

LAND AT OAKLEY FARM, CHELTENHAM

REBUTTAL PROOF OF EVIDENCE ON EDUCATIONAL CONTRIBUTIONS

ON BEHALF OF ROBERT HITCHINS LIMITED

Prepared by: NEIL TILEY ASSOC RTPI

Pegasus Group

Pegasus House | Querns Business Centre | Whitworth Road | Cirencester | Gloucestershire | GL7 1RT
T 01285 641717 | **F** 01285 642348 | **W** www.pegasuspg.co.uk

Birmingham | Bracknell | Bristol | Cambridge | Cirencester | East Midlands | Leeds | Liverpool | London | Manchester

PLANNING | **DESIGN** | **ENVIRONMENT** | **ECONOMICS**

CONTENTS:

	Page No:
E. EXECUTIVE SUMMARY	2
1. BACKGROUND	5
2. INTRODUCTION	6
3. THE OPERATION OF THE DEVELOPMENT PLAN	7
4. THE STATUS OF THE NEMS MARKET RESEARCH SURVEY	9
5. ACCURACY OF THE LEA'S FORECASTS	11
6. THE EFFECT OF OTHER COMMITTED DEVELOPMENTS	13
7. THE AREA OF ASSESSMENT	20
9. THE PUPIL PRODUCT RATIOS OF THE IPS	23
9. THE CONTRIBUTIONS SECURED ON OTHER DEVELOPMENTS	24
10. THE OCCUPANCY RATE	25
11. UPDATED COST MULTIPLIERS	26

E. EXECUTIVE SUMMARY

E.1 It has been necessary for me to prepare a rebuttal to address a number of new issues raised in the Proofs of Evidence prepared on behalf of the LEA.

Operation of the Development Plan

E.2 The LEA mistakenly suggest that the IDP2014 only relates to strategic developments and appear to rely upon this as providing some justification for disregarding the IDP2014 on the proposed development. This is simply incorrect.

E.3 The LEA suggest that the JCS allows for new formulaic approaches to be introduced on an ad-hoc basis without being subject to examination or tested for viability contrary to national policy and guidance. The JCS does not provide any such indication and if it had done so it would be contrary to national policy.

E.4 The LEA also suggest that as the IDP2014 was prepared in 2014 it is no longer appropriate to rely upon this. However, the LEA do not appear to recognise that the LEA continued to be supportive of the IDP2014 until at least December 2017 throughout the examination of the JCS. Policy INF6 which relies upon the IDP2014 should be reviewed within five-years and that will be the appropriate forum for identifying a new formulaic approach as set out in numerous parts of national guidance.

Status of the NEMS Market Research Survey

E.5 The LEA have misunderstood the role of the NEMS Market Research Survey. This is an independent piece of research undertaken in accordance with the relevant guidance to address the omissions of the Cognisant Study.

Accuracy of the cohort progression forecasts

E.6 The analysis of the LEA demonstrates that previous cohort progression forecasts (excluding any additional allowances for new development) have consistently over-estimated the number of pupils arising across Gloucestershire, but for some unknown reason they appear to be more accurate locally. Even if this greater local accuracy arises as a result of the methodology rather than notwithstanding the methodology, this would only support the reliance of both parties upon these cohort progression forecasts.

Effects of other developments

- E.7 The LEA however then also seek to take account of the effects of other developments in addition to the cohort progression forecasts. The combination of the cohort progression forecasts, and the effects of additional development product demonstrably inaccurate forecasts as demonstrated in my Proof of Evidence and as accepted by the LEA at the Coombe Hill inquiry.
- E.8 This is because the cohort progression forecasts already reflect the levels of development previously achieved. Manual adjustments to reflect future developments which replicate historic levels of delivery therefore has the effect of double counting the effects of development.
- E.9 To compound this matter, the LEA also disregard the additional places secured through contributions arising from the future developments. This provides for a wholly unbalanced assessment.
- E.10 The LEA also seek to take account of the effects of allocated sites which may deliver in the future, contrary to the explicit findings of the Coombe Hill Inspector on this matter.

Area of assessment

- E.11 The LEA's evidence is confused on this matter. Two different approaches are advocated in subsequent paragraphs of PoELF and yet another approach is advocated in PoESC. One of the approaches in PoELF was roundly rejected by the Coombe Hill Inspector and the approach in PoESC is contrary to national guidance and internally inconsistent. The remaining approach broadly accords with that which I adopt.
- E.12 Notwithstanding this, regardless of the area of assessment or the pupil product ratios, there will be more than sufficient primary school places to accommodate the proposed development.
- E.13 The area of assessment only becomes material when considering the capacity of sixth form places. If the capacity is assessed in aggregate for any area there would be no available places to accommodate the proposed development, whereas if it is considered for schools within the planning area there will be more than sufficient

capacity to accommodate the pupils arising in full regardless of the pupil product ratio.

