

**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 PROVISION

**STATEMENT OF COMMON/UNCOMMON GOUND
DRAFT XX FEBUARY 2021**

**INSPECTORATE REFERENCE: APP/B1605/W/20/3261154
LPA REFERENCE: 20/00683/OUT**

1 Introduction

- 1....1 This Statement Common/Uncommon Ground (the “Statement”) sets out the education matters that have been agreed/not agreed between Gloucestershire County Council (“GCC”) and William Morrison (Cheltenham) Ltd and The Trustees of the Carmelite Charitable Trust (the “Appellants”) in relation to proposed development on Land adjacent to Oakhurst Rise, Charlton Kings, Cheltenham (the “Site”), planning appeal reference APP/B1605/W/20/3261154.
- 1....2 This Statement relates to outline planning application (all matters except access, layout and scale are reserved) for development of 43 dwellings (“the Proposed Development”).
- 1....3 The Appellants submitted the appeal against the refusal by Cheltenham Borough Council (“CBC”) of the planning application for the Proposed Development (under planning application reference 20/00683/OUT) by way of a Decision Notice dated 17 September 2020.
- 1....4 In this Statement, the Parties means GCC and the Appellants.

2 Background and Current State of Agreement

- 2....1 The Parties agree the principle of development providing contributions to mitigate impact where appropriate, properly justified and compliant with the legal requirements imposed by the CIL Regulations. GCC’s Local Development Guide (LDG), adopted in 2016, sets out the Council's developer contributions protocol that states how negotiations on contributions with developers will be pursued.
- 2....2 GCC’s consultation response dated 4 June 2020 set out education contribution requirements for primary, secondary (11-18) financial contributions. These are based on three factors: a) cost per place, b) availability of places in existing and planned provision and c) the number of additional pupils expected as a consequence of the Proposed Development. The number of additional pupils is based on the number of qualifying dwellings¹ and pupil product ratios that are considerably higher than set out in its LDG. The higher pupil product ratios being used by GCC are contained in GCC’s LDG Refresh which was the subject of consultation in 2020, and the results of the consultation are yet to be considered by GCC members.
- 2....3 Following investigation into GCC’s pupil product figures, at EFM’s request, the contribution required towards secondary sixth form provision was reduced by GCC, as notified by GCC to CBC on 21 October 2020.
- 2....4 The contributions now sought by GCC, on the basis of 39 qualifying dwellings are:

	Contribution sought
Primary	£241,305.09
Secondary (11-16)	£152,022.00
Secondary (sixth form)	£71,797.44
Total	£465,124.53

¹. Qualifying dwellings are defined at paragraph 104 of the LDG, and exclude dwellings with only one bedroom

- 2....5 The appeal scheme provides 43 dwellings, of which 38 (rather than 39) are qualifying dwellings, as five one bed dwellings are proposed. The original site plan (20_00683_OUT-SITE_PLAN-1047444.pdf) showed four one bed dwellings – hence GCC’s assumption. However, an increase to five one bed dwellings was included in subsequent revised site plans with effect from 21 May 2020, including the most recent site plan (20_00683_OUT-REVISED_SITE_PLAN__WHEATCROFT_-1117583.pdf).
- 2....6 The number of qualifying dwellings is not a matter of dispute, and it is agreed by the parties that the planning obligation should include a mechanism to calculate any contributions due by reference to the actual number of qualifying dwellings to be built.
- 2....7 The parties agree on the cost per place that should be used, if additional places need to be provided.
- 2....8 The following table summarises the areas of agreement and disagreement in relation to the calculation of contributions sought by GCC:

	Cost per place	Availability of places	Additional pupils
Primary	AGREED	NOT AGREED	NOT AGREED
Secondary (11-16)	AGREED	NOT AGREED	NOT AGREED
Secondary (sixth form)	AGREED	NOT AGREED	NOT AGREED

- 2....9 The Council’s assessment is that there will be no places available to meet the needs of the Proposed Development in existing and planned schools. The Appellants do not accept that the information available demonstrates this. GCC’s assessment focusses on the position at the nearest primary and secondary schools. The Appellants consider the assessment should have regard to wider circumstances, including the additional capacity being provided by a new secondary school that is planned and under construction.
- 2....10 The number of additional pupils expected is also not agreed. This disagreement relates to the pupil product ratios (PPRs) used, and includes the revised sixth form PPR. The LDG presents a county-wide approach, and the Appellants have suggested alternative PPRs based on county-wide figures – these are not agreed by GCC. The PPRs being used by GCC are based on a pupil yield survey that the Appellants consider flawed, and GCC’s use of the resulting information is also considered to be inappropriate.
- 2....11 Regarding the proposed expenditure of the contributions sought, GCC has not put forward any specific projects for providing additional primary and secondary school places. Contributions are sought on the basis that they could be used within the Charlton Kings Primary Planning Area and the Cheltenham Secondary Planning Area respectively. The Appellants agree that an area wide approach is appropriate in the circumstances, although it would be preferable to identify specific projects.
- 2....12 The role of CIL for funding education infrastructure in this case is not agreed. GCC’s June 2020 response states, *“Please note that on the potential granting of planning permission a decision will be made between the LPA and Gloucestershire County Council (GCC) as to whether the contributions will be secured via S106 or via CIL.”* There is no apparent record of any discussion between the local authorities, or any decision being made on this matter to date.

3 Planning Obligations

- 3....1 The parties hope to present a final draft planning obligation agreement for consideration at the appeal. However, if that is not possible the Appellants will present a final draft planning obligation in unilateral form. In either case, the parties agree that provision should be made for the Inspector or Secretary of State to determine whether the contributions should be either, a) in line with GCC's suggested contributions, or b) lower or no contributions as suggested by the Appellants.
- 3....2 The Parties agree that any contribution shall be increased using the 'All-in Tender Price Index' published by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors (RICS).
- 3....3 A signed planning obligation will be provided in due course to enable the necessary planning obligations to be secured and given effect.

4 Ongoing Discussions

- 4....1 [The Appellants have sought a formal response from GCC to matters raised in an email dated 30 June 2020. It is hoped that GCC will respond and this will assist in narrowing the areas of disagreement prior to the appeal.]

Signed on behalf of the Appellants

Jan KINSMAN CEng, MICE, BSc(Eng), ACGI

on behalf of

William Morrison (Cheltenham) Ltd and The Trustees of the Carmelite Charitable Trust

Date: xx 2021

Position: Consultant for Appellants

Signed on behalf of Gloucestershire County Council

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Date: xx 2021

Position: