

Rebuttal Final 240702

Town and Country Planning Act 1990 – Section 78

The Town and Country Planning (Inquiries Procedure) (England) Rules
2000

**Land east of the A10, Buntingford,
Hertfordshire, SG9 9SQ**

Countryside Partnership Ltd and Wattsdown Developments Ltd

EDUCATION MATTERS

Rebuttal of

Heather Katherine Knowler

BA(Hons), MA, MCMI

Planning Inspectorate Ref: **APP/J1915/W/24/3340497**

Planning Application Ref: **3/23/1447/OUT**

Inquiry Date: Commencing 16 July 2024

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Review of Education Contributions

Rebuttal

This paper focuses on the issue of education contributions requested by Hertfordshire County Council. It represents the Appellant's response (on behalf of the Appellant) to Hertfordshire County Council's (HCC's) note dated 19 June 2024 which provided a comparison calculation for a two-tier system. It also responds to HCC's "Statement in support of planning obligations sought towards Hertfordshire County Council (non-highways) services" (HCC's CIL Compliance Statement).

It falls into two parts:

1. Review of the pupil and cost calculation provided for a two-tier education structure.
2. Comparison with the DfE Dashboard and other authorities' approaches.

Appellant's Position in Summary

The Appellant:

1. Agrees need for additional local school places.
2. Agrees the level of cost per place for all elements.
3. Agrees the number of early years, post-16 and SEND pupils for which funding is sought.
4. Does not agree the number of places for which funding is sought for first, middle and upper school pupils.

1. Pupil Yield Calculation

1.1 It is fully understood and accepted that HCC has an adopted pupil yield methodology, the Hertfordshire Demographic Model (HDM), which is based on its Pupil Yield Survey (PYS). However, the results of the HDM continue to appear high, particularly when compared to the Department for Education (DfE) Pupil Yield Dashboard result for the same mix of dwellings. This is discussed within EFM's Proof of evidence and HCC's "Position Report" (Appendix 1 of the Education Proof of Evidence). HCC has subsequently made the point that the HDM results for the three-tier school system cannot be appropriately compared to the two-tier system embedded within the DfE Dashboard.

1.2 Following a request from EFM, HCC supplied an assessment based on the same dwelling mix, but assuming a two-tier education system to be in place in Buntingford (supplied as Annexe 1 to this note). Focusing on the 12 main school years (Years R to 11) the results were as follows, shown together with the previous three-tier results for comparison:

School Phases			2-tier	HDM 2-tier		HDM 3-tier			
School Phase	Two-tier Year Groups	Three-tier Year Groups	DfE Peak	Perm	Temp	Perm	Temp	HDM Total Pupils	Total Per Year Group
Primary	7		137	136	27			163	23.3
Secondary	5		102	103	12			115	23.0
Total	12		239	239	39			278	23.2
First		5				114	13	127	25.4
Middle		4				90	7	97	24.25
Upper		3				70	3	73	24.3
Total		12				274	23	297	24.75

Table 1: Two-tier and three-tier HCC pupil yield comparison

1.3 This shows that the calculation of Permanent places in the two-tier system (239 pupils) is some 35 pupils less than within the three-tier system (274 pupils).

1.4 Assessing the total pupil figures, nearly 20 more pupils are calculated for a three-tier system (297 pupils) than are calculated to arise for a two-tier system

(278 pupils). This indicates an average of 1.55 pupils more in each year group in the three-tier system than in the two-tier system as shown in the final column. The total number of pupils is higher across the board for three-tier than two-tier, by 7.2%. Furthermore, when only the Permanent pupil figures are compared, the difference rises to 14.6%.

1.5 It is difficult to see that this is credible or equitable in a situation where the number, type and size of dwellings does not vary. This methodology clearly penalises developers who seek to create new homes in areas with a three-tier education system.

2. DfE Dashboard Comparability

2.1 EFM responded to HCC on 3 June (Annexe 1) - itself a response to the HCC Position Report - HCC responded indicating that EFM on behalf of the Appellant, was using a hybrid approach (Annexe 2). EFM's position was specifically informed by the inflationary impact and the perceived double counting of the three-tier system upon total figures. It was also intended as a way of finding a mutually agreeable position.