Pupil product ratios and occupancy rates

- E.14 The LEA depart from the clear findings of the Coombe Hill Inspector by disregarding the number of pupils that do not change school and the backfilling of housing, and by applying a 95% occupancy limit.
- E.15 The LEA has provided no evidence to support either of these positions that was not before the Coombe Hill Inspector and subject to detailed cross-examination.

Updated cost multipliers

- E.16 The LEA has identified new cost multipliers and I have updated the calculations of my Proof of Evidence accordingly.
- E.17 The LEA has also mistakenly miscalculated the contribution towards sixth form places arising from 226 qualifying dwellings and I trust that this will be corrected prior to the inquiry.

1. BACKGROUND

1.1 My name is Neil Tiley. My qualifications and experience are set out in my Proof of Evidence on Educational Contributions.

1.2 The evidence which I have prepared and provide for this appeal (APP/B1605/W/21/3273053) is true and has been prepared and is given in accordance with the guidance of my professional institution irrespective of by whom I am instructed and I confirm that the opinions expressed are my true and professional opinions.

2. INTRODUCTION

2.1 This Rebuttal Proof of Evidence briefly addresses a number of issues raised by the LEA in the Proof of Evidence of Ms Fitzgerald and Mr Chandler including:

- The operation of the Development Plan,
- The status of the NEMS Market Research survey,
- The accuracy of the LEA's forecasts,
- The effect of other committed developments,
- The area of assessment,
- The pupil product ratios of the IPS,
- The contributions secured on other developments,
- The occupancy rate, and
- Updated cost multipliers.

3. THE OPERATION OF THE DEVELOPMENT PLAN

- 3.1 As set out in Policy INF6 of the JCS, the Development Plan requires when identifying infrastructure requirements in support of development proposals, “full regard” is given where appropriate to implementing the requirements of the Joint Core Strategy IDP which was prepared in 2014.
- 3.2 In paragraph 6.15 of the Proof of Evidence of Ms Fitzgerald (PoELF), it is suggested that the IDP2014 only has regard to the strategic level site allocations. That is simply wrong. The IDP2014 repeatedly acknowledges that it assesses the infrastructure requirements arising from both strategic allocations and non-strategic growth areas¹. This was also confirmed in paragraph 252 of the examining Inspector’s Final Report (CDE10). The infrastructure requirements identified by the IDP2014 were also clearly intended to apply to all development sites as set out in Policy INF6 which is not restricted to strategic allocations.
- 3.3 In paragraph 6.19 of PoELF it is correctly recognised that the JCS provides a clear steer that developers should engage with infrastructure providers to ascertain infrastructure needs². Such engagement is necessary to identify the available infrastructure capacity to accommodate the proposed development and to identify the projects on which any contributions will be spent. However, the JCS provides no indication that it is appropriate for infrastructure providers to introduce new formulaic approaches on an ad-hoc basis contrary to national policy and guidance.
- 3.4 Furthermore, it is suggested by the LEA that the supporting text which advocates engaging with infrastructure providers accords with the PPG (23b-004). However, the PPG (23b-004) actually requires that the infrastructure requirements should be set out in policies and examined in public. The approach of the LEA has been to introduce a new untested formulaic approach which is not set out in the Development Plan therefore does not accord with the PPG (23b-004) as suggested.
- 3.5 In paragraph 6.20 of PoELF it appears to be suggested that the IDP2014 makes it clear that further assessment of the appropriate pupil product ratios will be required on an application by application basis. No reference is provided to support this suggestion and I have been unable to identify any such text within the IDP2014.

¹ See for example the final paragraph on page 75, Table 17 on page 81 and Table 18 on page 83 (CDE8).

² See paragraph 5.7.5 (CDE1).

