

Background Topic Paper Infrastructure and Viability

October 2020

1. Purpose of this Paper

- 1.1 The purpose of this paper is to outline to the Inspector, and interested parties, the issues that have arisen since the Regulation 19 consultation regarding the cost of education infrastructure and the viability of the Gloucester City Plan (GCP). This paper outlines the previous position, what actions have been taken by Gloucester City Council (GCC), the issues that exist and a proposed way forward.
- 1.2 This paper should be read in conjunction with the Viability Addendum (October 2020) and the Infrastructure Delivery Plan Addendum (October 2020).

2. What was the previous position during the Regulation 19 consultation?

- 2.1 During the production of the Gloucester City Plan Viability Report, September 2019¹ (herein referred to as the viability report) it was GCC's view that contributions for off-site education infrastructure would be met through the CIL process.
- 2.2 Education, along with other types of infrastructure, was identified for potential CIL spending, where this infrastructure was not directly related to an individual development, on the district's Regulation 123 Infrastructure List.
- 2.3 At the time pooling restrictions were in place for Section 106 (s.106) preventing the collection of more than five contributions to fund the same infrastructure project.
- 2.4 CIL costs were included in the viability testing, however education infrastructure costs in the form of s.106 were not included.
- 2.5 The viability work demonstrated that the policies of the GCP were broadly viable and deliverable. Beyond the policy layers and CIL rates there would be an additional £2500 per dwelling for s.106 contributions.

3. What has changed since the Regulation 19 consultation?

- 3.1 Nationally, an amendment in September 2019 to the Community Infrastructure Regulations 2010, saw the revocation of regulation 123 and therefore the removal of both pooling restrictions and the restrictions there had been in relation to spending of S106 monies and CIL

¹ <https://www.gloucester.gov.uk/media/3984/201909-pre-submission-gloucester-city-lp-va-final-report.pdf>

on the same infrastructure. This increased the flexibility for multiple s.106 contributions to be made towards infrastructure projects, including education.

- 3.2 The amendment also introduced the requirement for local authorities to prepare an annual Infrastructure Funding Statement (IFS), which GCC are currently working on and will publish in time for the deadline at the end of the year.
- 3.3 In November 2019 a local appeal decision (Appeal Ref: APP/G1630/W/19/3229581 Land at Stoke Road, Bishop's Cleeve GL52 7DG) in Tewkesbury Borough saw an Inspector accept s.106 contributions for off-site education infrastructure as complying with regulation 122 of the Community Infrastructure Levy Regulations 2010.
- 3.4 The outcome of this appeal along with the national changes have resulted in planning applications (subject to the Regulation 122 tests of the Community Infrastructure Levy Regulations 2010) returning to the position where s.106 contributions for off-site education infrastructure are regularly sought.
- 3.5 During this time, it became apparent to Gloucestershire County Council (GlosCC), who are the Local Education Authority (LEA), that CIL was unlikely to provide much towards education infrastructure.
- 3.6 This was due to a number of factors: delays to the delivery of Strategic Allocations as part of the Joint Core Strategy (JCS) resulting in lack of CIL income; and the identification by the JCS authorities in the revised IDP Project Tracker June 2020 of 'critical' projects to be funded by CIL. Only one education project is identified as critical but not suitable for CIL funding. The rest of the education projects are identified as 'essential'. These are unlikely to be prioritised until the critical highway infrastructure is delivered. See Appendix 1.
- 3.7 GlosCC have updated the way in which they calculate the number of pupils that are generated by new development and the costs associated with each pupil, known as Pupil Product Yields (PPY). These amendments were published in a 'refresh' to GlosCC's Developer Contributions Guide² (DCG), subject to public consultation in April 2020. It is understood the DCG is currently being reviewed in light of comments and will be presented to GlosCC's Cabinet for adoption in December 2020.
- 3.8 The updated PPY are being used by GlosCC and have resulted in a significant increase in the requests for education infrastructure. Recent planning applications have seen the ask for education contributions range from £14,000 to £17,000 per dwelling depending upon the mix of house types and location.
- 3.9 A previous analysis of s.106 agreements signed between 2015 to 2019 on non-strategic sites found that the previous average was £2,645 per dwelling. This has been revisited as set out further below.

