any objection from the Council, the Secretary of State agrees with the Inspector that it cannot be concluded that the development would undermine the plan making process (IR55), and that the appeal would not prejudice the

plan led approach to the delivery of housing, but would in fact make a major contribution towards addressing the deficit (IR58).

Landscape Character

18. The Secretary of State has considered the Inspector's analysis at IR59-66, regarding the impact on landscape character. He agrees with the Inspector at IR63 that it is inevitable that any greenfield development intended to address the pressing need for housing will result in landscape impacts, and he notes that the site is not subject to any local or national landscape designations and that parties agree that the sensitivity of the area is medium/low (IR63). The Secretary of State agrees with the Inspector at IR64 that given the proposed intrusion into the rural landscape, it is relevant to consider opportunities for minimising the impact. Having had regard to IR65, the Secretary of State agrees with the Inspector that the revised landscape mitigation plan suggests a form of development compatible with its setting. He agrees with the Inspector's conclusion at IR66 that the proposal complies with JCS policies SD4 and SD6. The Secretary of State considers that the harm that will be caused by the loss of an area of countryside should carry only limited weight against the proposal.

Highways impact

19. The Secretary of State has taken into account the Inspector's analysis of the potential impacts of the proposal on the highways network (IR67-71). He notes that the site was not designated as a strategic site in the JCS due to concerns regarding the potential impacts on the highways network. He further notes the Inspector's view at IR69 that agreement has been reached on all matters relating to highways and agrees that the proposal would not conflict with JCS policy INF4. The Secretary of State notes that the County Council does not consider that additional funding for traffic calming measures on minor roads and lanes is necessary. However, he agrees with the Inspector at IR71 that there is sufficient evidence, albeit anecdotal, to indicate that the Mitigation Works Fund is necessary, and he agrees with the Inspector that the funding should be made available and considers that this issue is neutral in the planning balance. In reaching this view, the Secretary of state has taken account of the drafting of the Highways Mitigation Obligation, which requires that justification for any proposed mitigation works be provided before any sums can be drawn down.

Affordable housing

20. The Secretary of State notes at IR72 that the only matter between the appellant and the Council is the amount of affordable housing which the scheme should deliver. While the Council seek 40% affordable housing, the appellant proposes 35%. He also notes that the JCS states that 35% affordable housing will be sought if the site is a Strategic Allocation, and 40% elsewhere. The Secretary of State agrees with the Inspector's view that the only reason the site is not a Strategic Allocation is the concerns regarding the effect of the proposal on the strategic and local highway network (IR67), which have now been resolved. He notes the Inspector's consideration of this issue at IR72-78 and agrees with Inspector's conclusion that it is fair and reasonable to regard the site in the same light as a Strategic Allocation, and to allow the lower level of affordable housing. The Secretary of State agrees with the Inspector, and further considers that the provision of affordable housing in an area with a serious shortfall would be of significant benefit and attracts substantial weight in favour of the proposal.

Other matters

21. The Secretary of State notes the Inspector's analysis at IR79-82 that there are a number of listed buildings outside the application site and notes that in all cases the effect on the significance of the setting of the assets has been agreed to be negligible. He agrees with the Inspector at IR82, that any harm to these assets would be less than substantial, and would be considerably outweighed by the considerable housing and other benefits of the proposal, thereby satisfying the requirements of paragraph 196 of the Framework.
22. The Secretary of State also notes the Inspector's consideration at IR83 regarding the loss of a small amount of Best and Most Versatile agricultural land. He agrees with the Inspector that this is not a significant issue, and that it has not been raised by any interested party.

Planning conditions

23. The Secretary of State has given consideration to the Inspector's analysis at IR84-97, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework and that the conditions set out at Annex A should form part of his decision.

Planning obligations

24. Having had regard to the Inspector's analysis at IR98-104, the planning obligations dated 14 June 2019, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR99 that the obligations comply with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework.

Planning balance and overall conclusion

25. For the reasons given above, the Secretary of State considers that the appeal scheme is in accordance with Policies SD4, SD6 and INF4 of the development plan. He has found the proposal to be in conflict with policies SP2(8), REV 1 and SD10 of the JCS, but given that the partial review of the JCS is at a very early stage at best, he considers that the weight to be attached to those conflicts must be reduced. The Secretary of State therefore considers that the scheme is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
26. As the Council cannot demonstrate a five year housing land supply, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
27. The Secretary of State considers that the harm to the plan led approach, the loss of an area of countryside and the very limited harm to heritage assets all attract limited weight against the proposal.

28. The Secretary of State considers that the substantial amount of open market and affordable housing to be provided attracts substantial weight in favour of the proposal. In addition, he considers that the construction, investment and employment opportunities of the proposal should attract moderate weight, and the provision of a Local Centre, primary school, community hall and sports facilities all attract limited weight in favour of the proposal, as would on-site and off-site expenditure in relation to flood risk and biodiversity, and highways matters.
29. The Secretary of State has concluded at paragraph 20 of this decision letter in relation to heritage assets that there are no protective policies which provide a clear reason for refusing the development proposed and considers that the substantial benefits of granting permission would significantly and demonstrably outweigh the limited harms.
30. The Secretary of State concludes that there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
31. The Secretary of State therefore concludes that the appeal should be allowed and planning permission granted.

Formal decision

32. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex A of this decision letter for a residential development (up to 850 dwellings) including 35% affordable housing, a primary school, local centre (comprising up to 2,000 m² gross internal floor area) (A1, A2, A3, A4, A5 and D1 uses) with no single A1 comparison unit exceeding 500 m² gross internal floor area, supporting infrastructure, utilities, ancillary facilities, open space, landscaping, play areas, recreational facilities (including changing facilities and parking), demolition of existing buildings, new access to the A46(T) and Fiddington Lane in accordance with application ref: 17/00520/OUT dated 12 May 2017.
33. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

34. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
35. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
36. A copy of this letter has been sent to Tewkesbury District Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Andrew Lynch

Authorised by the Secretary of State to sign in that behalf

Annex A - SCHEDULE OF REPRESENTATIONS

General representations

Simon Hopkins	13 January 2020
Lyn Taylor	15 January 2020

Annex B – List of Conditions

Reserved matters and time limits

- 1) No part of the development hereby permitted shall be begun until details of the access (with the exception of those details approved pursuant to Conditions 17, 19 and 20), appearance, landscaping, **layout, and scale (hereinafter called 'the reserved matters')** **have been submitted to and approved in writing by the local planning authority** for that part of the development. The development shall be carried out as approved.
- 2) Application for the approval of the reserved matters for phase 1, as identified by the Phasing Plan required under Condition 7, shall be made to the local planning authority before the expiration of 3 years from the date of this permission. The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters approved for phase 1, whichever is the later. Application for approval of reserved matters may be submitted for a full phase or part of a phase.
- 3) Application for the approval of reserved matters for the subsequent phases of development, as identified by the Phasing Plan required under condition 7, shall be made to the local planning authority before the expiration of 10 years from the date of this permission. The subsequent phases of development hereby permitted shall be begun no later than 2 years from the date of approval of the last of the reserved matters to be approved for that phase. Application for approval of reserved matters may be submitted for a full phase or for a part of a phase.
- 4) No more than 850 dwellings shall be constructed on the site pursuant to this planning permission.
- 5) The total gross retail/commercial floorspace available for use by customers (excluding toilets and other ancillary facilities) of all premises falling within Class A1, A2, A3, A4, A5 and D1 (not including the primary school) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) shall not exceed 2,000 square metres in total and no single A1 unit shall comprise more than 500 square metres.
- 6) The size of the primary school hereby permitted shall not exceed a single form of entry.

Phasing

- 7) Prior to or as part of the first reserved matters application a Phasing Plan for the whole site shall be submitted to the local planning authority for approval in writing. The Phasing Plan shall include details of the approximate number of market and affordable dwellings for each phase of development together with general locations and phasing of key infrastructure, including surface water drainage, green infrastructure, informal and formal public open space, areas of play, access for pedestrians, cyclists, buses and vehicles and proposed public transport infrastructure. The Phasing Plan shall be in general accordance with

the design principles of the submitted Parameter Plans (Drawing Nos H.0543_04 Rev K, H.0543_05 Rev J, H.0543_06 Rev P and H.0543_07 Rev H) by the revised Landscape Mitigation Plan (ref.18095.002 Rev.D), the principles and objectives of the Design and Access Statement, April 2017, except where the requirements of other planning conditions require otherwise. Development shall be carried out in accordance with the approved Phasing Plan or any subsequent revisions thereto.

Design

- 8) Notwithstanding the submitted Indicative Masterplan, A Site Wide Masterplan Document (SWMD) shall be submitted to the local planning authority either prior to or alongside the first application for approval of reserved matters for its written approval. The SWMD shall be in accordance with the submitted Parameter Plans (Drawing Nos H.0543_04 Rev K, H.0543_05 Rev J, H.0543_06 Rev P and H.0543_07 Rev H) the revised Landscape Mitigation Plan (ref.18095.002 Rev.D) except where other planning conditions specify otherwise and shall include a set of Design Principles including:

- a) the principles for determining the design, form, heights and general arrangement of external architectural features of buildings;
- b) the principles of the hierarchy for roads and public spaces;
- c) potential arrangements for car parking;
- d) the principles for the design of the public realm; and
- e) the principles for the laying out of the green infrastructure, including the access, location and general arrangements of the sports pitches, and play areas.

The SWMD shall include a two-dimensional layout drawing that shows:

- f) the broad arrangement of development blocks around a street hierarchy including indications of active frontages;
- g) density ranges;
- h) maximum building heights;
- i) character areas;
- j) the location and general extent of public open space, including formal recreational areas, Play Areas, Allotments, drainage features access and car parking;
- k) existing landscape features to be retained and/or enhanced;
- l) proposed structural planting;
- m) the location and general extent of the local centre/neighbourhood area, including the school, community facility and associated access and car parking;
- n) the location of existing and proposed public rights of way;

Submissions for the approval of the reserved matters shall accord with the approved SWMD, unless otherwise agreed in writing by the local planning authority.

Waste and recycling

- 9) The first reserved matters application submitted pursuant to Condition 1 shall be accompanied by details of a recycling strategy for the site. The reserved matters applications for each phase shall include details of waste storage provision for that phase which shall be in general accordance with the approved recycling strategy and the development shall be carried out in accordance with the approved details.

Landscaping

- 10) The first reserved matters application for any given phase submitted pursuant to Condition 1 shall include the following details in respect of that phase:
 - a) a plan showing the location of, and allocating a reference number to, all trees on the site which have a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
 - b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
 - c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
 - d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree; and
 - e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

In this condition '**retained tree**' means an **existing tree** which is to be retained in accordance with the plan referred to in paragraph (a) above. Development shall be carried out in accordance with the approved details.

- 11) The plans and particulars submitted in accordance with Condition 1 shall include details of the size, species, and positions or density of all trees, hedgerows and other landscaping features to be planted, and the proposed time of planting, as well as maintenance schedules. If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted in accordance with details to be submitted to and approved in writing by the local planning authority.

Archaeology

- 12) No development shall take place within any phase or part of a phase pursuant to Condition 7 until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority for that phase or part of a phase. The scheme shall include an assessment of significance and a

programme and methodology of site investigation and recording and the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation. The development shall be carried out in accordance with the approved Written Scheme of Investigation.

Ecology

- 13) No development or site clearance shall take place until a strategic Ecological Constraints and Opportunities Plan (ECOP) for the application site has been submitted to and agreed in writing with the Local Planning Authority. The Plan shall be based upon the submitted Environmental Statement (May 2017) and Environmental Statement Addendum (May 2019), the Green Infrastructure Parameter Plan (ref.H.0543.04 Rev.K) and the revised Landscape Mitigation Plan (ref. ref.18095.002 Rev.D). The Plan shall additionally, but not exclusively, include the following

- a) **strategic dark corridors requirements;**
- b) **skylark nesting habitats requirements;**
- c) **integrated amphibian and reptiles habitats and corridors requirements; and**
- d) **an ecological and connection strategy for the Tirlle Brook including geomorphological factors, fish, riparian habitats and Otters.**

Development shall be carried out in accordance with the approved ECOP thereafter unless otherwise agreed in writing with the Local Planning Authority.

- 14) Prior to the commencement of development of each phase (or part phase) of development identified in the phasing plan (Condition 7) a Green Infrastructure and Biodiversity delivery scheme for that phase shall be submitted to and agreed in writing by the Local Planning Authority. The delivery scheme shall be in general accordance with the strategy as set out in Chapter 4 (Ecology) of the Environmental Statement, the Green Infrastructure Parameter Plan (ref.H.0543.04 rev.K) the revised Landscape Mitigation Plan (ref. ref.18095.002 Rev.D) and the ECOP (Condition 13), and shall include, but not exclusively, the following:

- a) risk assessment of potentially damaging construction activities;
- b) identification of **"biodiversity protection zones" and their purpose/function;**
- c) **updated ecological survey's and assessments where required;**
- d) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- e) the locations and timing of works to avoid harm to biodiversity features and provide effective mitigation and enhancement;
- f) the times during construction when specialist ecological or environmental practitioners need to be present on site to oversee works;
- g) responsible persons and lines of communication;
- h) the role and responsibilities on site of an ecological clerk of works or similar person;
- i) use of protective fences, exclusion barriers and warning signs; and
- j) detailed ecological enhancement implementation measures relevant to the pre development ecological site characteristics and opportunities

Development for that phase (or part phase) shall be carried out in accordance with the approved delivery scheme thereafter unless otherwise agreed in writing with the Local Planning Authority.

- 15) No dwelling in any given phase pursuant to Condition 7 shall be occupied until a Landscape and Ecological Management Plan (LEMP) for that phase has been submitted to, and be approved in writing by, the local planning authority. The LEMP for each phase shall, but not exclusively, include the following:
- a) description and evaluation of features to be managed in relation to the open spaces defined in the Environmental Statement, the ECOP (Condition 13) and Green Infrastructure and Biodiversity delivery scheme appropriate to the phase;
 - b) ecological trends and constraints on site that might influence management;
 - c) aims and objectives of management including, but not exclusively, those in relation to farmland birds, amphibians, reptiles and bats;
 - d) appropriate management options for achieving aims and objectives including appropriate enhancement measures;
 - e) prescriptions for management actions;
 - f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) details of the body or organization responsible for implementation of the plan; and
 - h) ongoing monitoring and remedial measures

The LEMP shall also identify the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details

- 16) Prior to the occupation of the first dwelling, in each phase (Condition 7), a lighting scheme demonstrating that strategic dark corridors safeguarding in accordance with the ECOP (Condition 13) is achieved shall be agreed in writing with the LPA and thereafter development carried out in accordance with the approved scheme.

Access and layout

- 17) Notwithstanding Condition 1, the vehicle, cycle and pedestrian access points and associated link road and pedestrian crossing points as shown on drawing no. H556/11 Rev C shall be constructed in accordance with the approved plans before any building hereby permitted is first occupied.
- 18) Notwithstanding the approved plans and Condition 17 above, the southern access arm of roundabout R1 as shown on drawing No. H556/11 Rev C shall be constructed in accordance with revised details to be submitted to and agreed in writing by the Local Planning Authority.

- 19) Prior to the occupation of any part of the development hereby approved, the works to improve the Northway Lane / Fiddington Lane junction with the A46 as generally shown on PFA Drawing No. H556/15 Rev A (subject to detailed design and road safety audit) shall be complete and open to traffic.
- 20) Prior to the commencement of any part of the development hereby approved, the works to improve the Alexandra Way junction with the A46 as generally shown on PFA Drawing No. H556/14 Rev A (subject to detailed design and road safety audit) shall be complete and open to traffic.
- 21) No above ground works comprising the erection of a building shall commence on site until a scheme has been submitted to and agreed in writing by the Local Planning Authority, for the provision of fire hydrants (served by mains water supply) and no dwelling shall be occupied until the hydrant serving that property has been provided to the satisfaction of the Local Planning Authority.
- 22) Notwithstanding the approved plans no more than 300 dwellings shall be occupied until a bus/emergency access has been provided to Fiddington Lane in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.
- 23) The details to be submitted for the approval of reserved matters for each phase (or part phase) of development pursuant to Condition 1 shall include vehicular parking and turning and loading/ unloading facilities within the phase (or part phase). Thereafter, no building hereby approved shall be occupied until those facilities and carriageways (including surface water drainage/disposal and street lighting) serving that building and providing access from the nearest public highway to that building have been completed to at least binder course level and the footways to surface course level. The facilities shall be maintained available for those purposes for the duration of the development.

Strategic highway mitigation

- 24) Prior to the occupation of any part of the development hereby approved, the works to improve M5 junction 9 as generally shown on PFA Drawing No. H556/12 Rev D (subject to detailed design and road safety audit) shall be complete and open to traffic.
- 25) Prior to the occupation of any part of the development hereby approved, a scheme to widen the A438 exit from M5 Junction 9 as generally shown on PFA Drawing No. H556/12 Rev D (subject to detailed design and road safety audit) shall be complete and open to traffic.

Street maintenance

- 26) The reserved matters application for each phase submitted pursuant to Condition 1 shall include details of the proposed arrangements for future management and maintenance of the proposed streets within that phase or part of a phase. The streets shall thereafter be managed and maintained in accordance with the approved details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established for each phase or part of a phase.

Construction

- 27) No development shall take place in a phase or part of a phase, including any works of demolition, until a Construction Method Statement which accords with the Green Infrastructure and Biodiversity Delivery Scheme for that phase has been submitted to and approved in writing by the local planning authority for that phase or part of a phase. The document shall contain details for community engagement measures and to control the following:
- a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) wheel washing facilities;
 - e) measures to control the emission of dust and dirt during construction;
 - f) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - g) details of the site access/routeing strategy/signage during the construction period.
 - h) hours of working;
 - i) site boundaries/hoardings;
 - j) site activities;
 - k) Construction Traffic:
 - i.volumes;
 - ii.routes;
 - iii.holding areas;
 - iv.parking;
 - v.cleaning;
 - l) oversize loads;
 - m) temporary fuel storage.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Levels

- 28) The reserved matters application for each phase or part of a phase that includes buildings submitted pursuant to Condition 1 shall include details of existing and proposed ground levels and ground floor slab levels relative to Ordnance Datum of the buildings within that phase or part of a phase or part of a phase. The development shall be carried out in accordance with the approved details.
- 29) Notwithstanding the approved plans/details, a detailed surface water drainage strategy for the entire development hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to, or accompanying, the first reserved matters application submitted pursuant to Condition 1. All subsequent reserved matters submitted pursuant to Condition 1 shall incorporate the approved surface water drainage strategy and the development shall be carried out only in accordance with the approved surface water drainage strategy. The details shall be based on the Flood Risk Assessment & Drainage Strategy (Revision A, dated February 2017), as amended by drawing 256-220-C 'Drainage Strategy (Appendix O of the Flood Risk Assessment &

Drainage Strategy), included within the Environmental Statement. The submitted details shall:

- a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, details of existing and proposed overland flow routes, and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b) provide details of compensatory pluvial flood storage capacity within the site;
 - c) provide details of any necessary easements;
 - d) provide a health and safety risk assessment for the attenuation ponds and incorporate any recommended safety measures;
 - e) include details of the phasing for its implementation;
 - f) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 30) No building hereby permitted within each phase or part of a phase of the development, as defined under Condition 29 section e) above, shall be occupied until surface water drainage works have been implemented in accordance with details that have first been submitted to and approved in writing by the local planning authority, as part of the reserved matters applications for that phase or part of a phase.
- 31) No development approved by this permission for a phase or part of a phase within the floodplain, as defined by the 1: 100 + 35% climate change flood extent as shown on drawing 256-230 'Tirle Brook Modelling 2016' (Appendix K of the Flood Risk Assessment & Drainage Strategy), shall be commenced until a scheme for the provision and implementation of compensatory flood storage works, based on the details submitted to the Environment Agency on 22nd February 2018, has been submitted to and approved in writing by the Local Planning Authority for that phase or part of a phase. The scheme shall include details of any phasing of the approved works and shall be implemented in accordance with the approved programme and details.
- 32) No development shall be put in to use/occupied until a SUDS maintenance plan for all SuDS/attenuation features and associated pipework has been submitted to and approved in writing by the Local Planning Authority. The approved SUDS maintenance plan shall be implemented in full in accordance with the agreed plan.
- 33) There must be no new buildings, structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of any bank of any watercourses, inside or along the boundary of the site, unless agreed otherwise in writing by the Local Planning Authority.
- 34) Floor levels should be set at a minimum of 600mm above the appropriate modelled 1% flood level including a 35% allowance for climate change as set out on Page 21 of Appendix K of the Flood Risk Assessment & Drainage Strategy (Revision A, dated February 2017).

Noise

- 35) Any reserved matters application submitted pursuant to Condition 1 including non-residential buildings shall include details of any extraction, ventilation, cooling and refrigeration equipment to be installed on or in any building. The rated noise level from any extraction, ventilation, cooling and refrigeration equipment to be installed within the application site shall be no more than 5dB LAeq above the night-time background noise level measured at the nearest noise sensitive receptors. The method of assessment shall be carried out in accordance with BS4142: 2014: Rating industrial noise affecting mixed residential and industrial areas (or other document which may replace or modify the method of assessment). All approved equipment shall be installed in accordance with the approved details on or in the building prior to occupation and shall thereafter be operated and maintained in accordance with the **manufacturer's instructions**.
- 36) Noise levels within the dwellings hereby approved shall not exceed those set out in BS4142: 2014 **"Sound Insulation and Noise Reduction for Buildings"**. Noise levels measured from enclosed outdoor private amenity areas (gardens) should attain the 50dB(A) desirable criteria (Considered by WRS to be the LOAEL) and not exceed the upper limit recommended within BS4142: 2014 being 55dB(A) (Considered by WRS to be the SOAEL)**.

To verify the above requirements for each phase (or part phase) each reserved matters application submitted pursuant to Condition 1 which includes any dwellings shall be accompanied by a noise survey to identify any dwellings that would be at risk of exceeding the LOAEL.

The noise survey shall identify those measures necessary to achieve this performance at the affected properties, and such measures shall be approved in writing by the Local Planning Authority prior to any works above slab level on the identified plots.

The mitigation measures so approved shall be completed prior to any dwellings to which they relate being first occupied and post completion testing to verify that the noise level requirements of this condition have been met shall be carried out at sample locations to be agreed by the Local Planning Authority before any of the dwellings hereby approved are first occupied.

If the post completion testing shows that the limits set out in BS4142:2014 are exceeded within dwellings and/ or the upper limit of 55dB(A) is exceeded when measured from enclosed outdoor amenity areas, details of further mitigation to bring noise levels down to the required limits shall be submitted to and approved in writing by the Local Planning Authority and the proposed further mitigation shall be carried out before the dwellings to which these measures relate are first occupied.

**** Section 3 WRS Application to Support NPSE Aims – Worcestershire Regulatory Services Noise Technical Guide 2nd edition 2015.**

Sustainable travel

- 37) The approved Residential Travel Plan, H556-DOC07 TP Issue 2, dated 30 May 2018, shall be implemented in accordance with the submitted details and timetable therein (except for the developer to take on the role of co-ordinator and providing funding), and shall be continued thereafter, unless otherwise agreed in writing by the Planning Authority.
- 38) Prior to first occupation of any dwelling hereby approved, appropriate cabling and an outside electrical socket must be supplied for that dwelling to enable ease of installation of an electric vehicle charging point (houses with dedicated parking). For those parts of the development with unallocated parking i.e. flats/apartments 1 EV charging point per 10 spaces (as a minimum) should be provided to be operational at first occupation of the relevant dwelling. The charging point must comply with BS7671. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.
- 39) Electric charging points shall be installed in 10% (minimum) of the allocated parking spaces at the development. This may be phased with 5% of spaces operational initially and a further 5% made EV charging ready (i.e. incorporating appropriate cabling) to allow additional provision to meet future demand. The charging points shall comply with BS7671 and the sockets with BS 1363 which must be provided with a locking weatherproof cover if located externally to the building.
- 40) Applications submitted pursuant to Condition 1 shall include details for secure cycle parking facilities. The details shall include the location, type of rack, spacing, numbers, method of installation and access to cycle parking. The approved cycle parking measures shall be fully installed prior to the first occupation of the building to which it relates.

Contamination

- 41) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared in accordance with requirement, which shall be subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which shall be subject to the approval in writing of the local planning authority.

Housing mix

- 42) The first reserved matters application for any given phase (or part phase) submitted pursuant to Condition 1 shall include the submission of a Housing Mix Statement to the Local Planning Authority for its written approval setting out, in respect of that phase, how an appropriate mix of dwelling sizes, types and tenures will be provided in order to contribute to a mixed and balanced housing market to address the needs of the local area, including the needs of older people, as set out in the local housing evidence base, including the most

up-to-date Strategic Housing Market Assessment for the area at the time of the submission of the relevant reserved matters. The development shall be implemented in accordance with the approved Housing Mix Statement for that phase (or part phase).

Approved plans

- 43) The development hereby permitted shall be carried out in accordance with the following approved plans unless other conditions in this planning permission specify otherwise: -
- a) **Site Location Plan ref. FN.00.003 rev. D**
 - b) **Green Infrastructure Parameter Plan ref.H.0543.04 rev. K**
 - c) **Land Use Parameter Plan ref. H.0543.05 rev. J**
 - d) **Access and Movement Parameter Plan ref. H.0543.06 rev. P**
 - e) **Building Heights Parameter Plan ref.H.0543.07 rev. H**
 - f) **Plan Showing Primary Access Arrangements ref.H556/11 rev. C**
 - g) **Proposed Improvements to M5 Junction 9 ref.H556/12 rev. D**
 - h) **Western Access ref.H556/14 rev.A**
 - i) **Eastern Access ref. H556/15 rev.A**
 - j) **Landscape Mitigation Strategy Plan ref. 18095.002 rev.D**
 - k) **Drainage Strategy Drawing ref. 256-220 rev. C**

Report to the Secretary of State for Housing, Communities and Local Government

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Date: 10 September 2019

TOWN AND COUNTRY PLANNING ACT 1990

TEWKESBURY BOROUGH COUNCIL

LAND AT FIDDINGTON, ASHCHURCH, NR TEWKESBURY

APPEAL BY ROBERT HITCHINS LIMITED

Inquiry held on 11 June 2019

Land at Fiddington, Ashchurch, Nr Tewkesbury

File Ref: APP/G1630/W/18/3210903

File Ref: APP/G1630/W/18/3210903

Land at Fiddington, Ashchurch, Nr Tewkesbury

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Robert Hitchins Limited against Tewkesbury Borough Council.
- The application Ref 17/00520/OUT is dated 12 May 2017.
- The proposal is residential development (up to 850 dwellings), a primary school, local centre (comprising up to 2,000 m² gross internal floor area)(A1, A2, A3, A4, A5 and D1 uses) with no single A1 comparison unit exceeding 500 m² gross internal floor area, supporting infrastructure, utilities, ancillary facilities, open space, landscaping, play areas, recreational facilities (including changing facilities and parking), demolition of existing buildings, new access to the A46(T) and Fiddington Lane.

Summary of Recommendation: The appeal be allowed and planning permission be granted.

Procedural matters and background

1. The application was submitted in outline with all matters reserved. A range of other material, including an illustrative Masterplan and a series of Parameter Plans, were also submitted. The appeal has been considered on this basis.
2. On 17 September 2018 the Secretary of State recovered jurisdiction in respect of the appeal. The reason was that the appeal raises policy issues related to residential development of 150 or more dwellings which would significantly impact on the **Government's objective to secure** a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
3. An unaccompanied site visit was undertaken, from public land, on the day before the Inquiry. Both parties agreed that, given the nature of the issues there would be no benefit from a further visit after the close of the Inquiry.
4. After the appeal was lodged, the Council resolved (18 December 2018) on a number of putative reasons for refusal¹. These related to the strategy for residential development, the effect on the area and landscape, impact on local and strategic roads, the provision of community and educational facilities, and the provision of affordable housing.
5. However, before the Inquiry the Council withdrew all objections to the proposal and recommended that permission should be granted. This will be reflected below in the **summary of the Council's** case. The Council did not call any witnesses and the appellant, in the light of the changed position, only called one planning witness.

The site and surroundings

6. The appeal site is around 55 hectares in extent and is gently sloping agricultural land including field boundary hedgerows and trees. It includes an area of highway land and is located immediately to the south of Ashchurch and around 2k east of Tewkesbury.
7. It is bounded to the west by the M5, to the east by Fiddington Lane with open countryside beyond, and to the south by open fields. There is an area of open land between the site

¹ Core Documents (CD) A31 and A32

and the A46 trunk road to the north, and this area is allocated for development in the development plan and has an outline permission for a garden centre and a retail outlet centre². If implemented, this would obviously significantly change the context of the appeal site.

8. The local highway network comprises the M5, which is accessed at Junction 9 from the A46 at Ashchurch. Both are trunk roads administered by Highways England. There are three public rights of way running across the site, and a bridleway beyond the southern boundary.
9. The site is not within or adjacent to any national or local landscape designations, nor is it within the Green Belt. The Cotswold Area of Outstanding Natural Beauty is around 3km to the east. There are no designated heritage assets within or adjoining the site, though there are some beyond the boundary. Most of the site is within Flood Zone 1, though there is other land within Zones 2 and 3.

Planning policy

10. The development plan comprises the saved policies of the Tewkesbury Borough Local Plan to 2011 (BLP) (2006)³ and the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) (2017)⁴.
11. The JCS covers the period to 2031 and is the most up to date component of the development plan, replacing most of the strategic policies of the BLP. A full list of the JCS policies which the parties agree are of most importance to this appeal is set out in the Planning Statement of Common Ground (SOCG)⁵. When adopted, the intention was that the JCS was to be the subject of an immediate review due to the housing shortfall, and an Issues and Options paper has been produced with this in mind. There is no timetable for the review.
12. The BLP was intended to cover the period to 2011. The appeal site is not affected by any allocation or designation in the BLP.
13. Work has begun on the emerging Tewkesbury Local Plan, which will provide locally specific policies and allocations within the strategic framework of the JCS. However this is at a very early stage and the parties agree that no weight should be accorded to it.
14. **There is no 'made'** Neighbourhood Plan covering the site. The area was designated as a Neighbourhood Plan area in 2013 and there was a Regulation 14 draft consultation in 2018⁶. The parties agreed that this should not be afforded any weight at this stage.
15. The Council has prepared a number of Supplementary Planning Guidance documents. That dealing with Affordable Housing is the most directly relevant to the issues in this appeal.

² Document 14 Paragraph 6.1

³ CD D11

⁴ CD D1

⁵ Document 14 Paragraph 11

⁶ CD D9

16. The site lies within an area which has been awarded Garden Town Status⁷. The parties agree that this inclusion does not prejudice or prejudice the normal operation of the planning system.

The proposal and planning history

17. The application plans and supporting documents are listed in the Planning SOCG⁸.
18. As shown on the Parameter Plans the proposal includes up to 850 dwellings, with a mix of house types and 35% affordable housing. The dwellings would be generally two storeys in height.
19. The proposal includes a local centre with a range of small units intended to serve the day to day needs of the residents. It is indicated as being centrally located on the main access corridor. A primary school, initially with a single form entry, is proposed. This could accommodate up to 210 pupils.
20. The illustrative Masterplan shows various types of green infrastructure, including general amenity space as well as formal and informal recreation areas. A more substantial area of open space is shown in the north-western part of the site, including sports pitches and changing facilities.
21. Although access is a reserved matter, the illustrative Masterplan shows that the proposed primary vehicular access would pass through the approved garden centre and retail outlet centre and thence onto the A46. The primary access would be the modified A46/Alexandra Way junction. The scheme would also deliver other highway improvement works⁹.
22. Both the appeal site and the commercial land to the north are under the control of the appellant, and the access arrangements can be delivered regardless of progress on the commercial scheme. The parties agree that the provision of access could be the subject of conditions.
23. The only history related to this site is a scheme, dismissed on appeal in 1993, for a mixed-use development.

Statements of Common Ground

24. Three SOCGs have been submitted:

- A planning SOCG (7 June 2019) between the appellants and the Council¹⁰.
- A highways SOCG (16 April 2019) between the appellants and Highways England¹¹.
- A SOCG between the appellants and Ashchurch Rural Parish Council¹².

⁷ CD D14 summarises

⁸ Document 14 Section 4

⁹ Summarised at Document 14 Paragraph 37

¹⁰ Document 14

¹¹ Document 15

¹² Document 13

The planning SOCG with the Council

25. The key elements of this SOCG are:

- Both parties agree that the appeal should be allowed and would represent sustainable development.
- The site is in an accessible and sustainable location and is capable of access to nearby employment, shops, facilities, schools and other services.
- The revised Landscape Mitigation Plan sets out the expectations for the detailed landscape and layout design, in a manner acceptable to both parties. These matters are points of clarification rather than amendments to the scheme. A condition would require the submission of a site-wide Masterplan.
- At the time of the adoption of the JCS, there was a shortfall of 2,455 homes required to meet the housing requirement for Tewkesbury Borough.
- JCS Policy REV1 set out a requirement for an immediate partial review of the JCS, and the JCS authorities published a Local Development Scheme in October 2017. However this did not include a timetable and it is unclear whether this is to be a full or partial review. The parties agreed that no weight can be attached to the JCS review at this stage.
- Using the approach to housing land supply adopted in the Highnam decision¹³ **and using the Council's figures there is a 2.77 year supply. The Council does not accept the Secretary of State's approach in Highnam, but even on their figures there is only a 4.33 year supply.** For the purposes of this appeal, both parties agree that the shortfall is "substantial" and that if new sources of deliverable housing are not identified the position will worsen.
- **Both parties agree that the 'tilted balance' in paragraph 11 of the Framework is therefore engaged.**
- The proposal will make a timely and deliverable contribution to the housing shortfall, and can incorporate high quality design.
- The proposal is commensurate with the Garden Town status of the area and would not be premature for this or any other reason.
- The saved policies of the BLP should be accorded weight to the extent that they are consistent with the Framework.
- As the appeal site is not allocated for any purpose in the BLP, it is open countryside in policy terms. However the parties agree that the boundaries were not reviewed as part of the JCS and will need to be reviewed as part of the emerging Local Plan to accommodate the development requirements of the JCS.

¹³ CD H4

The highways SOCG with Highways England

26. The key elements of this SOCG are:

- The preliminary highway design was approved as part of the outlet centre, which included the creation/improvement of accesses from the A46.
- The design and layout arrangements¹⁴ currently proposed are an acceptable scheme subject to detailed design and road safety audit. These detailed matters can be secured by conditions.
- There is agreement on a range of matters including traffic generation, trip distribution and traffic growth. Mitigation works to Junction 9 are being worked up and can be secured. The site is to be served by a half hourly bus service to/from the town centre, ensured through the s106 Obligation. The accessibility credentials of the site are agreed.

The SOCG with Ashchurch Rural Parish Council

27. The key elements of this SOCG are:

- These parties agreed that there is a requirement for new housing to meet the shortfall, and that the current proposal would meet some of this need.
- Affordable housing would be a considerable benefit. The Parish would prefer 5% of the dwellings to be bungalows.
- The impact of the Tewkesbury Area Draft Concept Masterplan¹⁵, identifying the area as part of an employment centre, would be considerably greater than that of the appeal scheme, and are unacceptable to the Parish.
- The Illustrative Masterplan represents an appropriate form and distribution of uses.
- If it is concluded that there would be an unacceptable highways impact on Fiddington Lane and elsewhere, then a s106 contribution of £125,000 would **address the Parish's highways concerns**¹⁶. (However the Highway Authority does not consider this is necessary¹⁷.)
- The parties agreed that there is no scheme for off-line improvements to the A46 and that, were any scheme to be required in future, it would not be dependent on the appeal site.
- The scheme could integrate well with footpaths, which provide opportunities to access facilities including Tewkesbury School.
- The parties agreed that the appeal proposal would provide some community facilities and that other uses could be accommodated within the range of uses sought.

¹⁴ Plan nos. H556/14A and H556/15A

¹⁵ CD D8

¹⁶ **Document 1** explains the appellant's position and illustrates the type of measures

¹⁷ Document 5

- The SOCG records that the size and scale of the development and its landscape impact is not agreed.

The case for the appellant

28. The approach to appeals which is encouraged by national guidance is that parties should continue to discuss contentious matters even in the lead up to the Inquiry. This has happened in this case and has led the Council to a position where it is able to withdraw all opposition to the proposal. This is reflected in the Planning SOCG, which confirms the position of both parties - which is that the proposal represents sustainable development, that there are no planning reasons why the appeal should be dismissed, and that the appeal should be allowed
29. The original first reason for refusal related to plan making. However the use of the appeal site for strategic scale housing development is in broad conformity with the development plan. In any case, the Council accepts that it cannot identify a five year supply of housing land and that there is a substantial shortfall. The policies which are most important for determining the application are out-of-date, and **the 'tilted balance' is engaged**. Given the housing land supply position it is agreed that there is no need to consider other potential routes to the tilted balance.
30. **The Council's** original putative reason for refusal relating to landscape matters was always misconceived, but discussions with the Council have led to a masterplanning approach which **meets the Council's concerns**.
31. Highways matters have been the subject of extensive discussions with the highway authorities. The result is a comprehensive agreement including improvement works to the northbound off-slip and gyratory improvements at Junction 9 of the M5, access works to serve the development and changes to the signalisation at the Aston Cross junction¹⁸. Although the Highway Authority does not consider it necessary, the appellant is prepared to place monies aside by way of a planning obligation to mitigate any rat running on local roads¹⁹.
32. The other former putative reasons for refusal concerned contributions to various aspects of infrastructure provision. Agreement has been reached on public open space, outdoor recreation, sports facilities, education and library contributions. Planning obligations have been completed in relation to all these matters and there is no longer an objection on that basis.
33. There remain two areas of objection by the Parish Council concerning the size of the development and its landscape impact. The Parish Council did not attend the Inquiry to address these matters²⁰. There is therefore no clarity as to the nature of the objection related to the scale of the proposal. Nor is there any evidence to counter the conclusion jointly reached on landscape matters between the main parties.
34. The Council is concerned that the scheme should provide 40% affordable housing in place of the 35% incorporated in the scheme. However this is essentially a fairness argument as the proposal is of a strategic scale and, as such, should be considered against the policy related to strategic allocations, which seeks a minimum of 35%. This choice is enshrined in the Obligation, and either 35% or 40% can be selected on an evidential

¹⁸ Document 4

¹⁹ Examples of possible works at Document 1

²⁰ Mr Hargreaves spoke only in relation to highway mitigation matters

basis. In any event, the Council do not press this point such that they recommend dismissing the appeal, whatever conclusion is reached on this matter.

35. **There is no contest to the appellant's summary of the benefits arising from the scheme**²¹. Nobody is suggesting that any harm (such as it might be) outweighs the benefits to the extent required to warrant a rejection of the appeal.

The case for the Council

36. The first putative reason for refusal, dealing with the strategy for new residential development (related to JCS policies SP1, SP2, SD10 and REV1), was withdrawn by the Council by virtue of an updated position on deliverable housing sites. As a result of this updated position the authority accepts that the **'tilted balance'** under paragraph 11 of the Framework is engaged.
37. The second putative reason for refusal related to the character of the site and its surroundings (related to JCS policies SD4 and SD6). The Council no longer contests this matter, following an agreed approach illustrated by a revised Landscape Mitigation Plan. This clarifies the landscape and urban design matters which need to be taken into account at the masterplanning and detailed design stages. The agreed conditions address these matters. The Council is satisfied that a high quality development can be delivered.
38. The third putative reason for refusal related to the impact on the local and strategic road network in relation to JCS policy INF1. This was the subject of additional material submitted by the appellant and, following further work and discussions with Highways England, this reason for refusal was withdrawn.
39. Putative reasons five and six dealt with community and education facilities and open space, outdoor recreation and sports facilities (in the context of BLP policies RCN 1 and GNL11 and JCS policies INF4, INF6 and INF7). The authority accepts that the submitted planning obligations address these matters. The Council and the County Council have submitted CIL Compliance Statements dealing with libraries and education, affordable housing, play and community facilities²².
40. Finally, putative reason for refusal four dealt with the provision of affordable housing, in the context of Policy SD12 of the JCS. One of the obligations deals with the provision of affordable housing, but there remains an issue between the parties as to whether the scheme should provide 35% (the appellant's position) or 40% (the Council's position).
41. CS policy SP12 seeks a minimum of 40% affordable housing outside strategic sites - this applies to the appeal site. **The appellant's have not submitted a** viability appraisal to justify a lower figure. It is not reasonable to argue that 35% is sought on strategic sites, as this is not such a site. This figure is, in any case, a minimum.
42. Overall, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits.

Written representations and those appearing at the Inquiry

43. Mr Hargreaves appeared for Ashchurch Rural Parish Council. He was content to rely on written submission in the main. However he stressed the highway safety aspects of any

²¹ Summarised at Mr Hutchinson's paragraph 8.63.1

²² Documents 2 and 3

increased use of the lanes – which are well used by walkers, horse riders and cyclists. The safety of these vulnerable road users would be harmed if works to calm traffic were not undertaken. The written submissions by the Parish Council opposed the proposal in relation to its size and scale; the impact on the A46/J9 and Fiddington Lane; landscape impact; and loss of amenity to local residents. The Parish Council suggested, without prejudice, a range of necessary benefits if the scheme were approved.

44. Other written representations²³ raised very similar issues.

Conditions and obligations

45. A set of conditions have been prepared, without prejudice, and agreed between the Council and the appellant. They were discussed and slightly modified at the Inquiry and the final version forms an appendix to this report.
46. Draft Planning Obligations were discussed at the Inquiry. The final obligations (all dated 14 June 2019) were subsequently submitted and the parties were given the opportunity for further comment²⁴. These dealt with Education and Highways; Affordable Housing; Highways and Transportation; Open Space and Communities; and Highways Mitigation. They are dealt with below.

²³ On file

²⁴ Docs 8 - 11

Inspector's conclusions

[Numbers in square brackets denote source paragraphs]

Background and main considerations

47. **Despite the Council's position**, which is that planning permission should be granted, it is still useful to consider the proposal largely under the headings of the former putative reasons for refusal. The main considerations are therefore:

- Whether the proposal would prejudice the plan led approach to the provision of housing
- Whether the proposal would harm the landscape character of the area
- Whether the proposal would harm highway safety
- The amount of affordable housing which should be provided

The plan led approach

48. The site is not identified for any purpose in either part of the development plan (the BLP and the JCS). Given the size of the site and the scale of the development proposed, it would normally be appropriate for the site to be identified in the JCS as this is a recent element of the development plan and deals with strategic sites [25]. It is not identified as such, and thus is classed as countryside in policy terms. However the Council agree that, as the boundaries were not reviewed as part of the JCS, there will need to be a review within the emerging Local Plan due to the housing requirements [25].
49. There is no dispute that the proposal is of a scale that it would be classed as a strategic site. It was recommended as such by the Inspector during the course of the JCS Examination, but was not included in the final adopted version due to highways issues (which have since been resolved – see below).
50. On the face of it, the proposal is therefore contrary to the development plan. The appeal scheme conflicts with JCS policies SP2(8)), REV 1 and SD10. These support development on allocated sites and within the urban areas, and identify the need for an immediate partial review of the JCS to help meet the housing shortfall.
51. However the JCS was adopted with a considerable deficit in housing provision which, it was anticipated, would be addressed in the short term by a partial review [11, 25]. The overarching approach of the JCS (Strategic Objective 8) is the delivery of a wide choice of quality homes in order to meet housing need. This is reflected by JCS policy SP1 and SP2 which distribute the overall minimum housing requirement amongst the JCS authorities.
52. The current position is that there is a serious housing shortfall as demonstrated by the work on the AMR, and the intended immediate partial review of the JCS is at a very early stage at best. This is an agreed position and only the quantum of the shortfall is not fully agreed between the parties. If the approach adopted by the Secretary of State in **the Highnam case is adopted the provision is only 2.77 years, or 4.3 years if the Council's approach is preferred** [25].
53. However it is not necessary in determining this appeal to reach a judgement on which approach is preferred, as both parties specifically accept that there is a substantial shortfall. In addition, whatever the level of the current undersupply, the parties agree that it will worsen in coming years [25].

54. Given the substantial shortfall in housing land supply, the proposal falls squarely into the provisions of paragraph 11 of the Framework, in the absence of any harm to assets of particular importance which might provide a clear reason for refusing the development proposed. This is wholly accepted by the Council, and both parties agree that there is no need to consider whether there are any other routes to the so-called 'tilted balance'.
55. The putative reason for refusal stated that the proposal could prejudice the outcome of the plan making process, with reference to the review of the JCS. However the JCS review and the emerging Local Plan are at very early stages and carry little or no weight at this stage. On that basis, and given the lack of any objection from the Council, it cannot be concluded that the development would undermine the plan-making process.
56. In this context the Ashchurch Garden Town is no more than an idea at present and has little status – if pursued, it would have to go through the planning process in its own right. In any event, the parties agree that the current proposal would not prejudice, and would in fact materially assist, the concept [16, 25].
57. Overall, the position is that the appeal scheme is not identified in the development plan and is therefore in the countryside in policy terms and is in conflict with the JCS in this respect. However the situation is unusual in that the JCS stressed the need for housing delivery and was adopted in the knowledge of a housing shortfall. The intended immediate review of this part of the development plan is progressing, at best, very slowly. The appeal site nearly made it into the JCS as a strategic site, and only failed because of highways issues (since resolved). The appeal site is available and the development is deliverable, at least in part, during the next five year period. There is no evidence that the proposal is premature.
58. **For all those reasons, in line with the Council's** position, it is considered that the appeal would not prejudice the plan led approach to the delivery of housing, but would in fact make a major contribution towards addressing the deficit.

Landscape character

59. The appeal site is gently sloping agricultural land, including hedgerows and trees. It is within the Settled Unwooded Vale character type in the Gloucester Landscape Character Assessment. In the northern and western areas there are strong visual and noise effects from the motorway and the A46, which significantly detract from its rural character, whereas in the south-eastern area the site is more tranquil.
60. The only issue to be decided at this stage is the principle of the development, in outline. However it is quite reasonable to consider the potential landscape effects and approaches towards design and mitigation.
61. A built development on the site, would obviously result in a change to landscape character from open fields to an urban use. As noted in the **appellant's Environmental Statement** there would be a loss of openness and an expansion of the current urban area. **However the Council's position has always been that the site** is capable of accommodating some development. This was the position during the JCS process and when officers reported on the current proposal.
62. The Tewkesbury Area Draft Concept Masterplan [27], is not a development plan document as it is part of the evidence base to support work on the review of the JCS. Although as a planning document it carries no weight (nor has it been suggested that it should have weight) it is notable that it envisages the appeal site being developed and the countryside lost (albeit that it is shown for a different use).

63. It is inevitable that any greenfield development intended to address the pressing need for housing will result in similar landscape impacts. But in this case the site is not subject to any local or national landscape designations, and there is no reason to disagree with the parties that the sensitivity of the area is medium/low.
64. Given the proposed intrusion into the rural landscape, it is relevant to consider opportunities for minimising the impact. The concerns of the Council at the application stage related particularly to the effect on the Gloucestershire Way (close to the southern boundary of the site) and the way in which the linkages to other developments in the area would be handled. However these concerns have subsequently been assuaged by the Revised Landscape Mitigation Plan which has been produced and agreed within the SOCG.
65. This Plan does not depart from the submitted parameter plans but indicates the form the development could take, so as to give reassurance that any issues could be resolved at the detailed stage. It shows an area on the eastern side of the site kept clear of buildings, a flexibility zone on the south side of the site to allow for a varied building line, strategic green infrastructure planting along the southern site margin, and potential views retained in the southwestern corner. This addresses the concerns raised by the Council at an earlier stage in the process, and suggests a form of development compatible with its setting.
66. The proposal, insofar as it can be assessed at this stage, complies with JCS policies SD4, which requires a masterplan and a design brief demonstrating how various design principles have been incorporated. These include context, legibility and identity, and the design of landscaped areas. It also complies with JCS policy SD6 which requires that development has regard to landscape setting.

Highways impact

67. The effect of the proposal on the strategic and local highway network was a particular concern to the Council, and was the only matter which led to the appeal site not being designated as a strategic site in the JCS.
68. The preliminary design of the access arrangements was approved as part of the permission for the outlet centre and garden centre to the north [7, 21]. At the time of the **Council's putative reasons for refusal, Highways England had a number of outstanding** concerns regarding the adequacy of the information.
69. It is not necessary to record the detailed discussions which have since taken place between the appellants and Highways England. Suffice it to say that agreement has been reached on all matters related to the effect on and access to the strategic road network and there is no objection remaining in this regard [26]. Subject to detailed design and safety audit the access arrangements can go ahead in a satisfactory manner in tandem with the permitted development to the north or in isolation. It would not conflict with JCS policy INF4.
70. Related to traffic generation, the intention is that the site would be served by a half hourly bus service to and from the town centre. This would improve the accessibility credentials of the site still further.
71. There remains **local concern that there could be 'rat-running'** through local roads, though this was not predicted by highway modelling. The appellants have illustrated the location and type of measures which could be introduced [27, 31], subject to consultation with

stakeholders. The Mitigation Works Fund contribution in the relevant Obligation relates to monies for localised traffic calming on minor roads/lanes if this should be required. Although the County Council does not consider that this is necessary, local residents have written and spoken to explain the issues in the local road network and explain their concern that the development could exacerbate the position. It is considered that there is sufficient evidence, albeit anecdotal, to indicate that the Mitigation Works Fund is necessary.

The amount of affordable housing

72. The only matter at issue between the appellants and the Council is the question of the amount of affordable housing which the scheme should deliver. The appellants have put forward 35% whereas the Council seek 40%. Both figures are included in the planning obligation and the decision maker is requested to indicate the appropriate level of provision [34, 41]. However it is noted that, even if the lower figure is preferred, the Council do not oppose the proposal as a whole.
73. The background to this dispute is JCS policy SD12. This provides that the Council will seek to negotiate for affordable housing. In the case of Strategic Allocations a minimum of 35% affordable housing will be sought (**this is the appellant's position**), and elsewhere a minimum of 40% will be sought (**this is the Council's position**).
74. The appeal site is not a Strategic Allocation, for reasons described above. Therefore strict compliance with the development plan requires negotiation based on a minimum of 40%.
75. **The appellant's position is not based on a** viability case (indeed no viability evidence was submitted by any party), but on grounds of fairness. It is considered that there is much to commend this approach.
76. The appeal site and the proposed development are around twice the threshold which the JCS would regard as a strategic site. During the JCS Examination, the Inspector indicated that it was likely to be recommended as it met a wide range of criteria [49]. However it fell at the last hurdle and was not allocated due to highways concerns – the same highways concerns which have now been overcome.
77. The JCS itself recognises that Strategic Allocations will have their own deliverability and viability challenges and that there will need to be a balance between infrastructure provision and affordable housing in the context of deliverability. This is presumably the reason for the lower start point for such sites. Given the very particular background of the appeal site, it is reasonable to regard it in the same light as a Strategic Allocation.
78. For those reasons, although the 35% provision enshrined in the proposal is contrary to JCS policy, there exist material considerations which favour acceptance of that level of affordable housing.

Other considerations

79. There are a number of designated heritage assets identified beyond the application site:
 - The Abbey Church of St Mary in Tewkesbury (Grade I)
 - The Church of St Nicholas in Ashchurch (Grade II)
 - Rectory Farmhouse (Grade II)

80. In all cases the affect on the significance of the setting of the asset has been agreed as negligible. There is no evidence to counter that position.
81. There is also a field barn to the south of the site which Council officers (when reporting on the proposal) considered might be worthy of non-designated asset status. Even if this were the case, and although the setting of the barn would experience moderate harm to significance, this would be to an asset of very low local significance.
82. If it were considered that there were any harm to these assets, it would be less than substantial. This would be considerably outweighed by the considerable housing and other benefits of the proposal.
83. The development would result in the loss of a small area of Best and Most Versatile agricultural land. However this has not been raised as an issue by any party in the context of the land supply in the area.

Conditions

84. Draft conditions were considered during the Inquiry and largely agreed. A schedule of recommended conditions is appended to this report.
85. Condition 1 requires the submission of reserved matters in the usual way. However in relation to Conditions 2 and 3 (approval of reserved matters) the Council requested that the default limits are reduced to 18 months. This is not agreed by the appellant, as there is no good justification for reducing the standard time limits especially given the scale of the development and the time needed to prepare the details. This point is accepted, as adequate time must be allowed for the preparation and submission of reserved matters for such a substantial scheme.
86. The scale of the development needs to be controlled, as this was the basis on which the proposal has been considered (Conditions 4, 5 and 6). For a similar reason the housing mix needs to be controlled (Condition 42). For clarity, the approved plans need to be set out (Condition 43)
87. The parties do not agree the detail of a phasing condition (Condition 7). The key difference is that the appellant suggests that a phasing plan can be submitted prior to or as part of the first reserved matters application, whereas the Council wish it to be submitted prior to the first such application. No persuasive reason has been put forward which demonstrates why the phasing plan could not be submitted concurrently with the first application, and this wording is preferred.
88. The same point is raised in relation to a site-wide masterplan document (Condition 8), and the parties differ as to when this needs to be submitted. As before, although the **Council's preference to deal with matter sequentially is understood, it is not considered** that there is any particular need for this to be submitted prior to the first reserved matters application.
89. When the first reserved matters application is submitted, it needs to be accompanied by an overall recycling strategy (Condition 9) so as to encourage a sustainable approach to waste, and landscaping details (Conditions 10 and 11) in the interests of the appearance of the development and its relationship with the surrounding area. The latter details can be submitted on a phased basis.

90. There is no current evidence of particular archaeological interest in the site, but a condition (Condition 12) is necessary for heritage reasons to ensure investigation of each phase.
91. In the interests of protecting and encouraging ecology, a suite of conditions is necessary in relation to an Ecological Constraints and Opportunities Plan (Conditions 13 – 16).
92. The details of the highway layout would be submitted as part of the applications for reserved matters. However additional conditions are necessary in the interests of highway safety to control certain matters which are fundamental to the agreement which has been reached between the appellant, the Highways England and the Council. These include local works (Conditions 17 - 23), street maintenance (Condition 26) and strategic highway mitigation (Conditions 24 and 25). There was a discussion at the Inquiry as to whether specific conditions were necessary related to the retiming of signals at Aston Cross. However this can be achieved by other means, and conditions are not necessary.
93. In the interests of the amenity of the occupiers of the surrounding area and of early phases of the development, a Construction Method Statement needs to be submitted and implemented (Condition 27).
94. So as to provide sustainable drainage and minimise flood risk, a series of conditions are necessary (Conditions 28 - 34). These relate to levels and drainage features.
95. In the interests of the amenity of other occupiers of the development, conditions are necessary to control details of noise generating equipment and monitor noise levels (Conditions 35 and 36).
96. Various matters need to be controlled in order to encourage sustainable modes of transport. These include a Residential Travel Plan, electric charging points and cycle parking (Conditions 37 – 40).
97. Although there is no indication of contamination on the site, in the interests of the health of future occupiers it is necessary to ensure that any problems which are encountered are dealt with properly (Condition 41).

Planning obligations

98. Five separate Planning Obligations have been submitted. These deal with a range of matters which were discussed at the Inquiry and which were addressed in evidence and by the CIL Compliance Statements submitted by the Councils. These statements cover libraries and education, infrastructure and play, pitches/changing facilities and community facilities respectively. They clearly set out the basis of the Obligations in respect of policy and guidance. There is no dispute regarding these Obligations, which address key elements of the scheme.
99. Leaving aside two matters discussed below there is no suggestion that the obligations do not comply with the development plan or national policy. The contributions are directly related to the proposal and are necessary to make the development acceptable in planning terms. Therefore it is considered that the Obligations meet the policy in paragraph 56 of the National Planning Policy Framework and the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010.
100. The contents of the Obligations can therefore be given weight in the determination of the appeal – allowing for the fact that some of the provisions are intended to mitigate

the effects of the development (for example elements of the highways works). However the provision of affordable housing is one of the significant benefits of the proposal.

101. The Highways Mitigation Obligation deals with the likelihood of the minor roads/lanes in the vicinity **being used as a 'rat run'** as a result of the development. It provides that the owners will hold the sum of £125,000 for a period of 10 years, to be released under certain circumstances for mitigation works.
102. As discussed above, the evidence is limited and anecdotal in this respect. However the lanes in question are narrow and any significant increase in traffic as a result of the development would be prejudicial to highway safety. It is inevitably difficult to predict traffic flows in the future.
103. The Highways Mitigation Obligation is conditional on the Secretary of State not stating that the provisions are irrelevant or not required to grant permission or not compliant with the CIL Regulations, and confirming that it is necessary. This course of action is recommended.
104. The Affordable Housing Obligation provides for 35% affordable housing, but as an alternative for 40% if the Secretary of State states that this is required. For the reasons set out above, this is not considered to be the case and, for the avoidance of doubt, it is recommended that this is explicitly stated.

Planning balance and conclusion

105. The proposal would provide a substantial amount of open market housing, in line with national and local policy and in the context of a substantial local housing shortfall. This is especially important as there is no significant progress towards addressing that shortfall. Substantial weight can be accorded to the provision of general needs housing. The site is accepted to be in a sustainable location and has the support of the Council. It was only not allocated as a strategic allocation in the development plan due to highway concerns which have now been resolved.
106. Similarly the development would produce a 35% level of affordable housing, again in the context of considerable housing need. This is also a substantial benefit from the scheme.
107. It is also considered that the construction and investment expenditure and employment should be accorded significant weight.
108. Limited weight can be accorded to the provision of a Local Centre, primary school, community hall and sports facilities, although these are primarily aimed at addressing the needs of the residents of the new development itself. Similarly, there would be some limited weight to be accorded to on-site and off-site expenditure in relation to flood risk and biodiversity, and highways matters – but again these are largely required to mitigate the effect of the development.
109. It is recognised that there is some conflict with the development plan in terms of the plan led approach, the loss of an area of countryside, and any very limited harm to heritage assets. However there are very substantial benefits to be weighed in the planning balance.
110. It is agreed that the Council cannot demonstrate a five year supply of housing land and that there is a substantial shortfall. Under those circumstances, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the

application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

111. In this case, the benefits of the proposal carry significant weight, and the Council also support the grant of permission.

Recommendations

112. It is recommended that the appeal be allowed and planning permission be granted.

113. It is further recommended that it be stated that an affordable housing contribution of 35% should be made by the scheme.

114. It is further recommended that it be stated that the mitigation works, dealing with rat running in local lanes, is necessary.

P. J. G. Ware

Inspector

Recommended planning conditions
Land at Fiddington, Ashchurch, Nr Tewkesbury

Reserved matters and time limits

- 1) No part of the development hereby permitted shall be begun until details of the access (with the exception of those details approved pursuant to Conditions 17, 19 **and 20), appearance, landscaping, layout, and scale (hereinafter called 'the reserved matters')** have been submitted to and approved in writing by the local planning authority for that part of the development. The development shall be carried out as approved.
- 2) Application for the approval of the reserved matters for phase 1, as identified by the Phasing Plan required under Condition 7, shall be made to the local planning authority before the expiration of 3 years from the date of this permission. The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters approved for phase 1, whichever is the later. Application for approval of reserved matters may be submitted for a full phase or part of a phase.
- 3) Application for the approval of reserved matters for the subsequent phases of development, as identified by the Phasing Plan required under condition 7, shall be made to the local planning authority before the expiration of 10 years from the date of this permission. The subsequent phases of development hereby permitted shall be begun no later than 2 years from the date of approval of the last of the reserved matters to be approved for that phase. Application for approval of reserved matters may be submitted for a full phase or for a part of a phase.
- 4) No more than 850 dwellings shall be constructed on the site pursuant to this planning permission.
- 5) The total gross retail/commercial floorspace available for use by customers (excluding toilets and other ancillary facilities) of all premises falling within Class A1, A2, A3, A4, A5 and D1 (not including the primary school) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) shall not exceed 2,000 square metres in total and no single A1 unit shall comprise more than 500 square metres.
- 6) The size of the primary school hereby permitted shall not exceed a single form of entry.

Phasing

- 7) Prior to or as part of the first reserved matters application a Phasing Plan for the whole site shall be submitted to the local planning authority for approval in writing. The Phasing Plan shall include details of the approximate number of market and affordable dwellings for each phase of development together with general locations and phasing of key infrastructure, including surface water drainage, green infrastructure, informal and formal public open space, areas of play, access for pedestrians, cyclists, buses and vehicles and proposed public transport infrastructure.

The Phasing Plan shall be in general accordance with the design principles of the submitted Parameter Plans (Drawing Nos H.0543_04 Rev K, H.0543_05 Rev J, H.0543_06 Rev P and H.0543_07 Rev H) by the revised Landscape Mitigation Plan (ref.18095.002 Rev.D), the principles and objectives of the Design and Access Statement, April 2017, except where the requirements of other planning conditions require otherwise. Development shall be carried out in accordance with the approved Phasing Plan or any subsequent revisions thereto.

Design

- 8) Notwithstanding the submitted Indicative Masterplan, A Site Wide Masterplan Document (SWMD) shall be submitted to the local planning authority either prior to or alongside the first application for approval of reserved matters for its written approval. The SWMD shall be in accordance with the submitted Parameter Plans (Drawing Nos H.0543_04 Rev K, H.0543_05 Rev J, H.0543_06 Rev P and H.0543_07 Rev H) the revised Landscape Mitigation Plan (ref.18095.002 Rev.D) except where other planning conditions specify otherwise and shall include a set of Design Principles including:

- a) the principles for determining the design, form, heights and general arrangement of external architectural features of buildings;
- b) the principles of the hierarchy for roads and public spaces;
- c) potential arrangements for car parking;
- d) the principles for the design of the public realm; and
- e) the principles for the laying out of the green infrastructure, including the access, location and general arrangements of the sports pitches, and play areas.

The SWMD shall include a two-dimensional layout drawing that shows:

- f) the broad arrangement of development blocks around a street hierarchy including indications of active frontages;
- g) density ranges;
- h) maximum building heights;
- i) character areas;
- j) the location and general extent of public open space, including formal recreational areas, Play Areas, Allotments, drainage features access and car parking;
- k) existing landscape features to be retained and/or enhanced;
- l) proposed structural planting;
- m) the location and general extent of the local centre/neighbourhood area, including the school, community facility and associated access and car parking;
- n) the location of existing and proposed public rights of way;

Submissions for the approval of the reserved matters shall accord with the approved SWMD, unless otherwise agreed in writing by the local planning authority.

Waste and recycling

- 9) The first reserved matters application submitted pursuant to Condition 1 shall be accompanied by details of a recycling strategy for the site. The reserved matters applications for each phase shall include details of waste storage provision for that

phase which shall be in general accordance with the approved recycling strategy and the development shall be carried out in accordance with the approved details.

Landscaping

- 10) The first reserved matters application for any given phase submitted pursuant to Condition 1 shall include the following details in respect of that phase:
- a) a plan showing the location of, and allocating a reference number to, all trees on the site which have a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
 - b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
 - c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
 - d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree; and
 - e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

In this condition 'retained tree' means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above. Development shall be carried out in accordance with the approved details.

- 11) The plans and particulars submitted in accordance with Condition 1 shall include details of the size, species, and positions or density of all trees, hedgerows and other landscaping features to be planted, and the proposed time of planting, as well as maintenance schedules. If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted in accordance with details to be submitted to and approved in writing by the local planning authority.