- 3.6 Finally, in paragraph 6.20 of PoELF, it is correctly acknowledged that the formulaic approach of the IDP2014 was correct as of April 2014. However, it is also true that throughout the examination of the JCS which lasted until December 2017, the LEA continued to support the application of this formulaic approach and did not invite the Inspector to treat it as somehow out of date. It was therefore the case that the LEA considered or at least were happy to accept that the pupil product ratios of the IDP2014 remained appropriate until at least December 2017. The new formulaic approach advanced by the LEA to this inquiry however necessitates the decision maker to conclude that in the subsequent 3½ years there has been a fundamental change of circumstance, to warrant a radical upturn in the pupil product ratios. There is no evidence that this has occurred in reality³.
- 3.7 Additionally, if the fact that the IDP2014 was prepared in 2014 automatically means that it is no longer appropriate as suggested by the LEA, this would mean that Policy INF6 no longer provides the levels of education, health, transport, flood and water management, green or digital infrastructure as required by paragraph 34 of the NPPF. The real default is that the development plan review process, which ought to have included scrutiny of any new formulaic approach has failed – such that the LEA are inviting the decision maker to pursue an ad hoc approach which is at odds with the only formulaic approach which has been properly tested in accordance with national guidance.

³ As demonstrated in Table 7.1 and Figure 7.1 of my Proof of Evidence.

4. THE STATUS OF THE NEMS MARKET RESEARCH SURVEY

- 4.1 It is apparent from paragraph 6.28 of PoELF that my intended use of the NEMS Market Research survey has not been properly understood by the LEA.
- 4.2 The NEMS Market Research survey was commissioned to obtain up-to-date evidence on pupil yield factors from recent housing developments in accordance with the final paragraph on page 4 of Securing Developer Contributions for Education (CDG2), given the demonstrable departures from the relevant guidance of the Cognisant Study⁴.
- 4.3 As clearly and unequivocally set out in national planning policy, national planning guidance and national educational guidance⁵, my professional opinion remains that the infrastructure requirements should be determined in accordance with the policies of the Development Plan. As such, I did not present the findings of the NEMS Market Research survey as an alternative at the Coombe Hill appeal, but rather as a sense-check of the pupil product ratios of the IDP2014.
- 4.4 However, if it is concluded that the JCS does not set out the levels of educational infrastructure required contrary to paragraph 34 of the NPPF, a policy vacuum arises which would have to be filled by the most credible up-to-date evidence, which in my opinion would be that identified in the NEMS Market Research survey, and which for reasons I set out in my proof is not flawed like the discredited Cognisant study, let alone the LDG.
- 4.5 It is however not the case that the NEMS Market Research survey is based on the IDP2014 which appears to be the mis-understanding of the LEA. They are two independent assessments of pupil product ratios. The IDP2014 has been tested at examination and is referred to in the Development Plan, and by contrast the NEMS Market Research survey (and the Cognisant Study) has not been subject to examination, have not been subject to viability assessment and are not set out in the Development Plan.

⁴ Which were confirmed in the Coombe Hill appeal decision.

⁵ It should be noted that I did not draw to the attention of the Inspector in the Coombe Hill appeal to paragraph 19 of Securing Developer Contributions for Education which similarly requires that policies for developer contributions should be set out in Local Plans. This omission appears to have mistakenly led the Inspector to disregard national planning guidance in footnote 3 of the appeal decision. I accept full responsibility for not bringing this to the Inspector's attention.

4.6 In both the Proof of Evidence of Mr Chandler (PoESC) and PoELF⁶, it appears to be suggested that the weight afforded to the NEMS Market Research survey should be reduced in the absence of a full report having been made available to this inquiry. I have repeatedly discussed this with the LEA, and have identified that the NEMS Market Research survey was undertaken by an independent consultancy who provided the anonymised data to Pegasus Group. I then processed this data and returned it to NEMS Market Research so that they could validate my analysis. Following this, I prepared a report for the Appellant (CDG14). This set out the findings, highlighted the departures of the Cognisant study from the relevant guidance and undertook a comparison of the results of both sets of ratios with relevant comparators. I then subsequently prepared the Headline Findings report for public consumption which broadly replicated the analysis of the internal report for the Appellant.

⁶ Paragraph 6.29 of PoELF and paragraph 5.8 of PoESC.