² <https://www.gloucestershire.gov.uk/media/2097736/ldg-2020-refresh-final-consultation-draft-28-04-2020.pdf>

- 3.10 GCC's Local Housing Needs Assessment was also advanced. The latest draft providing more details of the housing need situation and an updated proposed mix of affordable housing products.
- 3.11 GCC acknowledged a need to consider the implications of these changes on the progression of the GCP.
- 3.12 The decision was taken to delay submission in order that additional work could be undertaken, with the County Council, to better understand the implications of the changes and establish a way forward. The outcomes of this additional work are set out in addendums to the Viability Appraisal and the Gloucester City Infrastructure Delivery Plan Report (IDP) (September 2019)³. They are also reflected in the Duty to Cooperate Statement, prepared to support the submission of the GCP. A Statement of Common/Uncommon Ground between GCC and GlosCC is currently in preparation.

4. Actions that were taken

- 4.1 Modelling was undertaken to see what impact varying amounts of s.106 per dwelling would have on plan viability. It was determined that the GCP would be wholly unviable if the full GlosCC ask for education contributions was required from the proposed allocations. This is obviously untenable as the city requires a local plan that can deliver the growth set out in the adopted JCS.
- 4.2 Several adjustments to the viability assessment were made to update it with the latest information, and to investigate if more s.106 potential might be available. These adjustments included:
- Updated build cost assumptions (reflecting the most up-to-date data).
 - Updated sales values (reflecting the most up-to-date data).
 - A reduction in costs assumptions for Cotswold Beechwoods Special Area of Conservation (SAC) to reflect emerging evidence.
 - Further considering the margins of viability of the development typologies.
 - Incorporating the housing mix for Gloucester identified in the latest draft of the Local Housing Needs Assessment.
 - Revisiting Including historic GlosCC s106 data.
 - Increasing the CIL charge for GCC in accordance with index linking.
- 4.3 GCC also offered to run any scenario that GlosCC would like tested to demonstrate GCC's willingness to work together and its continued compliance with the Duty to Cooperate. No scenarios were put forward. GCC also offered the opportunities for GlosCC to review and provide comments on the Viability Addendum.

³ https://www.gloucester.gov.uk/media/3775/gloucester-city-idp_final_26-sept-2019-for-upload-v2.pdf

4.4 A fuller analysis of historic s.106 contributions showed that the average s.106 collected per dwelling between 2015 and 2019 (after an explicit site anomaly, affordable housing and off-site strategic contributions were removed) was £3,232. This being split on average between contributions to GCC at £344 per dwelling and GlosCC at £2,888 per dwelling. This £2,888 was broken down on average to be £2,645 for education, £46 for libraries and £197 for highways.

4.5 With the adjustments to account for new data the viability modelling now demonstrates that £5000 of s.106 monies could be secured per dwelling whilst maintaining a viable and deliverable plan. Full details can be found in the Viability Evidence Base Addendum (October 2020). This is a significant increase to the historical figure but is not enough to satisfy the ask from GlosCC education.

4.6 An addendum to the IDP was also prepared. This included several meetings with GlosCC to refine the infrastructure need as a result of the remaining developments proposed in the GCP. Since 2019 some sites have been granted planning permission reducing the number of potential allocations within the GCP.

4.7 The following figures provide an update of the housing position:

Table 1: Gloucester Housing Position March 31st 2020

A	Housing requirement 2011 - 2031	14,359
B	JCS strategic allocations - Tewkesbury Borough	4,895
C	JCS strategic allocations - Gloucester City	200
D	Completed as of 31 March 2020	4,460
E	Planning consents as of March 31 2020	2,611
F	Gloucester City Plan allocations	810
G	Windfall allowance	576
H	TOTAL SUPPLY	13,552
I	SHORTFALL	807

Notes

A – Requirement set out in the Adopted JCS.

