

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

**OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF
43 DWELLINGS AND ASSOCIATED WORKS
ON LAND ADJACENT TO
OAKHURST RISE, CHELTENHAM, GLOUCESTERSHIRE, GL52 6JU**

EDUCATION AND LIBRARY PROVISION

SUMMARY PROOF OF EVIDENCE

**JAN KINSMAN CENG, MICE, BSC(ENG), ACGI
ON BEHALF OF
WILLIAM MORRISON (CHELTENHAM) LTD AND
THE TRUSTEES OF THE CARMELITE CHARITABLE TRUST**

FEBRUARY 2021

**INSPECTORATE REFERENCE: APP/B1605/W/20/3261154
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1 Introduction

- 1.1 My name is Jan Edward Kinsman and I am Associate Director at Educational Facilities Management Partnership Limited (EFM). I am a chartered engineer, with 33 years experience in dealing with the implications of development proposals. Further details of my experience are included in my main Proof of Evidence.
- 1.2 My evidence deals with the need for education and library provision required to support the Proposed Development. Following my appointment in June 2020, I sought to engage with Gloucestershire County Council (GCC) in relation to the contributions it had requested.
- 1.3 Following a conference call in July 2020, GCC eventually accepted its post-16 education calculation was wrong and confirmed a reduced contribution.
- 1.4 On 17 September 2020 CBC refused consent for the Proposed Development for reasons unrelated to planning obligations.
- 1.5 My concerns about the veracity of GCC's contribution claims remain, including for post-16, and it has proved extremely difficult to engage with GCC. Discussion has largely been confined to emails (Appendix 1).
- 1.6 My evidence provides an alternative view to that of GCC as to the planning obligations that can be lawfully demanded in this case. I have been unable to justify any contributions towards education or library facilities.
- 1.7 The Appellants will provide the sums being demanded by GCC, if these are considered lawfully demanded/CIL compliant.

2 Legal and Policy Background

2.1 National legal and policy supports provision of infrastructure, including:

- NPPF (paragraph 56) and PPG^{1, 2 & 3} subject to meeting the tests that are now legal requirements pursuant to CIL Regulation 122.
- The Procedural Guide, Planning Appeals – England, in Annex N.3.3 describes the evidence likely to assess whether a planning obligation meets these tests.
- The Department for Education (DfE) guidance, ‘Securing developer contributions for education’.

2.2 GCC is the local education authority. Consultation on an update to its adopted Local Developer Guide, the LDG Refresh, attracted many responses concerned about the pupil factors therein.

	Adopted Local Developer Guide	LDG Refresh (proposed)	Increase
Primary	27	41	52%
Secondary	14	20	71% (estimated)
Post-16	(included in secondary figure of 14, above)	11 7 ⁴	300% (estimated)

Table 1 Child Yield/Pupil Product Comparison, per 100 dwellings

2.11 GCC is also the library authority for its area. The Local Developer Guide refers to GCC’s 2012 Library Strategy, and explains that development will be assessed to determine adverse impact. However, GCC has recognised its approach to Libraries and Archive Services as “*an automatic tariff.*”

¹ Paragraph: 002 onwards Reference ID: 23b-002-20190901

² Paragraph: 004 Reference ID: 23b-004-20190901

³ Paragraph: 007 Reference ID: 23b-007-20190315

⁴ This figure has since been revised down to 7 per 100 dwellings

3 Education Requirements

GCC Response to the Proposed Development

- 3.1 GCC's response (CD G5) refers to the Local Developer Guide, the proposed LDG Refresh (which includes the higher pupil yields) and its School Places Strategy (SPS) 2018-2023.
- 3.2 In relation to primary and secondary (11-18) GCC is seeking "full contributions". On the basis of the 38 'qualifying dwellings'⁵ in the Proposed Development, GCC's figures should be adjusted to:
- £235,117.78 for primary education, and
 - £209,335.92 for secondary education (£148,124.00 for 11-16, £61,211.92 for post-16)
- 3.3 Contributions are sought towards any project within the relevant (primary/secondary) planning area.

Discussions and Assessment of GCC Requirements

- 3.4 Cost per place is not in dispute.
- 3.5 A number of points were put to GCC for discussion and seeking further information, on 30 June 2020 (Appendix 2). These points concern the availability of places in schools and the number of places required due to the Proposed Development (CD G1, main proof, paragraph 3.8) including three particular points about GCC's pupil product ratios (PPRs):
- PPRs being based on children resident not on additional demand for state school places, and survey information collected about previous place of residence, and schools was not used;
 - No account being taken of wider population changes affecting the demand for school places., including GCC's Population Profile for 2016 to 2041 (CD G16) showing growth of just 2.6% in the 0-19 age population; and
 - An apparent error in the post-16 calculations.
- 3.6 It was also suggested that a PPR based on existing housing should be used.