Archaeology

- 12) No development shall take place within any phase or part of a phase pursuant to Condition 7 until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority for that phase or part of a phase. The scheme shall include an assessment of significance and a programme and methodology of site investigation and recording and the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation. The development shall be carried out in accordance with the approved Written Scheme of Investigation.

Ecology

13) No development or site clearance shall take place until a strategic Ecological Constraints and Opportunities Plan (ECOP) for the application site has been submitted to and agreed in writing with the Local Planning Authority. The Plan shall be based upon the submitted Environmental Statement (May 2017) and Environmental Statement Addendum (May 2019), the Green Infrastructure Parameter Plan (ref.H.0543.04 Rev.K) and the revised Landscape Mitigation Plan (ref. ref.18095.002 Rev.D). The Plan shall additionally, but not exclusively, include the following

- a) strategic dark corridors requirements;
- b) skylark nesting habitats requirements;
- c) integrated amphibian and reptiles habitats and corridors requirements; and
- d) an ecological and connection strategy for the Tirlle Brook including geomorphological factors, fish, riparian habitats and Otters.

Development shall be carried out in accordance with the approved ECOP thereafter unless otherwise agreed in writing with the Local Planning Authority.

14) Prior to the commencement of development of each phase (or part phase) of development identified in the phasing plan (Condition 7) a Green Infrastructure and Biodiversity delivery scheme for that phase shall be submitted to and agreed in writing by the Local Planning Authority. The delivery scheme shall be in general accordance with the strategy as set out in Chapter 4 (Ecology) of the Environmental Statement, the Green Infrastructure Parameter Plan (ref.H.0543.04 rev.K) the revised Landscape Mitigation Plan (ref. ref.18095.002 Rev.D) and the ECOP (Condition 13), and shall include, but not exclusively, the following:

- a) risk assessment of potentially damaging construction activities;
- b) **identification of "biodiversity protection zones" and their purpose/function;**
- c) **updated ecological survey's and assessments where required;**
- d) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- e) the locations and timing of works to avoid harm to biodiversity features and provide effective mitigation and enhancement;
- f) the times during construction when specialist ecological or environmental practitioners need to be present on site to oversee works;
- g) responsible persons and lines of communication;
- h) the role and responsibilities on site of an ecological clerk of works or similar person;
- i) use of protective fences, exclusion barriers and warning signs; and
- j) detailed ecological enhancement implementation measures relevant to the pre development ecological site characteristics and opportunities

Development for that phase (or part phase) shall be carried out in accordance with the approved delivery scheme thereafter unless otherwise agreed in writing with the Local Planning Authority.

- 15) No dwelling in any given phase pursuant to Condition 7 shall be occupied until a Landscape and Ecological Management Plan (LEMP) for that phase has been submitted to, and be approved in writing by, the local planning authority. The LEMP for each phase shall, but not exclusively, include the following:
- a) description and evaluation of features to be managed in relation to the open spaces defined in the Environmental Statement, the ECOP (Condition 13) and Green Infrastructure and Biodiversity delivery scheme appropriate to the phase;
 - b) ecological trends and constraints on site that might influence management;
 - c) aims and objectives of management including, but not exclusively, those in relation to farmland birds, amphibians, reptiles and bats;
 - d) appropriate management options for achieving aims and objectives including appropriate enhancement measures;
 - e) prescriptions for management actions;
 - f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) details of the body or organization responsible for implementation of the plan; and
 - h) ongoing monitoring and remedial measures

The LEMP shall also identify the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details

- 16) Prior to the occupation of the first dwelling, in each phase (Condition 7), a lighting scheme demonstrating that strategic dark corridors safeguarding in accordance with the ECOP (Condition 13) is achieved shall be agreed in writing with the LPA and thereafter development carried out in accordance with the approved scheme.

Access and layout

- 17) Notwithstanding Condition 1, the vehicle, cycle and pedestrian access points and associated link road and pedestrian crossing points as shown on drawing no. H556/11 Rev C shall be constructed in accordance with the approved plans before any building hereby permitted is first occupied.
- 18) Notwithstanding the approved plans and Condition 17 above, the southern access arm of roundabout R1 as shown on drawing No. H556/11 Rev C shall be constructed in accordance with revised details to be submitted to and agreed in writing by the Local Planning Authority.
- 19) Prior to the occupation of any part of the development hereby approved, the works to improve the Northway Lane / Fiddington Lane junction with the A46 as generally shown on PFA Drawing No. H556/15 Rev A (subject to detailed design and road safety audit) shall be complete and open to traffic.

- 20) Prior to the commencement of any part of the development hereby approved, the works to improve the Alexandra Way junction with the A46 as generally shown on PFA Drawing No. H556/14 Rev A (subject to detailed design and road safety audit) shall be complete and open to traffic.
- 21) No above ground works comprising the erection of a building shall commence on site until a scheme has been submitted to and agreed in writing by the Local Planning Authority, for the provision of fire hydrants (served by mains water supply) and no dwelling shall be occupied until the hydrant serving that property has been provided to the satisfaction of the Local Planning Authority.
- 22) Notwithstanding the approved plans no more than 300 dwellings shall be occupied until a bus/emergency access has been provided to Fiddington Lane in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.
- 23) The details to be submitted for the approval of reserved matters for each phase (or part phase) of development pursuant to Condition 1 shall include vehicular parking and turning and loading/ unloading facilities within the phase (or part phase). Thereafter, no building hereby approved shall be occupied until those facilities and carriageways (including surface water drainage/disposal and street lighting) serving that building and providing access from the nearest public highway to that building have been completed to at least binder course level and the footways to surface course level. The facilities shall be maintained available for those purposes for the duration of the development.

Strategic highway mitigation

- 24) Prior to the occupation of any part of the development hereby approved, the works to improve M5 junction 9 as generally shown on PFA Drawing No. H556/12 Rev D (subject to detailed design and road safety audit) shall be complete and open to traffic.
- 25) Prior to the occupation of any part of the development hereby approved, a scheme to widen the A438 exit from M5 Junction 9 as generally shown on PFA Drawing No. H556/12 Rev D (subject to detailed design and road safety audit) shall be complete and open to traffic.

Street maintenance

- 26) The reserved matters application for each phase submitted pursuant to Condition 1 shall include details of the proposed arrangements for future management and maintenance of the proposed streets within that phase or part of a phase. The streets shall thereafter be managed and maintained in accordance with the approved details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established for each phase or part of a phase.

Construction

27) No development shall take place in a phase or part of a phase, including any works of demolition, until a Construction Method Statement which accords with the Green Infrastructure and Biodiversity Delivery Scheme for that phase has been submitted to and approved in writing by the local planning authority for that phase or part of a phase. The document shall contain details for community engagement measures and to control the following:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) wheel washing facilities;
- e) measures to control the emission of dust and dirt during construction;
- f) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- g) details of the site access/routeing strategy/signage during the construction period.
- h) hours of working;
- i) site boundaries/hoardings;
- j) site activities;
- k) Construction Traffic:
 - i. volumes;
 - ii. routes;
 - iii. holding areas;
 - iv. parking;
 - v. cleaning;
- l) oversize loads;
- m) temporary fuel storage.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Levels

28) The reserved matters application for each phase or part of a phase that includes buildings submitted pursuant to Condition 1 shall include details of existing and proposed ground levels and ground floor slab levels relative to Ordnance Datum of the buildings within that phase or part of a phase or part of a phase. The development shall be carried out in accordance with the approved details.

29) Notwithstanding the approved plans/details, a detailed surface water drainage strategy for the entire development hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to, or accompanying, the first reserved matters application submitted pursuant to Condition 1. All subsequent reserved matters submitted pursuant to Condition 1 shall incorporate the approved surface water drainage strategy and the development shall be carried out only in accordance with the approved surface water drainage strategy. The details shall be based on the Flood Risk Assessment & Drainage Strategy (Revision A, dated February 2017), as amended by drawing 256-220-C '**Drainage Strategy (Appendix O** of the Flood Risk Assessment & Drainage Strategy)', included within the Environmental Statement. The submitted details shall:

- a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, details of existing and proposed overland flow routes, and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b) provide details of compensatory pluvial flood storage capacity within the site;
 - c) provide details of any necessary easements;
 - d) provide a health and safety risk assessment for the attenuation ponds and incorporate any recommended safety measures;
 - e) include details of the phasing for its implementation;
 - f) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 30) No building hereby permitted within each phase or part of a phase of the development, as defined under Condition 29 section e) above, shall be occupied until surface water drainage works have been implemented in accordance with details that have first been submitted to and approved in writing by the local planning authority, as part of the reserved matters applications for that phase or part of a phase.
- 31) No development approved by this permission for a phase or part of a phase within the floodplain, as defined by the 1:100 + 35% climate change flood extent as shown on drawing 256-230 'Tirle Brook Modelling 2016' (**Appendix K of the Flood Risk Assessment & Drainage Strategy**), shall be commenced until a scheme for the provision and implementation of compensatory flood storage works, based on the details submitted to the Environment Agency on 22nd February 2018, has been submitted to and approved in writing by the Local Planning Authority for that phase or part of a phase. The scheme shall include details of any phasing of the approved works and shall be implemented in accordance with the approved programme and details.
- 32) No development shall be put in to use/occupied until a SUDS maintenance plan for all SuDS/attenuation features and associated pipework has been submitted to and approved in writing by the Local Planning Authority. The approved SUDS maintenance plan shall be implemented in full in accordance with the agreed plan.
- 33) There must be no new buildings, structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of any bank of any watercourses, inside or along the boundary of the site, unless agreed otherwise in writing by the Local Planning Authority.
- 34) Floor levels should be set at a minimum of 600mm above the appropriate modelled 1% flood level including a 35% allowance for climate change as set out on Page 21 of Appendix K of the Flood Risk Assessment & Drainage Strategy (Revision A, dated February 2017).

Noise

- 35) Any reserved matters application submitted pursuant to Condition 1 including non-residential buildings shall include details of any extraction, ventilation, cooling and refrigeration equipment to be installed on or in any building. The rated noise level

from any extraction, ventilation, cooling and refrigeration equipment to be installed within the application site shall be no more than 5dB LAeq above the night-time background noise level measured at the nearest noise sensitive receptors. The method of assessment shall be carried out in accordance with BS4142: 2014: Rating industrial noise affecting mixed residential and industrial areas (or other document which may replace or modify the method of assessment). All approved equipment shall be installed in accordance with the approved details on or in the building prior to occupation and shall thereafter be operated and maintained in accordance with **the manufacturer's instructions**.

- 36) Noise levels within the dwellings hereby approved shall not exceed those set out in **BS4142:2014 "Sound Insulation and Noise Reduction for Buildings"**. Noise levels measured from enclosed outdoor private amenity areas (gardens) should attain the 50dB(A) desirable criteria (Considered by WRS to be the LOAEL) and not exceed the upper limit recommended within BS4142: 2014 being 55dB(A) (Considered by WRS to be the SOAEL)**.

To verify the above requirements for each phase (or part phase) each reserved matters application submitted pursuant to Condition 1 which includes any dwellings shall be accompanied by a noise survey to identify any dwellings that would be at risk of exceeding the LOAEL.

The noise survey shall identify those measures necessary to achieve this performance at the affected properties, and such measures shall be approved in writing by the Local Planning Authority prior to any works above slab level on the identified plots.

The mitigation measures so approved shall be completed prior to any dwellings to which they relate being first occupied and post completion testing to verify that the noise level requirements of this condition have been met shall be carried out at sample locations to be agreed by the Local Planning Authority before any of the dwellings hereby approved are first occupied.

If the post completion testing shows that the limits set out in BS4142: 2014 are exceeded within dwellings and/ or the upper limit of 55dB(A) is exceeded when measured from enclosed outdoor amenity areas, details of further mitigation to bring noise levels down to the required limits shall be submitted to and approved in writing by the Local Planning Authority and the proposed further mitigation shall be carried out before the dwellings to which these measures relate are first occupied.

** Section 3 WRS Application to Support NPSE Aims – Worcestershire Regulatory Services Noise Technical Guide 2nd edition 2015.

Sustainable travel

- 37) The approved Residential Travel Plan, H556-DOC07 TP Issue 2, dated 30 May 2018, shall be implemented in accordance with the submitted details and timetable therein (except for the developer to take on the role of co-ordinator and providing funding), and shall be continued thereafter, unless otherwise agreed in writing by the Planning Authority.
- 38) Prior to first occupation of any dwelling hereby approved, appropriate cabling and an outside electrical socket must be supplied for that dwelling to enable ease of

installation of an electric vehicle charging point (houses with dedicated parking). For those parts of the development with unallocated parking i.e. flats/apartments 1 EV charging point per 10 spaces (as a minimum) should be provided to be operational at first occupation of the relevant dwelling. The charging point must comply with BS7671. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.

- 39) Electric charging points shall be installed in 10% (minimum) of the allocated parking spaces at the development. This may be phased with 5% of spaces operational initially and a further 5% made EV charging ready (i.e. incorporating appropriate cabling) to allow additional provision to meet future demand. The charging points shall comply with BS7671 and the sockets with BS 1363 which must be provided with a locking weatherproof cover if located externally to the building.
- 40) Applications submitted pursuant to Condition 1 shall include details for secure cycle parking facilities. The details shall include the location, type of rack, spacing, numbers, method of installation and access to cycle parking. The approved cycle parking measures shall be fully installed prior to the first occupation of the building to which it relates.

Contamination

- 41) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared in accordance with requirement, which shall be subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which shall be subject to the approval in writing of the local planning authority.

Housing mix

- 42) The first reserved matters application for any given phase (or part phase) submitted pursuant to Condition 1 shall include the submission of a Housing Mix Statement to the Local Planning Authority for its written approval setting out, in respect of that phase, how an appropriate mix of dwelling sizes, types and tenures will be provided in order to contribute to a mixed and balanced housing market to address the needs of the local area, including the needs of older people, as set out in the local housing evidence base, including the most up-to-date Strategic Housing Market Assessment for the area at the time of the submission of the relevant reserved matters. The development shall be implemented in accordance with the approved Housing Mix Statement for that phase (or part phase).

Approved plans

- 43) The development hereby permitted shall be carried out in accordance with the following approved plans unless other conditions in this planning permission specify otherwise: -
- a) Site Location Plan ref. FN.00.003 rev. D

- b) Green Infrastructure Parameter Plan ref.H.0543.04 rev. K
- c) Land Use Parameter Plan ref. H.0543.05 rev. J
- d) Access and Movement Parameter Plan ref. H.0543.06 rev. P
- e) Building Heights Parameter Plan ref.H.0543.07 rev. H
- f) Plan Showing Primary Access Arrangements ref.H556/11 rev. C
- g) Proposed Improvements to M5 Junction 9 ref.H556/12 rev. D
- h) Western Access ref.H556/14 rev.A
- i) Eastern Access ref. H556/15 rev.A
- j) Landscape Mitigation Strategy Plan ref. 18095.002 rev.D
- k) Drainage Strategy Drawing ref. 256-220 rev. C

****End of Conditions****

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss S Reid of Counsel instructed by the Borough Solicitor

Affordable housing, planning conditions and 106:

P Smith MRTPI	Sole planning practitioner
C Ashby MRTPI	Development Management Team Leader
M Barker MRTPI	Planning Policy Manager (Housing)
G Spence	Planning solicitor

FOR THE APPELLANT:

Mr A Crean QC, instructed by Mr D Hutchinson, Pegasus Planning

He called

D Hutchinson BSc(Hons) DipTP MRTPI	Planning consultant, Pegasus Group
Affordable housing, discussion on planning conditions and s106:	
Andrew Hill	Land and Planning Director at Robert Hitchins Limited
Robyn Evans	Robert Hitchins Limited Legal Department
Peter Finlayson,	Chairman of PFA Consulting Ltd

INTERESTED PERSON:

J Hargreaves	Ashchurch Rural Parish Council
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INQUIRY DOCUMENTS

1	Appellant's note on Traffic Calming Measures on Fiddington Lane
2	CIL Compliance Statement – Libraries and education
3	CIL Compliance Statement – affordable housing, play facilities, community facilities
4	Appellant's note on Aston Cross Junction Improvement
5	Correspondence regarding Mitigation Works Fund
6	Council's opening and closing submissions
7	Appellant's closing submissions
8	Planning Obligation dated 14 June 2019 related to Education and Highways
9	Planning Obligation dated 14 June 2019 related to Affordable Housing
10	Planning Obligation dated 14 June 2019 related to Highways and Transportation
11	Planning Obligation dated 14 June 2019 related to Open Space and Communities
12	Planning Obligation dated 14 June 2019 related to Highways Mitigation
13	Statement of Common Ground with Ashchurch Rural Parish Council
14	Statement of Common Ground (Planning)
15	Statement of Common Ground (Highways)

CORE DOCUMENTS

	<i>Planning Application</i>
A1	A1 Covering Letter to LPA, dated 12th May 2017
A2	A2 Application Forms (including relevant Certificate of Ownership and Agricultural Holdings Declarations), dated 12th May 2017
A3	Affordable Housing Statement, dated 8th March 2017, prepared by Pioneer Property Services Ltd
A4	Built Heritage Statement (included within Environmental Statement Part 4, Chapter 8), dated December 2016, prepared by RPS CgMs
A5	Design and Access Statement, dated April 2017, doc ref: H.0543_11, prepared by Pegasus Design
A6	Flood Risk Assessment and Drainage Strategy (included within the Environmental Statement Part 4, Chapter 1), dated February 2017, prepared by Phoenix Design; and later supplemented by updated Drainage Strategy dwg ref. 256-220 rev. C, Flood Compensation Banding and Link Road Flood Compensation Summary submitted February 2018
A7	Planning Statement (including Draft Heads of Terms), dated May 2017, prepared by RPS CgMs
A8	Residential Travel Plan, dated April 2017, Issue 1, prepared by PFA Consulting
A9	Sustainability Statement, dated March 2017, prepared by RPS CgMs
A10	Statement of Community Involvement, dated April 2017, prepared by RPS CgMs
A11	Transport Assessment – Main Text, dated April 2017, Issue 1, prepared by PFA Consulting
A12	Transport Assessment – Figures, dated April 2017, Issue 1, prepared by PFA Consulting
A13	Transport Assessment – Appendices, dated April 2017, Issue 1, prepared by PFA Consulting

A14	Utilities Statement, dated May 2017, Rev B, prepared by Robert Hitchins Limited
A15	Waste Minimisation Statement, dated March 2017, Rev 1, prepared by WSP
A16	Email dated 22nd February 2018 from Phoenix Design attaching an update to the Drainage Strategy, drawing ref. 256-220 Rev C, prepared by Phoenix Design and accompanying details concerning: i. Flood Compensation Banding details; and ii. Link Road Flood Compensation Summary
	<i>Drawings</i>
A17	Site Location Plan – drawing ref: FN.00.003.D
A18	Illustrative Masterplan – drawing ref: H.0543.02M
A19	Green Infrastructure Parameter Plan – drawing ref: H.0543.04K
A20	Land Use Parameter Plan – drawing ref: H.0543.05.J
A21	Access and Movement Plan – drawing ref: H.0543.06.P
A22	Building Heights Parameter Plan – drawing ref: H.0543.07.H
A23	Western Access – drawing ref: H556/14 A24 Eastern Access – drawing ref: H556/15
	<i>Environmental Statement</i>
A25	Environmental Statement Part 1 – Non-Technical Summary, dated May 2017
A26	Environmental Statement Part 2 – Project Information, dated May 2017
A27	Environmental Statement Part 3 – Reports, dated May 2017
A28	Environmental Statement Part 4 – Figures and Appendices, dated May 2017
A29	Environmental Statement Addendum, dated May 2019, prepared by Pegasus Group
A30	Environmental Statement Addendum – Non-Technical Summary, dated May 2019, prepared by Pegasus Group
	<i>Committee Report</i>
A31	Officer Report to Planning Committee, dated 18th December 2018
A32	Minutes of the 18th December 2018 Planning Committee meeting
	<i>Correspondence with LPA</i>
A33	Letter from LPA issuing a Notice under Article 5(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 requiring details of Access to be included in the application as a Reserved Matter, dated 9th May 2017
A34	Email from RPS CgMs to the LPA submitting an amended Site Location Plan, dated 20th June 2017
A35	Email from RPS CgMs to the LPA submitting plans showing Access Details, dated 6th July 2017
A36	Email correspondence between the LPA and RPS CgMs regarding the description of development and the withdrawal of the Article 5(2) Notice, dated 21st July 2017
A37	Email correspondence between the LPA and RPS CgMs regarding agreement to extending the determination period of the application by two weeks, dated 26th July 2017
A38	Letter from the LPA confirming validation of the planning application, dated 26th July 2017
A39	Email correspondence between Phoenix Design and the LPA regarding the submission of additional drainage details in response to comments from the Environment Agency, dated 22nd February 2018

A40	Email correspondence between the LPA and RPS CgMs regarding agreement to extending the determination period of the application until 30th April 2018, dated 29th March 2018
	<i>Consultation Responses</i>
A41	Ashchurch Rural Parish Council, dated 25th August 2017 and 26th August 2017
A42	Environment Agency, dated 10th October 2017 and 23rd April 2018
A43	Ecological Officer, dated 26th October 2017 and 4th May 2018
A44	Environmental Health Officer, dated 1st December 2017
A45	Highways England, dated 31st August 2017, 16th February 2018, 22nd May 2018, 22nd December 2018 and 16th April 2019
A46	Highways Officer, dated 25th October 2018 and 7th May 2019
A47	Housing Strategy Officer, dated 22nd November 2017
A48	Landscape Officer, dated 3rd May 2018
A49	Lead Local Flood Authority, dated 6th September 2017
A50	Minerals and Waste Officer, dated 31st August 2017
A51	Natural England, dated 1st September 2017
A52	Planning Policy Officer, undated
A53	Public Rights of Way Officer, dated 5th October 2018
A54	A54S106 Officer, dated 17th May 2018
A55	Severn Trent, dated 17th August 2017
A56	Stoke Orchard & Tredington Parish Council, both undated
A57	Tewkesbury Town Council, undated A58 Urban Design Officer, dated 22nd September 2017
A58	Urban Design Officer, dated 22nd September 2017
A59	Wales & West Utilities, both undated
A60	Wychavon District Council, undated
	<i>Appeal administration</i>
B1	Planning Appeal Form, dated 6th September 2018
B2	Bespoke Timetable Statements of Case
B3	Appellant Pre Inquiry Statement of Case, dated 6th September 2018
	B4 Tewkesbury Borough Council Rule 6 Statement, undated Draft Planning Obligation
B5	Draft S106 Documentation: a) Affordable Housing S106 which has been agreed with Tewkesbury Borough Council; b) Public Open Space Unilateral Undertaking which is currently being negotiated with Tewkesbury Borough Council; c) Annex 2 of the Public Open Space Unilateral Undertaking; d) Education/Libraries S106 which is currently being negotiated with Gloucestershire County Council; e) Illustrative Masterplan to be attached to the Education/Libraries S106 f) Highways/Transport S106 which is currently being negotiated with Gloucestershire County Council; g) S106 Plan to be attached to all documents h) Plan showing the land ownership to be attached to all documents Statements of Common Ground
B6	Draft Statement of Common Ground, dated 10th August 2018
B7	Agreed Statement of Common Ground with Highways England, Version 4, dated 16th April 2019
B8	Agreed Statement of Common Ground with Ashchurch Rural Parish Council, dated 29th and 30th April 2019
B9	Agreed Planning Statement of Common Ground

B10	Agreed Housing Land Supply Statement of Common Ground
B11	Agreed Highways Statement of Common Ground with Tewkesbury Borough Council
	<i>National Planning Policy and Guidance</i>
C1	National Planning Policy Framework 2 (Revised February 2019)
C2	National Planning Practice Guide
	<i>Local Planning Policy and Guidance</i>
D1	Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031, adopted December 2017
D2	Gloucester, Cheltenham and Tewkesbury Joint Core Strategy – Inspectors Final Report on the Examination, dated 26th October 2017
D3	Gloucester, Cheltenham and Tewkesbury Joint Core Strategy – Inspectors Interim Report on the Examination, dated 26th May 2016
D4	Joint Core Strategy Review – Issues and Options Consultation, dated October 2018
D5	Tewkesbury Borough Plan 2011-2031 Preferred Options Consultation, dated October 2018
D6	Tewkesbury Borough Council Local Development Scheme – Note for the Inspector, dated 9th June 2015
D7	Tewkesbury Borough Council Community Infrastructure Levy Charging Schedule – adopted October 2018
D8	Tewkesbury Area Draft Concept Masterplan – Concept Masterplan Report, dated January 2018, prepared by BDP on behalf of Tewkesbury Borough Council
D9	Ashchurch Neighbourhood Development Plan – Regulation 14 Draft 2016
D10	Representations on behalf of the Appellant to the Tewkesbury Area Draft Concept Masterplan, dated January 2019, prepared by Pegasus Group
D11	Tewkesbury Local Plan to 2011 (Adopted March 2006), Policy RCN1 – Outdoor Playing Space
D12	Additional Strategic Sites Report, Addendum to the Plan viability, Community Infrastructure Levy and affordable housing study, Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, report prepared by PBA on behalf of the JCS Authorities, dated September 2016
D13	MHCLG Garden Towns Press Release, dated 25th March 2019
D14	Report to Tewkesbury Borough Council full council committee meeting – Garden Community Programme (Garden Town Status for Tewkesbury at Ashchurch), dated 28th May 2019
	<i>Housing Needs and Land Supply</i>
E1	MHCLG Technical Consultation on Updates to National Planning Policy and Guidance, dated October 2018.
E2	South Worcestershire Development Plan, adopted February 2016
E3	South Worcestershire Development Plan Review – Issues and Options Consultation, dated November 2018
E4	Extracts from Appendix 2 (Detailed Trajectory Workbook) of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Housing Implementation Strategy, dated January 2017

E5	Bredon Parish Neighbourhood Plan 2016-2030, dated July 2017 E6 Tewkesbury Borough Five Year Housing Land Supply Statement, dated March 2019
	<i>Transport</i>
F1	Plan Showing Primary Access Arrangements – drawing ref: H556/11 Rev C
	F2 Application Plan Western Access – drawing ref: H556/14 Rev A
F3	Application Plan Eastern Access – drawing ref: H556/15 Rev A
F4	Proposed Improvements to M5 Junction 9 – drawing ref: H556/12 Rev D
F5	Residential Travel Plan (Issue 2), dated May 2018, prepared by PFA Consulting
F6	Ashchurch S-Paramics Traffic Model 2016 Revalidation Report (Issue 3), dated February 2018, prepared by PFA Consulting
F7	Ashchurch S-Paramics Traffic Model Forecasting Report, dated March 2019, prepared by PFA Consulting
F8	Walking, Cycling & Horse-Riding Assessment Report, dated June 2018, prepared by PFA Consulting
F9	Junction Capacity Assessment Report, dated March 2019, prepared by PFA Consulting
F10	Local Highway Network Impact Assessment – S-Paramics Modelled Queue Lengths and Link Times, dated August 2018, prepared by PFA Consulting
F11	DfT Circular 02/2013 – The Strategic Road Network and the Delivery of Sustainable Development
F12	The Strategic Road Network: Planning for the Future, dated September 2015, published by Highways England
	<i>Landscape, Urban Design & Masterplanning</i>
G1	Creating Successful Masterplans: A guide for clients, dated 2004, published by CABE
G2	Garden Communities, dated August 2018, published by MHCLG
	<i>Relevant appeal decisions and legal judgements</i>
H1	Appeal decision APP/P0240/W/17/3190584 – 59 Shefford Road, Meppershall Shefford, dated 22nd May 2018
H2	High Court Judgement CO/4792/2014 – Phides Estates (Overseas) Limited vs SoS for DCLG, Shepway District Council and David Plumstead, dated 26th March 2015
H3	Court of Appeal Judgement C1/2015/0583 and C1/2015/0894 – Suffolk Coastal District Council vs Hopkins Homes Limited and SoS for DCLG and Richborough Estates Partnership LLP vs Cheshire East Borough Council and SoS for DCLG, dated 17th March 2016
H4	SoS Appeal Decision APP/G1630/W/3184272 – Land South of Oakridge, Highnam, Gloucestershire, dated 20th December 2018
H5	SoS Appeal decision APP/K3415/A/14/2224354 – Land and Buildings off Watery Lane, Curborough, Lichfield, dated 13th February 2017
H6	High Court Judgement CO/1429/2017 – Lichfield District Council vs SoS for DCLG, dated 28th July 2017
H7	Appeal Decision APP/G1630/W/17/3175559 – Land off Ashmead Drive, Gotherington, dated 27th April 2018
H8	Appeal Decision APP/G1630/W/17/3171926 – Land off Kidderminster Road, Winchcombe, dated 5th October 2017

H9	Appeal Decision, APP/G1630/W/17/3174525 - Land to the North of 15 Bloxhams Orchard, Ashleworth, dated 23rd August 2017
H10	Appeal Decision, APP/G1630/W/17/3167141 - Land at Trumans Farm, Gotherington, dated 15th August 2017
H11	Appeal Decision, APP/G1630/W/16/3165534 - Land rear of Dormans, Mill Lane, Prestbury, dated 15th August 2017
H12	SoS Appeal Decision APP/G1630/W/16/3164033 - Land at Innsworth, Innsworth Lane, Gloucester, Gloucestershire, dated 21st December 2017
H13	SoS Appeal Decision APP/G1630/W/16/3154464 - Land at Twigworth, Gloucester, Gloucestershire, dated 21st December 2017
H14	SoS Appeal Decision APP/J0405/V/16/3151297 - Land West of Castlemilk, Moreton Road, Buckingham, dated 19th July 2017
H15	Appeal Decision, APP/Z2830/W/18/3206346 - Land South of Kislingbury Road, Rothersthorpe, dated 17th May 2019



Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Step 1 - Residential Units

Enter Total no. Units

Houses	754
Flats	96
Total	850

Greater than 90 houses (larger housing development sites)

Step 2 - Qualifying Dwellings

a) Enter No. Age restricted dwellings (units for people aged 55+)

Houses	
Flats	66
Total	66

*restricted occupancy, by age (normally over 55). These are deducted from the analys

b) Total qualifying dwellings

Houses	754
Flats	30
Total	784

This is the net of total - age restricted units.

Step 6 Consultations

Planning Application Consultation

Planning Application Ref	Fiddington
Site/Location	Fiddington
Proposal (description)	850 dwellings

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Total Units	850
Qualifying Houses	754
Qualifying Flats	30

Pupil Yields

Pre School	61.97
Primary School	212.08
Secondary School 11-16	113.54
16-18	14.63
Secondary 11-18	128.18
Total Yield	402.23

Multipliers 2018

14541
14541
18779
22173
22173

Max Contribution

901051
3083904
2132243
324454
2842065

Notes

--

Does the secondary school have a Sixth Form?

Y

6b Capacity Analysis.

	Capacity? Y/N	Infrastructure		
Pre School	N	Local nursery/pre-school		61.97
Primary School	N	On site provision		212.08
Secondary School 11-16	N	TBC		113.54
16-18	N	TBC		14.63
Secondary 11-18	N	TBC		128.18

Step 7 - Library Contribution

Total Dwellings	850	Required Y/N?	Y
Library Contribution	£ 166,600.00		
Nearest Library	Nearest Library		

Step 8 - Response

Planning Application Consultation Response - Community Infrastructure Requirements (Gloucestershire County Council)

23/12/2020

Summary

Planning Application	Fiddington
Site	Fiddington
Proposal	850 dwellings



Thank you for consulting GCC Infrastructure on the above application.

The scheme has been assessed for impact on various GCC infrastructure in accordance with the "Local Developer Guide" adopted 2014.

The Developer Guide is considered as a material consideration in determination of the impact of development schemes on infrastructure.

The assessment also takes account of CIL Regulations 2010 (as amended). [LOCAL DEVELOPER GUIDE](#)

The scheme comprises the following number of dwellings:

Of these:	Houses:	754
	Flats:	96

The scheme will generate the need for 61.97 additional pre-school places

There is no additional capacity. Therefore a contribution is required:

£901,051

The scheme will generate the need for 212.08 additional primary school places

There is no additional forecast capacity. Therefore a contribution is required:

£3,083,904

The scheme will generate the need for 128.18 additional secondary school places. This includes Sixth Form.