B – JCS Strategic Allocations in Tewkesbury Borough – most have outline planning permission, and reserved matters applications are now being submitted. We understand that as of the end of March 2020, Brockworth has delivered the first 21 dwellings. The figure quoted here is the allocated capacity rather than the actual number that has now been granted planning permission.

C – JCS Strategic Allocations in Gloucester City – The 200 figure represents the ‘Little Winny’ site that is currently a planning application for 217 dwellings that is with the City Council pending a decision. The larger site, known as ‘Big Winny’, has reserved matters planning permission for 420 dwellings and this is included at row E.

E – All extant planning permissions in Gloucester City as of 31 March 2020, including former City Plan allocations (now with permission) ‘Land at Barnwood Manor (net 26 dwellings) and Kings Quarter (156 dwellings).

F – All remaining Gloucester City Plan site allocations

G – This figure is the small sites windfall allowance which equates to 9 years of 64 dwellings per year. This is calculated as per a methodology agreed through the Adopted JCS.

I – There is a shortfall of development sites towards the end of the plan period – this is to be addressed as part of the JCS Review.

4.8 GCC encouraged GlosCC to present evidence that the ask met the Regulation 122 tests: (a) To be necessary to make the development acceptable in planning terms; (b) To be directly related to the development; and (c) To be fairly and reasonably related in scale and kind to the development. This requires moving beyond looking at pure pupil yield figures and cost per pupil generated solely on the number of new homes, to a more detailed interrogation of capacity at schools local to each of the proposed allocations. This was not provided as it was explained by GlosCC that school capacity may change over time. Instead a maximum amount was provided.

4.9 GlosCC presented a revised and reduced education infrastructure ask of the GCP and provided the following maximum figures. Full details can be found in the IDP Addendum.

Table 2: Comparison of Education Need

Stage of Education	IDP 2019	Draft Education Needs Assessment October 2020 (+/- change to 2019)
Early Years (pre-school)	£6.8m	£3.53m (-3.27m)
Primary	£9.69m	£4.8m (-£4.89m)
Secondary	£6.87m	£3.04m (-3.83m)
Further Education (post 16)	£1.99m	£1.26m (-0.73m)
Total	£25.35m	£12.63m (-12.72m)

4.10 In terms of windfall developments, it is estimated that these will average 64 dwellings each year over the next nine years. Using GlosCC's figures GCC calculated the ask from the windfall to be:

Table 3: Windfall Estimates

Stage of Education	Pupil Yield at 64 dwellings per year	Annual cost of places at 64 dwellings per year
Early Years (pre-school)	19.2	£289,747
Primary	26.24	£395,987
Secondary	12.8	£249,472
Further Education (post 16)	7	£161,084
Total		£1,096,290

4.11 Over 9 years this would equate to an additional £9,866,610. Combined with the £12.63m requested through the Education Needs Assessment equals an ask of £22.49m for education infrastructure.

- 4.12 Divided this (£22.49m) by the number of homes tested (780) and the windfall allowance for 9 years (576) and this equates to an average of £16,590 per dwelling. This is a reduction of £6,581 per dwelling from £23,171 per dwelling average ask in the 2019 IDP Report.
- 4.13 This £16,590 is reflective of what is being requested in current planning applications (with recent requests equating to between £14,000 to £17,000 per dwelling).

