

**V4 240618**

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**

Proof of Evidence 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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## **1. Qualifications and experience**

1.1 My name is Heather Katherine Knowler. I am employed by Educational Facilities Management Partnership Ltd (EFM) as a Consultant, specialising in education and social infrastructure provision. I have a BA (Hons) in Politics and a Masters' degree in Social Policy, both from the Open University. I am a Member of the Chartered Management Institute.

1.2 Before joining EFM I worked within local government for in excess of 30 years, primarily in the areas of school planning and provision, assessment and negotiation of planning obligations and in the project and programme management of school building programmes. During this time, I delivered a range of new and expanded schools, both mainstream and special, across Kent, establishing the best local approach and developing schemes for delivery. In addition, in 2008 I established the development contributions methodology for education facilities for the Kent County Council (KCC), which was included within the KCC Developer's Guide. The basis of this methodology has been in use, with amendments, since that time.

1.3 EFM was established in 1990 as an education and social infrastructure consultancy, which advises on: schools; school provision; the implication of population forecasts and development on schools; libraries and health service matters and school design.

1.4 I am experienced in providing evidence in respect of development to enable full and balanced negotiations for planning agreements, for planning inquiries and for masterplanning purposes.

1.5 The evidence, which I have prepared and provide for this Appeal is true and has been prepared and is given in accordance with the CMI Code of Practice. I confirm that the opinions expressed are my true and professional opinions.

## **2 Introduction and Scope of Evidence**

2.1 One of the Reasons for Refusal (RfR) of this application is listed as:

*"4. In the absence of a completed legal agreement the application fails to secure appropriate financial contributions to infrastructure to off-set the impact of the development on local infrastructure or to provide any affordable housing, or a required bus route. As such to the proposal is contrary to policies DPS4, DEL1 DEL2, HOU3, CFLR1, CFLR7, CFLR9 and CFLR10 of the East Herts District Plan 2018, policies of the Buntingford Community Area Neighbourhood Plan and the National Planning Policy Framework."*

2.2 The Application is for *"Outline planning application (with all matters reserved except for access) for up to 350 dwellings, up to 4,400 sqm of commercial and services floorspace (Use Class E and B8), and up to 500 sqm of retain floorspace (Use Classes E) and other associated works including drainage, access into the site from the A10 and Luynes rise (but not access within the site), allotments, public open space and landscaping Land East of the A10 Buntingford Hertfordshire."*

2.3 This Proof of Evidence will set out a brief review of the local education position and will conclude that there is agreed to be insufficient places existing within the locality to meet the needs arising from the proposed development. It will go on to review the methodology currently in use by the education authority, Hertfordshire County Council (HCC), and outline the efforts which have been made to establish a fair and clear settlement to meet the need for additional school places. Finally, this Proof will detail the one outstanding area of difference between the Applicant and HCC and provide evidence as to the most appropriate approach to assessing the need arising.

2.4 An s106 obligation is being made to provide a financial contribution at a level deemed appropriate by the Inspector and in accordance with Reg 122 of the CIL Regulations.

### **3. Policy on School Place Provision**

#### **The Education Act 1996 (as amended) (EA96)**

3.1 The primary Act relating to education is the EA96, which is amended from time to time by subsequent legislation.

3.2 The EA96 states at section 14(1) that "*A local education authority shall secure that sufficient schools for providing – (a) primary education and (b) secondary education... are available for their area*". Sections 14(2) to 14(6) explain that "sufficient schools" means that they are "*sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education...*".

3.3 Section 7 imposes a duty on "*every parent of every child of compulsory school age to cause him to receive efficient full-time education either by regular attendance at school or otherwise*". Section 11 requires the Secretary of State for Education (i.e. the State) to exercise his powers in respect of those bodies in receipt of public funds, which carry responsibility for securing school provision for promoting school education. Thus, for all children of statutory school age, who are not otherwise provided for, the State provides a school, in accordance with the statutory provisions.