There is no additional forecast capacity.
Therefore a contribution is required:

£2,842,065

The scheme will generate additional need for library resources. A contribution is therefore required, in accordance with the GCC Local Developer Guide.

The Library Contribution required is:

£166,600

Education Contribution: Justification

A full explanation is provided within the GCC publication "Local Developer Guide".

Paragraphs 65-78 provide further detail (available from www.gloucestershire.gov.uk)

LOCAL DEVELOPER GUIDE

Pupil yields are calculated in accordance with research published by GCC in "Child Yields in New Developments".

The cost per place (from 2016) is as follows:

Pre-school and Primary places:

£14,541.00

Secondary 11-16:

£18,779.00

Secondary 11-18:

£22,173.00

Multipliers are reviewed annually.

Where there is no identified surplus capacity in the forecast, a contribution is sought.

Where there is an identified surplus of places within the forecast this will reduce the contribution, or remove the need for a contribution entirely.

Pre-school Contributions:

The assessment identified no capacity in the sector available. In accordance with the GCC Local Developer Guide, a contribution is justified as outlined above.

Specific Infrastructure: Local nursery/pre-school

Purpose(s): Towards additional pre-school places arising from the impact of the development.

Primary School Contributions:

The assessment identified no capacity in the sector available. In accordance with the GCC Local Developer Guide, a contribution is justified.

Specific Infrastructure: On site provision

Purpose(s): Towards the provision of additional places at the named school(s).

Secondary School Contributions:

The assessment identified no capacity in the sector available. In accordance with the GCC Local Developer Guide, a contribution is justified.

Specific Infrastructure: TBC

Purpose(s): Towards provision of additional places at the named school(s).

Library Contribution: Justification

A full explanation is provided within the GCC publication "Local Developer Guide".

LOCAL DEVELOPER GUIDE

Paragraphs 93 to 97 explain the principles for securing contributions towards libraries, and the specific purposes to which they will be put.

In this case, the proposed development and increase in population will have an impact on resources at the local library, as explained in the GCC Local Developer Guide.

Specific Infrastructure: Nearest Library

Purpose(s): Towards additional library resources at the named library(ies)

Notes

1. Where the resulting number of dwellings varies from the number assessed, the contribution will be increased or decreased to reflect this:

Pre School	Per house	£1,102.00	Per flat	£301.00
Primary School	Per house	£3,799.00	Per flat	£367.00
Secondary School	Per house	£3,511.00	Per flat	£94.00
Libraries	Per house	£196.00	Per flat	£196.00

2. The **total** expected child yield from this scheme is

Pre-school	206.6
Primary School	227.1
Secondary School	124.5
16-17	40.1
	598.2

3. Age-restricted dwellings are not included in calculations (e.g. developments for people aged 55+)

4. Pupil Yields reflect the total child yield, and are adjusted downwards to take account of:

- a proportion of children will not attend the local school (e.g. due to private school attendance)
- a proportion of students will not stay on to 6th Form (staying on rates)
- take up of nursery places is based on local data.

5. The infrastructure items identified are those which are most likely to serve the development.

In the case of schools, these are the nearest schools within reasonable distance.

Library services contributions will relate to the nearest local library.

6. Phasing of payments will be by agreement. It will be expected to be paid in advance of the impact arising, to allow sufficient time for expenditure.

Payments will relate to identifiable triggers. The number of triggers/phases will depend on the scale of the development.

OTHER INFORMATIVES IF APPLICABLE:

Further information is available from the GCC Community Infrastructure Team

Email: community.infrastructure@gloucestershire.gov.uk

iis.

- £14,541
- Secondary (11-18): £22,173
- Secondary (11-16): £18,779

£ 901,050.51
£ 3,083,904.43
£ 2,132,242.78
£ 324,454.35
£ 2,842,065.46

Copy Response for sending in Email

Copy response to PDF for sending

APPENDIX 10



Appeal Decision

Inquiry Held on 8, 9, 10 and 11 October 2019

Site visits made on 10 and 11 October 2019

by **[REDACTED] BA MPhil DipTP MRTPI FRSA**

an Inspector appointed by the Secretary of State

Decision date: 11 November 2019

Appeal Ref: APP/G1630/W/19/3229581

Land at Stoke Road, Bishop's Cleeve GL52 7DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by **[REDACTED]** against Tewkesbury Borough Council.
 - The application Ref 18/00249/OUT, is dated 8 March 2018.
 - The development proposed is an outline planning application for the erection of up to 215 dwellings, up to 2.24ha of commercial use (B1 and B8), up to 0.2ha of retail uses (A1), with public open space, landscaping and sustainable urban drainage system including associated works and two vehicular access points from Stoke Road. All matters reserved except for means of access.
-

Decision

1. The appeal is allowed and planning permission is granted for an outline planning application for the erection of up to 215 dwellings, up to 2.24 ha of commercial use (B1 and B8), up to 0.2ha of retail uses (A1), with public open space, landscaping and sustainable urban drainage system including associated works and two vehicular access points from Stoke Road. All matters reserved except for means of access in accordance with the terms of the application, Ref 18/00249/OUT, dated 8 March 2018, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. The appeal was lodged on 24 May 2019 against the non-determination of the planning application and considered by the Council's Planning Committee on 16 July 2019. The Council's six putative Reasons for Refusal (RfR) are contained within the Council's Statement of Case. In summary these are: (i) the proposal would be exposed to unacceptable odours from the nearby strategic Wingmoor Farm Integrated Waste Management Facility; (ii) failure to provide good connectivity (iii) insufficient information to demonstrate safe and suitable access to the site; (iv) failure to comply with the sequential test for the retail element; (v) absence of a planning obligation for affordable housing and (vi) absence of a planning obligation for public transport improvements, open space, outdoor recreation and sports, and recycling and waste bins.

3. The application was submitted in outline with all matters except access reserved for subsequent approval. It was agreed that the plans on which the appeal should be determined are:

- A Location Plan - Drawing Number 2013-076-100
- An Access Plan - Drawing Number 4746-34-03H

It was also agreed that the following two plans were submitted for illustrative purposes:

- A Development Framework Plan Drawing Number 6335-L-02_M
- An Illustrative Master Plan Drawing Number 6335-L-03_D

4. Due to the scheme's nature, scale and location, the proposed development constitutes 'EIA development' under the EIA Regulations.¹ The proposed development falls within Schedule 2, Category 10 'Infrastructure Projects', Subsection (b) Urban Development Projects. An Environmental Statement (ES) accompanied the planning application following a formal Scoping Opinion issued by the Council on 18 July 2017. The environmental topics that were identified through the scoping process as requiring further assessment as part of the EIA included: Archaeology and Heritage; Landscape and Visual; Water Environment, Drainage and Flood Risk, Transport and Access; Air Quality, Dust and Odour; and Noise and Vibration. Cumulative effects associated with committed developments were also considered. I have had regard to all the environmental information submitted to the Inquiry and particularly that contained within the ES.
5. In addition to the ES, the application was supported by a number of reports and technical information. Details of these documents are set out in a Planning Statement² and include a Design and Access Statement (DAS), an Ecological Appraisal, an Arboricultural Assessment, a Phase 1 Preliminary Risk Assessment, a Foul Drainage Analysis Report, a Utilities Appraisal, a Statement of Community Involvement, a Socio-Economic Report, a Retail Assessment and a Ground Gas Risk Assessment.
6. I held a Case Management Conference (CMC) on 8 August 2019. At the CMC the main issues were identified, how the evidence would be dealt with at the Inquiry and timings. It was agreed that matters relating to noise and flood risk were matters raised by interested persons but not by the Council. In the weeks following the CMC both main parties continued discussions on the appeal to ensure that matters of dispute were clear and that all matters of agreement (non-disputed matters) were documented in either Statements of Common Ground or in draft Planning Conditions such that time on these matters were minimised at the Inquiry. The Statements of Common Ground (SoCG)³ in this case are:
- General Technical and Policy SoCG – 16 August 2019
 - Five Year Housing Land Supply SoCG - 25 July 2019
 - Highways SoCG – 10 September 2019

¹ The Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2011 and the 2015 amendment

² CD1.18 paragraph 3.2.3

³ INQ3

7. The SoCGs have helped to narrow the issues and allowed the parties to focus on the particular matters in dispute. The Council accepts that it does not have a five year housing land supply. Both parties are agreed that the position for this Inquiry is set at 4.33 years and paragraph 11 of the NPPF is engaged on the tilted balance basis.⁴ It is also agreed between the parties that the transport matters referred to in RfR 3 and RfR 6 have been addressed.⁵ In addition, both parties are agreed that RfR 4 can be addressed by means of a planning condition limiting the floorspace of the proposed retail unit within the development to 280sqm.⁶ Finally, there is agreement between the parties that an appropriately worded s106 Agreement will resolve the dispute on RfR 5.⁷ It follows that RfR 3-6 and are no longer matters of dispute between the parties.
8. At the Inquiry, two s106 Planning Obligations were submitted. The first Planning Obligation is made by an Agreement between the Appellant and Tewkesbury Borough Council (TBC).⁸ The second Planning Obligation is a made by a tripartite Agreement between the Appellant, Gloucestershire County Council (GCC) and TBC.⁹ Both Agreements address all of the matters sought by the Borough and County Councils in connection with the provision of community and other services arising from the proposed development. The Planning Obligations are both signed and dated 5 November 2019. They are both material considerations in this case. A combined Statement of Community Infrastructure Levy (CIL) Compliance was submitted in support of both Planning Obligations.¹⁰ I return to these Planning Obligations later in this decision.

Main Issues

9. In the light of the above I consider the main issues are:
- Whether the proposal would provide an appropriate site for development having regard to the most important and up-to-date policies in the development plan and national guidance;
 - Whether the proposed development would be exposed to an unacceptable risk from pollution, in particular air quality issues arising from the nearby strategic Wingmoor Farm Integrated Waste Management Facility; and
 - Whether the proposal would demonstrate adequate connectivity to existing services and facilities within Bishop's Cleeve.

Reasons

The proposed development and appeal site

10. The proposed development seeks to provide up to 215 dwellings; up to 2.24 hectares of commercial use (B1 and B8); up to 0.2 hectares of land for 300 square metres of retail use; two vehicular access routes off Stoke Road;

⁴ INQ3(ii) paragraph 3.3

⁵ INQ3(iii) paragraphs 3.4 and 4.2

⁶ INQ(i) paragraph 4.15.1

⁷ INQ(i) paragraph 4.4.2

⁸ INQ4

⁹ INQ5

¹⁰ INQ6

green infrastructure including open space to include open space for play; an equipped play area; landscaping and an attenuation basin.

11. The appeal site is located to the west of Bishop's Cleeve. It is situated north of Stoke Road, which provides access to Bishop's Cleeve and links to the A435 providing connectivity to Cheltenham, some 3.5km to the south and Gloucester some 11km to the south west.
12. The site includes 13.56 hectares of agricultural land comprising four fields. A hedgerow with a number of semi-mature trees line the western and northern boundaries. There are two dwellings located to the south-western corner outside the site boundary.
13. The southern boundary of the site is defined by Stoke Road and a hedgerow which runs parallel to the carriageway with occasional mature hedgerow trees. Beyond this lies the Cheltenham North Rugby Football Club and the Wingmoor Farm Integrated Waste Management Facility. The site's eastern boundary is shared with the Malvern View Business Park and existing residential development that backs onto the site. This is screened in places by vegetation and maturing woodland on unused portions of the business park.
14. To the north, the boundary is marked by a hedgerow beyond which is agricultural land and the "Cleevelands" residential development, much of which is now completed, located in the far north-east corner. To the west, the site boundary is contained by hedgerows, maintained at a variety of heights and reinforced by numerous trees, with open countryside beyond.
15. Vehicular and pedestrian access to the site is proposed from Stoke Road, with two separate accesses serving the employment area and residential development. Access is included for consideration at this stage. The planning history of the site is set out in the SoCG.¹¹

Planning policy

16. The statutory development plan includes the following documents:
 - (i) The Gloucestershire, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS) (adopted December 2017);
 - (ii) The Saved policies of the Tewkesbury Borough Local Plan to 2011 (2006) (saved March 2009) (TBLP) and
 - (iii) The Gloucestershire Waste Core Strategy (GWCS) (November 2012).
17. The parties are agreed that the planning policies which are most relevant to this appeal are set out at Section 3 in the General SoCG¹² and are not repeated here.
18. The Council is in the course of preparing a new Local Plan. The Emerging Tewkesbury Borough Plan 2011-31 (ELP) was subject to consultation on Preferred Options in October 2018. On 30 July 2019 the Council approved a Pre-Submission Tewkesbury Borough Plan for publication, and it is anticipated that a publication version will be submitted to the Planning Inspectorate before the end of 2019. Given its stage of preparation and in the light of the

¹¹ INQ3 paragraph 2.4.1

¹² INQ3 paragraphs 3.1 – 3.6.2

guidance at paragraph 48(a) of the NPPF, I consider that the policies in the ELP can only be given limited weight in the context of this appeal.

19. The ELP makes clear that it does not seek to cover strategic issues that are addressed by the JCS or any subsequent review of the JCS. The ELP includes at Policy EMP1 an allocation of the whole appeal site as a Major Employment Site. This is adjacent to the existing Malvern View Business Park, which is covered by Policy EMP1 as an Existing Major Employment Site. There is an unresolved objection to the application of this policy to the appeal site, from the Appellant, which reduces the weight that can be attached to Policy EMP1 in determining this appeal, in line with the advice in paragraph 48 of the NPPF. In my view, while there is conflict with the ELP in that respect, the ELP can only be afforded limited weight.
20. Following the adoption of the JCS in December 2017, the three authorities (Tewkesbury, Gloucester and Cheltenham) began work on a review. This work is still at an early stage – an Issues and Options consultation took place in late 2018/early 2019 but no full version of the Review has been published. The document, which is meant to address the 2,400 dwelling shortfall that arose at the end of the adoption process, can be given very limited weight.
21. Bishop's Cleeve Parish Council applied to designate a neighbourhood area for the preparation of a Neighbourhood Plan, which was validated on 1 March 2017. The appeal site is within the designated area. The Neighbourhood Plan appears to have made little progress. It too is in its very early stages and draft policies have not yet been published so no weight can be attached to the Neighbourhood Plan.

First Issue - Whether the proposal would provide an appropriate site for development having regard to the most important and up-to-date policies in the development plan and national guidance.

22. The Bishop's Cleeve Parish Council and other interested persons object to the proposal for several reasons. It is argued that the cumulative impact of development in the village is unsustainable and would have an adverse impact on community cohesion and social well-being. Further, it is claimed that Bishop's Cleeve has already fulfilled the allocated numbers of new homes identified in the recently adopted JCS, to be provided by 2031. It is said that there is no need for further housing in the village.
23. However, it is noteworthy that given the five year housing supply shortfall, the Council does not pursue a RfR that claims harm to the spatial distribution policies of the JCS. Moreover, paragraph 6.4 of the Committee Report informs that housing on the appeal site would be broadly consistent with the JCS spatial strategy. The Council alleges no breach of policy regarding the quantum of housing directed to Bishop's Cleeve and no harm arising from the scale of development proposed when considered alongside other delivered and proposed developments. The Council does not consider the proposed development would have a significant and demonstrable unacceptable impact on the social and cohesion of Bishop's Cleeve.¹³
24. As I perceive it, Bishop's Cleeve is one of two Rural Service Centres in the Borough, along with Winchcombe. Those Rural Service Centres are envisaged,

¹³ Paragraph 10.5 of Committee Report dated 16 July 2019 attached to LPA's Statement of Case

in Policy SP2 of the JCS to accommodate “in the order of” 1860 new homes in addition to existing commitments, to be secured through allocations in a DPD which was to follow. No such DPD has yet been adopted. Policy SP2 is not cited against the scheme by the Council, nor could it be, as the proposal cannot breach the policy. Bishop’s Cleeve is plainly a location for new development in addition to the dwellings recently built and approved to be built in Bishop’s Cleeve.

25. I accept that the proposed development may be in breach of Policy SD10 of the JCS, because the site is located outside the settlement limits. However, those settlement limits were plainly intended to operate in the context of adopted allocations which meet the housing need set out in the JCS. Policy SD10 has no full role to play as a development management tool in advance of the proposed allocations being made.
26. Further, as there is an agreed lack of a five year housing land supply, the Council accepts that Policy SD10 is out of date and deserves only limited weight. Mr Muston explained that is why it is not cited in any putative RfR. In my view that concession must be correct, because adherence to the settlement limits in Policy SD10 would not allow a five year supply to be achieved. Those settlement limits restrain housing delivery.
27. In terms of the settlement strategy of the JCS, the appeal site is an appropriate location for development. Nor is there any reason to think that Bishop’s Cleeve lacks physical, environmental or social capacity to accommodate the appeal scheme. The Council plainly has no difficulty with the appeal site being developed, as it is proposed as a major employment site in the ELP. Nor is there any evidence that any infrastructure demands created by the appeal scheme need go unmet with the appropriate provision of justified contributions in a planning obligation or through the substantial CIL payment to which the site’s development would be liable.
28. Leaving the pollution and connectivity issues aside for separate consideration, I conclude on the first issue that the appeal site is an appropriate location for development.

Second Issue - Whether the proposed development would be exposed to an unacceptable risk from pollution, in particular air quality issues arising from the nearby strategic Wingmoor Farm Integrated Waste Management Facility.

29. The Council, supported by representations from local residents and Grundon Waste Management Ltd, objects to the appeal proposal on grounds of pollution risks. It is alleged that the Appellant has failed to demonstrate that the proposed development would not be at significant risk from air quality issues arising from the nearby allocated Wingmoor Farm Integrated Waste Management Facility (IWMF) which is safeguarded in the adopted Waste Core Strategy, nor that the existing and proposed waste management operations would be put at risk due to the proximity of the residential properties. On that basis the Council considers the proposal does not comprise suitable development in land use planning terms and as such the proposed development would be contrary to advice in the NPPF, Policy WCS11 of the GWCS and Policies SD4 and SD14 of the JCS.

30. From the evidence that is before me, it is clear that the only air quality issue is in relation to odour. Despite the Wingmoor Farm IWMF being a large site with many activities, it is evident that the Council only has concerns relating to one part of the non-hazardous landfilling operation at Wingmoor Quarry, which relates to the filling of Cell 9b. Although the risk of odour from the Materials Recycling Facility (MRF) was not scoped out of the odour assessment, the Council now accepts that there is no material risk of materially adverse impacts from that operation.
31. The Council argues that future residents of the proposed development would be significantly impacted by odour pollution. It says that odours from waste facilities are something people react to particularly strongly and that in all the circumstances here the detriment to the amenity of future residents from the odour impact would be unacceptable. In other words, the worst fears from locating housing so close to an active strategic waste site are likely to be realised.
32. [REDACTED] the Appellant's air quality and odour specialist, carried out an Odour Impact Assessment (OIA) for the proposed development and he also completed the OIA for the ES.¹⁴ The methodology was agreed by the Council. Mr [REDACTED] assessment of the likely odour effects is unchallenged by the Council. Nor did Grundon's consultant dispute the outcome.
33. The OIA was carried out using the IAQM 2018 guidance, recommending a combination of modelling and professional judgment using the so-called FIDOL factors – Frequency, Intensity, Duration, Offensiveness and Location. Although it is neither issued or endorsed by the Government, both principal parties consider it to be a useful piece of work deserving of weight and Mr [REDACTED] explained it is industry standard and has been taken into account approvingly by decision makers.
34. The OIA proceeds on the basis that Cell 9b would be filled or raised in around 2029 for around 12-18 months. The date comes from the terms of the decision notice granting Grundon the latest planning permission and from Grundon's latest information given at the site visit. The period assumes the most intense impact and is thus worst case.
35. The OIA is plainly very robust. Its scope was agreed by the Council and Grundon were given a chance to comment on it too. That robustness is clear, not just from the lack of challenge to it, but also from an analysis of the assumptions upon which it was based. The conservative and robust nature of the assessment is demonstrated by the following matters:
 - (a) The assumption that Cell 9b would be filled with waste with a proportion of putrescible waste derived from figures which, whilst the latest available, are actually based on data which is over ten years old. This is likely to overstate the emissions of odour from waste now, given the drive to remove biodegradable waste from landfill which the Government has pursued for some time. Assuming that the waste entering Cell 9b in about 2029 has the same putrescible component also ignores Government policy to work to eliminate all biodegradable waste going to

¹⁴ See Appendix 11.2 Folder 3 CD1.08

landfill by 2030.¹⁵ In reality, the waste may well have a significantly lower putrescible component than has been modelled;

- (b) The model assumes that, for the whole year, that Cell 9b is being filled at the northern end, closest to the appeal site, with daily cover to the south of the tipping face and intermediate cover further south still. Clearly, the filling would be a dynamic operation and the most odorous activity would not take place closest to the appeal site all year; and
 - (c) The modelling uses the 98th percentile of the hourly average odour levels throughout a year, producing 8,760 results. The hourly average which appears 98% of the way up the list from lowest to highest was used to produce the modelled results. That means that the modelled levels, or ones worse than them, would only exist for 2% of the hours of the year, namely 175 hours.
36. The OIA results are presented on page 16 and Figure 7.1 of Mr Stoebling's proof of evidence. The modelling software presents the key in a scientific format. For clarity the isopleths (contours of odour concentration) shown on the drawing are 10, 5, 3 and 1.5 ou_E/m³. These may be compared with Table 6 of the IAQM (2018) guidance which is reproduced on page 11 paragraph 2.24 of his proof of evidence.
37. It can be seen from that drawing that:
- (a) Commercial users are receptors of medium sensitivity. The small crescent shaped part of the commercial area of the appeal site lies within the 5-10 C₉₈ou_E/m³ contour and the area north of that within the 3-5 contour. Both produce impacts of moderate significance. The outer contour shown produces an impact of slight significance for a medium sensitivity receptor, which is agreed not to be significant for EIA purposes; and
 - (b) Residential users are high sensitivity receptors. The very south eastern corner of the residential area lies within the 1.5 to 3 contours, producing an impact of moderate significance. There is no issue that that would affect about 26 dwellings on the appeal site. The potential impact would occur for 175 hours in one year.
38. It is important to note that the highest impact at a commercial receptor within the appeal site would therefore be 'moderate adverse', which is 'significant'. The report to the Planning Committee, included within the Council's Statement of Case, states¹⁶ that the impact would be 'substantial adverse' which is not correct. The highest impact at a residential receptor within the appeal site affecting some 26 dwellings would therefore also be 'moderate adverse', which is 'significant'.
39. An impact of moderate significance is "significant" for EIA purposes, but the significance threshold must not be equated with a limit of acceptability.¹⁷ Such an impact is something to be considered as material to the decision. Mr

¹⁵ See CD9.01 page 17 the third strategic ambition and the box on page 20

¹⁶ Paragraph 12.7 on page 18

¹⁷ A point explicitly made on page 13 of the IAQM (2018) guidance

████████ explained that an impact of 'substantial significance' would usually be regarded as an overriding matter, in other words that it would amount to an objection powerful enough to refuse permission, which is why the Council's error in paragraph 12.7 of the Committee Report is important. There would be no such substantial impact in this case and so no conflict with the relevant development plan policies.

40. Based on the above outputs from the model it seems to me that the Council has not properly considered the outcome of Mr ████████ OIA. It pays too much attention to the mere existence of an adverse effect without putting that adverse impact into its proper context. The Council's evidence does not acknowledge any aspect of the OIA's robust assumptions. It does not acknowledge that the modelled impact would occur only for 175 hours during one year of the long life of the appeal development. If filling Cell 9b took longer, Mr ████████ unchallenged evidence is that the impact would be less significant. All of the points in paragraph 6.4 of Mr ████████ proof are allowed for in Mr ████████ OIA. Importantly, Mr ████████ does not expressly consider the FIDOL factors of Frequency, Intensity and Duration anywhere in his evidence in even the most superficial way.
41. The Council argues that the odour impact on future residents would lead to unacceptable detriment to their amenity and could cause complaints which could be justified, and that TBC might take action to abate a statutory nuisance. However, TBC can only enforce an abatement notice under the Environmental Protection Act 1990 in relation to a site with an Environmental Permit with the consent of the Secretary of State. The Inquiry has no evidence of (i) TBC's willingness or propensity to seek such consent, or (ii) the likelihood of the Secretary of State giving such consent or the criteria he would use to make such a decision. The usual regulator in such matters is the Environment Agency who do not object to the appeal proposals.
42. It is important when considering the likelihood of complaint to test that matter in the appropriate context. It was agreed that social and psychological factors such as the attitude of the person affected by the odour to the status quo is relevant, a point expressly raised in the left hand side of the flow diagram on page 9, Figure 1 of the IAQM (2018) guidance.¹⁸ Any impact from Cell 9b would, on the evidence, occur when the landfill operations were coming to their end. The MRF would have closed and been removed. Cell 9b is the last part of the landfill operation, required primarily to achieve appropriate completed contours on site. It would be relatively brief.
43. I am aware that Grundon is a very reputable operator. Its activities, as opposed to others at the IWMF, have never caused any verified complaint to any relevant regulator. It would be perfectly possible, through a modest campaign of public awareness raising, for Grundon or the Council to make local people aware of the filling of Cell 9b as a final phase of operations. I recognise that people, perceiving odour in those circumstances, would have a reduced propensity to complain compared to people affected by odour from an early stage in the long life of a landfill site, with no end in sight. Even if there were complaints, the Council accepted that the temporary nature of the operations at the end of a site's life would require a different approach.

¹⁸ CD10.01

44. Turning to the alleged conflict with development plan policies it was agreed that such policies do not require *any* adverse effect to be avoided. Policy SD4 of the JCS seeks to avoid or mitigate amenity impacts including from smells and a more detailed development management approach is prescribed in Policy SD14. Mr [REDACTED] eschewed any reliance upon part 1 of the policy, relating to health effects. Mr [REDACTED] attempt to link potential odour effects to mental health issues, but this argument was undermined by the lack of support from the Council's Environmental Health Officer, Mr [REDACTED]. Part 2 of the policy seeks to prevent "unacceptable" harm to amenity and "unacceptable" levels of odour. That plainly does not prohibit any adverse effect but requires a judgment about the effect, in the light of all relevant information and circumstances. Only Mr [REDACTED] has carried out appropriate modelling and assessment.
45. Policy WCS11 of the GWCS also forms part of the development plan. I note that in this case the Waste Planning Authority was consulted and, importantly, does not object. Nor was there an objection from the Environment Agency. Although I accept there is some ambiguity in the wording of the Policy WCS11, I note that all of the witnesses agreed that inherent in the decision as to whether there is conflict with the policy is a judgment about the degree of the adverse effect. Neither Mr [REDACTED] nor Mr [REDACTED] consider that Policy WCS11 prohibits any adverse effect. Both accept it requires a judgment to be formed about the acceptability of that adverse effect. I agree.
46. The Council cited various paragraphs of the NPPF in support of its case. However, there is nothing in the NPPF which prohibits any level of adverse effect. Paragraph 182 of the NPPF expressly refers to significant adverse impacts and even then, does not equate them with unacceptability, as it turns its attention to the ability to mitigate such impacts.
47. When the odour evidence is looked at in its full context and the robust and conservative basis upon which the modelling has been carried out is fully considered, it is clear that the potential odour impacts do not amount to a cogent reason to refuse planning permission. I conclude on the second issue that the proposed development would not be exposed to an unacceptable risk from pollution, in particular air quality issues arising from the nearby IWMP.

Third Issue - Whether the proposal would demonstrate adequate connectivity to existing services and facilities within Bishop's Cleeve.

48. Although it is accepted that matters relating to design and layout are reserved for future consideration, the Council considers that the proposed development would fail to provide good connectivity and ease of movement through its boundaries to the existing built development of Bishop's Cleeve. It is claimed that the proposed development would not positively contribute to making places better for people and would not achieve inclusive design having regard to the wider area. For this reason, it is said, the development would not constitute good design. I disagree for a number of reasons.
49. First, it is clear from the putative reason for refusal that the Council's concerns only refer to the absence of points of connection through its boundaries but does not go on to allege that that causes any difficulty with accessing the remainder of Bishop's Cleeve. The Council's evidence does not say anything about walk or cycle distances or allege that any service or

facility to which occupants of the appeal site would wish to access does not lie within a suitable distance. I note that within the appeal site itself there would be a convenience store, employment opportunities and areas of open space. Outside the site the majority of facilities listed in Mr [REDACTED] proof of evidence¹⁹ are within reasonable walking distance as defined by Manual for Streets.²⁰ It is true that residents in the north-east corner of the site would have the furthest to walk or cycle to places, but the distances they would have to travel are acceptable and would not discourage movement by sustainable modes.

50. Secondly, the Council objects to the appeal proposal because it has one point of access. This is alleged to be "bad design". But the evidence is that that is exactly what would be the position if the site was developed for entirely employment uses, as the Council proposes in the ELP. There is no evidence that any additional points of access would be available for an employment use. Mr [REDACTED] maintained that an access to Cleavelands is not likely to happen because of the nature and purpose of the open space next to the appeal site. That point has nothing to do with residential use of the appeal site and would apply equally to employment use. Nor is there any reason to think that access to the small development site at the north eastern corner of the appeal site would be available to an employment user when it is not available to the Appellant. The appeal site is not isolated and there is no rational reason why the Council's connectivity case shows that the residential proposal is "bad design" but an employment use would be "good design" when the connectivity would be the same.
51. Thirdly, given the acceptance that people could move around and within Bishop's Cleeve by a choice of modes and access the village's extensive facilities, I consider that the appeal scheme would demonstrate adequate connectivity to the rest of Bishop's Cleeve. Moreover, the appeal scheme would provide scope for enhancing pedestrian and cycle links along Stoke Road, notwithstanding that Stoke Road is already a promoted cycle route. The appeal scheme would adjoin open fields on the western edge of the settlement, but it would also be contiguous with existing development. It is also noteworthy that the design principles set out in the DAS and the Illustrative Masterplan seek to provide streets and routes that are direct, well connected and which would deliver a legible environment.²¹
52. Fourthly, the appeal site benefits from good connectivity to destinations further afield. A good range of facilities and services lie within cycling distance. It is a relatively short journey to Cheltenham Spa railway station, allowing longer distance strategic journeys to be undertaken in a sustainable way, even if the initial journey to the station were to be undertaken by car. The appeal site provides good access to a good range of bus services, as Mr Weeks sets out, and which would be further enhanced by the increased frequency of the 'T' service and the introduction of stops between the two accesses proposed as part of the appeal scheme. Further, and most obviously, the appeal scheme comprises a mixed use development, providing a mixture of residential, employment and retail uses, providing opportunities for linked trips and uses within the site itself.

¹⁹ Page 6 and Figure 1

²⁰ Manual for Streets CD8.01page 45 paragraph 4.4 The walkable neighbourhood

²¹ CD1.09 pages 40-41

53. Fifthly, the new National Design Guide (NDG) does not detract from the merit of the appeal scheme. It adds little to the application of the already detailed Policy SD4 in the JCS. The NDG does not provide any reason for the Council to make good its claim that whilst accessibility is acceptable, connectivity is not. The Council relies upon principle vii of Policy SD4 in the JCS, which relates to movement and connectivity. The title of this principle demonstrates that connectivity and movement are closely linked. If appropriate movement around an area is achieved, as the Council accepts is the case, then that also leads to the conclusion that it is appropriately connected.
54. The first bullet of principle vii also refers to integration, not in some abstract sense, but with the movement network within and beyond the development. Such integration within the site is within the scope of reserved matters and the Council does not say an appropriate level of integration of uses and buildings and spaces within the site could not be achieved. The appeal scheme also provides integration with the movement network beyond the site itself. It does not matter that that takes place through one access. As for the second bullet of principle vii, the appeal scheme would provide safe and legible connections to the existing, walking, cycling and public transport networks and would enhance them. The Council does not argue otherwise. The appeal proposal accords with the principles of Policy SD4 with which the Council alleges conflict.
55. From all of the above I conclude on the third issue that the appeal proposal would demonstrate adequate connectivity to existing services and facilities within Bishop's Cleeve.

