

Appellant Response to:

INITIAL COMMENTS ON THE DRAFT UNILATERAL UNDERTAKING

Prepared by Bridgette Boucher on behalf of Gloucestershire County Council (“GCC”)

and provided on 29 March 2021

The points raised by Mrs Boucher have been considered and a number of adjustments made to the draft UU in favour of GCC. The table summarises the responses for reference, following Mrs Boucher’s paragraph references, and should be read alongside Mrs Boucher’s Note.

Paragraph	Response	Comment
a	No change needed	Not required in UU
b	Suggestion accepted	
c. a.	Suggestion accepted	
c. b.	Wording adjusted	Clarification about base date figure calculation sought from GCC 30/3
c. c.	No change needed	Suggested Index accepted by GCC – see last sentence
c. d.	No change needed	The Appellant considers current location of definitions is preferable
d	No change needed	See a. above
e	Suggestion accepted Wording adjusted	
f	Suggestion accepted Wording adjusted	
g	Suggestion accepted	
h	No change needed	Should the decision be quashed 15.1 would not matter. 15.2 mirrors wording accepted elsewhere and the Appellant sees no reason why the principle should not equally apply in a UU situation.
i	Suggestion accepted Wording adjusted	Short form of indexation clause included and definitions adjusted
j	No change needed	The Appellant considers existing wording is clear and unambiguous, and an additional clause is unnecessary.
k	Wording adjusted	5% over HSBC Bank base rate accepted
l	Suggestion accepted, wording adjusted and enhanced	Provision also added for notices at payment trigger points, and the alternative of GCC being able to elect dates not provided

m	No change needed	Not required in UU
n	Suggestion accepted	
o	No change needed	The Appellant considers the current wording is clearer and easier to understand. A previous misunderstanding about the figures, that may have reinforced concerns about the wording has been resolved – see point r below
p	No change needed	The Appellant considers the current wording to be relevant and appropriate in the circumstances, where need and mitigation have not been quantified by GCC.
q	Suggestion accepted	Definition of primary planning area included with reference to SPS (CD G13)
r	Suggestion accepted	Definition of secondary planning area included with reference to SPS (CD G13) Clarification was sought and given by GCC on 30/3 about the reference to “flawed” figures in the last sentence. The comment refers to the County Council figure in the definitions of each education contribution. However, it was based on GCC having (wrongly) calculated per dwelling figures based on 39 qualifying dwellings. It is now understood GCC agrees that the figures have been correctly calculated.
s	Point of agreement	
t	No change needed	The version of the Travel Plan referred to will not change.

Matters in Dispute

It can be noted that the right hand column of the table on page 7 of the Note has been superseded by the revised GGC requirement figures stated in the third version of GCC’s CIL compliance statement (filename ‘CIL Compliance Statement (revised) version 2 as at 30 03 21.pdf’). The middle column of the table does not, in fact, set out the Appellant’s proposal. The Appellant’s proposal is that no contributions can be considered necessary in this case. What the second column does show is the amount of each contribution (based on 39 qualifying dwellings) that the Appellant considers could be justified if the need for any of the contributions were proven. For the correct figures, based on 38 qualifying dwellings, please refer to the Table 8 on page 28 of Mr Kinsman’s evidence (or page 14 of his summary).

In the paragraphs following the table, Mrs Boucher asserts that Mrs Everiss and Mr Chandler have “*addressed numerous additional queries raised*”. It is accepted that some additional information has been provided, but it is not agreed that “*numerous additional queries raised*”

have been addressed. The queries raised and the responses provided are set out in Mr Kinsman's evidence, and the Inspector can judge the extent to which queries have been addressed.

It is apparent from Mrs Boucher misunderstands Mr Kinsman's position when she writes, *"To be clear, I believe that the responses were not what Mr. Kinsman wanted to hear rather than they were non-existent but I make no further point on this."* Mr Kinsman's approach throughout has been to try to understand the case being made by GCC, particularly with regard to the need for additional provision and – in the case of education - the pupils yields now being used. This involves understanding the background to the calculations and checking the assertions.

A separate response is being provided to Mr Chandler's Education Statement of Fact, submitted only on 29 March.

So far as libraries are concerned, the Statement of Fact dated 23 February and provided to the Appellant after exchange of evidence, brings little or no new information to light. Paragraph 5.4 refers to "existing pressures" being "exacerbated" - these claims are not backed up with any explanation or evidence. Paragraph 5.5 states that the physical capacity library has been assessed with reference to the so called "national benchmark" of 30 m² per thousand. Population. As set out in Mr Kinsman's evidence, GCC is comparing the MLA's gross floorspace figure with a net (public area) floorspace figure. Whether GCC accepts this is the case is unclear. Section 5.6 mentions "additional levels of borrowing" this is not evidenced in detail - and simply does not square with the continuing decline in activity levels demonstrated in Mr Kinsman's evidence.

In short, on the first key legal requirement for an obligation to be necessary, GCC has offered no evidence. Need is only asserted, and GCC's claim of need does not square in any way with a) provision levels across the county generally, or b) the evidenced decline in activity at Charlton Kings Library.

Mrs Boucher asserts that, *"The approaches taken by Mrs. Everiss and Mr. Chandler in calculating the respective contributions being sought are a) consistent and b) in line with Local Authorities across the country."* This statement is not supported by evidence, and in any event does not mean the approaches used are correct or appropriate for use in this case.