⁵ 'qualifying' dwelling is a house or flat that has no restricted occupancy for age or health reasons and at least two bedrooms.

	Adopted Local Developer Guide	LDG Refresh (proposed)	EFM Proposal June 2020
Primary	27	41	21.2 (18.7)
Secondary	11.67, approximately	20	14.5 (12.8)
Post-16	2.33, approximately (see para 2.10, above)	11 7 ⁶	2.7 (2.4)

Table 2 Child Yield/Pupil Product/PPR Comparison, per 100 dwellings.

Note: For ease of comparison, equivalent figures are shown, with the EFM figures in the emails of 30 June shown in brackets, since the email figures would apply to all dwellings, not just qualifying dwellings.

- 3.7 The position was summarised as there being no need for a primary education contribution, and clarification being sought about secondary education matters.
- 3.8 Following a GCC a telephone meeting on 15 July, GCC officers agreed to request clarification about the post-16 calculation - which eventually resulted in a reduction of over 36% in that contribution. GCC confirmed that the error had affected approximately 60 other planning applications (Appendix 1b, page 11). The email refers to GCC's reduction as being agreed – this is incorrect.
- 3.9 The revised post-16 figure is not correct. Considerable, although unsuccessful, efforts have been made to engage in discussion with GCC (Appendix 1).
- 3.10 The evidence provided by GCC does not demonstrate the need for planning obligations to mitigate the impact of the Proposed Development on primary and secondary schools. Furthermore, GCC has failed to provide a reasonable response to the points raised, or to engage adequately in the preparation of information to assist this appeal.

EFM Assessment and Conclusions

- 3.11 Under headings from Paragraph N.3.3 of the Procedural Guide, this assessment focusses on the areas of disagreement:
- the number of additional pupils expected, and
 - the availability of places in existing and planned provision.

⁶ This figure has since been revised down to 7 per 100 dwellings, following discussions about the Proposed Development

- Quantified evidence of the additional demands on facilities or infrastructure which are likely to arise from the proposed development

3.12 PPRs have been recalculated and updated for consistency with GCC’s calculations. Full details are shown in Appendix 3.

	Adopted Local Developer Guide	LDG Refresh (proposed)	EFM Updated PPRs February 2021
Primary	27	41	18.85
Secondary	11.67, approximately	20	13.42
Post-16	2.33, approximately (see para 2.12, above)	11.7	2.66