Other Matters

56. I have taken into account all other matters raised including the concerns raised by Bishop's Cleeve Parish Council, Stoke Orchard Parish Council, MJCA, Ridge and Partners LLP and the CPRE. I have already dealt with points raised by Bishop's Cleeve Parish Council and MJCA under the main issues.
57. A number of concerns related to highway safety matters and traffic impact. I note that the proposal was supported by a Transport Assessment (TA) and Framework Travel Plans which complement the TA. The TA confirms that access to the required design standards is proposed with separate access points for both residential and employment uses. The site is well located to allow travel by more sustainable modes and the level of public transport would be enhanced via public transport contributions. There are no material traffic impacts or road safety issues associated with the proposal. Highways England offers no objections to the proposal in terms of the strategic road network and Gloucestershire County Council as Local Highway Authority agrees that there is no material or severe traffic impacts associated with the proposed development subject to conditions. I agree.
58. Concerns are raised about the lack of infrastructure to accommodate the proposed development. It is claimed that there is a need for additional shops, schools, employment and open space to cater for new development. However, I note that the proposal is supported by a planning obligation which provides for financial contributions to local services and facilities where required. An on-site retail unit would ensure day to day shopping could be achieved locally and the proposal includes a significant level of open space containing an

equipped play area. The proposal would also provide a significant level of new employment opportunities.

59. Concerns have been raised by the local community regarding potential flood risk. Stoke Orchard Parish Council objects to the proposal on account of the effect the appeal proposal would have on storm water flow levels in Dean Brook and the detrimental effect on the Parish and residents' properties. However, I note the conclusions set out in the ES, which have been accepted by all relevant consultees,²² state that the assessment has shown that no cumulative impacts or residual effects would affect areas local to the site in relation to flood risk, drainage or water quality. Furthermore, Dr [REDACTED] gave unchallenged evidence to the Inquiry that in relation to Dean Brook the SuDS was operating as intended, storing site derived storm water for later release; and the development infrastructure and its residents were elevated above the flood plain and clearly at no risk at all from flooding.
60. Concerns have been raised regarding the potential impact of the existing noise generating uses close to the appeal site, in particular from the existing Wingmoor Farm IWMF and the Malvern View Business Park. The main concern is centred around the integration of the residential use and whether this would then result in unreasonable restrictions placed on the existing businesses. A Noise and Vibration Assessment was submitted as part of the ES to consider the potential effects of the existing and future noise and vibration climates on the proposed development and the potential effect of the development on noise sensitive receptors within the vicinity of the site. The existing noise climate comprises vehicle related noise along Stoke Road and noise associated with vehicles accessing Wingmoor Farm IWMF and operational activities at Elliott Aggregates which is intermittently audible.
61. The Assessment concluded that construction works would have the potential to impact sensitive receptors in close proximity to the site. However, adverse effects would be reduced through the use of best working practices on site. These measures would ensure that construction noise and vibration disturbance to local residents would be temporary and limited such that the overall effect would be minor to moderate adverse. In the long term, the noise associated with the development generated vehicles would not adversely affect existing sensitive receptors and as such the effect would be considered negligible. The noise associated with the existing uses and uses within the vicinity of the site are anticipated to be negligible following the implementation of embedded mitigation measures such as less sensitive uses being located at the site's frontage and appropriate building façade layout and design. No significant effects are anticipated during the operational phases of development, subject to implementation of the identified mitigation measures.
62. Mr [REDACTED] gave unchallenged evidence to the Inquiry that any potential future noise from the currently undeveloped employment land immediately to the north of Malvern View Business Park would be controlled by a condition attached to the outline planning permission for commercial development. However, if required, noise mitigation could be designed into the appeal site at reserved matters stage. It is likely that this would take the form of acoustic fencing between the commercial and residential areas and possibly façade mitigation to dwellings as recommended for the area of the appeal site

²² Including the Environment Agency, Gloucestershire County Council as Lead Local Flood Authority and Severn Trent Water

immediately adjacent to the existing business park. The footprint of a fence would be negligible and therefore the impact on the developable area of either site would not be a material consideration. Noise from the Wingmoor Farm IWMF would be within acceptable levels at all residential areas of the appeal site. Overall, I consider that there is no reason to withhold permission on noise grounds.

Planning Obligations

63. At the Inquiry, two s106 Planning Obligations were submitted by way of Agreements. The first Planning Obligation is made by an Agreement between the Appellant and Tewkesbury Borough Council (TBC).²³ The second Planning Obligation is made by a tripartite Agreement between the Appellant, Gloucestershire County Council (GCC) and TBC.²⁴ A combined Statement of CIL Compliance was submitted for both Planning Obligations. I have considered these Planning Obligations in the light of the CIL Regulations 2010, as amended, the advice in paragraph 56 of the NPPF and the Government's Planning Practice Guidance (PPG).
64. The JCS partnership of Gloucester City Council, Cheltenham Borough Council and TBC adopted the CIL in October 2018 and the charging schedule, which sets out the levy rates, commenced on 1 January 2019. Regulation 122 of the CIL Regulations and paragraph 56 of the NPPF make clear that Planning Obligations should only be sought where they meet all of the following three tests:
- necessary to make the development acceptable in planning terms
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
65. The Community Infrastructure Levy Amendment Regulations 2019 came into force on 1 September 2019 and made a number of important changes to the operation of the CIL and s106 Planning Obligations. Amongst other matters, Regulation 123 of the CIL Regulations is removed in its entirety. This removes the restriction on pooling of funds for a single infrastructure project from more than five s106 Planning Obligations. It also allows both CIL and contributions secured under s106 for the same infrastructure project, although the tests in Regulation 122 continue to apply.
66. The first Planning Obligation between the Appellant and TBC secures the provision of 40% affordable housing on-site, 70% of which would be affordable rented housing and 30% would be intermediate housing. The provision of affordable housing on-site is necessary to meet an identified need and is a requirement of both national and local planning policy. The provision is directly related to the development and the provision of 40% is fairly and reasonably related in scale and kind to the development.
67. The first Planning Obligation would also secure a playing pitches and changing facilities contribution of £80,000 at the Cheltenham North RFC. Although the Appellant disputes the quantum, I note that the development of 215 dwellings would increase the demands for playing pitches and changing facilities in

²³ INQ4

²⁴ INQ5

Bishop's Cleeve. Cheltenham North RFC has provided evidence to support the improvement of their facilities to cope with the extra demand in Bishop's Cleeve.²⁵ The estimated project cost of the facilities is £80,000 and this would directly relate to the development as Cheltenham North RFC is located directly opposite the appeal site. Policy RCN1 of the TBLP requires the provision of outdoor playing space for sites of 10 dwellings or more. As no provision is to be provided on site, a contribution of £80,000 is necessary towards improving the playing pitches and facilities at Cheltenham North RFC to make the development acceptable in planning terms. I consider this provision would be fairly and reasonably related in scale and kind to the development.

68. The first Planning Obligation would also secure a recycling and waste bins contribution of £73 per dwelling towards the costs of the provision of recycling and waste bins and the associated set up costs for each residential unit. The contribution is necessary because each new dwelling would require adequate measures for the storage and collection of waste. Policies INF6 and INF7 of the JCS support this requirement. These facilities would be for new residents and would directly relate to the increase in the number of dwellings to be provided. I consider this provision would be fairly and reasonably related in scale and kind to the development.
69. The second Planning Obligation between the Appellant, GCC and TBC secures education provision (nursery/preschool, primary and secondary), a library contribution, a public transport contribution, a travel plan contribution (residential) and a travel plan contribution (employment) with GCC. The second Planning Obligation includes the full schedule of contributions requested by GCC for the provision of both education and libraries infrastructure necessary to make the appeal development acceptable in planning terms and directly related to the development. These figures are to be reduced to the extent at certain points in time any CIL funding from CIL receipts received from the appeal development are transferred from TBC to GCC for education and libraries infrastructure to mitigate the needs arising directly from the appeal development.
70. In terms of education provision, a contribution of £746,250 is necessary to provide an additional 50 pre-school places to meet the demand from additional children generated by the development within the community. The primary educational contribution of £1,200,489 is necessary and would be used towards accommodating the anticipated increase of 80 primary school places in a new primary academy in Bishop's Cleeve. The additional pupils would be directly generated by the development. The secondary educational contribution of £989,516 is necessary and would be used towards the expansion of facilities serving Bishop's Cleeve area to accommodate the 43 additional secondary places required by the additional pupils directly generated by the development. Policies INF6 and INF7 of the JCS support this requirement. The financial contributions are calculated on Department for Education multipliers 2019. I consider the provision would be fairly and reasonably related in scale and kind to the development.
71. In terms of library provision, a contribution of £42,140 is necessary to accommodate the additional need for library resources generated as a result of the development and would be used towards Bishop's Cleeve Library

²⁵ LPA/2

including capital works, extended opening hours, increased stock, computer resources and new furniture. Policy INF4 of the JCS supports this requirement. The Bishops Cleeve Library is the nearest library to the development and the contribution is based on a calculation of £196 per dwelling multiplied by the number of dwellings.²⁶ I consider the provision would be fairly and reasonably related in scale and kind to the development.

72. The public transport contribution of £887,200 is necessary towards providing the costs of increasing the frequency of the bus service between Tewkesbury and Bishop's Cleeve currently known as the "T" service. The enhanced bus service would include £187,200 for a 2 hour extension of bus service split equally over 5 years and £700,000 for an increase from an hourly to a half hourly service split equally over 5 years. The existing level of bus service identified in the TA needs to be enhanced to ensure that the site is served by adequate public transport. Paragraph 108 of the NPPF requires the opportunities for sustainable transport to be taken up to reduce the need for major transport infrastructure.
73. The public transport contribution would be used towards upgrading the frequency and extension of operational hours of the services adjacent to the site and therefore relates directly to the development. The contribution has been calculated on estimates of market knowledge and similar bus service contract costs to pay for the additional bus and driver required to provide a regular 30 minute bus frequency and 2 hour extension at the end of the day. I consider the provision would be fairly and reasonably related in scale and kind to the development.
74. The travel plan contribution (residential) of £5,000 is payable towards the costs of monitoring the travel plan for the proposed residential units and the travel plan contribution (employment) of £5,000 is payable towards the costs of monitoring the travel plan for the proposed employment units. Paragraph 111 of the NPPF requires that all developments that will generate significant amounts of movement should be required to provide a travel plan so that the likely impacts of the proposal can be assessed. The appeal proposal includes a travel plan for both the residential and employment components, and these will require to be monitored to ensure implementation. The monitoring fees are directly related to the development. The contributions have been based on the travel plan annual monitoring costs using GCC travel plan guidance. I consider the provision would be fairly and reasonably related in scale and kind to the development.
75. In my view, all of the obligations in the two s106 Planning Obligations are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, they all meet the tests within Regulation 122 of the CIL Regulations and should be taken into account in the decision.

Planning Balance

76. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with

²⁶ The library space provision is calculated by reference to the Public Libraries, Archives and New Development: A Standard Charge Approach (May 2010) which sets out library space provision standard of 30sqm per 1000 population which at the time was costed at £105 per person. The current GCC figure of £196 reflects the uplift in costs since 2010.

the development plan, unless material planning considerations indicate otherwise. I find there is no breach of the relevant policies of the TBLP. Given the appropriate planning conditions and justified planning obligations, the proposal is in overall accord with policies in the TBLP. I also find there is no breach of Policy SP2, SD4 and SD14 of the JCS and Policy WCS11 of the GWCS. Indeed, Policy SP2 supports the appeal scheme in that extensions to Bishop's Cleeve are expected. These policies are not out of date in relation to the NPPF.

77. Policy SD10 of the JCS says that housing development outside the built-up areas that are not allocated will only be allowed in circumstances that do not relate to the appeal proposals. I accept that the proposed development may be in breach of Policy SD10 of the JCS. However, the Council's own position is that this policy must be treated as being out of date and can only be afforded limited weight. Importantly, the putative reasons for refusal do not refer to Policy SD10. Even with a breach of Policy SD10 I conclude that the appeal scheme accords with the development plan taken as a whole.
78. If a breach of Policy SD10 somehow were to be taken as creating a breach of the development plan as a whole, then it is agreed between the parties that the most important policies are out-of-date due to the lack of a five year housing land supply. The absence of a five year housing land supply is agreed which is significant. Bishop's Cleeve is a suitable location for development of this scale and the appeal site is a suitable location, in strategic terms, for providing development at Bishop's Cleeve. Moreover, the appeal site is accessible to services and facilities by a choice of non-car modes of transport. Furthermore, the appeal scheme is not premature, in the context of the ELP, nor would it cause infrastructure pressures that cannot be accommodated.
79. Accordingly, it is accepted by both parties that the tilted balance set out in the NPPF paragraph 11d would be in play and there are no footnote 6 policies which would provide a clear reason for refusing permission and which would prevent the tilted balance from being applied. The only harm that would need to be weighed in the balance against the appeal scheme is the potential risk of moderate odour impacts on a limited part of the site for a limited period. That is a very modest harm to weigh in the overall balance. Other concerns raised by interested persons have been dealt with and none of the concerns raised amount to objections of any substance. I note that the noise assessments relating to the residential component of the appeal scheme assume that the commercial development is *not* present. Nor do the commercial uses play any role in limiting odour effects on the residential component – the reduction in impact is simply a function of distance and not the presence of intervening development. Safeguarding the future residents' amenity therefore would not depend in any way on the commercial elements of the scheme going ahead.
80. I have examined all the environmental information including the assessments within the EIA of the potential impacts during the construction and operational phases of the proposed development. The assessments within the EIA identified that temporary impacts during construction would range from negligible to moderate-major adverse. The majority of impacts were assessed to be negligible in the long term. Some impacts of development are inevitable, but I conclude that these effects are of limited significance and are clearly outweighed by the benefits of the appeal scheme. In my view none of the potential impacts are considered significant in the long term. I conclude

that there are no reasons, based on my examination of the environmental information and taking due regard to the findings of the EIA, that would preclude the granting of planning permission.

81. There would be a number of benefits of the appeal scheme which are powerful material considerations and they indicate taking a decision otherwise than in accordance with the plan. These benefits were not undermined to any degree during the Inquiry. The following benefits would arise: (a) much needed market housing, when it is common ground that the Council cannot demonstrate a deliverable five year supply. The shortfall is significant; (b) affordable housing at the full, policy compliant, rate in a Borough with unmet need. This is a very significant benefit of the scheme; (c) significant economic benefits from the housing with construction spend (£21.1m), construction job creation (182 FTE jobs per annum over the build period) and spending power of the new residents to the tune of £5.96m per annum, bringing more money to be spent in Bishop's Cleeve, Tewkesbury and the rest of the Borough; important economic benefits through creation of about 468 new FTE jobs in the employment development and around 16 jobs in the retail development.
82. In addition, there would be the benefit of being able to meet some retail need arising from existing and new residents on the site itself, reducing some of the need to travel and keeping some expenditure on site; the improvement to the 'T' bus services would benefit existing residents as well as new ones, bringing a greater choice of journeys through a doubling of the frequency of the service and thus encouraging greater bus use by all along its route; there would be a modest net gain in biodiversity; the improved facilities at the Rugby Club would benefit all users; and there would be the benefit arising from new publicly accessible greenspace.
83. Therefore, even if I had reached a contrary conclusion in terms of the appeal proposals accordance with the development plan, then in the context of paragraph 11(d) of the NPPF, it is common ground that it applies because of the lack of a deliverable five year supply. There are no footnote 6 policies at play. Any harm which might be identified as arising from the appeal proposals comes nowhere near significantly and demonstrably outweighing the many and varied benefits of the appeal proposals. There is no reason to withhold planning permission in this case and I conclude that the appeal should be allowed.

Planning Conditions

84. I have considered the conditions suggested by the Council²⁷ in the light of the advice in paragraphs 54 and 55 of the NPPF and the Government's PPG on the use of planning conditions. I have made minor adjustments to the conditions in the interests of clarity. Conditions 1-3 are necessary to determine the scope of the application and for the avoidance of doubt. Condition 4 imposes a shorter timescale of two years rather than the normal three years for the residential reserved matters. This is justified given the pressing housing need and the advice in the NPPF and in the PPG.²⁸
85. Condition 5 is unnecessary and unreasonable in the light of paragraph 55 of the NPPF. Business parks are generally not developed in the same manner as

²⁷ LPA3

²⁸ Paragraph 76 of the NPPF and Paragraph: 027 Reference ID: 21a-027-20140306 of the PPG

residential sites. They are usually developed in a piecemeal manner in individual plots. The suggestion of linking the construction to the dwellings runs the risk of delaying housing delivery through a break point and cannot be justified. Conditions 6 and 8 are necessary to ensure the development would be carried out in accordance with good urban design principles. Condition 7 is necessary to determine the scope of the application and for the avoidance of doubt. Condition 9, 20, 21 and 37 relating to noise are necessary in the interests of residential amenity.

86. Condition 10, 18 and 19 are necessary in the interests of ecology, safeguarding habitats/species and visual amenity. Condition 11 is required to safeguard heritage assets of archaeological interest. Condition 12 is necessary to ensure the effective implementation of waste minimisation. Conditions 13-17 are required to ensure the development does not cause increased flood risk or increased pollution to the water environment. Conditions 22-26 and 28-31 are required in the interests of highway and pedestrian safety. Condition 27 relating to the provision of fire hydrants is necessary to ensure adequate water infrastructure is made on site for the local fire service to access and tackle any property fire. I have deleted the final clause of this condition as it is discretionary and imprecise. Condition 32 which relates to a Construction Management Plan is necessary to ensure minimal impact on the public highway and residential amenity, but I have deleted the element relating to an HGV vehicle routing strategy as this relates to land outside the site and thus cannot be controlled by condition.
87. Condition 33 which relates to a travel plan is necessary to ensure that the appropriate opportunities to promote sustainable transport modes are taken up. Condition 34 which relates to existing and proposed ground levels and finished floor levels is necessary in the interests of amenity. Condition 35 which relates to housing mix is required to ensure the development provides an appropriate mix of dwelling sizes, types and tenures to contribute to a mixed and balanced community. Condition 36 which relates to materials is necessary to ensure the proposal comprises a high quality design. Condition 38 which relates to the withdrawal of permitted development rights in the interests of residential amenity given the close proximity of the Wingmoor Farm IWMF to part of the site.

Conclusion

88. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. The appeal is therefore allowed subject to the conditions set out in the attached Schedule.



INSPECTOR

SCHEDULE OF PLANNING CONDITIONS

APPROVAL OF DETAILS

- 1) Save for the details of vehicular accesses into the site from Stoke Road, details of the appearance, landscaping, layout and scale (herein called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced.
- 2) The development shall be carried out in general accordance with the details shown on the Development Framework Plan, drawing no.6335- L-02 M, the Illustrative Masterplan, drawing no.6335-L-03 D and as detailed in the Design and Access Statement – February 2018.
- 3) Access to the residential and retail development from Stoke Road shall be carried out in full accordance with the details shown on the Access Plan 4746-34-03 H before the occupation of the first dwelling on the site. Access to the employment development from Stoke Road shall be carried out in full accordance with the details shown on the Access Plan 4746-34-03 H before the occupation of the first employment unit on the site.

TIMING OF IMPLEMENTATION

- 4) Application for approval of reserved matters for all phases of development as identified by the Phasing Plans required under condition 5 shall be made to the Local Planning Authority before the expiration of two years for the residential and retail development and three years for the commercial (B1 and B8) from the date of this permission. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters for that specific phase of development, whichever is the later.

PHASING

- 5) Prior to the first reserved matters application in any of the uses proposed on the Development Framework Plan (6335-L-02 M), a Phasing Plan for each area shall be submitted to the Local Planning Authority for approval in writing. Each phasing plan shall include details of the quantum of development in each phase, whether that is the number of market and affordable dwellings or the number of commercial units, together with general locations and phasing of key infrastructure, including surface water drainage, green infrastructure, public open space/children's play area, access for pedestrians, cyclists and vehicles. All development of the site shall thereafter be undertaken in accordance with the agreed phasing.

SCOPE OF THE DEVELOPMENT

- 6) The development hereby approved shall be for:

No more than 215 dwellings;

No more than 280 square metres of gross retail floor space falling within A1

of the Town and Country Planning (Use Classes) Order 1987 (or in the provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification);

No more than 4,180 square metres of commercial floor space of falling within B1 of the Town and Country Planning (Use Classes) Order 1987 (or in the provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification);

No more than 2,700 square metres of commercial floor space falling within B8 of the Town and Country Planning (Use Classes) Order 1987 (or in the provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

- 7) The height of the buildings hereby permitted shall not exceed:

2.5 storeys for any dwelling;

7.5 metres above the existing ground level for the retail unit;

9 metres above the existing ground level for any B1 and B8 units.

- 8) The retail unit hereby permitted shall not be open to customers outside the following hours:

Monday – Saturday: 07:00 – 23:00 hrs.

For no more than 6 continuous hours between 10:00 – 18:00 hrs on Sundays and Bank Holidays.

Deliveries to, and collections from, the retail unit shall not be made outside of the same hours as above.

The commercial units hereby permitted (B1 and B8) shall not be used/occupied outside the following hours:

Monday – Friday: 07:00 – 19:00 hrs Saturdays: 08:00 – 13:00 hrs.

Deliveries to, and collections from, the B1 and B8 units shall not be made outside of the same hours.

LANDSCAPING

- 9) Any Reserved Matters submitted pursuant to Condition 1 shall provide full details of both hard and soft landscape proposals related to that specific phase of development.

The landscaping scheme, which should be in general accordance with the details shown on the Development Framework Plan, drawing no.6335-L-02 M, the Illustrative Masterplan, drawing no.6335-L-03 D, Design and Access Statement (as referenced at Condition 2), and in accordance with the recommendations set out at Section 5 of the Ecological Appraisal by FPCR Environment and Design Ltd dated November 2017, shall include the following details:

- (a) positions, design, materials and type of boundary treatments to be

- erected;
- (b) hard landscaping materials;
- (c) a plan showing details of all existing trees and hedges on the site. The plan should include, for each tree/hedge, the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread;
- (d) a plan showing the layout of proposed tree, hedge, shrub, ornamental planting and grassland/wildflower areas;
- (e) a schedule of proposed planting, noting species, planting sizes and proposed numbers/densities;
- (f) a written specification outlining cultivation and other operations associated with plant and green grass establishment;
- (g) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation/use of the development, whichever is the sooner.

The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

No building hereby permitted within each phase pursuant to condition 5 shall be brought into use/occupied until all hard landscaping and boundary treatment for that phase of the site have been completed in accordance with the approved details.

ARCHAEOLOGY

- 10) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Written Scheme of Investigation.

WASTE AND RECYCLING

- 11) No development shall take place until a detailed Site Waste Management Plan has been submitted for each phase and approved in writing by the Local Planning Authority. The Plan shall identify;
 - (a) information on the type and amount of waste likely to be generated prior to and during the construction phase;
 - (b) details of the practical arrangements for managing waste generated during construction in accordance with the principles of waste

- minimisation;
- (c) details of the measures for ensuring the delivery of waste minimisation during the construction phase;
- (d) details of the provision made for facilitating the recycling of waste generated during the occupation phase;

The Site Waste Management Plan shall be fully implemented as approved.

SUSTAINABLE DRAINAGE

- 12) No development hereby permitted shall commence until a detailed surface water drainage strategy for the entire site has been submitted to and approved in writing by the Local Planning Authority. The details shall be based in accordance with the principles set out in the drainage strategy set out in the Enzygo Flood Risk Assessment (December 2017) (Appendix 9.4 of the Environmental Statement).

Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- (a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- (b) include details of the phasing for its implementation;

No building hereby permitted within each phase, as defined under section (b) above, shall be occupied until surface water drainage works have been implemented for that specific phase in accordance with the approved details.

- 13) No building shall be brought in to use/occupied until a management and maintenance plan for the SuDS for each phase has been submitted to and approved in writing by the Local Planning Authority. The plan should be effective for the lifetime of the development and shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The approved SuDS maintenance plan shall be implemented in full accordance with the agreed plan.

FOUL DRAINAGE

- 14) No development shall take place until a detailed drainage plan for the disposal of foul water flows for the entire site has been submitted to and approved in writing by the Local Planning Authority.

No building hereby permitted within each phase pursuant to condition 5 shall be occupied until the foul water drainage works have been implemented for that specific phase in accordance with the approved details.

FLOOD ALLEVIATION

- 15) Floor levels should be set at least 600mm above the appropriate 1% AEP (1 in 100 year) modelled flood level including a 35% climate change increase for the appropriate nodes as listed in the supporting table referenced '1D Tabulated Results' (dated 21 March 2019).
- 16) The detailed plans showing layout pursuant to condition 1 shall include a maintenance strip of 8 metres from the top of the bank of the unnamed watercourse to the north of the site as described in the submitted Flood Risk Assessment. No new buildings, permanent structures, fencing, tree planting or raising of ground levels other than hereby permitted shall take place within the approved maintenance strip.

ECOLOGY

- 17) No development or site clearance shall take place until an Ecological Management Plan (EMP) for the entire site has been submitted to and approved in writing by the Local Planning Authority.

The EMP shall be in accordance with the recommendations set out in in Section 5 of the Ecological Appraisal by FPCR Environment and Design Ltd dated November 2017 and shall include measures to enhance the site for wildlife and deliver a measurable biodiversity net gain, a timetable for implementation, details for monitoring and review and how the areas concerned will be maintained and managed.

Development shall be carried out only in accordance with the approved EMP.

No building hereby permitted within each phase pursuant to condition 5 shall be brought into use/occupied until the measures set out in the approved EMP for that specific phase have been implemented in accordance with the approved details.

- 18) Any reserved matters submitted pursuant to condition 1 shall be accompanied by details of external lighting for that specific phase of development.

The external lighting shall be installed and illuminated in accordance with the approved details.

NOISE

- 19) Any reserved matters application submitted pursuant to Condition 1 including non-residential buildings shall include details of any extraction, ventilation, cooling and refrigeration equipment to be installed on or in any building. The rated noise level from any extraction, ventilation, cooling and refrigeration equipment to be installed within the application site shall not exceed the noise limits detailed in Table 11.22 of the ES ADDENDUM - CHAPTER 11 NOISE AND VIBRATION measured at the nearest noise sensitive receptors. The method of assessment shall be carried out in accordance with BS4142:2014: Rating industrial noise affecting mixed residential and industrial areas (or other document which may replace or modify the method

of assessment). All approved equipment shall be installed in accordance with the approved details on or in the building prior to occupation and shall thereafter be operated and maintained in accordance with the manufacturer's instructions.

- 20) Noise levels within the dwellings hereby approved shall not exceed the recommended levels set out in BS8233:2014 "Sound Insulation and Noise Reduction for Buildings."

Noise levels measured from enclosed outdoor private amenity areas (gardens) should not exceed the 55dBA upper limit recommended within BS8233:2014.

To verify the above requirements each reserved matters application submitted pursuant to Condition 1 which includes any dwellings shall be accompanied by a noise survey to identify any dwellings that would be at risk of exceeding the 55dBA upper limit, which would include noise from traffic, noise from Wingmoor Farm Integrated Waste Facility, the commercial units proposed as part of this development and from the existing industrial park to the East of the site, Malvern View Business Park.

The noise survey shall identify those measures necessary to achieve this performance at the affected properties and such measures shall be approved in writing by the Local Planning authority prior to any works above slab level on the identified plots.

The mitigation measures approved shall be completed prior to any dwellings to which they relate being first occupied and post completion testing to verify that the noise level requirements of this condition have been met shall be carried out at sample locations to be agreed by the Local Planning Authority before any of the dwellings hereby approved are first occupied.

If the post completion testing shows that the recommended limits set out in BS8233:2014 are exceeded within dwellings and/or the external upper limit of 55dBA is exceeded when measured from enclosed outdoor amenity areas, details of further mitigation to bring noise levels down to the required limits shall be submitted to and approved in writing by the Local Planning Authority and the proposed further mitigation shall be carried out before the dwellings to which these measures relate are first occupied.

HIGHWAYS AND TRANSPORTATION

- 21) No building/dwelling hereby permitted shall be occupied until details of the following highway works have been submitted to and approved in writing by the Local Planning Authority:

(a) a pedestrian/cycle pathway between the eastern site access and the junction with Stoke Orchard Way within highway land and including appropriate crossing facilities over Stella Way has been completed at general location A on plan FP040/001 and illustrated on plan 4746-34-03 H;

(b) an internal footway and cycle way connection to the pedestrian/cycle pathway scheme A above;

(c) new eastbound and westbound bus stops on Stoke Road in the vicinity of the site frontage with 2m width footway connections from the site accesses and suitable pedestrian crossing over Stoke Road in general location A on plan FP040/001;

(d) junction improvements approved as part of the Homelands (reference: 10/01005/OUT) and Cleavelands (reference: 10/01216/OUT) permissions at the A435/Voxwell Lane/Stoke Orchard Road, A435/Cheltenham Road/Miles Road, and A435/Hyde Lane/Southam Lane junctions broadly in accordance plans/details approved at locations B, C and D on plan FP040/001.

The highway works shall be carried out in accordance with the approved details before the occupation of any building/dwelling.

- 22) Prior to first occupation of any building/dwelling hereby permitted the existing boundary treatment shall be set back to provide visibility splays extending from a point 2.4m back along the centre of the accesses measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 120m in each direction to the nearside carriageway edge (the Y points). The area between the visibility splays and the nearside carriageway edge shall be maintained so as to provide clear visibility between 1.05m and 2.0m at the X point and between 0.26m and 2.0m at the Y points above the adjacent carriageway level.
- 23) No dwelling or building shall be occupied until the highway infrastructure serving that unit has been provided in accordance with the approved details submitted as part of the reserved matters, and the relevant roads and footways finished to at least binder course level between the dwelling and the public highway.
- 24) Parking shall be provided in accordance with approved details as part of the reserved matters application including electric vehicle charging facilities for residential and commercial plot spaces and disabled spaces with parking maintained for this purpose thereafter.
- 25) Cycle parking shall be provided in accordance with approved details as part of the reserved matters application and maintained for this purpose thereafter.
- 26) No above ground works shall commence on site until a scheme has been submitted to and agreed in writing by the Council, for the provision of fire hydrants (served by mains water supply) and no dwelling or unit shall be occupied until the hydrant serving that property or unit has been provided.
- 27) Prior to occupation of any building/dwelling hereby permitted details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.
- 28) The first 20m of each access road, including the junctions onto existing Stoke

Road shall be completed to at least binder course level prior to occupation of any building/dwelling hereby permitted development using that associated access road.

- 29) Prior to occupation of any building/dwelling hereby permitted a scheme shall be submitted to and approved in writing by the Local Planning Authority to manage overnight parking on-street for the site access and roads associated with the permitted commercial B1 and B8 land uses on site.
- 30) No building/dwelling hereby permitted shall be occupied until the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public highway to that dwelling/building have been completed to at least binder course level and the footway(s) to surface course level.

CONSTRUCTION MANAGEMENT PLAN

- 31) Prior to commencement on site a construction management plan for each phase shall be submitted to and approved in writing by the Local Planning Authority to address the following and then adhered to throughout site construction and demolition:
- (a) parking of vehicles of site operatives and visitors;
 - (b) loading and unloading of plant and materials;
 - (c) storage of plant and materials used in constructing the development;
 - (d) provide for wheel washing facilities
 - (e) provide bound surfacing of the first 20m of construction accesses
 - (f) temporary site access traffic management arrangements.