5. ACCURACY OF THE LEA'S FORECASTS

- 5.1 In PoESC, some analysis of the accuracy of the previous forecasts of the LEA has been undertaken which is to be welcomed.
- 5.2 It should be noted that many of the forecasts which have been analysed are not in the public domain and so I have not been able to validate these. However, I trust that these are accurate for the purposes of this inquiry.
- 5.3 In paragraphs 3.10 and 3.11, it is identified that previous cohort progression forecasts of the LEA had over-estimated the number of primary school pupils arising by 0.3% and secondary school pupils by 0.7%. Similarly, in paragraphs 4.2 and 4.3, it is identified that they had over-estimated the number of primary school pupils by 0.3% one year ahead and by 1.4% three years ahead, and the number of secondary school pupils by 1.1% for one year ahead and by 2.1% three years ahead. This accords with my analysis which suggests that across Gloucestershire the cohort progression forecasts of the LEA, without any allowance for new development, systematically over-estimate the number of pupils arising.
- 5.4 Whilst in proportional terms these over-estimations may would appear to be relatively small, it should be borne in mind that these figures are significant when assessing the **change** in the forecast numbers of pupils. When viewed in that context they comprise a significant over-estimate. There are currently 47,398 primary school pupils, such that an over-estimation of 0.3% or 1.4% would result in unwarranted contributions being sought for an additional 142 primary school places which are not required in year one and 664 places which are not required in year three. Similarly, the over-estimation of the secondary school forecasts of 1.1% or 2.1% based on the current 40,448 secondary school pupils would result in contributions being sought for an additional 445 secondary school places which are not required in year one and 849 places which are not required in year three.
- 5.5 As set out in my original Proof of Evidence, notwithstanding this demonstrable over-estimation, I accept the use of the cohort progression forecasts of the LEA for the purposes of this appeal.
- 5.6 Mr Chandler also provides some analysis of the forecasts for individual planning areas which appear to be different to those presented in Tables 6.1 and 6.2 of my original Proof of Evidence. This can be explained by:

- the fact that my original Proof of Evidence assessed the accuracy of the forecasts of the LEA including the effects of development whereas Mr Chandler assesses the accuracy of the cohort progression forecasts.
- the fact that Mr Chandler has taken the number of actual pupils in 2020/21 from the recorded number of pupils in October 2020 whereas I had taken this from the actual number of pupils in January 2021.

5.7 The analysis of Mr Chandler suggests that the cohort progression forecasts (excluding the effects of new development) in local planning areas has been broadly accurate ranging from an under-estimation of 4.3% to an over-estimation of 2.2%. This analysis does however indicate for some unknown reason that previous forecasts have been more accurate⁷ in Whaddon and Charlton Kings planning areas than across the LEA as a whole notwithstanding that the forecasts are all prepared using the same methodology. However, even were it to be assumed that notwithstanding the demonstrable over-estimation that arises from the application of the methodology of the LEA across Gloucestershire, for some reason the methodology is more accurate locally, this would support the use of the cohort progression forecasts⁸ and would yet again demonstrate that any additional allowance for the effects of development would result in the number of pupils arising being significantly over-inflated⁹.

⁷ As they have not consistently over-estimated the number of pupils arising.

⁸ In accordance with my approach.

⁹ As demonstrated in Figures 6.3 and 6.4 of my original Proof of Evidence and alluded to in footnote 6 of the Coombe Hill appeal decision (where previous versions of these figures were presented as Figures 10.3 and 10.4).

6. THE EFFECT OF OTHER COMMITTED DEVELOPMENTS

- 6.1 In paragraph 6.57 of PoELF, the LEA has provided a list of permitted developments which they consider will absorb some of the available school places.
- 6.2 As set out above, the evidence of the LEA demonstrates that the cohort progression forecasts without any additional allowance for other committed developments are broadly accurate locally. However, by inference and as demonstrated in my original Proof of Evidence if these are inflated to take account of other committed developments as a matter of logic they will no longer be accurate and will over-inflate the number of pupils arising.
- 6.3 In paragraphs 6.27 to 6.30 of my original Proof of Evidence, I address the principles of this and identify that the levels of development that arise from these commitments are already accounted for in the cohort progression forecasts of the LEA, and as such those developments will not simply absorb the available places that arise from these forecasts. If the pupils arising as a result of these committed developments are taken into account again this would effectively double count the number of pupils arising. This is explicitly set out on page 17 of the DfE's School Capacity Survey (CDG3). The LEA's approach would therefore not only render the forecasts inaccurate by double counting the pupils arising it would also be contrary to the explicit guidance of the DfE.
- 6.4 Furthermore, even if this were not the case, the LEA's approach takes account of the number of pupils arising from these developments but then pays no regard to the number of additional school places secured by way of contributions from these developments.
- 6.5 The position of the LEA is therefore that the number of pupils arising are counted once within the cohort progression forecasts, then counted again by the LEA and the additional places secured by these committed developments are disregarded. This provides for a wholly unbalanced assessment.
- 6.6 I have asked whether the LEA had any details of the contributions secured towards additional school places on these committed developments but was advised that the LEA considered this was irrelevant. I have therefore sought to identify the contributions secured based on the evidence that is publicly available, although it should be appreciated that not all of the s106 may be in the public domain and so

greater contributions may have been secured. If the LEA are to rely upon this point, I trust that they will provide all of the necessary evidence on the contributions received to the inquiry, as otherwise only part of the picture will be available to the Inspector.