Table 3 Updated Child Yield/PPR Comparison, per 100 qualifying dwellings

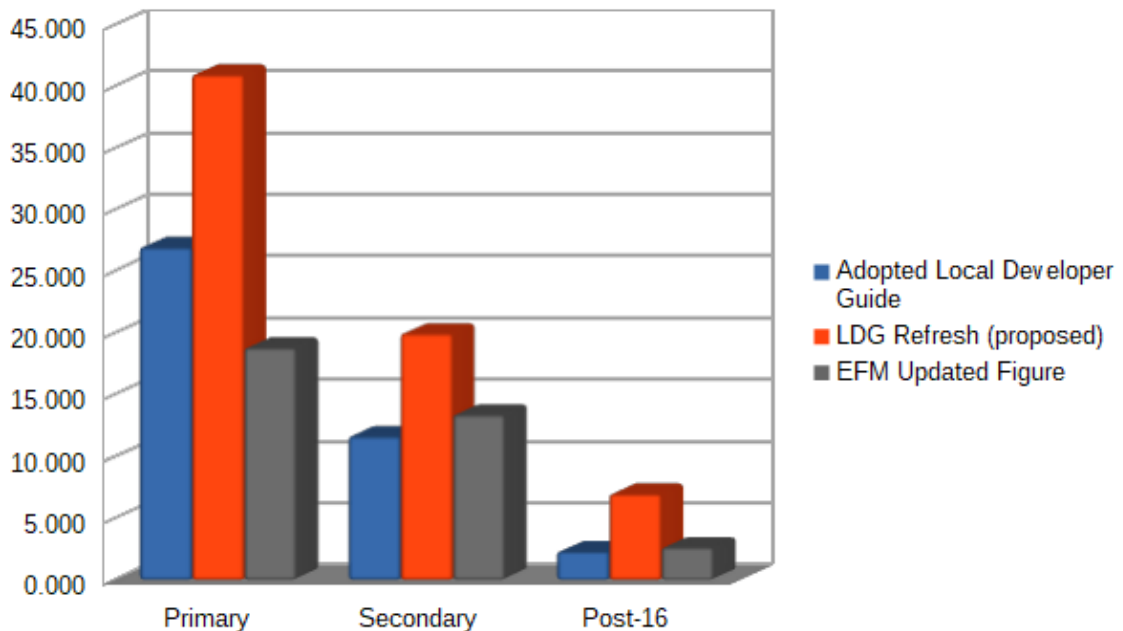


Figure 1 Updated Child Yield/PPR Comparison, per 100 qualifying dwelling

3.13 Based on 38 qualifying dwellings the Proposed Development will create demand for:

- 7.16 Primary school places
- 5.10 Secondary school places
- 1.01 Sixth form places

3.14 The higher LDG Refresh figures are based on surveys that are likely biased, due to their design, and fail to take account of wider population changes. They are inconsistent with

changes in pupil numbers over recent years, and their application to new housing across the county cannot be justified.

3.15 Further sense checking and assessment of the implications of GCC's PPRs is detailed in Appendix 3.

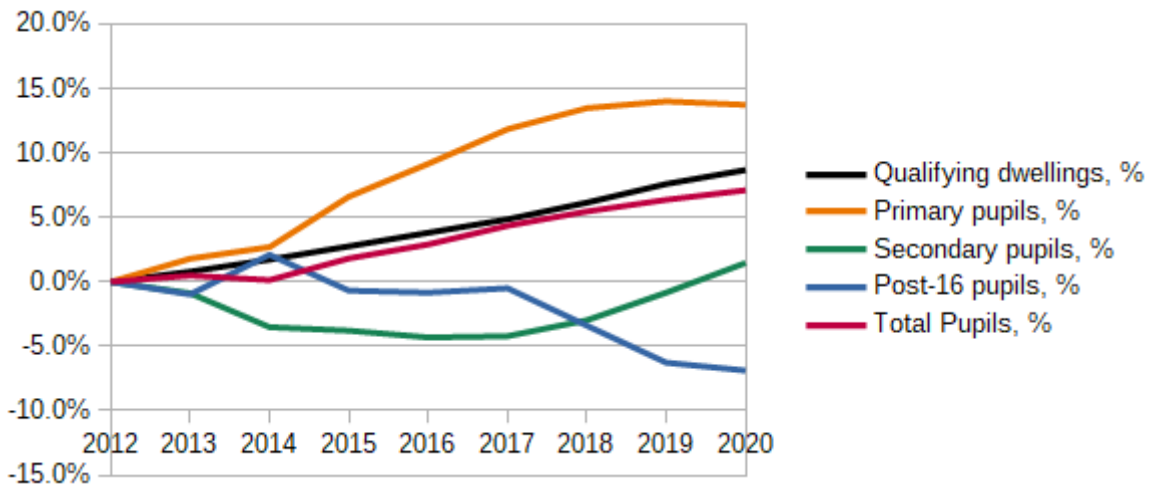


Figure 2 Percentage Change in Qualifying Dwellings and Pupils

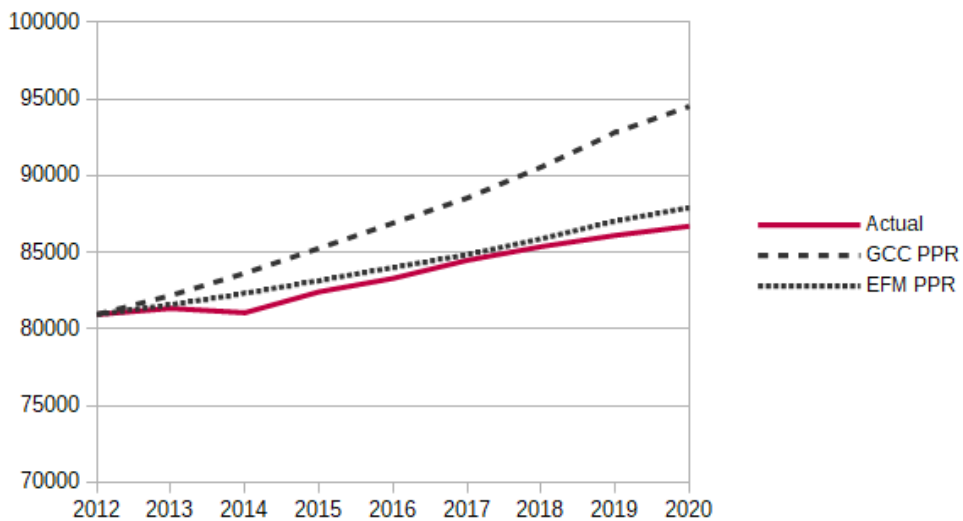


Figure 3 Comparison of Actual Total Pupil Number Increases with Increases Expected as a result of applying GCC and EFM PPRs