3.4 In securing sufficient schools for its area, an Education Authority assesses existing capacity and pupil numbers, data on births and migration, and how parental preferences are manifested. It forecasts the need for additional capacity in each school planning area for the ensuing five years for primary schools and seven years for secondary schools.

3.5 The Education Authority then passes this information to the State (currently the Education and Skills Funding Agency (ESFA)), which is the schools' operational arm of the Department for Education (DfE). This is done by way of the School Capacity Returns

(SCAP) and the State allocates funding for additional school places as and where shown to be necessary. This is known as Basic Need grant funding.

3.6 Basic Need grant funding on a per-pupil-place basis covers increases in pupil numbers forecast by the Education Authority, beyond existing and planned capacity, to arise because of rising birth rates, rising survival rates, rising inward migration rates and new housing – unless otherwise provided for. The DfE expects local authorities, wherever possible, to seek contributions through Planning Obligations and CIL and steps in to meet the remaining rising pupil need as necessary.

3.7 In summary, therefore, the Education Authority has the responsibility to plan for, and secure, sufficient places within its area. These are funded by the DfE unless otherwise provided for – for instance through a development contribution to meet the need arising from new housing.

3.8 In addition to Basic Need funding, however, there are separate funding streams supplied by the DfE to Local Authorities and direct to Academies and Free Schools to meet the needs of maintaining the condition of the school fabric. These streams include the Devolved Formula Capital and Schools Condition Allocations and through them the DfE provides funding to the Local Authority for “maintained” schools and direct to the schools and their Trusts in the case of academies and free schools.

3.9 This condition funding is not predicated, like Basic Need funding, on there being no other funding streams available. It is provided without question on the basis of a range of factors such as school size, type and location – and the potential availability of other funding is not a factor.

#### **4. Local Policy Context**

4.1 East Hertfordshire District Council (EHDC) is the planning authority. It does not have a CIL scheme in place and consequently relies on the use of S106 agreements to achieve appropriate contributions towards community infrastructure projects. For education contributions the EHDC webpage on Supplementary Planning Documents refers to the HCC "Planning Obligations Guidance Toolkit for Hertfordshire". This has now been superseded by the HCC Guide to Developer Infrastructure Contributions (CD5.8).

4.2 Hertfordshire County Council (HCC) is the education authority. It has a suite of documents, largely dating to mid 2021. These include the "Guide to Developer Infrastructure Contributions" (2021) (CD5.8) together with the "Pupil Yield Survey" (2021) (CD5.9) and "A guide to the Hertfordshire Demographic Model" (2021) (CD5.12).

4.3 The Guide to Developer Infrastructure Contributions (Developers' Guide) (CD5.8) states (at para 2.17 and 2.18) that *"The county council is the local authority which has the statutory responsibility for education. It has a duty to ensure that there are sufficient school places to meet the needs of the population now and in the future. Mainstream education provision includes nursery, primary, secondary and post-16 (up to the age of 19) education. In three tier areas primary and secondary education is divided into first, middle and upper education. Where there is considered to be insufficient capacity in local schools to cater for the development (and other sites if appropriate) planning obligations will be sought."*

4.4 The Developers' Guide continues at Section 3.2, to explain that it has developed a demographic model to project the likely population of any given development, which can operate at a variety of levels of complexity depending upon the range of inputs. At paragraph 3.2.8 the Guide explains *"The need for planning obligations from individual applications will be assessed on a site by site basis and will be determined by local circumstances..."*



4.5 Both the Hertfordshire Demographic Model (HDM) (CD5.12) and the Pupil Yield Survey (PYS) (CD5.9) published by HCC are very detailed and run to 56 pages and 94 pages respectively. However, neither is able to provide a simple formula for understanding the potential liability of a development and all calculations are required to be run through the HDM to enable advice to be given by HCC to potential housing developers. Consequently, the precise number of children calculated is not always provided in the first instance, as per HCC's advice notes of 6 September 2023 (CD9.12) and 5 February 2024 (CD9.30). The impact of this is that the number of new places was not originally provided and further communication with HCC has been necessary to identify the number of pupils calculated. The implications of this will be dealt with later within this Proof.