5. The issues faced by Gloucester City Council

- 5.1 The main issue relates to the reality that there is only so much viability available from development in Gloucester City and therefore the plan alone is unlikely to ever be able to meet the maximum request of GlosCC for education infrastructure.
- 5.2 A number of funding options are presented in the IDP and IDP Addendum to address this issue.
- 5.3 It must also be acknowledged that whilst GCC have no objections to the way in which GlosCC calculate the pupil yields and costs per pupil, it is understood these are currently being scrutinised by the development industry both through the planning appeal process and in response to the GlosCC consultation on the Developer Contributions Guide refresh. The Department of Education are also in the process of producing guidance on the methodology used to calculate pupil yields. This may have a future impact on the ask.
- 5.4 Another unknown is the outcome of three applications for new schools which are being considered by the Government for Free School funding. If approved these new schools would help to meet Gloucester's need for new school places. If further waves of funding are made available these could also be applied for.
- 5.5 Land values and sale values are lower in Gloucester than neighbouring districts. Gloucester is physically constrained resulting in a lack of development sites. This is demonstrated by the fact that Gloucester has a reliance on the other JCS authorities to provide for a significant amount of its housing need. Consequently, many of the limited number of sites remaining in Gloucester are the more complex Brownfield sites.
- 5.6 Gloucester also has an acute affordable housing need. Data from the 1st October 2020, presented in Appendix 2, shows that there are 4826 households waiting for affordable accommodation. Of this 1,958 households are in the higher bands of need (Silver, Gold, Emergency). GCC have accepted Full Statutory Homeless Duty for 104 of these households.
- 5.7 In order to meet its statutory duty to the homeless, and to assist residents in the most housing need, GCC relies heavily on the provision of affordable housing from new development. Housing monitoring shows that in the year 2018/19⁴ a total of 544 homes net were completed and permission was granted for 614 homes of which 68 dwellings are to be affordable housing

⁴ <https://www.gloucester.gov.uk/media/4030/housing-monitoring-report-2019.pdf>

products. In the year 2019/20⁵ a total of 467 homes net were completed and permission granted for 679 homes of which 16 are to be affordable housing products.

- 5.8 It cannot be guaranteed that these permitted homes will be constructed, and it must be noted that not all affordable products will suit all homeless people. It is clear from these figures that housing 1,958 households in the highest levels of housing need, with a potential of only 68 and 16 affordable products permitted in the last two years, will only meet a fraction of the need.
- 5.9 The Local Housing Needs Assessment suggests that 36% of housing should be affordable products to address the need.

6. Balancing priorities

- 6.1 A balance must be struck between delivering growth to provide new homes and jobs whilst also ensuring that critical infrastructure exists to support development. It must be acknowledged that there is only so much financially development in Gloucester can deliver. Priorities will need to be made and other sources of funding secured.
- 6.2 It is a priority for this Government to deliver the housing the country needs. The NPPF requires that LPAs identify objectively assessed housing need and that Local Plans translate those needs into land provision targets and policies that achieve the growth. The LPA believe that the policies within the GCP will ensure sustainable development that will benefit residents and the built and natural environment.
- 6.3 The whole ask of £22.49 million for education and 36% affordable housing is not possible to achieve in the context of a viable plan and will need to be balanced.
- 6.4 The National Planning Policy Framework (NPPF) is clear that:
- “34. 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.**”
- 6.5 To include a policy requiring an average education contribution of £16,590 per dwelling and 36% affordable housing would undermine the deliverability of the plan.
- 6.6 The viability report shows that the maximum level of affordable housing that can be achieved across the GCP (with S106 contributions at £5,000 per dwelling) without harm to the whole plan viability is 25%. This is therefore the rate of affordable housing reflected in the GCP policy and accepted by GCC. It reflects a balance in securing affordable housing, whilst making reasonable contributions towards infrastructure delivery and other policy objectives.

⁵ <https://www.gloucester.gov.uk/media/4619/housing-monitoring-report-2020.pdf>

6.7 GCC have expanded their strategic housing team and are looking at ways to deliver more affordable housing outside of the plan making process to help address the shortfall.

6.8 Given the acute affordable housing need it is crucial that the GCP achieves all that it can in terms of affordable housing provision without jeopardising wider housing delivery through unviable plan policies.

6.9 In terms of s.106 monies an average of £5000 per dwelling has been demonstrated to be viable and this can be used towards infrastructure delivery, including GlosCC infrastructure needs.

6.10 It is important to recognise that s.106 is not a tax on development and that it should only be collected in accordance with the regulation 122 of the Community Infrastructure Levy Regulations 2010 and as policy as set out in the NPPF:

"203. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

204. Planning obligations should only be sought where they meet all of the following 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.

205. Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled."

7. CIL rates and spending

7.1 Gloucester City is a charging authority and secures £45.41/sq m from residential developments between 10 and 449 dwellings. This has been set on the basis of available headroom and is factored into the viability report and Viability Addendum 2020.