3.16 The EFM PPRs provide a much closer match with the actual pupil figures, and it is concluded that the EFM PPRs are robust and appropriate.

- Details of existing facilities or infrastructure, and up-to-date, quantified evidence of the extent to which they are able or unable to meet those additional demands;

a) Primary Schools

3.17 GCC’s primary school assessment focusses on the nearest primary school only, Holy Apostles CofE Primary School.

3.18 Pupil forecast information published by DfE, shows reducing demand for places in the Charlton Kings Primary Planning Area through to 2023-24 as shown in Table 4 below. The capacity of the schools in this planning area is 1,062.

Primary Planning Area	May 2019 Actual NOR	Forecast for 2019-20	Forecast for 2020-21	Forecast for 2021-22	Forecast for 2022-23	Forecast for 2023-24
Charlton Kings	1059	1058	1058	1036	1021	1003
Spare Places	3	4	4	26	41	59

Table 4 Charlton Kings Primary Planning Area Pupil Forecast

3.19 GCC seeks a contribution towards Holy Apostles CofE Primary School and/or primary places in the Charlton Kings Primary Planning Area. However, the information above shows a reduction in demand.

3.20 It is concluded that there is no need for additional primary school capacity.

b) Secondary Schools

3.21 GCC’s secondary school assessment also focusses only on the nearest secondary school, Balcarras School, which is very popular, and consistently achieves ‘outstanding’ OFSTED ratings.

3.22 Balcarras School is one of five secondary schools that serve Cheltenham, as shown in GCC’s SPS 2018-2023 (CD G13, pages numbered 250-253). Increasing demand for secondary school places through to 2024-25 is shown. However, this information does not reflect the provision of two new schools mentioned elsewhere in the document, including The Leckhampton High School in South Cheltenham opening for September 2021. This 900 place school, and one for NW Cheltenham, will ease pressure on places across the borough (CD G13, pages numbered 161 and 165).

	Normal PAN	11-16 capacity	Post-16 capacity
All Saints' Academy, Cheltenham	180	900	250
Balcarras School	194	970	399
Cheltenham Bournside School and Sixth Form Centre	300	1500	459
Pate's Grammar School	175	875	329
Pittville School	150	750	125
Sub-total	999	4995	1562
The Leckhampton High School	180	900	0
Total	1179	5895	1562

Table 5 Cheltenham Secondary Schools - Intakes and Capacities

3.23 Table 6 shows pupil forecasts from two sources, and actual figures where available.

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
GCC SPS Forecast	4578	4832	5063	5337	5550	5638	5647	
DfE (SCAP) Forecast		4685	4951	5248	5477	5631	5715	5765
Actual, January	4484	4663						

Table 6 Cheltenham Secondary Planning Area Pupil Forecasts (11-16)

3.24 Both forecasts are understood to include proposed as well as committed development including 1,725 dwellings in the Cheltenham Local Plan (CD G13, page 253). This would include the appeal site and others that do not yet have consent. Even so, the forecasts do not show demand reaching the already planned secondary capacity figure of 5,895.