## 5. First School Position

5.1 The settlement of Buntingford is served by a three-tier school system, comprising first, middle and upper schools, as opposed to the more common two-tier system of primary and secondary schools. For information and the avoidance of doubt, the comparative school phases for two and three tier organisations are laid out in Table 1:

Two Tier	Yr R	Yr 1	yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7	Yr 8	Yr 9	Yr 10	Yr 11	Yr 12	Yr 13
Primary	[Orange shaded]													
Secondary								[Orange shaded]						
Post-16													[Orange shaded]	
Three Tier	Yr R	Yr 1	yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7	Yr 8	Yr 9	Yr 10	Yr 11	Yr 12	Yr 13
First	[Green shaded]													
Middle						[Green shaded]								
Upper										[Green shaded]				
Post-16													[Green shaded]	

Table 1: Two and three tier organisation.

5.2 Within the two-tier system, primary schools educate pupils for seven years before they transfer to a secondary school for a further five years. After that, pupils may stay on for a further two years for Post-16 education. In the three-tier system in operation in Buntingford, children attend a first school for five years before going to middle school for four years and then secondary for just three years. The two years of Post-16 education are the same, for those pupils staying on.

5.3 Within Buntingford, there are three first schools, which offer education to children for the first five years of their academic lives - Years R to 4. The location of the schools are shown in Map 1:



Map 1: First schools in Buntingford

5.4 Capacity and roll data is provided to the Department for Education (DfE) on an annual basis by the local authority, and the January 2024 returns for the schools are shown in Table 2 below. This shows that there are approximately 268 surplus places available within the schools.

First Schools	Distance	P Area	DfE CAP	PAN Yr R	NoR	Yr R	Yr 1	Yr 2	Yr 3	Yr 4	
Layston First	SG9 9EU	1.2	9196120	150	30	145	30	29	28	30	28
Millfield First & Nursery	SG9 9DT	0.88	9196120	300	60	294	59	59	57	58	61
Buntingford First School	SG9 9HZ	0.97	9196120	300	60	43	13	7	7	10	6
			<b>Total</b>	<b>750</b>	<b>150</b>	<b>482</b>	<b>102</b>	<b>95</b>	<b>92</b>	<b>98</b>	<b>95</b>
			Surplus			268	48	55	58	52	55

Table 2: Capacity and roll data - Buntingford first schools (PLASC and SCAP)

5.5 However, it is noted that Buntingford First School is a new school which opened and admitted its first pupils in September 2023. It was constructed ahead of a number of new developments within the settlement, and it is understood and agreed that the Appeal Site should contribute appropriately to the cost of this school.

5.6 This financial approach is sanctioned by the DfE in its guidance document "Securing developer contributions for education (August 2023)" (CD5.9) with paragraph 15 of the Guidance stating, "*When school places have been forward funded, you can secure developer contributions to recoup the monies spent.*"

5.7 In principle, therefore the Appellant is in agreement that a contribution towards first school places is justified. The level at which this contribution is being sought, is currently not agreed and the differences between the parties will be explored in more detail in Sections 8 and 9.

## 6. Middle School Position

6.1 There is just one middle school within Buntingford, and its location is shown in Map 2:



Map 2: Middle schools in Buntingford

6.2 The January 2024 returns for the school are shown in Table 3 below. This shows that there are approximately 11 surplus places available within the school.