Primary school places

- 6.7 The LEA identify that there are 186 committed qualifying dwellings in the primary school planning area. Using the pupil product ratios of the IDP2014, IPS and NEMS Market Research survey these would generate 52, 72 or 28 primary school pupils respectively.
- 6.8 As set out in paragraph 6.33 of my original Proof of Evidence, the cohort progression forecasts demonstrate that there will be at least 104 available primary school places until 2024/25 or at least 124 available places across the area of assessment of the LEA¹⁰. Therefore, even if the pupils arising from committed developments were incorrectly considered to be additional to the cohort progression forecasts, there would still remain available places to accommodate the pupils arising from the proposed development, rather than there being no available places as asserted by the LEA.
- 6.9 Furthermore, when the committed developments of the LEA are reviewed it is apparent that the LEA has not taken the contributions secured in support of these developments into account, despite the fact that those contributions were intended to be used to increase school capacity (in the same way that the contributions in this case are being sought).
- 6.10 Pittville School, Albert Road – the LEA submitted a response to this application (CDG13) identifying that the development would place a demand for places at Dunalley Primary School. This school is not within the Whaddon primary school planning area and so does not absorb any of the places within the planning area relevant to this appeal.
- 6.11 Therefore, rather than 186 qualifying dwellings as identified by the LEA, there are actually 128 qualifying dwellings in the Whaddon primary school planning area.

¹⁰ Comprising the planning area and a number of additional schools.

- 6.12 Furthermore, even if committed developments were incorrectly considered to be additional to the cohort progression forecasts, and this site was considered to absorb the available primary school places in Whaddon primary school planning area contrary to the position of the LEA, this site has secured contributions to fund the provision of 9.5 additional primary school places (CDG17) which the LEA has not taken into account.
- 6.13 Premier Products, Bouncers Lane – the LEA secured contributions to provide 15.49 primary school places (CDG11 and CDG18) in support of this development but has not taken these into account. There would therefore be 15.49 additional available places than accounted for in the LEA’s calculations.
- 6.14 GCHQ Oakley – the LEA secured £1,927 per qualifying dwelling worth of contributions towards additional school places in support of this development (CDG15). I have not been able to identify whether this was towards primary or secondary school places or a combination of the two, and how many places this was intended to secure. As such, for the remainder of this analysis, I conservatively assume that no primary school places were secured as part of this development but recognise that this is likely to under-estimate the available capacity.
- 6.15 Even if these committed developments were incorrectly considered to be additional to the cohort progression forecasts, the effects of the pupils arising and the places secured are considered in Table 6.1 below.

Table 6.1 – pupils arising and places secured from committed development

	IDP2014	IPS	NEMS
Forecast available capacity			
Schools in the Whaddon primary school planning area	104	104	104
Schools in the Whaddon primary school planning area and additional schools	124	124	124
Number of pupils arising from committed developments			
Whaddon primary school planning area (128 dwellings)	35.5	49.3	19.6
Whaddon primary school planning area and additional schools (186 dwellings)	51.6	71.6	28.4
Places secured through contributions			
Whaddon primary school planning area	15.49	15.49	15.49
Premier Products, Bouncers Lane	15.49	15.49	15.49
GCHQ Oakley	?	?	?
Whaddon primary school planning area and additional schools	24.99	24.99	24.99
Pittville School, Albert Road	9.5	9.5	9.5
Premier Products, Bouncers Lane	15.49	15.49	15.49
GCHQ Oakley	?	?	?
Available capacity even if committed developments are incorrectly considered to be additional to the cohort progression forecasts			
Whaddon primary school planning area	84.0	70.2	99.9
Whaddon primary school planning area and additional schools	97.4	77.4	120.5
Pupils arising from the proposed development			
Oakley Farm ¹¹	62.7	87.0	38.2

6.16 Table 3.1 clearly demonstrates that even if the pupils arising from committed developments are incorrectly considered to be additional to those which arise from the cohort progression forecasts which assume greater levels of development, then:

- If the pupil product ratios of the IDP2014 are used, there will be at least 84 available places in the planning area or 97.4 available places in the planning area and additional schools to accommodate the 62.7 pupils arising from the proposed development – i.e. there will be more than sufficient capacity and no need for any contributions.
- If the pupil product ratios of the IPS are used, there will be at least 70.2 available places in the planning area or 77.4 available places in the planning area and additional schools to accommodate the 87 pupils arising from the proposed development even assuming that GCHQ Oakley did not secure any additional primary school places – i.e. there may be sufficient capacity once

¹¹ As set out in Table 7.5 of my original Proof of Evidence.