2.2 The EFM response of 3 June was based on the statement in paragraph 5.7 of HCC's Position Report which indicated that the DfE and HDM yields "are not significantly different between approaches for multiple phases" - ie seeking to normalize the levels calculated. When the double counting was removed (ie the middle school pupils), the figures were indeed comparable and would have been acceptable to the Appellant. This is explained in more detail within EFM's Education Proof (paragraphs 9.6 to 9.9).

2.3 The place where the DfE Dashboard and HCC's figures do potentially cohere, is where the DfE Dashboard Peak figures are compared to the HCC Permanent figures for the two-tier system (Table 2). This comparison makes clear the closest match between the two approaches is at the DfE maximum and the HCC minimum.

School Phases			2-tier	2-tier	
School Phase	Two-tier Year Groups	Three-tier Year Groups	DfE Peak	HCC Permanent	Temp
Primary	7		137	136	27
Secondary	5		102	103	12
Total	12		239	239	39

Table 2: Comparison of Two-tier system - DfE Peak and HCC Permanent

2.4 As things stand, therefore, the HCC pupil figures remain far higher than the DfE identifies in its research, and the Appellant remains concerned about the number of pupils calculated for whom funding is sought. Table 3 shows the difference in overall costs sought between the two approaches, using the same costs per pupil, which are not in dispute.

DfE Peak		Calculation
Pri DfE peak	£3,248,955	137 x £23,715
Sec DfE peak	£2,805,306	102 x £27,503
Total Cost	£6,054,261	
HCC Peak Sought		CIL Statement
First	£2,827,938	Para 5.13
Middle	£2,200,775	Para 6.10
upper	£2,731,537	Para 7.10
Total Cost	£7,760,250	
HCC Sought		CIL Statement
Nursery	£517,926	Para 5.15
Post-16	£772,251	Para 7.12

Table 3: Cost difference

2.5 The difference in the cost calculation for primary and secondary is in excess of £1.7m, and represents in part the inflationary impact of the three-tier system and in part the higher ratio of pupils calculated per dwelling by HCC compared to the DfE.

2.6 HCC in its CIL Compliance Statement (paragraph 4.14) indicates that, at a previous appeal in Stevenage (Appeal Ref: APP/K1935/W/20/3255692), the Inspector considered the methodology use by HCC to be “exemplary”. It should be noted here that this was an assessment made prior to the publication of the DfE Dashboard, which provides lower figures than the HCC approach, and that the Appeal site was located in an area running a two-tier education system. Therefore, the knowledge that is available now is different to that available at the time of the Stevenage appeal and the difficulties in translating the two-tier calculation into a three-tier calculation were not called into question.

2.7 Both approaches (DfE and HDM) are based on demographic research over a significant number of years (2008-2021 for the DfE and 2002-2020 for HCC) and both are capable of identifying the number of pupils per dwelling, by dwelling type, size and tenure. Both can make allowance for a peak of pupils to be accounted for if required. While the DfE approach does not provide for a three-tier system, it is clear by comparison that the HCC three-tier system produces higher figures than for a two-tier system.

2.8 This artificially penalises developers who seek to construct new homes within a three-tier education area and it is, therefore, considered that the higher pupil numbers calculated by HCC produce a cost which is in excess of what is “...reasonable in scale and kind to the development” in terms of compliance with CIL Reg 122.

2.9 Finally, a comparison has been carried out by EFM with 10 other local authorities in the south and east of England and the HCC methodology produces the highest pupil product than any of them (Table 4).

Phase	Hertfordshire 3-Tier		Hertfordshire 2-Tier		Thurrock	Oxfordshire	Hampshire	Essex	Kent	Cambridge-shire	East Sussex	Surrey	Bracknell Forest	West Sussex
	<i>Excl Temp</i>	<i>Inc temp</i>	<i>Excl temp</i>	<i>Inc temp</i>										
Primary			136	163	127	112	105	105	98	93	88	85	117	56
Secondary			103	115	67	73	74	70	70	56	61	60	27	40
First	114	127												
Middle	90	97												
Upper	70	73												
Total Main School Pupils	274	297	239	278	194	185	179	175	168	149	149	145	144	95
Post-16	28	1	26	29	x	11	21	7	x	x	11	x	11	9

Table 4: Pupil yield comparison across other south and eastern England authorities

2.10 While it is acknowledged that each of these authorities have different approaches and have carried out different research at different times, the HCC calculations continue to appear excessive.