Middle	Postcode	Distance	P Area	DfE CAP	PAN Yr 5	NoR	Yr 5	Yr 6	Yr 7	Yr 8	
Edwinstree Middle	SG9 9AW	0.66	9196120	488	120		477	108	130	120	119
			<b>Total</b>	<b>488</b>	<b>120</b>		<b>477</b>	<b>108</b>	<b>130</b>	<b>120</b>	<b>119</b>
			Surplus				11	12	-10	0	1

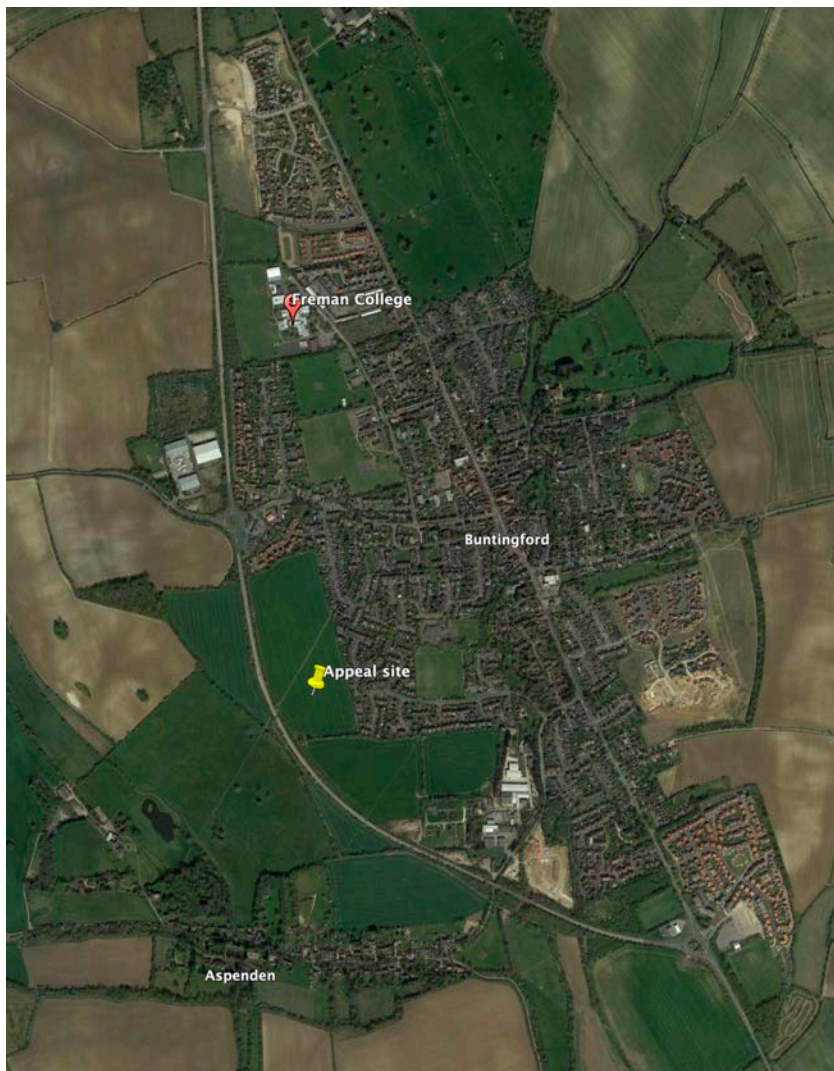
Table 3: Capacity and roll data - Buntingford middle schools (PLASC and SCAP)

6.3 While the number of middle school pupils has not yet been agreed between the parties it is calculated to be between approximately 62.8 and 97. On either calculation, it is clear that insufficient places exist, and further capacity will need to be created. On

this basis, the Appellant is in agreement in principle that a contribution is justified. Again, the difference between the parties will be discussed in more detail in Sections 8 and 9.

## 7. Upper School Position

7.1 There is just one upper school within Buntingford, and its location is shown in Map 3:



Map 3: Upper schools in Buntingford

7.2 The January 2024 returns for the school are shown in Table 4 below. This shows that there are approximately 36 surplus places available within the school.