GCHQ Oakley is taken into account but there will only be a need for at most 16.8 places.

- If the pupil product ratios of NEMS Market Research survey are used, there will be at least 99.9 available places in the planning area or 120.5 available places in the planning area and additional schools to accommodate the 38.2 pupils arising from the proposed development – i.e. there will be more than sufficient capacity and no need for any contributions.

Secondary school places

6.17 The parties are agreed that there is no available secondary school places and the committed developments do not affect this conclusion.

Sixth form places

6.18 The LEA identify that there are 450 committed qualifying dwellings in the secondary school planning area. Using the pupil product ratios of the IDP2014, IPS and NEMS Market Research survey these would generate 8, 27 or 11 sixth form pupils respectively.

6.19 The cohort progression forecasts demonstrate that there will be at least 94 available sixth form places until 2027/28 in schools within the Cheltenham secondary school planning area¹². Therefore, even if the pupils arising from committed developments were incorrectly considered to be additional to the cohort progression forecasts, there would remain sufficient available places to accommodate the pupils arising from the proposed development in these schools even if these committed developments did not contribute to additional places.

6.20 However, numerous of the committed developments did make contribution towards additional school places and so the number of available places will be even greater.

6.21 Premier Products, Bouncers Lane – the LEA secured contributions to provide 8.1 additional secondary school places including sixth form places from this development (CDG11 and CDG18).

¹² As set out in paragraph 6.51 of my original Proof of Evidence.

- 6.22 Old Gloucester Road, Cheltenham – the LEA secured contributions from this development towards securing an unspecified number of additional places at All Saints Academy (CDG16).
- 6.23 Land off Stone Crescent – the LEA sought, and the planning officer recommended granting planning permission subject to obtaining s106 contributions towards secondary school places (CDG12) at this site. The s106 is not available on the Council’s website but it is reasonable to assume that such contributions were secured.
- 6.24 GCHQ Oakley – as identified previously, the LEA secured contributions towards additional school places in support of this proposed development.
- 6.25 Therefore, whilst the precise number of additional sixth form places secured from these committed developments cannot be identified from the information that is publicly available (but has been requested), it is clear that some contributions have been secured and that accordingly, there will be more than 94 available sixth form places in Cheltenham Bournside and All Saints Academy to accommodate all of the 8, 27 or 11 sixth form pupils arising from the delivery of the 450 dwellings on committed developments as well as the 4, 13.6 or 6.1 sixth form pupils¹³ arising from the proposed development.
- 6.26 In summary, the LEA double count the number of pupils arising from committed developments because these are already largely accounted for in the cohort progression forecasts¹⁴ and then also disregard the number of additional places secured in support of these developments. This is an obviously unbalanced and incorrect assessment.
- 6.27 In reality, there will remain more than sufficient primary school and sixth form places to accommodate the pupils arising as a result of the proposed development.

Other commitments

- 6.28 In paragraph 6.62 of PoELF, it is also suggested that the impact of allocations which do not yet benefit from planning permission should also be taken into account. This is consistent with the LEA’s position to the Coombe Hill appeal, and following

¹³ See Table 7.5 of my original Proof of Evidence.

¹⁴ As set out in paragraphs 6.29 and 6.30 of my original Proof of Evidence.

detailed discussion on this matter, the Inspector found this approach to be incorrect as set out in paragraph 119 of the appeal decision. I am surprised that the LEA are maintaining this position.

- 6.29 I do not intend to rehearse those arguments again, other than noting that I agree with the Inspector that there is no reason why capacity should be reserved for those prospective developments rather than the appeal in hand.

Available capacity in Oakwood Primary School

- 6.30 The LEA appear to accept that there will be a significant number of available places in Oakwood Primary School with at most 335 pupils in 420 places¹⁵ by 2024/25.
- 6.31 In both PoESC and PoELF¹⁶, it is suggested that these available places will be needed after 2024/25 to accommodate the pupils arising from other committed developments. However, there is absolutely no evidence that this will be the case as would be necessary to justify any contributions.

¹⁵ See page 23 of PoESC.

¹⁶ Paragraph 6.67 of PoELF and paragraph 6.6 of PoESC.

7. THE AREA OF ASSESSMENT

- 7.1 The evidence of the LEA appears rather confused on this point and I am unclear of the approach advocated by the LEA.
- 7.2 In paragraph 6.53 of PoELF, it is recognised that consideration should be given to the capacity in the school place planning area (singular) and that it is also appropriate to consider the capacity in the nearest school (singular). The consideration of the nearest school in isolation was roundly rejected by the Inspector in paragraphs 111 to 113 of the Coombe Hill appeal decision.
- 7.3 In paragraph 6.54, it is suggested that the capacity in the school place planning area (singular) along with other schools (plural) within the statutory walking distance should be taken into account. This accords with the approach of the LEA in the IPS and broadly accords with my approach although I do not rigidly apply the statutory walking distance when assessing accessible schools.
- 7.4 In paragraphs 6.3 and 6.4 of PoESC it is however suggested that capacity should be considered across planning areas (plural) and schools (plural) within statutory walking distance. The consideration of schools across multiple primary school planning areas does not accord with the approach adopted by the LEA in response to the planning application¹⁷ in which the LEA focussed upon the capacity in Whaddon primary school planning area alone, or the approach advocated in the LEA's IPS, or the approach adopted in the Coombe Hill appeal decision in which the Inspector focussed upon the capacity in the Churchdown/Innsworth primary school planning area which contained the appeal site. Indeed, to consider numerous planning areas jointly undermines the role of planning areas which should be mutually exclusive groups of schools that represent admission patterns and reasonable alternatives to one another¹⁸.
- 7.5 In paragraph 6.7 of PoESC it is also suggested that it is not considered reasonable or appropriate for primary school children to travel more than 2 miles. All but one of the primary schools in the neighbouring planning area of Charlton Kings are beyond the statutory walking distance and so the consideration of capacity in this

¹⁷ See CDB4D and CDB4E.

¹⁸ As identified on page 5 of the School Capacity Survey (CDG3) and paragraph 111 of the Coombe Hill appeal decision.

planning area would require schools which are not reasonable to take into account being taken into account.

- 7.6 As noted above, my approach is that the starting point is the school planning area, but that other schools might be considered where they are obviously proximate to the application site.

Primary school pupils

- 7.7 On page 24 of PoESC, the LEA then consider the capacity in the Whaddon primary school planning area and identify that in 2021/22 there will be 1,167 pupils, in 2022/23 there will be 1,178 pupils, in 2023/24 there will be 1,183 pupils and in 2024/25 there will be 1,179 pupils in 1,283 places¹⁹. The evidence of the LEA is therefore that 90.9% of places will be occupied in 2021/22 increasing to 92.2% in 2023/24 and reducing to 91.9% in 2024/25²⁰ in the relevant planning area. It is however incorrectly suggested in paragraph 6.55 of PoELF that the primary school place planning area is currently at 97% capacity.
- 7.8 Based on the evidence provided by Mr Chandler which has informed my analysis, by the time completions are achieved at the proposed development in 2024/25, there will be at most 1,179 pupils in 1,283 places, leaving 104 available places which would be more than sufficient to accommodate the proposed development regardless of the pupil product ratio applied.
- 7.9 On page 23 of PoESC, the LEA also consider the capacity across schools within the statutory walking distance. This identifies that in 2024/25, there will be 1,795 pupils in 1,913 places, leaving 118 available places which would still be more than sufficient to accommodate the proposed development regardless of the pupil product ratio applied.
- 7.10 The LEA also consider the capacity across two planning areas and other schools within the statutory walking distance. As set out above, such an approach is contrary to DfE guidance, the approach of the Coombe Hill Inspector and the approach of the LEA in response to the planning application. However, even on this

¹⁹ This accords with the analysis in Table 6.4 of my original Proof of Evidence.

²⁰ It should be noted that the LEA identify an occupancy rate of 94% owing to the fact that they do not take into account the 30 temporary places which are in place at Prestbury St Mary's C of E Junior School.

basis, the LEA identify 2,633 pupils in 2,765 places, leaving 132 available places which would be more than sufficient to accommodate the proposed development regardless of the pupil product ratio applied.

- 7.11 On any basis, it is therefore apparent that there are more than sufficient primary school places to accommodate the proposed development.

Sixth form pupils

- 7.12 In paragraph 6.24 of PoESC the capacity of sixth form places is then considered for Balcarras School in isolation contrary to the approach advocated in paragraph 6.4²¹ and contrary to the findings of the Coombe Hill Inspector.
- 7.13 Had the LEA assessed the capacity across the schools within the planning area, again it would be agreed that there is more than sufficient capacity in some of the schools within the planning area to accommodate the proposed development.

²¹ It should be noted that there is no statutory walking distance for sixth form pupils.