2.11 Consequently, the need for additional school places within Buntingford is agreed in principle, and the costs per pupil place are not disputed. However, the number of main school pupils calculated by HCC is considered excessive, and while significant efforts have been made to reach agreement, this has not been achieved at this stage.

Annexe 1: EFM response to HCC Position Report



Heather

Buntingford West - Education Issues - Cost calculation

To: Charlie Thompson, Cc: DLP Planning - Hannah, Jonathan Porter, Tara Lewis, John McLean

3 June 2024 at 13:50

[Details](#)

Further to my email of 23 May I have now been able to review the level of potential costs for the education contributions arising from the above development.

As I stated in my email (at paragraphs 3 and 4) my assessment of the costs sought in Table 11 of the HCC main response double counts the middle school years. When these are removed and the development assessed using the DfE Dashboard figures the following position arises:

School Phase	HCC response Table 11 Cost	HCC Response Table 11 Pupils	Cost
EY Perm	£23,715	21	£498,015
EY Temp	£9,429	2	£18,858
First Perm	£23,715	114	£2,703,510
First Temp	£9,429	13	£122,577
Middle Perm	£23,656	90	£2,129,040
Middle Temp	£9,921	7	£69,447
Upper Perm	£27,503	70	£1,925,210
Upper Temp	£10,414	3	£31,242
Post-16 Perm	£27,503	28	£770,084
Post-16 temp	£10,414	1	£10,414
SEND Pri	£94,860	2	£189,720
SEND Sec	£114,862	2	£229,724
			£8,697,841

School Phase	HCC response Table 11 Cost	EFM Pupil Calc - Dashboard	Cost
EY Perm	£23,715	21	£498,015
EY Temp	£9,429	2	£18,858
Pri Perm	£23,715	114	£2,703,510
Pri Temp	£9,429	13	£122,577
Middle Perm	£23,656		£0
Middle Temp	£9,921		£0
Sec Perm	£27,503	70	£1,925,210
Sec Temp	£10,414	3	£31,242
Post-16 Perm	£27,503	28	£770,084
Post-16 temp	£10,414	1	£10,414
SEND Pri	£94,860	2	£189,720
SEND Sec	£114,862	2	£229,724
			£6,499,354

The top section uses the pupil figures from Table 11 of the main response, and produces a total of £8,697,841, including assessment for temporary accommodation for the peak of pupils.

When the double counted middle school pupils are removed, as assessed within my email of 23 May and keeping the permanent / temporary split, then the result is shown in the bottom section. This is the level which I calculate as being CIL compliant. The applicant, Vistry Homes, has agreed that this level of contribution would be acceptable to them.

If this is a level which is acceptable to HCC, then we would need to either calculate the appropriate reductions to primary and secondary to produce a middle school sum, or include appropriate wording indicating how the middle school is to be funded from secondary and primary contributions. The overall sum, however, would not need to be altered.

I appreciate that there are a lot of emails going backwards and forwards at the moment, but if HCC is able to agree a contribution of £6,499,354 in total, ready for the meeting tomorrow that would be most welcome.

Many thanks

Heather Knowler

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Annexe 2: HCC response with Two-Tier Calculation

As noted in the county council's response of the 24th of May, projections of main-phase pupil yield from the Hertfordshire Demographic Model (HDM) are greater than would be estimated from the application of Department for Education (DfE) Pupil Product Ratios (PPRs). This is due differences in the methodology behind the county council's own longitudinal Pupil Yield Study (PYS), and the DfE's own yield matching exercise, with technical guidance for both available online.

Should the county council have been seeking contributions at 3231447OUT, Land East of the A10 for Primary and Secondary infrastructure, as opposed to First, Middle and Upper, the HDM would still have projected a yield higher than the DfE PPRs.