	Distance	P Area	DfE CAP	PAN Yr 9	NoR	Yr 9	Yr 10	Yr 11	Yr 12	Yr 13	
Freman College	SG9 9BT	0.94	9196000	1032	210	996	262	272	230	101	131
			<b>Total</b>	<b>1032</b>	<b>210</b>	<b>996</b>	<b>262</b>	<b>272</b>	<b>230</b>	<b>101</b>	<b>131</b>
			Surplus			36	-52	-62	-20		

Table 4: Capacity and roll data - Buntingford upper schools (PLASC and SCAP)

7.3 While the number of upper school pupils has not yet been agreed between the parties it is calculated to be between approximately 39 and 73. On either calculation, it

is clear that insufficient places exist, and further capacity will need to be created. On this basis, the Appellant is in agreement in principle that a contribution is justified for both main school secondary places and Post-16 places. Again, the difference between the parties will be discussed in more detail in Sections 8 and 9.



## **8. Timeline of Communications and Requests**

8.1 Over the last 11 months, there has been considerable correspondence between HCC and the Appellant's consultants in connection with the level of contributions being sought for education facilities in Buntingford. As noted in the previous sections, the principle of a contribution towards main school places and Post-16 places is not disputed by the Appellant, nor is the principle of a contribution towards early years and childcare. However, the extent and calculation of the anticipated pupil numbers and contributions to be paid is challenged. A good deal of time and effort has been spent by both HCC and the Appellant to understand and attempt to come to a mutually agreed position, which has not yet been achieved.

8.2 While variations in both the dwelling mix and the resulting costs sought arose over the period, the request from HCC has remained between £8.22m and £8.64m in total. In addition, clarifications over the scale of school land to be funded, Post-16 capacity and the actual number of pupils anticipated to arise from the development were sought. A matrix showing the main items of correspondence is provided at Table 5 in order to give a sense of the time scale of interactions and the individual areas discussed.

Item	Date	CD No:	Subject Matter
<b>HCC Request Letter 2 (3/23/1447/OUT)</b>	<b>6.9.2023</b>	<b>CD9.12</b>	<b>First, Middle and Upper, plus SEND &amp; Childcare</b>
EFM email to HCC	8.9.2023		Initial queries
HCC response to EFM	13.9.2023		Provided pupil numbers
EFM Letter to HCC	15.9.2023		Dwelling mix variations. Review P-16 HK matrix comparison - check for first not primary New build v expansion costs Pupil product ratios Land cost increases
HCC response to EFM	4.10.2023		Dwelling mix revised Does not recognise P-16 calcs Recalculated to matrix, 5% difference Confirmed cost levels PPRs - HCC hold to its own research Land cost error adjusted
<b>HCC Request Letter 2 (3/23/1447/OUT)</b>	<b>5.2.2024</b>	<b>CD9.30</b>	<b>Same as the one of 6 September 2023 ex for waste and youth</b>
HCC response to Moulton Walker	19.4.2024		Costs per dwelling and summary
<b>HCC response to Moulton Walker</b>	<b>25.4.2024</b>	<b>Excerpts in Section 8 (Fig 1 &amp; Table 6)</b>	<b>Costs and pupil numbers amended to new dwelling mix provided in separate spreadsheet</b>
EFM to Moulton Walker	25.4.2024		HK comparison of pupil numbers with DfE Dashboard
HCC to Moulton Walker	26.4.2024		HCC amended P-16
EFM to Moulton Walker	3.5.2024		HK comparison of HCC pupil numbers with DfE Dashboard
EFM to HCC	8.5.2024		Pupil figures compare HCC with DfE
<b>HCC to EFM</b>	<b>22.5.2024</b>	<b>Appendix 1</b>	<b>HCC Position Report supplied</b>
EFM response to HCC	23.5.2024		Raises concerns about year group double counting
EFM to HCC	24.5.2024		Confirm cost per pupil place acceptable
EFM to Moulton Walker / Vistry	3.6.2024		Recalculation removing double counting
EFM to HCC	3.6.2024		Recalculation and costs to HCC
HCC to EFM	3.6.2024		HCC not accept level of cost calculated
HCC to EFM	4.6.2024		Re double counting, HCC keeping to its methodology.