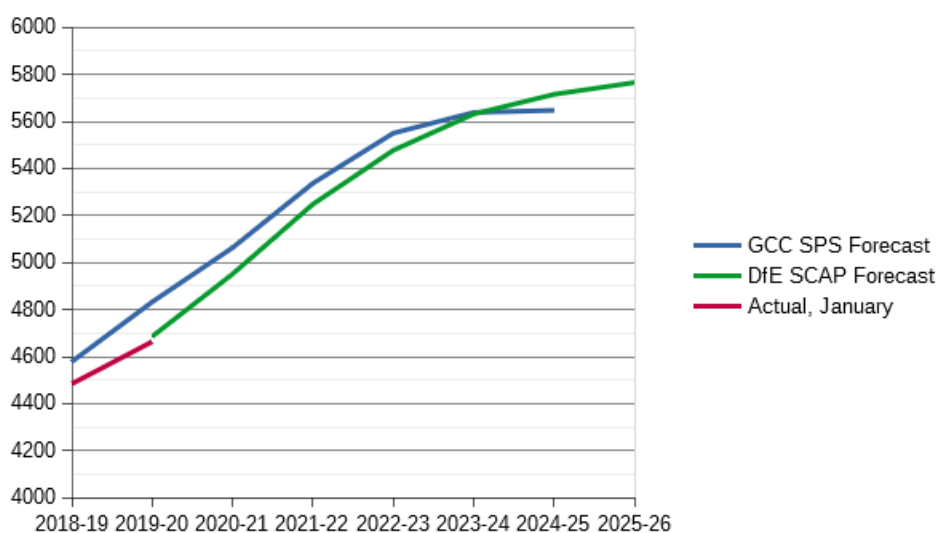


Figure 4 Actual and Forecast Secondary Pupil Roll (11-16)

- 3.25 It is concluded that sufficient capacity is already planned to accommodate the demand from the Proposed Development for secondary education (11-16).
- 3.26 So far as post-16 provision is concerned, GCC's SPS 2018-2023 simply states, "A number of local secondary schools offer post 16 education." DfE published forecasts show demand rising to 1,566 in 2024/25 - just above post-16 capacity of 1,562 pupils.
- 3.27 As the forecast includes 1,725 dwellings in the Cheltenham Local Plan, it is extremely unlikely that the need for additional places has been triggered. It is concluded that there is no requirement for a contribution towards post-16 education.

- The methodology for calculating any financial contribution necessary to improve existing facilities or infrastructure, or provide new facilities or infrastructure, to meet the additional demands

- 3.28 The principle of a contribution per qualifying dwelling, is not disputed, subject to need. However:
- the evidence does not support the need, and
 - GCC's PPRs overstate demand.
- 3.29 If it is accepted that the evidence does not support the need for additional school places, then contributions are not required.
- 3.30 If, contrary to this evidence, it is considered there is a need then PPRs must be considered.
- 3.31 GCC's PPRs are poorly based, unrealistic and do not reflect the evidence of demand for school places in recent years. GCC's post-16 PPR is plainly flawed (Appendix 1b, page 18).
- 3.32 The EFM PPRs are a demonstrably fair and reasonable basis for assessment.
- 3.33 The demand arising from the Proposed Development (paragraph 3.13) can be met in existing or proposed provision. However, should it be considered that additional education places are required, in any of the three phases of education, then the EFM PPR figures should be used.

- Details of the facilities or infrastructure on which any financial contribution will be spent.

3.34 The planning obligation maintains the potential to use any contribution that is required within the relevant school planning area, as requested by GCC, and defines the requirement to use any funding to increase capacity.

4 Library Requirements

GCC Response to the Proposed Development

4.1 GCC's response does not provide its assessment of impact, nor suggest how the asserted impact would be mitigated. The need for a contribution has not been demonstrated.

Discussions and Assessment of GCC Requirements

4.2 Bullet points from the Procedural Guide are used as sub-headings below.

- the relevant development plan policy or policies, and the relevant sections of any supplementary planning document or supplementary planning guidance

4.3 GCC relies on an MLA document which is dated in its approach.

4.4 The MLA document identifies 30 sqm as a gross floorspace figure, comparable to a public floor space) figure of 23 sqm per 1,000 population.

4.5 Floorspace standards are not mentioned in GCC's library policy documents.

- Quantified evidence of the additional demands on facilities or infrastructure which are likely to arise from the proposed development

4.6 GCC's response does not assess additional demand as such.

- Details of existing facilities or infrastructure, and up-to-date, quantified evidence of the extent to which they are able or unable to meet those additional demands;

4.7 GCC's assessment refers to three factors, including the public floorspace and catchment area population of Chalton Kings Library. GCC appears to be comparing net floorspace against MLA's gross floorspace figure.

4.8 Charlton Kings Library has public floorspace approximately in line with the MLA 2010 recommendation.

- 4.9 Information, obtained through an FoI request, confirms the average library floorspace per 1,000 population in Gloucestershire is per 18.69 sqm gross, and 13.69 sqm public. Charlton Kings Library ranks in the top five using these measures (Appendix 4).
- 4.10 GCC has presented no quantified evidence about the extent to which additional demand from the development will be able or unable to be met.
- 4.11 Information published by GCC (CD G15, page 32 of 122) compared with current information (Appendix 1d, point 9, page 21) shows activity levels have dropped substantially in recent years.