8. THE PUPIL PRODUCT RATIOS OF THE IPS

- 8.1 In paragraph 5.19 of PoESC, the LEA suggest that it is not necessary to make an adjustment for household migration and the backfilling of homes notwithstanding the fact that the Inspector at Coombe Hill found such an approach to be mistaken. The LEA has provided absolutely no evidence to justify this counter-intuitive position. As demonstrated in my original Proof of Evidence this serves to grossly over-estimate ethe effects of new development.

9. THE CONTRIBUTIONS SECURED ON OTHER DEVELOPMENTS

- 9.1 In paragraph 6.41 of PoELF, the LEA seek to rely on the fact that the Appellant agreed a s106 agreement in support of an appeal at Fiddington based on the pupil product ratios of the previous LDG.
- 9.2 I have been advised that the Appellant was not aware that the pupil product ratios sought by the LEA in that instance departed from those set out in the Development Plan and agreed the s106 in good faith.
- 9.3 Furthermore, it can be calculated from Appendix 9 to PoELF, that the pupil product ratios applied at that time resulted in 27.05 primary school pupils per 100 dwellings and 16.35 secondary school and sixth form pupils per 100 dwellings. This compares with the 27.76 primary school pupils and 13.87 secondary school and sixth form pupils identified in the IDP2014. This is a very different proposition to the current request of the LEA which suggests that there will be 38.5 primary school pupils and 23 secondary and sixth form pupils.

10. THE OCCUPANCY RATE

10.1 In paragraph 6.11 of PoESC, it is suggested that it is unclear why the Inspector at Coombe Hill relied upon Trading Places. It is however abundantly clear from Trading Places and the later report of the National Audit Office that the only recommendation which reflects the appropriate occupancy rate in individual schools rather than across districts or LEA's is that provided by Trading Places. This was made clear to the Inspector during the course of the Coombe Hill inquiry. The LEA has provided no additional evidence to this inquiry to justify a different conclusion.

11. UPDATED COST MULTIPLIERS

11.1 In paragraph 7.1 of PoESC, the LEA identify that updated cost multipliers are now applicable. I therefore update Table 9.1 of my original Proof of Evidence to address this below.

Table 11.1 – updated version of Table 9.1

Occupancy rate	Area assessment of	Pupil product ratio	Primary	Secondary	Sixth form	Total
95% occupancy	Aggregated capacity of agreed schools	IDP2014	£938,178.07	£528,180.72	£91,128.27	£1,557,487.07
		IPS	£1,301,147.54	£741,967.04	£309,208.68	£2,352,323.26
		NEMS	£571,637.00	£168,016.02	£139,211.52	£878,864.54
	Aggregated capacity across the planning area	IDP2014	£340,018.07	£528,180.72	£91,128.27	£959,327.07
		IPS	£702,987.54	£820,760.00	£309,208.68	£1,832,956.22
		NEMS	£0.00	£168,016.02	£139,211.52	£307,227.54
	Individual schools	IDP2014	£0.00	£528,180.72	£0.00	£528,180.72
		IPS	£284,275.54	£741,967.04	£0.00	£1,026,242.58
		NEMS	£0.00	£168,016.02	£0.00	£168,016.02
100% occupancy	Aggregated capacity of agreed schools	IDP2014	£0.00	£528,180.72	£91,128.27	£619,309.00
		IPS	£0.00	£741,967.04	£309,208.68	£1,051,175.72
		NEMS	£0.00	£168,016.02	£139,211.52	£307,227.54
	Aggregated capacity across the planning area	IDP2014	£0.00	£528,180.72	£91,128.27	£619,309.00
		IPS	£0.00	£741,967.04	£309,208.68	£1,051,175.72
		NEMS	£0.00	£168,016.02	£139,211.52	£307,227.54
	Individual schools	IDP2014	£0.00	£528,180.72	£0.00	£528,180.72
		IPS	£0.00	£741,967.04	£0.00	£741,967.04
		NEMS	£0.00	£168,016.02	£0.00	£168,016.02

11.2 Therefore, I consider that there is a need for **£528,180.72** to secure the school places arising from the proposed development rather than the **£2,602,127.50** sought by the LEA or the **£2,352,323.26** which would be sought by the LEA once the 24 1-bed homes which do not qualify for education contributions are discounted.

11.3 It should also be noted that there appears to be an error in paragraph 7.4 of PoESC as it assumes that 226 qualifying dwellings will generate a need for 15 sixth form places, the same number as would arise from 250 qualifying dwellings in paragraph 7.3. This has been corrected in Table 11.1 above to identify a contribution of £309,208.68 rather than £342,045.