TRAVEL PLAN

- 32) Prior to occupation of the development hereby permitted a Framework Travel Plan for the residential and employment shall be submitted to and agreed in writing by the Local Planning Authority, setting out;
- (a) objectives and targets for promoting sustainable travel, appointment and funding of a travel plan coordinator,
 - (b) details of an annual monitoring and review process,
 - (c) means of funding of the travel plan, and;
 - (d) an implementation timetable including the responsible body for each action.

The approved Travel Plan shall be implemented in accordance with the details and timetable therein, and shall be continued thereafter, unless otherwise agreed in writing by the Local Planning Authority

GENERAL

- 33) Any reserved matters submitted pursuant to condition 1 shall include details of existing and proposed ground levels and finished floor levels of the buildings to be constructed on that specific phase of development relative to Ordnance

Datum Newlyn.

The development shall be carried out in accordance with the approved details.

- 34) The housing mix of the dwellings hereby permitted shall be in broad accordance with the following:
- 1-bed - 4% of total number of homes
 - 2 bed - 28% of total number of homes
 - 3 bed - 43% of total number of homes
 - 4 bed - 22% of total number of homes
 - 5 bed - 3% of total number of homes
- 35) Any reserved matters application relating to appearance shall include details of the materials to be used in the construction of the external surfaces of any building. Development shall be carried out in accordance with the approved details.
- 36) No external construction works, deliveries, external running of plant and equipment or internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday. There shall be no working on Sundays, Public or Bank Holidays.
- 37) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order with or without modification) any building constructed within the commercial area as identified in the Development Framework Plan, drawing no. 6335-L-02 Rev M, shall only be used for commercial use as defined by Classes B1 and B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order with or without modification) any building constructed within the retail area as identified in the Development Framework Plan, drawing no. 6335-L-02 Rev M, shall only be used for retail use as defined by Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

DOCUMENTS SUBMITTED AT THE INQUIRY

- INQ1 Notification Letter
- INQ2 Letters of representations
- INQ3 Statements of Common Ground: (i) General (ii) Housing and (iii) Highways
- INQ4 Planning Obligation under s106 Town and Country Planning Act 1990 between the Appellant and TBC.
- INQ5 Planning Obligation under s106 Town and Country Planning Act 1990 between the Appellant, GCC and TBC.
- INQ6 CIL Compliance Statement

ADDITIONAL DOCUMENTS SUBMITTED BY THE LPA

- LPA1 Opening Statement on behalf of the Local Planning Authority

LPA2 Note on Cheltenham North RFC building

LPA3 List of Suggested Conditions

LPA4 Closing Submissions on behalf of the Local Planning Authority

ADDITIONAL DOCUMENTS SUBMITTED BY THE APPELLANT

APP1 Opening Statement on behalf of the Local Planning Authority

APP2 Appellant's submissions in response to GCC Note on s106 contributions

APP3 Closing Submissions on behalf of the Appellant

ADDITIONAL DOCUMENTS SUBMITTED BY GLOUCESTER COUNTY COUNCIL

GCC1 Note from GCC on CIL v Section 106 for Education

INTERESTED PERSONS' DOCUMENTS

IP1 Statement by Leslie Heasman

APPENDIX 11

INQUIRY RELATING TO DEVELOPMENT PROPOSALS ON LAND OFF STOKE
ROAD, BISHOP'S CLEEVE.

APPELLANT'S SUBMISSIONS IN RESPONSE TO GLOUCESTERSHIRE COUNTY
COUNCIL'S NOTE ON S106 CONTRIBUTIONS.

1. This Note responds to the submissions of Gloucestershire County Council ("GCC") in which they clarify their position in relation to its demand for a s106 contribution for education provision in addition to a CIL payment pursuant to the adopted Tewkesbury CIL charging schedule.
2. The Appellant does not dispute that the appeal scheme will generate need for pupil places at early years, primary and secondary places. Nor is it disputed that not all generated need can be accommodated at existing schools and that additional provision will need to be made. Nor is it disputed that GCC would be able to spend money it receives at existing or new schools in order to meet the need generated by the appeal scheme.
3. For the reasons which follow, GCC's demand is misconceived and ought to be rejected.
4. It is right that, with effect from 1st September 2019, Regulation 123 of the Community Infrastructure Levy Regulations 2010 has been repealed, without replacement¹. It is also right that there are no transitional provisions which apply, and so the repeal took effect on 1st September 2019. The effect is that Regulation 123 no longer has any statutory effect. It is also right that the new requirement, in the new Regulation 121A to produce an

¹ Regulation 11 of The Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019.

Annual Infrastructure Funding Statement has not yet arisen, as the first AIFS does not have to be produced until 31st December 2020².

5. The Explanatory Note to the 2019 amending Regulations simply states that Regulation 123 formerly contained the pooling restrictions on s106 contributions, which indeed it did. However, the former Regulation 123(2) also provided, before repeal, that:

"(2) A planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure (including, subject to paragraph (28), through requiring a highway agreement to be entered into)."

6. "Relevant infrastructure" included, by the former Regulation 123(4), infrastructure set out on the charging authority's Regulation 123 list. The former Regulation 123 therefore contained a clear prohibition on taking into account a planning obligation, as a reason for granting planning permission, if it provided for a contribution to be made in respect of an infrastructure project, or type of infrastructure, contained within the Regulation 123 list of the charging authority. It was this provision which provided the statutory prohibition on "double dipping". It is therefore simply wrong to say, as GCC do at §12 of their submissions that there was a "former repeated reliance by developers on the reg 123 list as somehow showing that a s106 obligation was not required". There was no doubt that Reg 123(2) did prohibit "double dipping".

² Reg 121A of the CIL Regulations 2010, as inserted by Reg 9(6) of the No.2 Amendment Regs 2019.

7. GCC's basic point is that the repeal of Regulation 123 means that there is no restriction on the kind of contributions that can be sought through a planning obligation, even if a CIL charging schedule has been adopted specifically to provide for that type of infrastructure. That is wrong, on the facts of this case. The 2019 amendments do not affect the three tests in Reg 122 of the CIL Regulations 2010. They include the requirement in Regulation 122(2)(c) that the obligation is:

"fairly and reasonably related in scale and kind to the development. "

8. For the reasons which follow, this requirement is not met by the education contributions sought by GCC.
9. The charging schedule for Tewkesbury BC, when prepared in draft and consulted upon, made it absolutely clear in the draft Regulation 123 list at its appendix B that different approaches were to be taken to the CIL rate as follows:
- a. In section A "All Non-Strategic Allocations", education provision was to be funded, or part funded, through CIL. The box for the education funding to be secured for such sites through planning obligations was empty; and
 - b. In section B "Strategic Allocations", there was simply one row which made it plain that infrastructure not directly linked to the development site of a strategic nature was to be funded by CIL, whereas all site specific infrastructure needs were to be funded by planning obligations (or other applicable non-CIL mechanisms).

10. That was how the CIL charge was formulated and tested. Paragraph 1.8.1(e) of the draft charging schedule expressly refers to a January 2016 document by Peter Brett Associates being part of the evidence base. That document made clear that:

- a. It was to be assumed that off-site school expansion infrastructure for the majority of non-strategic sites would be funded by CIL [§5.3.25]; and
- b. Strategic Sites should be tested according to a range of scenarios [5.3.26].

11. When such scenarios were tested, it was found that:

- a. Non-strategic sites were found to be able to bear higher CIL rates than strategic sites, by reason of the higher infrastructure demands placed on strategic sites: compare tables 5.20 and 5.21 of the Peter Brett report; and
- b. Non-strategic sites should be subject to a CIL charge of £200 psm [§5.6.13] and strategic sites should have a lower rate of CIL of £35 psm [§5.6.14].

12. The adopted JCS makes it plain that strategic sites in Tewkesbury were to provide school provision as part of the specific schemes, supporting the Appellant's submission that the lower CIL rates for strategic sites were, in part at least, because those strategic sites were expected to make specific education provision through s106 obligations and not CIL: see, for example, part iv of policy A3, the strategic allocation at North Brockworth³ which

³ CD7.02, page 100.

expressly refers to the requirement to provide school capacity as part of the specific scheme.

13. It may thus be entirely appropriate that some sites over 450 units have paid for off-site education provision through the planning obligation - that is what the CIL preparation process envisaged, as those sites benefit from the lower £35 psm CIL rate. If those larger sites are not strategic ones in the JCS, then the fact that other people have agreed to pay them is not relevant to the appeal site paying the higher CIL rate. The Appellant objects here for the reasons given and it asks for the matter to be decided in the light of the facts and arguments deployed here.
14. The differential rates set out in the PBA report were the adopted ones and appear in the adopted CIL charging schedule at table 1.1 on page 4.
15. Whilst it is right that the CIL examiner did not address the appeal site's infrastructure needs as part of the CIL examination [§4 pf the GCC Note], the examiner *did* consider the approach to be taken to non-allocated and non-strategic sites when approving the setting of differential rates for CIL.
16. It is thus absolutely clear that the education needs generated by strategic sites were to be funded by s106 obligations, with an accompanying lower CIL charge, whereas education needs generated by non-strategic sites (such as the appeal site) were to be funded through a higher CIL charge and not planning obligations.

17. The fundamental flaw in GCC's argument is its claim that the repeal of Regulation 123 means that this history of the background to the setting of the CIL charge can be set aside. Given the history of the setting of the CIL rate applicable to the appeal site, it cannot possibly be said that the payment of around £3m through a planning obligation in addition to the higher CIL rate payment (estimated at circa £3.2m) is *fairly and reasonably* related to the development, as Regulation 122(2)(c) requires. In essence, GCC is seeking to extract an education contribution by way of planning obligation when the CIL rate was set to provide for the education provision to be secured by those means. GCC submits, at §20 of its Note, that the contribution sought is directly related to the Appellant's development, whilst overlooking that that is not sufficient. In addition to a direct connection to the development, the contribution also has to be fairly and reasonably related to it. Given the charging schedule preparation history and the applicable CIL rate, it is not.

18. As can be seen from the nature of the argument set out above, §21 of the GCC Note aims at a false target. It is not the Appellant's case that the Reg 123 list is some kind of "trump card". The Reg 123 list has gone.

19. It is clear from GCC's submissions that the Appellant is being dragged into some kind of financial turf war between TBC and GCC. It is not for the Appellant to make an excessive and unjustified contribution by way of a planning obligation as a result of (i) GCC's evident dissatisfaction with the mechanism for dividing CIL monies between TBC and GCC or (ii) GCC's perceived lack of control over whether and how TBC passes money to GCC [see §§ 7 and 15 of GCC's Note]. Nor is it the Appellant's fault that GCC cannot guarantee having the CIL payment handed over to it [§22 of the Note]. What is important is the amount of the CIL charge and the basis upon which it was formulated, tested and

adopted. In any event, by GCC's own admission [§15 of its Note], 70% of the CIL levy will find its way to GCC. In this case, education is the only identified infrastructure in need of support, given that the s106 obligation addresses highway improvements, bus service improvements, off site greenspace payments and library contributions, all on top of the 40% affordable housing.

20. It is not for the Appellant to provide viability evidence to show that making the CIL payment and the s106 contribution sought would be unviable, as that is not the point:

- a. The higher CIL rate which the Appellant has to pay was plainly formulated and tested on the basis that education contributions would not be sought in addition to the levy and the whole point of doing so was to test the viability of schemes on that basis;
- b. The GCC demand was only made for the first time the day before the exchange of evidence for the appeal and even then was unsupported by detailed reasoning; and
- c. The issue is whether the s106 sum sought fairly and reasonable relates to the development, and given the history of the charging schedule preparation, it does not. GCC are unfairly seeking to take advantage of the recent repeal of Regulation 123 to set aside the whole basis of the preparation and adoption of the differential CIL rates and extract a contribution for a type of infrastructure which was explicitly envisaged to be provided for in the CIL charge which

applies to the appeal site. That is opportunism of the worst kind and falls foul of Regulation 122(2)(c) of the CIL Regulations.

21. For the above reasons, the Inspector is asked to conclude that the education contributions set out in the unilateral undertaking do not meet the requirements of Regulation 122(2)(c) of the 2010 Regulations and so, in accordance with clause 3.2.1.3 of the UU, shall be of no effect.

Related docs:

1. Tewkesbury BC Draft Charging Schedule
2. "Plan Viability, Community Infrastructure Levy and affordable housing study" Peter Brett Associates LLP January 2016.
3. Adopted TBC charging schedule.
4. The Joint Core Strategy [CD7.02]

Planning Inquiry

Town and Country Planning Act 1990 (as amended) Appeal Reference:

APP/G1630/W/19/3229581

Tewkesbury Borough Council Reference: 18/00249/OUT

NOTE FROM GLOUCESTERSHIRE COUNTY COUNCIL

CIL v SECTION 106 FOR EDUCATION

1. The Appellant has provided a section 106 unilateral which contains the figures provided by Gloucestershire County Council ("the County") based on the County's assessment of unmet educational need. It appears (Tues 1pm) that there is no issue on the pupil yield and the lack of spare capacity in the planning area covering Bishops Cleeve to meet the educational needs associated with the development at nursery, primary and secondary level. The cost per place figures are derived from the DFE costs multipliers 2018. These are the standard figures used by the County (and other non-metropolitan education authorities). The result is the true capital cost of providing the number of places arising from this development.
2. The proposal to meet the need is to provide:
 - a. a third form of entry at a new primary to serve Bishops Cleeve. The first 2FE of that new school is driven by two major developments at Fiddington (850 units) and Gotherington (500) and paid for by s.106 on those permissions. The third FE would be required to meet the needs here as well as other needs.
 - b. Nursery places would be delivered through that new 3 FE school too – expanded in the same way; and
 - c. Secondary provision would be delivered through the further expansion of Cleeve Academy.
3. Absent a third form added to the new primary and additional classrooms at Cleeve Academy the additional educational need generated from this development could not be met at Bishop Cleeve. There are no land allocations and no provisions within the major sites for further schools; no ability to further extend existing schools and no land otherwise available to the County.
4. This site is not an allocation in the development plan and the infrastructure provision to provide for it has thus not been included in the infrastructure delivery plan ("IDP") or considered by the Inspector at the CIL examination. The IDP assumes that all educational provision in Tewkesbury will be provided by developer contributions (p34: 2017).

CIL - the Charging Scheme here

5. CIL is now operable in TBC's area (since 1/1/19).
6. A draft CIL charging scheme was formulated and subject to viability assessment, representations and an examination. In that examination, it was stated that generic larger schemes may not be able to afford the CIL rate (£200 psm) because of the substantial site specific infrastructure that they would require. The Inspector was thus persuaded (para 51) to introduce a lower CIL rate for developments over 450 units (p4 of the CS) because they would not support the generic rate. CIL was therefore set at a lower level for those sites.

CIL and S.106

7. CIL is a generic and (almost) universal charge which can be levied by local authorities on new development in their area to deliver infrastructure needed to support development in their area. It is paid to TBC. The County has no control over it. The use of it is subject to the priorities of TBC not the County. The rate is set by reference to regulation 14 which requires a generic balance to be struck the desirability of funding from CIL (in whole or in part) the actual and expected costs of infrastructure to support development in the area taking into account of other sources of funding and the potential effects on viability. The generic nature of these contributions is essential to understanding the limited extent to which these payments can be relied on in avoiding site specific s.106 obligations.
8. In most cases it will not meet the full infrastructure spending gap but will be just a contribution to it – see Examination para 18 – “appreciable contribution”. Here there was an acknowledged major gap between what CIL would deliver and the infrastructure required even for the plan compliant development.
9. Section 106 agreements can be required when they are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development (reg 122). Here we know that the further school places meet all three criteria.
10. Fundamentally there is no contradiction between having to pay CIL and having to pay s.106 obligations. Take a position where a developer has a site with a school which has lots of spaces close by – that developer is not excused from any “education element” of CIL because there are spaces. Conversely, a developer who has to provide additional spaces is not excused from the generic CIL obligations. The two are addressing different matters. CIL is a contribution to a central pot; s.106 is project and site specific.
11. Until Sept 2019, reg 123 significantly restricted the circumstances in which s.106 agreements were relevant in planning decision making. For infrastructure in the reg 123 list where there were 5 or more existing s.106 obligations, a further s.106 was deemed immaterial. Reg 123 is now omitted – reg 2 and reg 11 of the CIL Regs 2019. There do not appear to be any transitional provisions. The reg 123 list thus appears to have no continuing statutory

relevance. There is as yet no annual infrastructure funding statement (reg 121A) and as yet no requirement for one.

12. Thus the former repeated reliance by developers on the reg 123 list as somehow showing that a s.106 obligation was not required is no longer appropriate.
13. The NPPG in the light of the new legislation makes clear the consequences. Para 170 makes clear that the only hurdle to a s.106 is the three tests. Of course if the developer could demonstrate that the development with CIL and with the s.106 obligations was not viable, para 166 would kick in – namely that the local authorities should ensure that the combined total impact does not undermine deliverability. The Appellant here has not provided any viability assessment to suggest the site cannot deliver housing whilst properly providing the infrastructure needs to which it gives rise. Absent such viability case, non-provision of required infrastructure under a s.106 means that the land value is inflated or a super profit generated (greater than 20%) at the expense of the education authority and the taxpayer.
14. The same project can be funded from multiple routes (para 166). Thus CIL and s.106 can be combined.
15. Here we know that the education provision will not be secured through CIL. First, CIL is set at a level which the Inspector recognised comes nowhere near meeting the true costs. Second, there is a 30% (approx.) use of CIL for non-County matters. Third, there is no CIL contribution for affordable housing – here reducing it by 40%). Fourth, the result is that the CIL here is dramatically lower than the necessary contribution – see CIL Justification para 2.7 – 2.10. Fifth, this is a two tier county and there is as yet no agreement between TBC and the County for distribution of CIL, TBC has made no decisions on how it will allocate the money or even yet invited bids for it and of course has no significant pot yet. It is clear that TBC has different priorities from the County as the education authority. Sixth, CIL will come in slowly and will gradually build up – it cannot be expected that there will be substantial funds in the short/medium term to meet these immediate infrastructure needs. There is thus no way of knowing what of the £2.33m will ultimately be in the education pot. The total CIL here for everything (education, library, social services, highways etc..) and all authorities (parish council) would be £2.33m, compared to just the education requirement of £3.9m. It necessarily follows that CIL will thus not provide the necessary school places.

Reg 123 List

16. The Appellant wishes to activate the blue line clause on the following basis: it is contending that by virtue of the evolution of the charging scheme and the content of the reg 123 list, education provision is exclusively made through CIL except on large sites (over 450) which it assumes provide their own primary school.

17. The premise of this argument is wrong – a site will need its own primary school at 750 houses. Sites much bigger than 450 have recently paid s.106 for off site school provision - e.g. the 2 FE referred to above.
18. In any event, the CIL charging scheme does not say that the sites less than 450 are somehow immune from s.106s and it could not lawfully do so.
19. Even if that is wrong, the reg 123 list no longer applies. The CIL list never had the status asserted because it is just for the purposes of reg 123/pooling. Now that reg 123 has been revoked it has no status.
20. Even if that is wrong, the reg 123 list properly understood has an exception which is applicable here. The CIL funding is for the general infrastructure pot including elements of education to be determined by TBC against other competing bids. The provision here (third FE and extensions to Cleeve Academy) is necessary for this development and is thus “directly related to an individual development”. The additional spaces would not be provided other than for the needs arising from this development.
21. The Appellant’s argument depends on the reg 123 list being elevated into some sort of trump card to defeat normal requirements for s.106s. It has no such status, was not approved by the examination (the infrastructure considered by the examination is based on the IDP not the reg 123) and is for a much more limited “pooling” purpose.

“Paying twice”

22. This is based on a misconception. The CIL money is not necessarily available to the County at all never mind to education. It is not specific to education or to county matters. The CIL money is paid into a generic borough wide pot to facilitate its development (not this specific development). It does not remove the site specific need. Here it cannot remove the site specific need given the finances. If the s.106 is activated, the County will not receive CIL monies for the same spaces and therefore no double counting. CIL will be used for facilities which have not been justified and funded through s.106s.

9/10/19

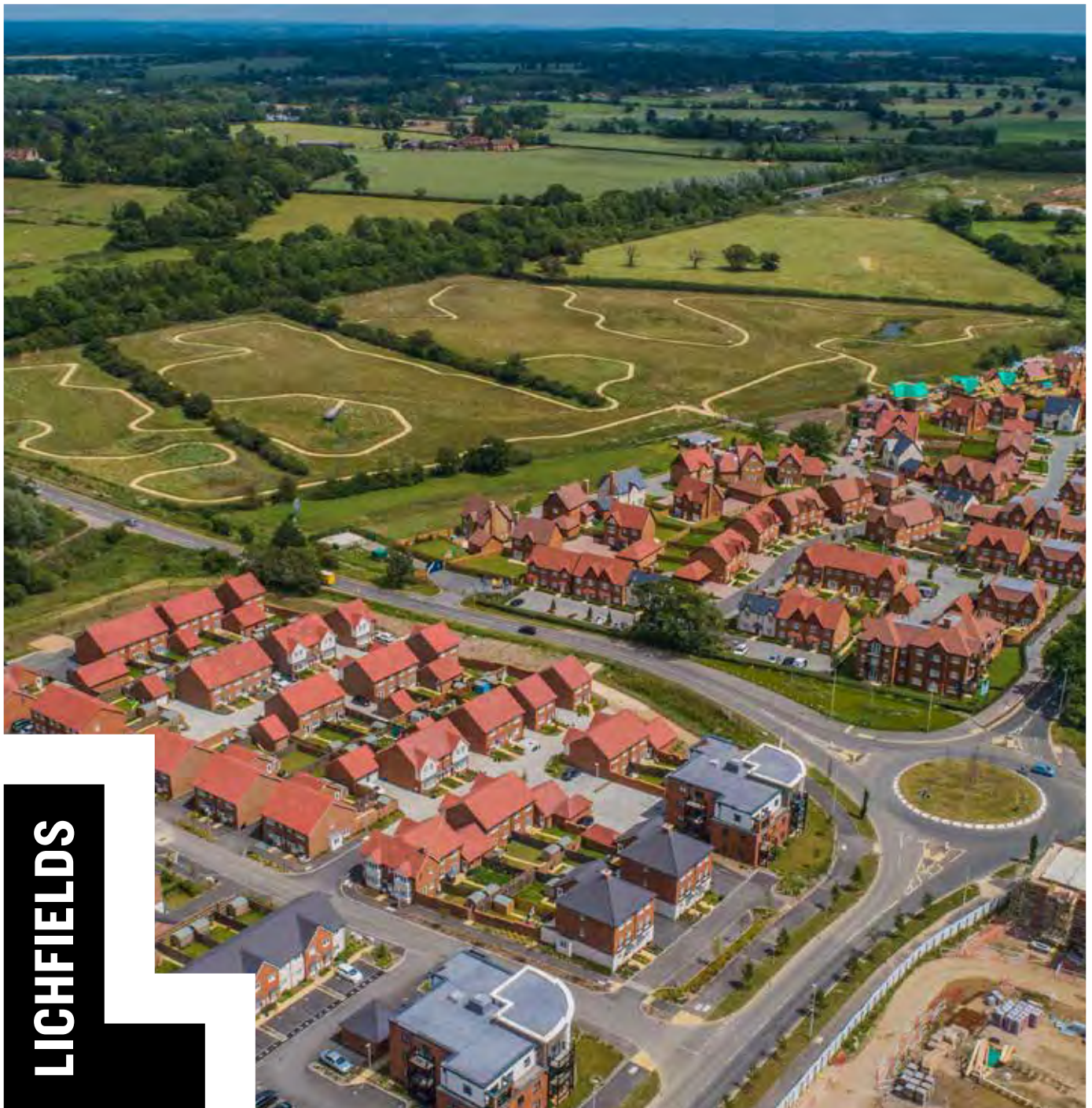
APPENDIX 12

INSIGHT
FEBRUARY 2020

Start to Finish

What factors affect the build-out rates of large scale housing sites?

SECOND EDITION



LICHFIELDS



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Executive summary

Lichfields published the first edition of Start to Finish in November 2016. In undertaking the research, our purpose was to help inform the production of realistic housing trajectories for plan making and decision taking. The empirical evidence we produced has informed numerous local plan examinations, S.78 inquiries and five-year land supply position statements.

Meanwhile, planning for housing has continued to evolve: with a revised NPPF and PPG; the Housing Delivery Test and Homes England upscaling resources to support implementation of large sites. Net housing completions are also at 240,000 dwellings per annum. With this in mind, it is timely to refresh and revisit the evidence on the speed and rate of delivery of large scale housing sites, now looking at 97 sites over 500 dwellings. We consider a wide range of factors which might affect lead-in times and build-out rates and have drawn four key conclusions.

In too many local plans and five-year land supply cases, there is insufficient evidence for how large sites are treated in housing trajectories. Our research seeks to fill the gap by providing some benchmark figures - which can be of some assistance where there is limited or no local evidence - but the averages derived from our analysis are not intended to be definitive and are no alternative to having a robust, bottom-up justification for the delivery trajectory of any given site.

We have drawn four key conclusions:

1 Large schemes can take 5+ years to start	2 Lead-in times jumped post recession
Our research shows that if a scheme of more than 500 dwellings has an outline permission, then on average it delivers its first home in c.3 years. However, from the date at which an outline application is validated, the average figures can be 5.0-8.4 years for the first home to be delivered; such sites would make no contribution to completions in the first five years.	Our research shows that the planning to delivery period for large sites completed since 2007/08 has jumped compared to those where the first completion came before 2007/08. This is a key area where improvements could be sought on timeliness and in streamlining pre-commencement conditions, but is also likely impacted by a number of macro factors.
3 Large greenfield sites deliver quicker	4 Outlets and tenure matter
Large sites seem to ramp up delivery beyond year five of the development on sites of 2,000+ units. Furthermore, large scale brownfield sites deliver at a slower rate than their greenfield equivalents: the average rate of build out for greenfield sites in our sample is 34% greater than the equivalent brownfield.	Our analysis suggests that having additional outlets on site has a positive impact on build-out rates. Interestingly, we also found that schemes with more affordable housing (more than 30%) built out at close to twice the rate as those with lower levels of affordable housing as a percentage of all units on site. Local plans should reflect that – where viable – higher rates of affordable housing supports greater rates of delivery. This principle is also likely to apply to other sectors that complement market housing for sale.

Key figures

180

sites assessed, with combined yield of 213k+ dwellings; 97 sites had 500+ homes

c.3yrs

average time taken from outline decision notice to first dwelling completions on sites of 500+ homes

8.4yrs

the average time from validation of the first planning application to the first dwelling being completed on schemes of 2,000+ dwellings

160 dpa

the average annual build-out rate for a scheme of 2,000+ dwellings (median: 137)

68 dpa

the average annual build rate of a scheme of 500-999 dwellings (median: 73)

+34%

higher average annual build-out rate on greenfield sites compared with brownfield sites

61 dpa

average completions per outlet on sites with one outlet, dropping to 51 for sites of two outlets, and 45 for sites with three outlets

01 Introduction

This is the second edition of our review on the speed of delivery on large-scale housing development sites. The first edition was published in November 2016 and has provided the sector with an authoritative evidence base to inform discussions on housing trajectories and land supply at planning appeals, local plan examinations and wider public policy debates.

Over this period, housing delivery has remained at or near the top, of the domestic political agenda: the publication of the Housing White Paper, the new NPPF, an emboldened Homes England, a raft of consultations on measures intended to improve the effectiveness of the planning system and speed up delivery of housing. Of particular relevance to *Start to Finish* was the completion of Sir Oliver Letwin's independent review of build out ("the Letwin Review"), the inclusion within the revised NPPF of a tighter definition of 'deliverable' for the purposes of five-year housing land supply (5YHLS) assessment, and the new Housing Delivery Test which provides a backward looking measure of performance. The policy aim is to focus more attention on how to accelerate the rate of housing build out, in the context of the NPPF (para 72) message that the delivery of a large numbers of new homes can often be best achieved through larger scale development such as new settlements or significant extensions to existing villages and towns, but that these need a realistic assessment of build-out rates and lead in times of large-scale development.

This second edition of *Start to Finish* is our response to the latest policy emphasis. It provides the planning sector with real-world benchmarks to help assess the realism of housing trajectory assumptions, particularly for locations where there have been few contemporary examples of strategic-scale development. The first edition looked in detail at how the size of the site affected build-out rates and lead in times, as well as other factors such as the value of the land and whether land was greenfield or brownfield. We have updated these findings, as well as considering additional issues such as how the affordability of an area and the number of outlets on a site impacts on annual build-out rates.

We have also expanded the sample size (with an extra 27 large sites, taking our total to 97 large sites, equivalent to over 195,000 dwellings) and updated with more recent data to the latest monitoring year (all data was obtained at or before the 1st April 2019).



Our research complements, rather than supplants, the analysis undertaken by Sir Oliver Letwin in his Review. The most important differentiation is that we focus exclusively on what has been built, whereas each of the sites in the Letwin Review included forecasts of future delivery. Additionally, the Letwin Review looked at 15 sites of 1,500+ homes, of which many (including the three largest) were in London. By contrast, the examples in this research sample include 46 examples of sites over 1,500 homes across England and Wales, the majority of which are currently active. As with the first edition of our research, we have excluded London because of the distinct market and delivery factors in the capital.

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180

sites

97

large sites of 500
units or more

27

additional sites
compared with our
2016 research

8

sites also included
in Sir Oliver Letwin's
review

O2

Methodology

The evidence presented in this report analyses how large-scale housing sites emerge through the planning system, how quickly they build out, and identifies the factors which lead to faster or slower rates of delivery.

We look at the full extent of the planning and delivery period. To help structure the research and provide a basis for standardised measurement and comparison, the various stages of development have been codified. Figure 1 sets out the stages and the milestones used, which remain unchanged from the first edition of this research. The overall 'lead-in time' covers stages associated with gaining an allocation, going through the 'planning approval period' and 'planning to delivery period', finishing when the first dwelling is completed. The 'build period' commences when the first dwelling is completed, denoting the end of the lead-in time. The annualised build-out rates are also recorded for the development up until the latest year where data was available at April 2019 (2017/18 in most cases). Detailed definitions of each of these stages can be found in Appendix 1. Not every site assessed will necessarily have gone through each component of the identified stages as many of the sites we considered had not delivered all dwellings permitted at the time of assessment, some have not delivered any dwellings.

Information on the process of securing a development plan allocation (often the most significant step in the planning process for large-scale schemes, and which – due to the nature of the local plan process – can take decades) is not easy to obtain on a consistent basis across all examples, so is not a significant focus of our analysis. Therefore, for the purposes of this research the lead-in time reflects the start of the planning approval period up to the first housing completion.

The 'planning approval period' measures the validation date of the first planning application on the site (usually an outline application but sometimes hybrid), to the decision date of the first detailed application to permit dwellings in the scheme (either full, hybrid or reserved matters applications). It is worth noting that planning applications are typically preceded

by significant amounts of pre-application engagement and work, plus the timescale of the local plan process.

The 'planning to delivery' period follows immediately after the planning approval period and measures the period from the approval of the first detailed application to permit development of dwellings and the completion of the first dwelling.

Development and data

Whilst our analysis focuses on larger sites, we have also considered data from the smaller sites for comparison and to identify trends. The geographic distribution of the 97 large sites and comparator small sites is shown in Figure 2 and a full list can be found in Appendix 2 (large sites) and Appendix 3 (small sites).

Efforts were made to secure a range of locations and site sizes in the sample, but there is no way of ensuring it is representative of the housing market in England and Wales as a whole, and thus our conclusions may not be applicable in all areas or on all sites. In augmenting our sample with 27 additional large sites, new to this edition of our research, we sought to include examples in the Letwin Review that were outside of London, only excluding them

Box 1: Letwin Review sites

1. Arborfield Green (also known as Arborfield Garrison), Wokingham
2. Ledsham Garden Village, Cheshire West & Chester
3. Great Kneighton (also known as Clay Farm), Cambridge (included in the first edition of this research)
4. Trumpington Meadows, Cambridge
5. Graven Hill, Cherwell
6. South West Bicester, Cherwell
7. Great Western Park, South Oxfordshire
8. Ebbsfleet, Gravesham and Dartford (included in the first edition of this research)

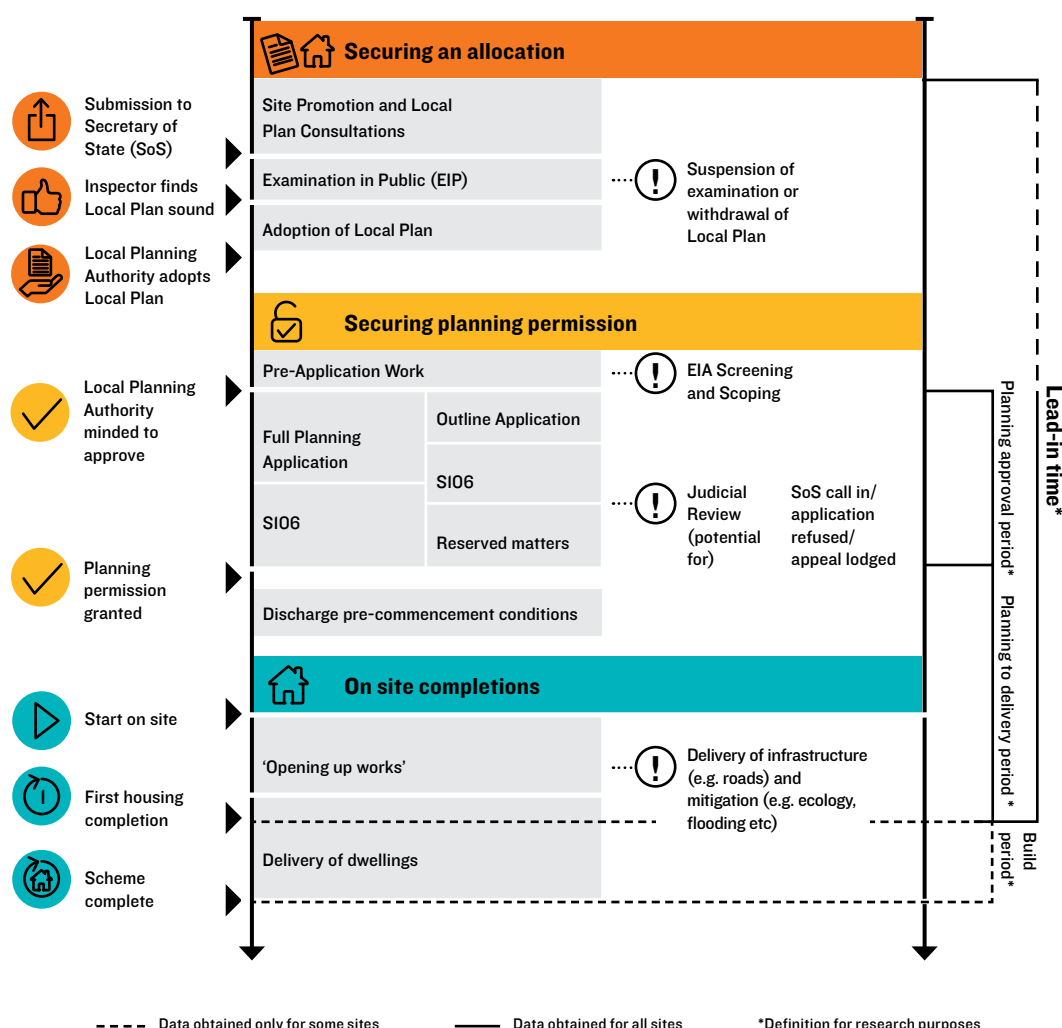
when it was difficult to obtain reliable data. The study therefore includes the Letwin Review's case studies listed in Box 1.

In most instances, we were unable to secure the precise completion figures for these sites that matched those cited in the Letwin Review. Sources for data Lichfields has obtained on completions for those sites that also appear in the Letwin Review are included at the end of Appendix 2.

The sources on which we have relied to secure delivery data on the relevant sites include:

1. Annual Monitoring Reports (AMRs) and other planning evidence base documents¹ produced by local authorities;
2. By contacting the relevant local planning authority, and in some instances the relevant County Council, to confirm the data or receive the most up to date figures from monitoring officers or planners; and
3. In a handful of instances obtaining/confirming the information from the relevant house builders.

Figure I: Timeline for the delivery of strategic housing sites



Source: Lichfields analysis

¹ Monitoring documents, five-year land supply reports, housing trajectories (some in land availability assessments), housing development reports and newsletters

196,714

units on large sites
of 500 or more
homes

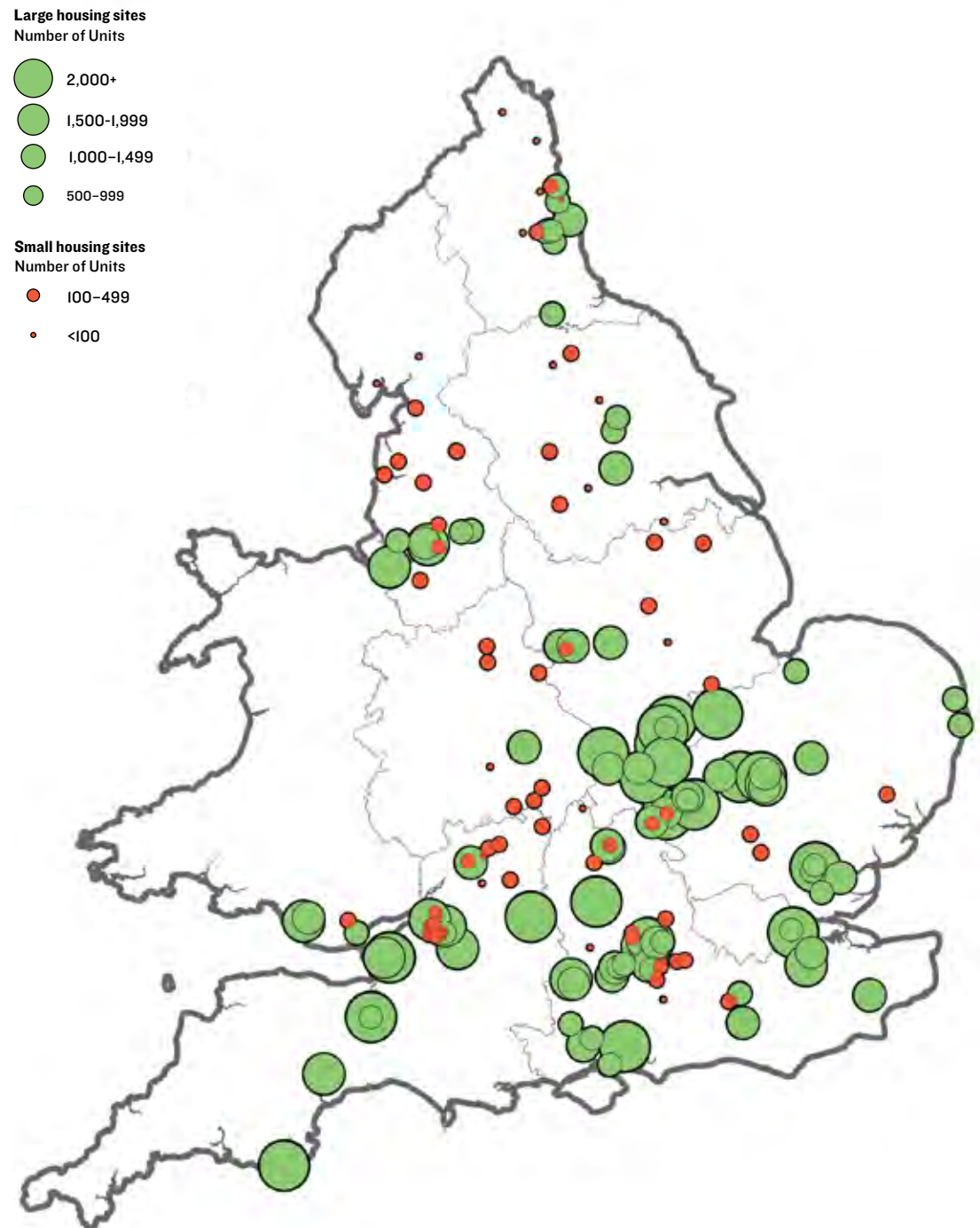
16,467

units on small sites
under 500 homes

35

sites of 2,000
homes or more

Figure 2: Map of site sample by size of site (total dwellings)



Source: Lichfields analysis

03 Timing is everything: how long does it take to get started?

In this section we look at lead in times, the time it takes for large sites to get the necessary planning approvals. Firstly, the changing context of what 'deliverable' means for development. Secondly, the 'planning approval period' (the time it takes for large sites to get the necessary planning approvals). And thirdly, the 'planning to delivery period' (the time from approval of the first detailed application to permit development of dwellings to the completion of the first dwelling).

The new definition of 'Deliverable'

The question of how quickly and how much housing a site can begin delivering once it has planning permission, or an allocation, has become more relevant since the publication of the new NPPF with its new definition of deliverable. Only sites which match the deliverability criteria (i.e. suitable now, available now and achievable with a realistic prospect that housing will be delivered on the site within five years) can be included in a calculation of a 5YHLS by a local authority. This definition was tightened in the revised NPPF which states that:

"sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be

considered deliverable where there is clear evidence that housing completions will begin on site within five years". (emphasis added)

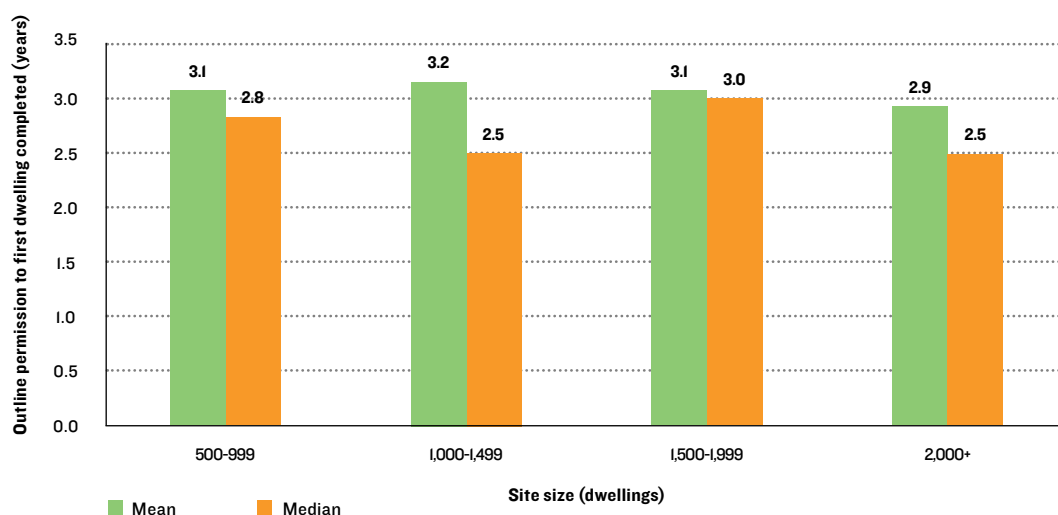
What constitutes 'clear evidence' was clarified in a number of early appeal decisions and in the Planning Practice Guidance² and can include information on progress being made towards submission of a reserved matters application, any progress on site assessment work and any relevant information about site viability, ownership constraints or infrastructure provision. In this context, it is relevant to look at how long it takes, on average, for a strategic housing site to progress from obtaining outline permission to delivering the first home (or how long it takes to obtain the first reserved matters approval, discharge pre-commencement conditions and open up the site), and then how much housing could be realistically expected to be completed in that same five-year period.

Based on our sample of large sites, the research shows that, upon granting of outline permission, the time taken to achieve the first dwelling is – on average c.3 years, regardless of site size. After this period an appropriate build-out rate based on the size of the site should also be considered as part of the assessment of deliverability (see Section 4). Outline planning permissions for strategic development are not

c.3 years

average time from obtaining outline permission to first dwelling completion on sites of 500+ homes

Figure 3: Average time taken from gaining outline permission to completion of the first dwelling on site (years), compared to site size



Source: Lichfields analysis

² Planning Practice Guidance Reference ID: 68-007-20190722



Only sites of fewer than 499 dwellings are on average likely to deliver any homes within an immediate five year period.

always obtained by the company that builds the houses, indeed master developers and other land promoters play a significant role in bringing forward large scale sites for housing development³. As such, some of these examples will include schemes where the land promoter or master developer will have to sell the site (or phases/parcels) to a housebuilder before the detailed planning application stage can commence, adding a step to the planning to delivery period.

Figure 4 considers the average timescales for delivery of the first dwelling from the validation of an outline planning application. This demonstrates that only sites comprising fewer than 499 dwellings are – on average – likely to deliver anything within an immediate five year period. The average time from validation of an outline application⁴ to the delivery of the first dwelling for large sites ranges from 5.0 to 8.4 years dependent on the size of the site, i.e. beyond an immediate five-year period for land supply calculations.

Comparison with our 2016 findings

Planning Approval Period

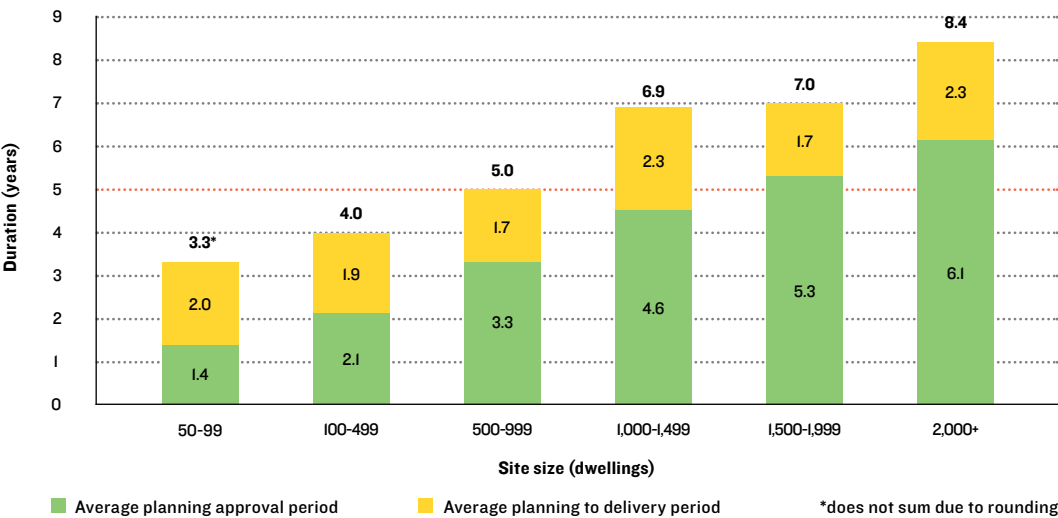
Our latest research reveals little difference between the average planning approval period by site size compared to the same analysis in the first edition (see Table 1). However, it is important to remember that these are average figures which come from a selection of large sites. There are significant variations within this average, with some sites progressing very slowly or quickly compared to the other examples. This is unsurprising as planning circumstances will vary between places and over time.

Table 1: Average planning approval period by size of site (years)

Site Size	1st edition research (years)	This research (years)
50-99	1.1	1.4
100-499	2.4	2.1
500-999	4.2	3.3
1,000-1,499	4.8	4.6
1,500-1,999	5.4	5.3
2,000+	6.1	6.1

Source: Lichfields analysis

Figure 4: Average timeframes from validation of first application to completion of the first dwelling



Source: Lichfields analysis

³ Realising Potential - our research for the Land Promoters and Developers Federation in 2017 - found that 41% of homes with outline planning permission were promoted by specialist land promoter and development companies, compared to 32% for volume house builders.

⁴ The planning approval period could also include a hybrid or full application, but on the basis of our examples this only impacts a small number of sites

Planning to Delivery Period

Although there is little difference between the average planning approval periods identified in this research compared to our first edition findings, the average lead-in time after securing planning permission is higher (Figure 5). It is this period during which pre-commencement planning conditions have to be discharged as well as other technical approvals and associated commercial agreements put in place.

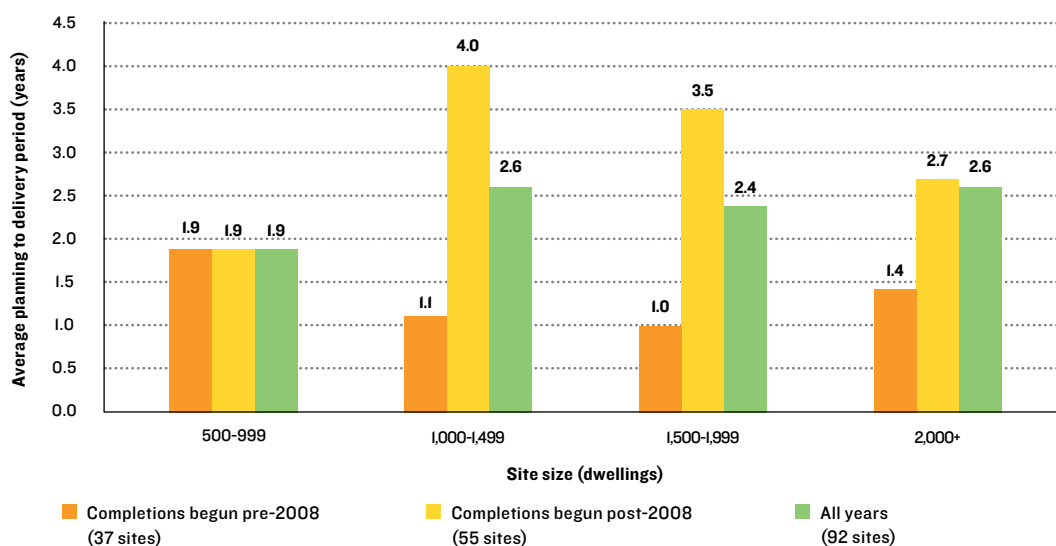
This is likely due to the inclusion of more recent proposed developments in this edition. Of the 27 new sites considered, 17 (63%) completed their first dwelling during or after 2012; this compares to just 14 (20%) out of 70 sites in the first edition of this research (albeit at the time of publication 8 of these sites had not delivered their first home but have subsequently). This implies that the introduction of more recent examples into the research, including existing examples which have now commenced delivery⁵, has seen the average for planning to delivery periods lengthening.

A similar trend is apparent considering the 55 sites that delivered their first completions after 2007/08. These have significantly longer planning to delivery periods than those where completions began prior to the recession. The precise reasons are not clear, but is perhaps to be expected given the slowdown in housing delivery during the recession, and the significant reductions in local authority planning resources which are necessary to support discharge of pre-commencement conditions. However, delays may lie outside the planning system; for example, delays in securing necessary technical approvals from other bodies and agencies, or market conditions.



Sites that delivered their first completion during or after the 2007/08 recession have significantly longer planning to delivery periods than sites which began before.

Figure 5: Planning to delivery period, total average, pre and post-2008



Source: Lichfields analysis

Figure 5: Five of the large sites examples do not have a first dwelling completion recorded in this research

⁵Priors Hall has been amended since the first edition based on more recent data

In demand: how quickly do high pressure areas determine strategic applications for housing?

Using industry-standard affordability ratios, we found that areas with the least affordable places to purchase a home (i.e. the highest affordability ratios) tended to have longer planning to delivery times than areas that were more affordable. This is shown in Figure 6, which splits the large site sample into national affordability quartiles, with the national average equating to 8.72.

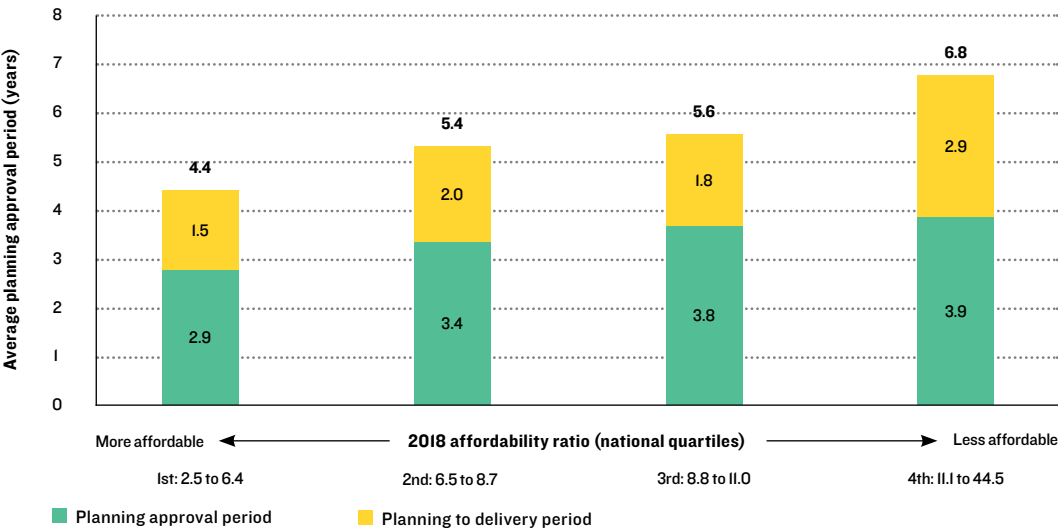
The above analysis coincides with the fact (Table 2) that sites in the most affordable locations (lowest quartile) tend to be smaller than those in less affordable locations (an average site size of c.1,150 compared to in excess of 2,000 dwellings for the three other quartiles). Even the least affordable LPAs (with the greatest gap between workplace earnings and house prices) have examples of large schemes with an average site size of 2,000+ dwellings. It may be that the more affordable markets do not support the scale of up-front infrastructure investment that is required for larger-scale developments and which lead to longer periods before new homes can be built. However, looking at the other three quartiles, the analysis does also suggest that planning and implementation becomes more challenging in less affordable locations.

Table 2: Site size by 2018 affordability ratio

Affordability ratio (workplace based)	Average site size
2.5 – 6.4	1,149
6.5 – 8.7	2,215
8.8 – 11.0	2,170
11.1 – 44.5	2,079

Source: Lichfields analysis

Figure 6: Planning approval period (years) by 2018 affordability ratio



Source: Lichfields analysis

04 How quickly do sites build out?

The rate at which new homes are built on sites is still one of the most contested matters at local plan examinations and planning inquiries which address 5YHLS and housing supply trajectories. The first edition of this research provided a range of 'real world' examples to illustrate what a typical large-scale site delivers annually. The research showed that even when some schemes were able to achieve very high annual build-out rates in a particular year (the top five annual figures were between 419-620 dwellings per annum), this rate of delivery was not always sustained. Indeed, for schemes of 2,000 or more dwellings the average annual completion rate across the delivery period was 160 dwellings per annum.

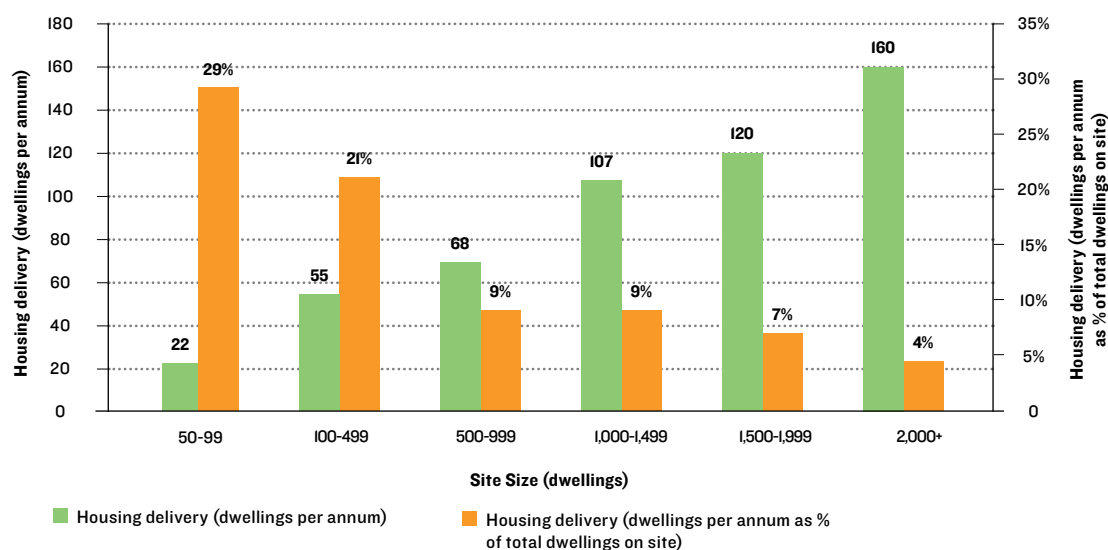
Average Annual Build-out rates

Figure 7 presents our updated results, with our additional 27 sites and the latest data for all sites considered. The analysis compares the size of site to its average annual build-out rate. Perhaps unsurprisingly, larger sites deliver on average more dwellings per year than smaller sites. The largest sites in our sample of over 2,000 dwellings, delivered on average more than twice as many dwellings per year than sites of 500-999 dwellings, which in turn delivered an average of three times as many units as sites of 1-99 units. To ensure the build-out rates averages are not unduly skewed, our analysis excludes any sites which have only just started delivering and have less than three years of data. This is because it is highly unlikely that the first annual completion figure would actually cover a whole monitoring year, and as such could distort the average when compared to only one other full year of delivery data.

160 dpa

the average annual
build rate for schemes
of 2,000+ dwellings

Figure 7: Build-out rate by size of site (dpa)



Source: Lichfields analysis

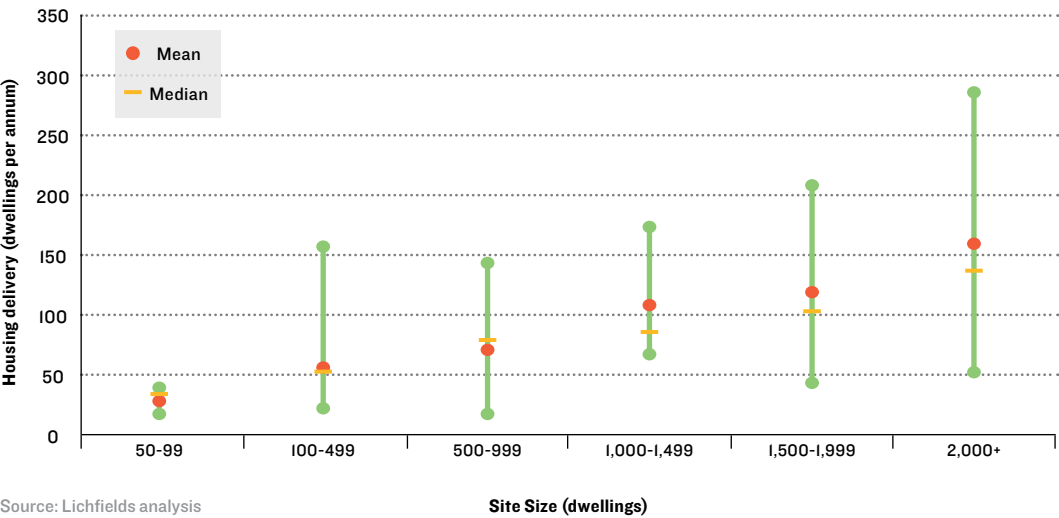


In most cases the median annual delivery rate is lower than the mean for larger sites.

We include the relevant percentage growth rates in this edition's analysis; this shows that the proportion of a site's total size that is build out each year reduces as site size increases.

Our use of averages refers to the arithmetic mean across the sample sites. In most cases the median of the rates seen on the larger sample sites is lower, as shown in Figure 8; this reflects the small number of sites which have higher delivery rates (the distribution is not equal around the average). The use of mean average in the analysis therefore already builds in a degree of optimism compared with the median or 'mid-point scheme'.

Figure 8: Minimum, mean, median and maximum build-out rates by size of site (dpa)



Source: Lichfields analysis

Table 3: Median and mean delivery rates by site size

Site Size	Number of sites	Median housing delivery (dwellings per annum)	Median delivery as % of total on site	Mean annual delivery (dwellings per annum)	Mean annual delivery as % of total units on site
50-99	29	27	33%	22	29%
100-499	54	54	24%	55	21%
500-999	24	73	9%	68	9%
1,000-1,499	17	88	8%	107	9%
1,500-1,999	9	104	7%	120	7%
2,000+	27	137	4%	160	4%

Source: Lichfields analysis

Comparison with our 2016 findings

Comparing these findings to those in the first edition of this research, there is very little difference between the averages observed (median was not presented) for different site sizes, as set out below. The largest difference is a decrease in average annual build-out rates for sites of 1,000-1,499 dwellings, but even then, this is only a reduction of 10 dpa or 9%.

As with the first edition of the research, these are averages and there are examples of sites which deliver significantly higher and lower than these averages, both overall and in individual years. Figure 8 shows the divergence from the average for different site size categories. This shows that whilst the average for the largest sites is 160 dpa and the median equivalent 137 dpa, the highest site average was 286 dpa and the lowest site average was 50 dpa for sites of 2,000+ dwellings. This shows the need for care in interpreting the findings of the research, there may well be specific factors that mean a specific site will build faster or slower than the average. We explore some of the factors later in this report.

Variations for individual schemes can be marked. For example, the 2,605 unit scheme South of the M4 in Wokingham delivered 419 homes in 2017/18, but this was more than double the completions in 2016/17 (174) and the average over all six years of delivery so far was just 147 dwellings per annum.

Even when sites have seen very high peak years of delivery, as Table 5 shows, no sites have been able to consistently delivery 300 dpa.



Site build-out rates for individual years are highly variable. For example, one scheme in Wokingham delivered more than twice as many homes in 2017/18 as it did in the year before.

Table 4: Mean delivery rates by site sizes, a comparison with first edition findings

Site size (dwellings)	2016 edition research (dpa)	2020 edition research (dpa)	Difference
50-99	27	22	-5 (-19%)
100-499	60	55	-5 (-8%)
500-999	70	68	-2 (-3%)
1,000-1,499	117	107	-10 (-9%)
1,500-1,999	129	120	-9 (-7%)
2,000+	161	160	-1 (-0.62%)

Source: Lichfields analysis

Table 5: Peak annual build-out rates compared against average annual delivery rates on those sites

Site	Site size (dwellings)	Peak annual build-out rate (dpa)	Average annual build-out rate (dpa)
Cambourne, South Cambridgeshire	4,343	620	223
Oakley Vale, Corby	3,100	520	180
Eastern Expansion Area, Milton Keynes	4,000	473	268
Clay Farm, Cambridge	2,169	467	260
South of M4, Wokingham	2,605	419	147
Cranbrook, East Devon	2,900	419	286

Source: Lichfields analysis

Table 5: Please note The Hamptons was included as an example of peak annual delivery in the first edition with one year reaching 520 completions. However, evidence for this figure is no longer available and as it was not possible to corroborate the figure it has been removed. The analysis has been updated to reflect the latest monitoring data from Peterborough City Council.

Longer term trends

This section considers the average build-out rates of sites which have been delivering over a long period of time. This is useful in terms of planning for housing trajectories in local plans when such trajectories may span an economic cycle.

In theory, sites of more than 2,000 dwellings will have the longest delivery periods. Therefore, to test long term averages we have calculated an average build-out rate for sites of 2,000+ dwellings that have ten years or more of completions data available.

For these sites, the average annual build-out rate is slightly higher than the average of all sites of that size (i.e. including those only part way through build out), at 165 dwellings per annum⁶. The median for these sites was also 165 dwellings per annum.

This indicates that higher rates of annual housing delivery on sites of this size are more likely to occur between years five and ten, i.e. after these sites have had time to 'ramp up'.

