

Appellant Response to:

STATEMENT OF FACT OF STEPHEN CHANDLER on behalf of the GLOUCESTERSHIRE LOCAL EDUCATION AUTHORITY (“LEA”) IN SUPPORT OF LOCAL PLANNING AUTHORITY’S CASE and dated 29 March 2021

Introduction

Mr Chandler has provided a substantial document at a late stage in the proceedings. This response seeks to comment only briefly, in the interest of not prolonging proceedings. The numbering below corresponds to Mr Chandler’s paragraph numbers and this response is designed to be read alongside his Statement of Fact.

Comments

1.4 Mr Chandler asserts that, *“the Appellants have been provided with substantive information and I believe that I have provided all of the information that has been asked of me as it is able to do.”* Whether this is a fair statement can be judged from the email exchanges in Mr Kinsman’s Appendix 1. Examples include:

- The request made on 29 October 2020 (page 13) for formal response to the points raised on 30 June 2020 (Appendix 2). Mr Chandler’s response to this request was to refer to GCC’s consultation response – which had led to the points being raised (page 10); and
- No response was provided to the very detailed critique of GCC’s revised Post-16 PPR, including a worked example that demonstrates why GCC’s calculation is wrong (page 18).

No FOI request has been made for information about education matters.

1.5 The table states contribution amounts that are based on 39 qualifying dwellings. These figures are superseded by the revised GGC requirement figures stated in the third version of GCC’s CIL compliance statement (filename ‘CIL Compliance Statement (revised) version 2 as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’).

1.6 Payment triggers are agreed.

No comments are necessary in response to the general information provided in Section 2.

3.3 The statement here, that the SPS forecasts do not include new housing, is misleading. The base forecast is what is described here. 3.5 refers to the additional expected impact of new housing in the local plan. This is evident in the SPS (CD G13), as shown for primary on page numbered 173 and for secondary on pages numbered 252 and 253. The local plan housing, which includes development on the appeal site, is described below the forecast table and the column headed “of which pupil product from new housing” shows the expected number of pupils included in the forecast figure in the column immediately to the left. This information informs the approach taken in Mr Kinsman’s evidence.

No comments are necessary in response to the general information provided in Section 4.

5.1 No issue is taken with the concept of establishing pupil yield from new housing. It is, however, necessary to consider what information has been obtained and how it should be used. GCC's methodology established the number of children resident, and has been subject to criticism including low sample sizes and questionnaire design bias. As set out in Mr Kinsman's evidence, some information that was collected was not used - including previous place of residence and schools attended before and after the house move (CD G12). In the case of the Proposed Development (which can be characterised as a small development within a large town) the context should be carefully considered.

5.6 It is recognised that the pupil ratios found in the 2019 review were high. This should have 'rung alarm bells' about its appropriateness for use. It is hard to believe that 'basis sense checking' did not reveal the error in the Post-16 PPR figures, which only came to light as a result of Mr Kinsman's pushing for further information - and after it had been used in responses to around 60 development proposals.

5.6 Mr Chandler rightly recognises that the Developer Group that originally supported the 2019 research are now distancing themselves from the study. This distancing is perhaps in the wake of the substantial criticism that the study and the use being made of the figures has attracted, through the LDG Refresh consultation - which was the first opportunity for LPAs and the development industry to comment on the approach being taken by GCC.

5.6 Mr Chandler cites two recent appeal decisions, in support of the use of the LDG Refresh PPRs. The second appeal decision can be found at CD G18 and was cited in support of the library contribution. However, when tested by Mr Kinsman, GCC accepted that the library contribution was not challenged by the Appellant at that appeal. It appears, from reviewing both decisions and other appeal documents, that neither the education contributions or the library contributions were challenged at either appeal. It is likely that GCC produced an unchallenged CIL Compliance Statement in each case – and in the absence of challenge and evidence to the contrary, it is reasonable that the Inspectors felt able to report the planning obligations were CIL compliant. It would not be appropriate to place weight on the decisions made on those cases when considering CIL compliance in this case.

6.5 Mr Chandler identifies Holy Apostles CofE Primary School as '*very popular*' and '*oversubscribed*'. Such schools generally attract pupils from outside their catchment area. Since GCC's approach to the potential expenditure of the contribution is that it could be directed to any school within the primary planning area, it is reasonable to consider the situation across that area – as Mr Kinsman has done in his evidence.

6.7 Considering 95% of capacity is a concept that was introduced by the Audit Commission in the context of removing surplus school places, and was designed to encourage LEAs to retain some flexibility when removing places. GCC's stated reference is also outdated. DfE's current approach is to plan for 2% surplus across a planning area. In practice, however, if a school is very popular it will fill to capacity. Places cannot be reserved, they must be fully allocated if there is sufficient demand.

6.7 The basis of the forecast information provided in the Appendix is unclear. It appears to show very limited space in the Charlton Kings primary planning area, but it is curiously inconsistent with the latest School Places Strategy 2021-2026 which was adopted by the County Council only last Wednesday, 24 March 2021. This updated SPS demonstrates falling birth numbers in the Charlton Kings area – from 152 in 2014/15 to 110 in 2019/20, with falling demand for school places as a result. It also shows sufficient capacity to accommodate the Proposed Development, and expressly states, *“Supply is currently meeting demand in this area and this is expected to continue for the duration of the planning period. Therefore, no action is required in this planning area.”* Mr Chandler’s paragraph 9.2 states that this updated SPS *“provides the latest overview of demographic information ...”*.

6.8 The position in secondary schools is identified in Mr Kinsman’s evidence.

6.12 See comment on 6.7, above. The version of the Statement of Fact received by the Appellant [JK at least] has 15 pages the last of which is blank. There are no secondary school forecasts, and there is no Appendix 2, 3 or 4.

7.1 The principle of updating the DfE Place Cost Multipliers is not a matter of dispute. Clarification of the precise detail has been requested, to assist in the drafting of the UU.

7.2 (and 7.3) Please see the comment on 1.5 above, about qualifying dwellings.

7.5 The comments about the lack of availability of capacity in existing schools together with The Leckhampton High School are predicated on the LDG Refresh PPRs being applied to new dwellings. The Appellant’s evidence is that these PPRs are unreasonably high. This is demonstrated through Mr Kinsman’s sense checking exercise – for example, Figure 3 on page 15 of his evidence (or page 6 of his Summary) which shows how pupil numbers would have changed since 2012 were the LDG Refresh PPRs correct, and compares them with the actual change experienced – and also the EFM PPRs.

8.7 Please see the comment on 1.5 above, about qualifying dwellings.

9.1 The LDG Refresh has now been adopted by GGC’s Cabinet. That ‘adoption’ does not give it the status of a local plan document. Although it has been the subject of consultation, it has not been examined and it is clear that the changes made in the final version have had little regard to the considerable GCC received in response to the consultation – particularly in relation to the PPRs.

9.1 The LDG Refresh sets out GCC’s approach for decision makers to consider. The appropriateness of the LDG Refresh approach has to be considered in the light of the Appellant’s evidence about its shortcomings and the alternative assessment proposed by the Appellant.

10.4 Please refer to comments on 5.6 above, in relation to the appeal decisions cited.