	Visits	Issues	Active Borrowers
2010/11	101,799	105,656	3,311
2019/20	80,924	84,000+	2,158
Decrease (and %)	-20,875 (-20.5%)	-214,656 (-20.5%) (or thereabouts)	-1153 (-34.8%)

Table 7 Charlton Kings Library - Activity Level Indicators

- 4.12 GCC reduced opening hours at Charlton Kings Library to 35 from 38, as part of its future Library Strategy (CD G15, page 122 of 122).

- The methodology for calculating any financial contribution necessary to improve existing facilities or infrastructure, or provide new facilities or infrastructure, to meet the additional demands

- 4.13 GCC's methodology references a building-based approach. GCC has discounted an extension, so a building-based calculation is not appropriate.

- Details of the facilities or infrastructure on which any financial contribution will be spent.

4.14 GCC has not identified a suitable project. Should a contribution be required, GCC should demonstrate how it would increase the capacity of Charlton Kings Library.

EFM Assessment and Conclusion

4.15 The Proposed Development would add approximately 1% to the catchment area population, with a commensurate increase in library activity. The Proposed Development would slow the decline in library usage and help maintain vitality.

4.16 There is no need for mitigation.

4.17 The first criteria for a planning obligation is that it must be necessary. GCC's assessment is flawed in a number of ways, the Proposed Development will not have adverse consequences, and a planning obligation is not required.

5 Planning Obligation Provisions

5.1 The Appellants are willing to provide the sums being demanded by GCC, if these are considered lawfully demanded/CIL compliant. The planning obligation allows the Inspector/Secretary of State to:

- confirm contributions should be made as requested by GCC; or
- state they are not lawfully demanded, if the Appellant's evidence is accepted.

5.2 For any education contribution, a third possibility is allowed for - that a contribution based on EFM's PPRs is required. Provision is made for any contribution to be adjusted if dwelling mix changes.

	Local Developer Guide PPRs	LDG Refresh PPRs (GCC Proposed Contributions)	EFM PPRs February 2021	Appellant's Position
Primary Education	£154,833.66	£235,117.78	£108,096.83	£0
Secondary (11-15) education	£86,430.35	£148,124.00	£99,391.20	£0
Secondary Post-16 education	£20,374.82	£61,211.92	£23,260.53	£0
Library facilities	£8,428.00	£8,428.00	£8,428.00	£0
Total	£270,066.84	£452,881.70	£239,176.57	£0

Table 8 Possible Contributions and Local Developer Guide based figures for context (This is based on 43 dwellings of which 38 are qualifying dwellings for the purposes of education contribution calculations)

6 Conclusions

- 6.1 GCC seeks contributions for education and library facilities amounting to £452,881.70, or over £10,000 per dwelling, but has refused to engage in discussions or respond to reasonable requests for clarification.
- 6.2 For education, GCC has used PPRs that overstate demand, and failed to take account of the availability of places within the wider area.
- 6.3 EFM's PPRs provide a demonstrably realistic basis for assessment.
- 6.4 Pressure on primary school places is easing within the local primary planning area. The demand from the Proposed Development can be accommodated within existing schools, and consequently no need for a primary education contribution.
- 6.5 Demand is rising within the secondary planning area. However, The Leckhampton High School opens in September 2021 and will provide an additional 900 places. Pupil forecasts including new housing, show total demand for secondary (11-16) places within overall capacity. The evidence does not support the need for a contribution.
- 6.6 Pupil forecasts for post-16 places show demand rising to just 4 places over the post-16 capacity of 1,562. It is extremely unlikely that the need for additional places has been triggered, and concluded that the evidence does not support the need for a post-16 contribution.
- 6.7 GCC's assessment of the need for library facilities is flawed. Charlton Kings Library has experienced substantial drops in visits, issues and active borrowers in recent years. The Proposed Development will help maintain vitality, and there is no need for a contribution.
- 6.8 The Appellants are willing to provide the sums being demanded for education and libraries by GCC, if these are considered lawfully demanded/CIL compliant, and the planning obligation allows for this.
- 6.9 However, this evidence demonstrates that such planning obligations cannot be lawfully demanded and consent can be allowed without imposing contribution requirements. The mechanism in the planning obligation for this is for the decision maker to confirm that such contributions are not considered compliant with CIL Regulation 122.

6.10 In the event that, contrary to this evidence, the decision maker considers any education contribution(s) can be lawfully demanded they should specify within the Decision Letter whether GCC's or EFM's PPR figures are to be used.