7.2 In terms of CIL spending the JCS Infrastructure Delivery Plan, the JCS Infrastructure Gap Analysis 2016 along with the July 2020 update to the IDP Project Tracker have established several 'critical' infrastructure projects required to deliver the growth in the JCS.

7.3 It is important to remember that the proposed growth in the GCP is part of the need identified and tested through the JCS process. It is not additional growth to the adopted JCS.

7.4 The Infrastructure Funding Statements for the JCS authorities will be underpinned by and support the iterative IDP process to ensure that which is 'critical' is funded and delivered.

8. A way forward

- 8.1 GCC and GlosCC are in the process of producing a Statement of Common Ground which, it is intended will be published in November 2020.
- 8.2 GCC will support where appropriate GlosCC or other parties applying for other sources of funding for education infrastructure.
- 8.3 Strategic infrastructure funding from CIL will be prioritised in accordance with the JCS evidence base and the JCS authorities emerging IFSs. This will be reviewed annually and in collaboration between the districts and GlosCC.
- 8.4 The JCS authorities are currently putting in place the Governance structure for the spending of CIL monies. For Gloucester, it is intended that 70% will be contributed to a strategic infrastructure pot. Up to 25% will be retained by the local authority and be subject to a separate Governance structure.
- 8.5 Where the funding gap has not successfully been met from other sources, and the need for infrastructure has become 'critical', there will be an opportunity to reflect this in the following years IFS.
- 8.6 As the education ask is subject to uncertainty, and the local plan viability would be undermined, it is not considered appropriate to include a policy in the GCP with a set rate of financial contribution across the plan period for education. Capacity in schools is subject to change, the GlosCC methodology is under external scrutiny and internal review, the full impacts of the ongoing pandemic on traditional education both in terms of demand and how it will be delivered in the future are not yet known, and alternative funding options may become available.
- 8.7 The LPA will decide on a site by site basis through the planning application process where s.106 is required to mitigate harm and make the development acceptable and sustainable. This will involve consultation with GlosCC and others. Up to date evidence will be required to demonstrate the current need, justify any s.106 request, and demonstrate that the regulatory tests have been fully met.
- 8.8 Sites will be assumed viable and able to fully meet the policy requirements of the GCP if the s.106 ask does not exceed an average of £5,000 per dwelling; which would be viable across 69% of the allocation sites which account for 69% of the allocated site capacity. The majority of windfall developments would also be viable.
- 8.9 Where s.106 is required in excess of £5,000 per dwelling to mitigate harm, priority will be given to achieving the affordable housing policies of the GCP in order to make the scheme acceptable in planning terms and to ensure a viable deliverable scheme.
- 8.10 It is the view of the LPA that the policies of the GCP have been shown to be viable and deliverable.

Appendix 1 – July 2020 Updated CIL Project Tracker for JCS Education Project Type