Table 5: Summary of main communications between Appellant and HCC

8.3 On 25 April 2024 HCC provided a full set of spreadsheets listed in the email below:

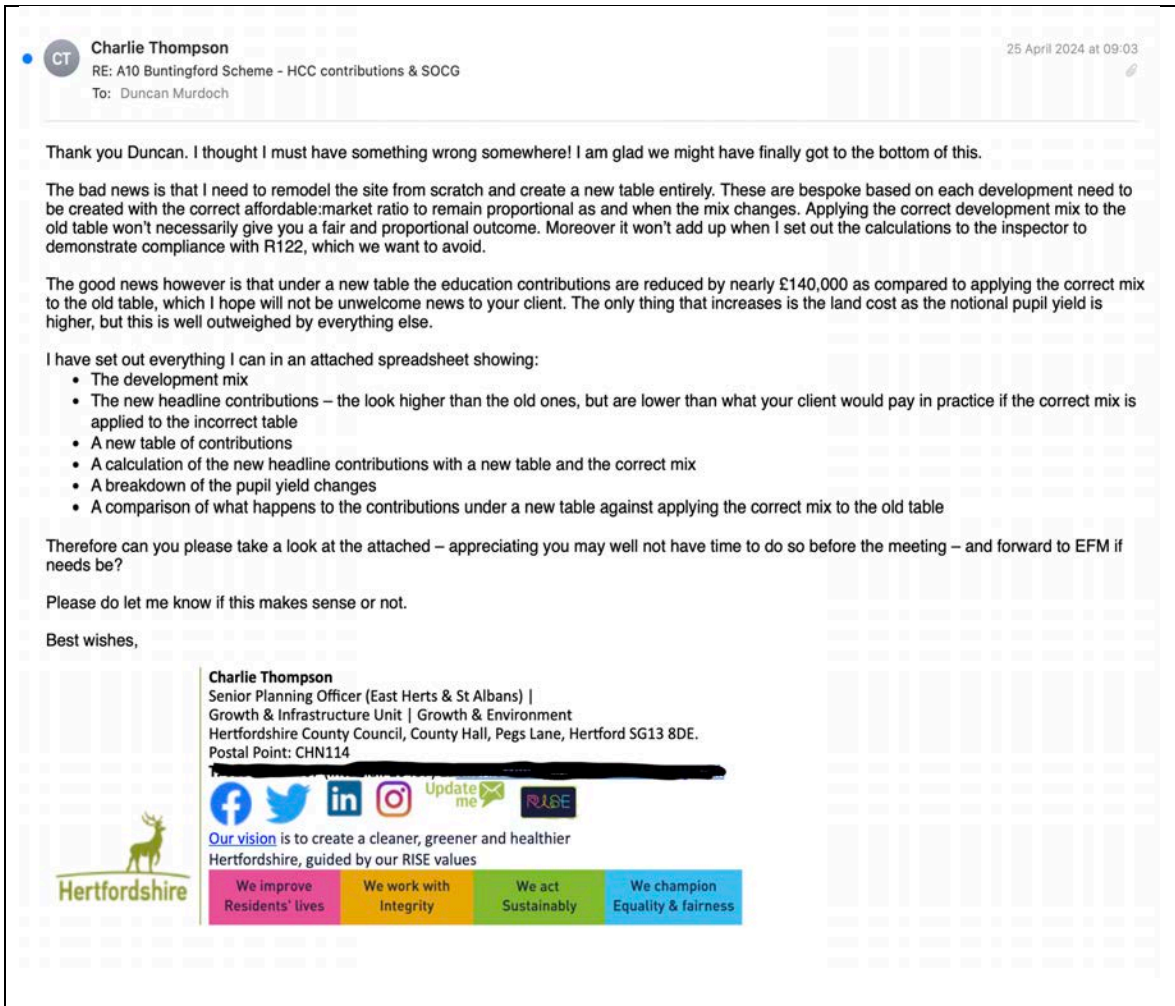


Figure 1: Email from HCC 25 April 2024

8.4 The “new contributions” spreadsheet provided details of the number of pupils now calculated for each school phase (using the HDM (CD5.12)), together with the demonstrative cost per pupil as follows (Table 6). This is the calculation which represents the contribution being sought, as at April 2024.

Primary / First	Number of Places	Charge Rate	Contributions Sought
Permanent	114.02	£ 23,714.90	£2,703,937.94
Temporary	13.09	£9,429.20	£123,415.32
<b>Total</b>	<b>127.11</b>		<b>£2,827,353.27</b>
Nursery	Number of Places	Charge Rate	Contributions Sought
Permanent	20.89	£ 23,714.90	£ 495,319.10
Temporary	2.40	£9,429.20	£22,607.76
<b>Total</b>	<b>23.28</b>		<b>£517,926.86</b>
Middle	Number of Places	Charge Rate	Contributions Sought
Permanent	90.19785713	£ 23,655.50	£ 2,133,675.4094
Temporary	6.763069054	£9,921.45	£ 67,099.4515
<b>Total</b>	<b>96.96092619</b>		<b>£ 2,200,774.8608</b>
Secondary / Upper	Number of Places	Charge Rate	Contributions Sought
Permanent	70.12	£ 27,503.30	£ 1,928,512.10
Temporary	2.83	£10,413.70	£ 29,504.46
<b>Total</b>	<b>72.95</b>		<b>£ 1,958,016.56</b>
Post-16	Number of Places	Charge Rate	Contributions Sought
Permanent	0.78	£ 27,503.30	£ 21,427.91
Temporary	0.03	£10,413.70	£ 327.83
<b>Total</b>	<b>0.81</b>		<b>£ 21,755.74</b>
Dwelling Type	No. Dwellings	Primary (CPD)	Contributions Sought
Houses	293	£ 654	£ 191,550