For matters of transparency, the yield as would have been projected from the HDM for a two-tier system is provided in **Table 1** below, alongside the contributions which would be sought. However, it should not be dismissed that pupils likely to arise from 3231447OUT, Land East of the A10 are most likely to attend the three tier education systems of local schools rather than a two-tier school further afield.

Table 1: Section 106 Contributions from the HDM for 3231447OUT, Land East of the A10 split by education phase for projected permanent and temporary pupil yield demand, incorporating SEND requests (BCIS indexation 1Q2022)

Phase	Demand	Project Type	Projected Yield	Scorecard Cost	S106 Sought
Primary	Permanent	New School	136	£23,715	£3,232,494
Primary	Temporary	New School	27	£9,429	£252,848
Nursery	Permanent	New School	19	£23,715	£461,407
Nursery	Temporary	New School	4	£9,429	£36,092
Secondary	Permanent	Expansion	103	£27,503	£2,836,354
Secondary	Temporary	Expansion	12	£10,414	£124,604
Post-16	Permanent	Expansion	26	£27,503	£710,243
Post-16	Temporary	Expansion	3	£10,414	£31,202
SEND Primary	Permanent	New School	2	£94,860	£202,594
SEND Secondary	Permanent	New School	2	£114,862	£224,131
Total					£8,111,968

In correspondence sent to the county council on Monday 03rd June, EFM on behalf of Vistry homes have expressed that:

1. Yield projections from the HDM for Post-16 would be considered acceptable to the applicant for the calculation of S106 contributions.
2. Yield projections from the HDM for Nursery would be considered acceptable to the applicant for the calculation of S106 contributions.
3. Yield projections from the HDM for SEND would be considered acceptable to the applicant for the calculation of S106 contributions.
4. Short-term temporary demand and long-term permanent demand yield assumptions for First education, from the HDM, would be considered acceptable to the applicant for the calculation of S106 contributions.
5. Short-term temporary demand and long-term permanent demand yield assumptions for Upper education, from the HDM, would be considered acceptable to the applicant for the calculation of S106 contributions.
6. Short-term temporary demand and long-term permanent demand yield assumptions for Nursery education, from the HDM, would be considered acceptable to the applicant for the calculation of S106 contributions.
7. Short-term temporary demand and long-term permanent demand yield assumptions for Post-16 education, from the HDM, would be considered acceptable to the applicant for the calculation of S106 contributions.

Yet, EFM on behalf of the applicant do not consider the same analytical study and model undermining each point above to be acceptable for the analysis and calculation of First, Middle or Upper yields or resultant contributions. Instead, EFM on behalf of the applicant is advocating for a hybrid of HDM yields for sub-phases and SEND, HDM temporal demand assumptions for all phases, and the substitution of directly projected yields for First, Middle and Upper, with DfE PPR yields for Primary and Secondary.

In the county council's response of the 24th of May, it was highlighted the strength of the HDM is in its ability to provide three-tier yield estimates directly, with the DfE not providing PPRs for First, Middle or Upper phases.

Asking the county council to revert to a Primary and Secondary yield projection undermines the appropriateness of any Section 106 request at 3231447OUT, Land East of the A10, which is towards the mitigation of demand at three separate schools, each with their own cohort lifetime influencing short and long-term demand.

The county council has been clear in its position that the HDM should be used to determine the potential yield arising at 3231447OUT, Land East of the A10 as initially stated in its response of the 24th of May and would not find the combination a hybridised methodology, or resultant costings, to be acceptable.

The county council has been clear in its analytical procedures, providing a comprehensive methodology for both the HDM and PYS respectively online, as well

as a full breakdown of contributions sought from the HDM for First, Middle, Upper and SEND in our response of the 24th of May, of which the later has been used by EFM directly when proposing their hybridised methodology.

Finally, the county council once again reiterates the importance of recognising that for the purpose of projecting pupil yield, DfE support the use of local evidence bases in place of DfE PPRs where appropriate to do so. This continues to be particularly pertinent for 3231447OUT, Land East of the A10, where as noted, in the absence of First, Middle and Upper phase DfE PPRs, the only full evidenced approach presented for estimating pupil yield and resultant contributions for a three-tier system is the county council's own local PYS evidence and model.