Project Title	Project Type	Project Status	Project Priority Level	Contribution Type	Feasibility Undertaken?	Alternative / Match Funding	Statutory undertaker remit?	Linked to SA?	Estimated / Agreed Cost	Funding Secured	Lead Organisation	2015-2020	2021-2025	2026-2031	Notes	Appropriate for CIL?
North West Cheltenham all-through school	Education	Planning	Critical	Developer delivered	Y	Y	N	NW Chelt	Cost to Developer	N/A	Developer / GCC Education		Construction	Operational		No
Two-form primary school, Innsworth	Education	Feasibility	Essential	Developer delivered	Y	Y	N	Innsworth	Cost to Developer	N/A	Developer / GCC Education	Construction	Operational			No
New 1.5 FE primary school, Brockworth	Education	Feasibility	Essential	s.106	Y	Y	N	N Brockworth	£3,893,085	£3,893,085	Developer / GCC Education	Construction	Operational		Has this been delivered?	No
Secondary School contribution	Education	Feasibility	Essential	s.106	Y	Y	N	N Brockworth	£2,743,200	£2,743,200	Developer / GCC Education	Construction	Operational		Has this been delivered?	No
Gloucestershire STEM Centre upgrades	Education	Feasibility	Essential	Service provider	Y	Y	N	N	£2,096,000	£2,096,000	GCC education	Construction	Operational			
Leckhampton School	Education	Planning	Essential	Developer funded	Y	Y	N	Leckhampton	Unknown	Developer contributions	GCC Education	Construction	Operational		New 900 Place School sponsored by Balcarras trust in Charlton Kings. Planning decision due May 2020	
Innsworth Infant School Expansion	Education	Completed	Essential	Service provider	Y	Y	N	Innsworth	Cost to Service Provider	N/A	Service Provider	Construction	Operational		One additional classroom to support the school increasing from a Pupil Admission Number (PAN) of 50 to 60 from Sept 2019	Yes
Barnwood Park	Education	Completed	Essential	Service provider	Y	Y	N	N	Cost to Service Provider	N/A	Service Provider	Construction	Operational		Barnwood Park Arts College will expand by 1 form of entry which is equivalent to an additional class of 30 pupils from September 2019.	Yes
Finlay Community School	Education	Completed	Essential	Service provider	Y	Y	N	N	Cost to Service Provider	N/A	Service Provider	Construction	Operational		Work completed in summer 2019 at Finlay Community School to expand the school by 1 form of entry, which will equal 210 pupils overall.	Yes
Churchdown Junior School	Education	Completed	Essential	Service provider	Y	Y	N	N	Cost to Service Provider	N/A	Service Provider	Construction	Operational		Expansion of the school to build a new classroom to cater for an additional 30 new reception places from September 2019.	Yes
Mill Lane School, Brockworth	Education	Planning	Essential	Service provider	Y	Y	N	N	Cost to Service Provider	GCC Education	Service Provider		Construction	Operational	New SEMH school. Due to open in 2022, and will provide 75 places for girls and boys.	
Milestone School	Education	Planning	Essential	Service provider	Y	Y	N	N	Cost to Service Provider	N/A	Service Provider	Construction	Operational		New accommodation for a dedicated facility for children and young people with complex difficulties	Yes
Clearwater Primary School	Education	Construction	Essential	Service provider	Y	Y	N	N	Cost to Service Provider	N/A	Service Provider	Construction	Operational		The Department for Education are progressing with the delivery of the school building with a view to getting the new school building open and operational in September 2020.	Yes
New Brockworth Primary Academy	Education	Completed	Essential	Service provider	Y	Y	N	N	Cost to Service Provider	N/A	Service Provider	Construction	Operational		Building works started in February 2019 and completed in September 2019.	Yes

Appendix 2

Housing Needs Data 1st October 2020

Housing Needs Bands	1 bed	2 bed	3 bed	4 bed	5 bed	6 bed	7 bed	8 bed	9 bed
EMERGENCY - Downsize - family to non-family	50	11	0	0	0	0	0	0	0
EMERGENCY - Immediate medical/welfare need	2	0	0	0	0	0	0	0	0
GOLD - Downsize - family to smaller family	0	25	0	0	0	0	0	0	0
GOLD - Full Statutory Homeless Duty Accepted	59	18	20	1	5	1	0	0	0
GOLD - Major overcrowding	0	2	5	19	22	4	0	0	1
GOLD - Urgent medical/welfare need	47	22	15	10	3	1	0	0	0
GOLD - Move-on/multi-agency/succession	27	3	0	0	0	0	0	0	0
SILVER - Homeless or threatened with homelessness	461	131	49	22	4	1	0	0	0
SILVER - Overcrowded	34	158	263	100	16	2	0	1	0
SILVER - Significant medical/welfare need	155	107	65	12	4	0	0	0	0
Bronze - Low Housing Need	1632	883	281	59	13	0	0	0	0
Totals	2467	1360	698	223	67	9	0	1	1
Totals excluding Bronze	835	477	417	164	54	9	0	1	1

Band Totals Simplified	
Emergency	63
Gold	310
Silver	1585
Bronze	2868
Total:	4826

Total on 01.10.2020: 4826