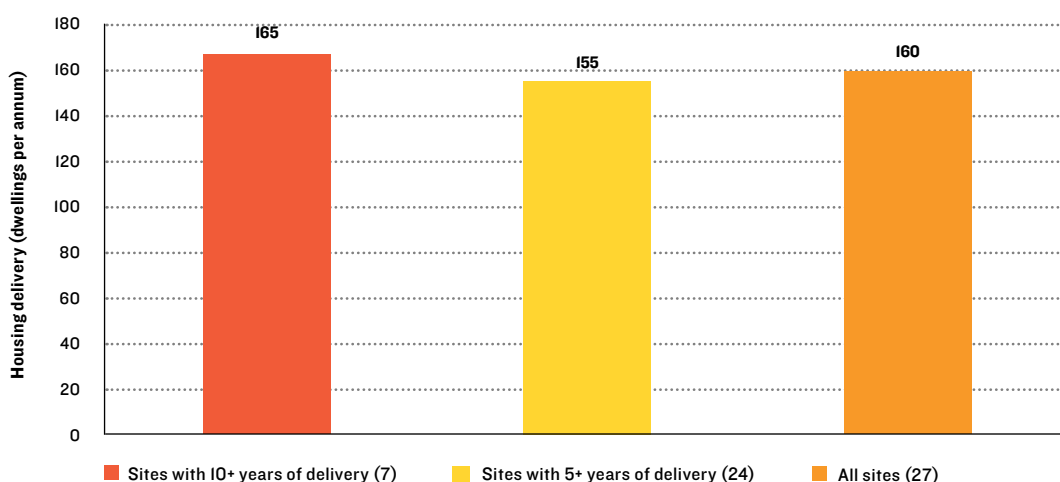
It might even relate to stages in delivery when multiple phases and therefore multiple outlets (including affordable housing) are operating at the same time. These factors are explored later in the report.

The impact of the recession on build-out rates

It is also helpful to consider the impact of market conditions on the build-out rate of large scale housing sites. Figure 10 overleaf shows the average delivery rate of sites of 2,000 or more dwellings in five-year tranches back to 1995/96. This shows that although annual build-out rates have improved slightly since the first half of the 2010's, they remain 37% below the rates of the early 2000's. The reasons for the difference are not clear and are worthy of further exploration – there could be wider market, industry structure, financial, planning or other factors at play.

In using evidence on rates of delivery for current/historic schemes, some planning authorities have suggested that one should adjust for the fact that rates of build out may have been affected by the impact of the recession. We have therefore considered how the average rates change with and without including the period of economic downturn (2008/09 – 2012/13). This is shown in Table 6 and it reveals that average build-out rates are only slightly depressed when one includes this period, but may not have fully recovered to their pre-recession peaks. We know that whilst the recession – with the crunch on mortgage

Figure 9: Average build-out rate for sites over 2,000 homes by length of delivery period (dpa)



⁶ This is based on the completions of seven examples, Chapelford Urban Village, Broadlands, Kings Hill, Oakley Vale, Cambourne, The Hamptons and Wixhams

Source: Lichfields analysis

availability – did have a big impact and led to the flow of new sites slowing, there were mechanisms put in place to help sustain the build out of existing sites.

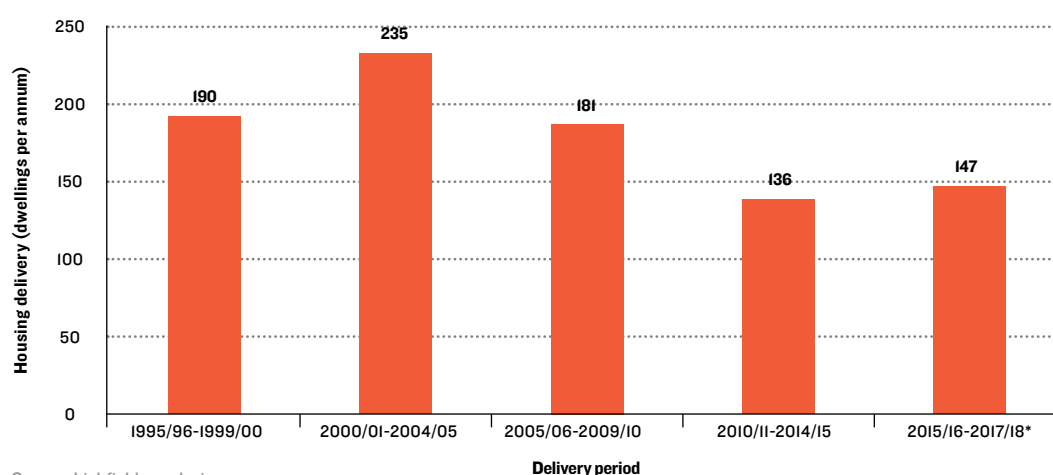
However, setting aside that stripping out the recession has a modest impact on the statistical averages for the sites in our sample, the more significant point is that – because of economic cycles - larger sites which build out over five or more years are inherently likely to coincide with a period of economic slowdown at some point during their build out. It therefore makes sense for housing trajectories for such sites to include an allowance for the prospect that, at some point, the rate of build out may slow due to a market downturn, albeit the effect may be smaller than one might suspect.

Table 6: Impact of recession on build-out rates

	Build-out rates in all years		Build-out rates excluding recession years (2008/9-2012/13)		Build-out rates pre-recession	
	Average rate	Sample size	Average rate	Sample size	Average rate	Sample size
All large sites 500+	115	77	126	68	130	21
All large sites 2,000+	160	27	171	25	242	6
Greenfield sites 2,000+	181	14	198	12	257	3

Source: Lichfields analysis

Figure 10: Average build-out rate by five year period for sites over 2,000 dwellings (dpa)



Source: Lichfields analysis

05 What factors can influence build-out rates?

+34%

higher average annual build-out rates on greenfield land compared with brownfield

Having established some broad averages and how these have changed over time, we turn now to look at what factors might influence the speed at which individual sites build out. How does housing demand influence site build out? What is the impact of affordable housing? Does it matter whether the site is greenfield or brownfield? What about location and site configuration?

In demand: do homes get delivered faster in high pressure areas?

One theory regarding annual build-out rates is that the rate at which homes can be sold (the 'absorption rate') determines the build-out rate. This is likely to be driven by levels of market demand relative to supply for the product being supplied.

This analysis considers whether demand for housing at the local authority level affects delivery rates by using (industry-standard) affordability ratios. Higher demand areas are indicated by a higher ratio of house prices to earnings i.e. less affordable. Whilst this is a broad-brush measure, the affordability ratio is a key metric in the assessment of local housing need under the Government's standard methodology. Figure 11 shows the sample of 500+ unit schemes divided into those where the local authority in which they are located is above or below the national median affordability ratio (8.72) for sites which have

delivered for three years or more. This analysis shows that sites in areas of higher demand (i.e. less affordable) deliver on average more dwellings per annum.

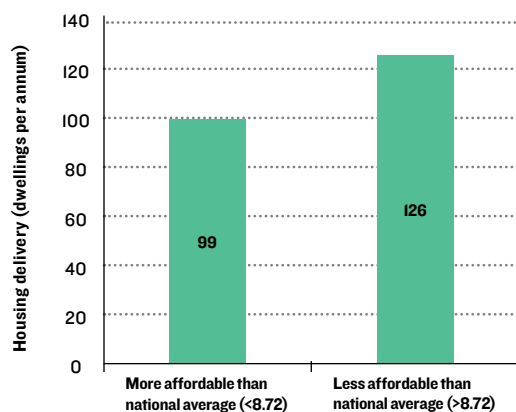
Our analysis also coincides with the fact that sites in less affordable areas are on average c.17% larger than those in more affordable areas. The average site size for schemes in areas where affordability is below the national average is 1,834 dwellings. For those delivered in areas where the affordability is greater than the national average, average site size is 2,145 dwellings. So, it is possible that the size of site – rather than affordability *per se* – is a factor here.

Do sites on greenfield land deliver more quickly?

The first edition of this research showed that greenfield sites on average delivered quicker than their brownfield counterparts. In our updated analysis this remains the case; large greenfield sites in our sample built out a third faster than large brownfield sites.

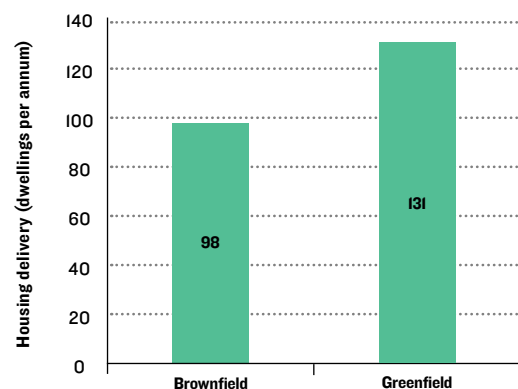
In the life cycle of a site, our data also shows that greenfield sites had shorter planning to delivery periods (2.0 years compared to 2.3 for brownfield sites), although on average, longer planning approval periods (5.1 years compared to 4.6 for brownfield sites).

Figure 11: Build-out rates by level of demand using national median 2018 workplace based affordability ratio (dpa)



Source: Lichfields analysis

Figure 12: Build-out rates on brownfield and greenfield sites (dpa)



Source: Lichfields analysis

Housing mix and variety

Among the more topical issues surrounding delivery rates on large-scale sites is the variety of housing on offer. The Letwin Review posited that increasing the diversity of dwellings on large sites in areas of high housing demand would help achieve a greater rate of build out. The report concluded that a variety of housing is likely to appeal to a wider, complementary range of potential customers which in turn would mean a greater absorption rate of housing by the local market.

Consistent data on the mix of sizes, types and prices of homes built out on any given site is difficult to source, so we have used the number of sales outlets on a site as a proxy for variety of product. This gives the prospect of multiple house builders each seeking to build and sell homes for which there is demand in the face of 'competing' supply from other outlets (as revealed by the case study of Land South of the M4 in Wokingham). Letwin stated that "...it seems extraordinarily likely that the presence of more variety in these aesthetic characteristics would create more, separate markets"⁷. Clearly, it is likely that on many sites, competing builders may focus on a similar type of product, for example three or four bed family housing, but even across similar types of dwelling, there will be differences (in configuration, design, specification) that mean one product may be attractive to a purchaser in the way another might

not be. On this basis, we use the outlets metric as a proxy for variation. Based on the limited data available for this analysis, if two phases are being built out at the same time by the same housebuilder (e.g. two concurrent parcels by Bovis) this has been counted as one outlet with the assumption there is little variety (although it is clear that some builders may in reality differentiate their products on the same site). This data was derived from sites in a relatively small number of local planning authorities who publish information relating to outlets on site. It therefore represents a small sample of just 12 sites, albeit over many different years in which the number of outlets varied on the same site, giving a total of 80 data points i.e. individual delivery rates and number of outlets to compare.

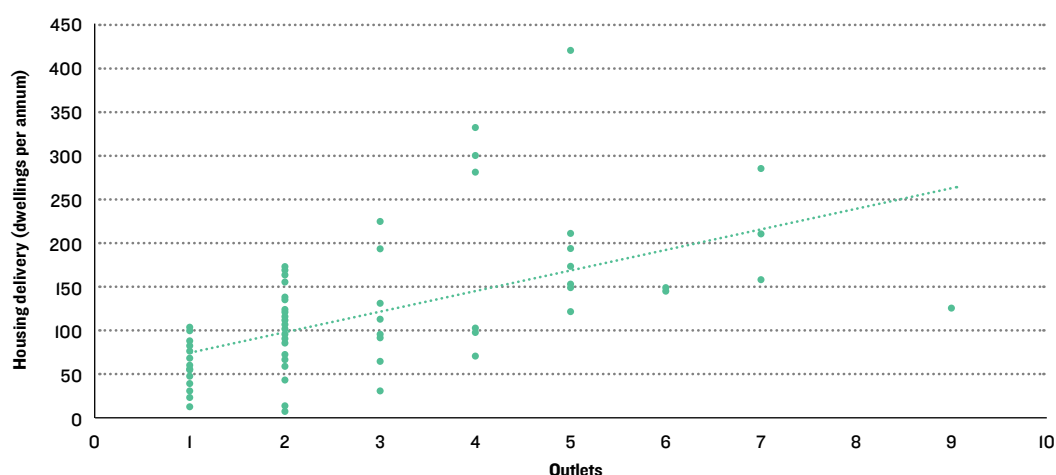
Our analysis confirms that having more outlets operating at the same time will on average have a positive impact on build-out rates, as shown in Figure 13. However, there are limits to this, likely to be due to additional capacity from the outlets themselves as well as competition for buyers.

On a site-by-site basis, the average number of outlets open over the site's entire delivery lifetime had a fairly strong correlation with annual delivery, both as a percentage of total dwellings and in absolute terms, with a greater number of outlets contributing to higher levels of delivery. However, the completions per outlet did reduce with every additional outlet operating in that year.⁸



Having more outlets operating at the same time will on average quicken build-out rates.

Figure 13: Build-out rates by number of outlets present (dpa)



Source: Lichfields analysis

⁷ Letwin Review draft analysis report (June 2018) - final bullet of para 4.25

⁸ Average completions per outlet on site with one outlet was 61dpa, dropping to 51dpa for two outlets and 45dpa for three outlets.

Geography and Site Configuration

An under-explored aspect of large-scale site delivery is the physical opportunity on site. For example, some schemes lend themselves to simultaneous build out of phases which can have the impact of boosting delivery rates in that year, for example, by having access points from two alternative ends of the site. Other sites may be reliant on one key piece of infrastructure which make this opportunity less likely or impractical. In the first edition of this research we touched on this point in relation to Eastern Expansion Area (Broughton Gate & Brooklands) of Milton Keynes. As is widely recognised, the planning and delivery of housing in Milton Keynes is distinct from almost all the sites considered in this research as serviced parcels with the roads already provided were delivered as part of the Milton Keynes delivery model. Multiple house builders were able to proceed straight onto the site and commence delivery on different serviced parcels, with monitoring data from Milton

Keynes Council suggesting an average of c.12 parcels were active across the build period. In this second edition of this research the Milton Keynes examples remain some of the sites with the highest annual build-out rates.

Table 7: Parcels at Land South of M4, Wokingham

Parcel reference	Developers (active outlets)	Completions in 2017/18
SP1	Bellway (1)	59
SP2w	Bellway and Bovis (-)	None - parcel completed
SP3	Crest Nicholson (1)	47
SP4	Taylor Wimpey and David Wilson Homes (2)	140
SP9_I	Bloor, Bovis and Linden (3)	169
SP10	Darcliffe Homes (-)	None - parcel completed
SP11	Taylor Wimpey (1)	4

Source: Lichfields analysis

Figure 14: Map of parcels at Land South of M4, Wokingham



Source: © Google Earth 2020/ Wokingham Local Plan

In this edition we look at the case study of Land South of the M4 in Wokingham. In 2017/18 the site achieved a significant 419 completions. Using the local authority's granular recording of delivery on the site to date, we have been able to consider where these completions were coming forward from within the wider 2,605 dwelling scheme. As shown in Figure 14, in that year new homes were completed on five separate parcels with completions ranging from 4 to 169 dwellings. On some of these parcels (SP9_1 and SP4) there were two or three separate housebuilders building out, and in total on the site there were seven different house building companies active (the impact of multiple outlets on build-out rates is explored later in this report). The parcels are located in separate parts of the site and each had their own road frontages and access arrangements which meant they are able to come forward in parallel. This can enable an increased build rate.

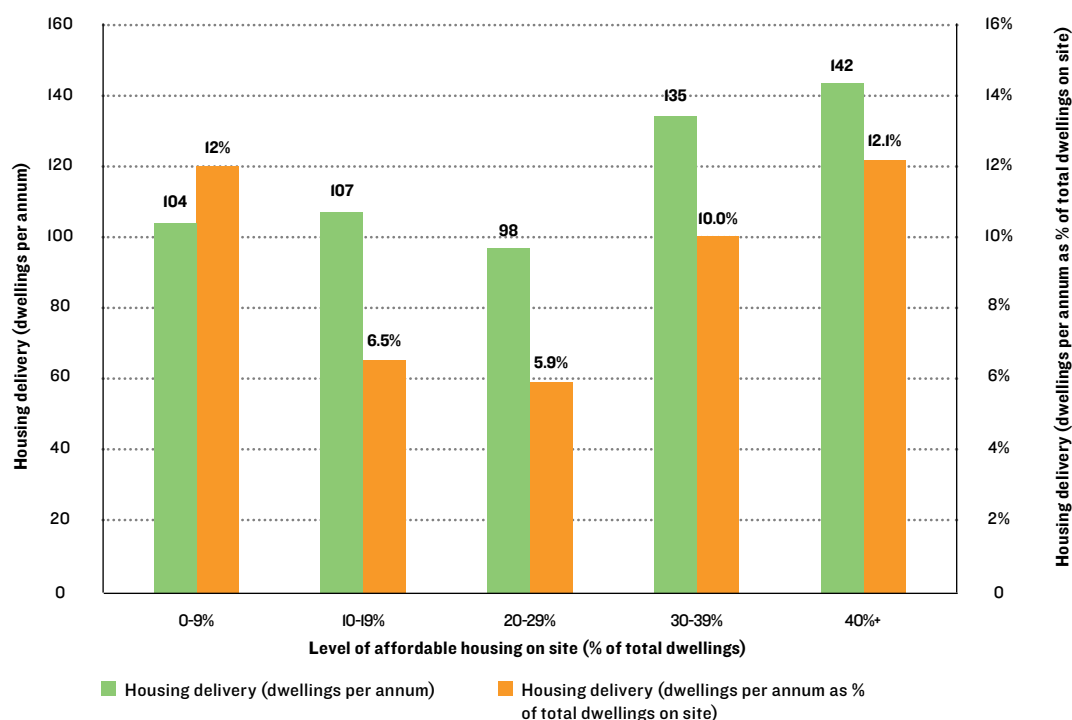
Affordable choices: do different tenures provide more demand?

Our findings on tenure, another form of 'variety' in terms of house building products, are informed by data that is available on about half the sites in our large site sample. From this the analysis shows schemes with more affordable housing built out at close to twice the rate as those with lower levels of affordable housing as a percentage of all dwellings on site. However this is not always the case. Schemes with 20-29% affordable housing had the lowest build-out rates, both in terms of dwellings and proportionate to their size.



Schemes with more affordable housing built out at close to twice the rates as those with lower levels.

Figure 15: Build-out rates by level of affordable housing (dpa and percentage)



Source: Lichfields analysis

06

Conclusions

Recent changes to national planning policy emphasise the importance of having a realistic expectation of delivery on large-scale housing sites, whilst local authorities now find themselves subject to both forward and backward-looking housing delivery performance measures. A number of local plans have hit troubles because they over-estimated the yield from some of their proposed allocations. Meanwhile, it is no longer sufficient for a 5YHLS to look good on paper; the Housing Delivery Test means there are consequences if it fails to convert into homes built.

To ensure local authorities are prepared for these tests, plan making and the work involved in maintaining housing land supply must be driven by realistic and flexible housing trajectories, based on evidence and the specific characteristics of individual sites and local markets. For local authorities to deliver housing in a manner which is truly plan-led, this is likely to mean allocating more sites rather than less, with a good mix of types and sizes, and being realistic about how fast they will deliver so supply is maintained throughout the plan period. Equally, recognising the ambition and benefits of more rapid build out on large sites, it may mean a greater focus on how such sites are developed.

Our research provides those in the public and private sector with a series of real-world benchmarks in this complex area of planning for large scale housing, which can be particularly

helpful in locations where there is little recent experience of such strategic developments. Whilst we present some statistical averages, the real relevance of our findings is that there are likely to be many factors which affect lead-in times and build-out rates, and that these - alongside the characteristics of individual sites - need to be considered carefully by local authorities relying on large sites to deliver planned housing.

In too many local plans and 5YHLS cases, there is insufficient evidence for how large sites are treated in housing trajectories. This research seeks to fill the gap with some benchmark figures - which can be of some assistance where there is limited or no local evidence. But the average derived from our analysis are not intended to be definitive and are no alternative to having a robust, bottom-up justification for the delivery trajectory of any given site. It is clear from our analysis that some sites start and deliver more quickly than the average, whilst others have delivered much more slowly. Every site is different. Therefore, whilst the averages observed in this research may be a good starting point, there are a number of key questions to consider when estimating delivery on large housing sites, based around the three key elements in the three-tier analytical framework at Figure 16.

Key findings:**1 Large schemes can take 5+ years to start**

In developing a local plan, but especially in calculating a 5YHLS position, it is important to factor in a realistic planning approval period dependent on the size of the site. Our research shows that if a scheme of more than 500 dwellings has an outline permission, then the average time to deliver its first home is two or three years. However, from the date at which an outline application is validated it can be 5.0 - 8.4 years for the first home to be delivered dependent on the size of the site. In these circumstances, such sites would make no contribution to completions in the first five years.

2 Lead-in times jumped post-recession

Whilst attention and evidence gathering is often focused on how long it takes to get planning permission, the planning to delivery period from gaining permission to building the first house has also been increasing. Our research shows that the planning to delivery period for large sites completed since 2007/08 has jumped compared to those where the first completion came before 2007/08. This is a key area where improvements could be sought on timeliness and in streamlining pre-commencement conditions, but is also likely impacted by a number of macro factors including the recession and reductions in local authority planning resources.

3 Large greenfield sites deliver quicker

Large sites can deliver more homes per year over a longer time period, with this seeming to ramp up beyond year five of the development on sites of 2,000+ units. However, on average these longer-term sites also have longer lead-in times. Therefore, short term boosts in supply, where needed, are likely to also require a good mix of smaller sites. Furthermore, large scale greenfield sites deliver at a quicker rate than their brownfield equivalents: the average rate of build out for greenfield sites in our sample was 34% greater than the equivalent figure for those on brownfield land. In most locations, a good mix of types of site will therefore be required.

4 Outlets and tenure matter

Our analysis suggests that having additional outlets on site has a positive impact on build out rates, although there is not a linear relationship. Interestingly, we also found that schemes with more affordable housing (more than 30%) built out at close to twice the rate as those with lower levels of affordable housing as a percentage of all units on site, but those with 20-29% had the lowest rates of all. Local plans should reflect that – where viable – higher rates of affordable housing supports greater rates of delivery. This principle is also likely to apply to other sectors that complement market housing for sale, such as build to rent and self-build (where there is demand).

Figure I6: Key questions for assessing large site build-out rates and delivery timelines



Appendices

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Appendix 1:

Definitions and notes

The 'lead in'

Measures the period up to first completion of a house on site from the validation date of the first planning application made for the scheme. The lead-in time covers both the planning approval period and planning to delivery periods set out below. The lead-in time does also include the date of the first formal identification of the site as a potential housing allocation (e.g. in a LPA policy document), but consistent data on this for the sample is not available.

The 'planning period'

Measured from the validation date of the first application for the proposed development (be that an outline, full or hybrid application). The end date is the decision date of the first detailed application which permits the development of dwellings on site (this may be a full or hybrid application or the first reserved matters approval which includes details for housing). A measurement based on a detailed 'consent' was considered reasonable and proportionate milestone for 'planning' in the context of this research.

The 'planning to delivery period'

Includes the discharge of any pre-commencement and any opening up works required to deliver the site. It finishes on completion of the first dwelling.

The date of the 'first housing completion'

On site (the month and year) is used where the data is available. However, in most instances the monitoring year of the first completion is all that is available and in these cases a mid-point of the monitoring period (1st October, falling halfway between 1st April and the following 31st March) is used.

The 'annual build-out rate'

Each site is taken or inferred from a number of sources. This includes Annual Monitoring Reports (AMR's) and other planning evidence base documents produced by local authorities (see footnote 1), contacting the local planning authority monitoring officers or planners and in a handful of instances obtaining the information from housebuilders.

Due to the varying ages of the assessed sites, the implementation of some schemes was more advanced than others and, as a function of the desk-based nature of the research and the age of some of the sites assessed, there have been some data limitations, which means there is not a complete data set for every assessed site. For example, lead-in time information prior to submission of planning applications is not available for the vast majority of sites. And because not all of the sites assessed have commenced housing delivery, build-out rate information is not universal. The results are presented accordingly.

Appendix 2: Large sites tables

[illegible]

Sources for sites also found in the Letwin Review

Arborfield Green (Arborfield Garrison)	Five Year Housing Land Supply Statement and appendix on Strategic Development Locations at 31st March 2018 published 9th October 2018 http://www.wokingham.gov.uk/planning-policy/planning-policy-information/evidence-topics/	
Ledsham Garden Village	Various Housing Land Monitor Reports https://consult.cheshirewestandchester.gov.uk/portal/cwc_ldf/mon/	
Great Kneighton (Clay Farm)	Partly provided by Cambridgeshire County Council and included in numerous AMR's https://www.cambridge.gov.uk/annual-monitoring-reports	
Trumpington Meadows	Included in numerous AMR's for Cambridge and South Cambridgeshire (site crosses boundaries) https://www.cambridge.gov.uk/annual-monitoring-reports and https://www.scambs.gov.uk/planning/local-plan-and-neighbourhood-planning/annual-monitoring-report/	
Graven Hill	Various Annual monitoring reports https://www.cherwell.gov.uk/info/33/planning-policy/370/monitoring-reports	
South West Bicester (Kingsmere Phase I)	Various Annual monitoring reports https://www.cherwell.gov.uk/info/33/planning-policy/370/monitoring-reports	
Great Western Park	Housing Land Supply Statement April 2018 http://www.southoxon.gov.uk/sites/default/files/30.04.2018%20Housing%20Land%20Supply%20Statement%20FINAL%20(2)%20combined.pdf	
Ebbsfleet:		First phase at Springhead Park and Northfleet South from Gravesham AMR's 2009/10 to 2012/13
	2009-10:	127 completions https://www.gravesham.gov.uk/__data/assets/pdf_file/0010/69823/AMR2010.pdf
	2010-11:	79 completions https://www.gravesham.gov.uk/__data/assets/pdf_file/0010/69814/AMR2011.pdf
	2011-12:	55 completions https://www.gravesham.gov.uk/__data/assets/pdf_file/0009/92448/Gravesham-Authority-Monitoring-Report-2011-12-May-2013.pdf
	2012-13:	50 completions https://www.gravesham.gov.uk/__data/assets/pdf_file/0010/92449/Gravesham-Authority-Monitoring-Report-2012-13-interim-May-2013.pdf
	2013/14:	87 dwellings, based on total completions from Gravesham to 2012/13 of 311 and total completions to the start of 2014/15 in the Ebbsfleet Garden City Latest Starts and Completion Figures totalling 398.
	2014/15 to 2017/18:	Ebbsfleet Garden City Latest Starts and Completion Figures: https://ebbsfleetdc.org.uk/tracking-our-performance/

Appendix 3:

Small sites tables

Site Name	Local Planning Authority	Size
Cookridge Hospital	Leeds	495
Stenson Fields	South Derbyshire	487
Horfield Estate Phase I	Bristol City Council	485
Farnborough Business Park	Rushmoor	476
Bickershaw Colliery	Wigan	471
Farington Park, east of Wheelton Lane	South Ribble	468
Bleach Green	Gateshead	456
Kingsmead South	Milton Keynes Council	450
New Central	Woking Borough Council	445
Land at former Battle Hospital	Reading Borough Council	434
New World House	Warrington	426
Radyr Sidings	Cardiff	421
Luneside West	Lancaster	403
Woolley Edge Park	Wakefield	375
Former Masons Cerement Works and Adjoining Ministry of Defence Land	Mid Suffolk	365
Former NCB Workshops (Port-land Park)	Northumberland	357
Chatham Street Car Park Complex	Reading	307
Kennet Island Phase I - H, M, T, UI, U2	Reading	303
Land at Dorian Road	Bristol, City of	300
Land at Fire Service College, London Road	Cotswold	299
Land at Badsey Road	Wychavon	298
Land at Brookwood Farm	Woking	297
Long Marston Storage Depot Phase I	Stratford-on-Avon	284
M & G Sports Ground, Golden Yolk and Middle Farm	Tewkesbury	273
Land at Canons Marsh	Bristol, City of	272
Land off Henthorn Road	Ribble Valley	270
Land Between A419 And A417	Cotswold	270
Hortham Hospital	South Gloucestershire	270

Site Name	Local Planning Authority	Size
GCHQ Oakley - Phase I	Cheltenham	262
Hewlett Packard (Land Adjacent To Romney House)	Bristol, City of	242
I28-134 Bridge Road And Nos I - 4 Oldfield Road	Windsor and Maidenhead	242
Hoval Ltd North Gate	Newark and Sherwood	196
Notcutts Nursery, I50 - I52 London Road	Cherwell	182
Sellars Farm	Stroud	176
Land South of Inervet Campus Off Brickhill Street, Walton, Milton Keynes	Milton Keynes	176
Queen Mary School	Fylde	169
London Road/ Adj. St Francis Close	East Hertford-shire	149
Land off Gallamore Lane	West Lindsey	149
Doxey Road	Stafford	145
Former York Trailers (two schemes - one Barratt, one DWH)	Hambleton	145
Bracken Park, Land At Cor-ringham Road	West Lindsey	141
Land at Farnham Hospital	Waverley	134
North of Douglas Road	South Gloucestershire	131
Land to the east of Efflinch Lane	East Staffordshire	130
Land to the rear of Mount Pleasant	Cheshire West and Chester	127
Primrose Mill Site	Ribble Valley	126
Kennet Island Phase IB - E, F, O & Q	Reading	125
Land between Godsey Lane and Towngate East	South Kesteven	120
Bibby Scientific Ltd	Stafford	120
Land west of Birchwood Road	Bristol, City of	119
Former Bewbush Leisure Centre Site	Crawley	112
Land south of Station Road	East Hertford-shire	111
Poppy Meadow	Stratford-on-Avon	106
Weeton Road/Fleetwood Road	Fylde	106
Former York Trailers (two schemes - one Barratt, one DWH)	Hambleton	96
North East Sandylands	South Lakeland	94

Site Name	Local Planning Authority	Size
Auction Mart	South Lakeland	94
Parcel 4 Gloucester Business Park	Tewkesbury	94
York Road	Hambleton	93
Land At Green Road - Reading College	Reading	93
Caistor Road	West Lindsey	89
The Kylins	Northumberland	88
North East Area Professional Centre, Furnace Drive	Crawley	76
Land at Willoughbys Bank	Northumberland	76
Watermead, Land At Kennel Lane	Tewkesbury	72
Land to the North of Walk Mill Drive	Wychavon	71
Hawthorn Croft (Off Hawthorn Avenue Old Slaughterhouse Site)	West Lindsey	69
Land off Crown Lane	Wychavon	68
Former Wensleydale School	Northumberland	68
Land at Lintham Drive	South Gloucestershire	68
Springfield Road	South Kesteven	67
Land off Cirencester Rd	Stroud	66
Land south of Pinchington Lane	West Berkshire	64
Land at Prudhoe Hospital	Northumberland	60
Oxfordshire County Council Highways Depot	Cherwell	60
Clewborough House School	Cherwell	60
Land at the Beacon, Tilford Road	Waverley	59
Land to Rear Of 28 - 34 Bedale Road	Hambleton	59
Hanwell Fields Development	Cherwell	59
Fenton Grange	Northumberland	54
Former Downend Lower School	South Gloucestershire	52
Holme Farm, Carleton Road	Wakefield	50
Land off Elizabeth Close	West Lindsey	50

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Contacts

Speak to your local office or visit our website.

Birmingham

Jon Kirby
jon.kirby@lichfields.uk
0121 713 1530

Bristol

Andrew Cockett
andrew.cockett@lichfields.uk
0117 403 1980

Cardiff

Gareth Williams
gareth.williams@lichfields.uk
029 2043 5880

Edinburgh

Nicola Woodward
nicola.woodward@lichfields.uk
0131 285 0670

Leeds

Justin Gartland
justin.gartland@lichfields.uk
0113 397 1397

London

Matthew Spry
matthew.spry@lichfields.uk
020 7837 4477

Manchester

Simon Pemberton
simon.pemberton@lichfields.uk
0161 837 6130

Newcastle

Jonathan Wallace
jonathan.wallace@lichfields.uk
0191 261 5685

Thames Valley

Daniel Lampard
daniel.lampard@lichfields.uk
0118 334 1920

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