Flats	57	£ 194	£ 11,044
<b>Total</b>			<b>£ 202,594</b>
Dwelling Type	No. Dwellings	Secondary (CPD)	Contributions Sought
Houses	293	£ 752	£ 220,343
Flats	57	£ 66	£ 3,788
<b>Total</b>			<b>£ 224,131</b>
SEND	Contributions Sought		
SEND Primary	£ 202,594		
SEND Secondary	£ 224,131		<b>Total SEND Contributions</b>
<b>Total</b>	<b>£ 426,725</b>		

Table 6: HCC (HDM) calculation of pupil numbers and cost per place (25 April 2024)

8.5 Some of the figures vary from the formal HCC response of 5 February 2024 (CD9.30) but, for simplicity, will be used as the basis of the following comments. In summary this calculation is based on the most up to date dwelling mix and yields the following number of pupils in each school phase (from column two of the above table):

- 23.28 Nursery children
- 127.11 - Primary/First pupils
- 96.96 - Middle school pupils
- 72.95 - Secondary/Upper pupils
- 0.81 - Post-16 students

- SEND pupils - not specified

8.6 The Post-16 figure was subsequently amended to 28.82 by email of 26 April 2024 at a total cost of £773,521. This is not disputed.

8.7 From the information contained within the spreadsheet the costs per pupil place are identified. It is confirmed that these also are not an area of dispute at this time.

8.8 It is notable, however, that the headings for two categories are ambiguous, indicating Primary / First and Secondary / Upper. This does not make it clear whether the calculations represent a primary school (with seven year-groups) or a first school (with five year-groups). Similarly, the difference between secondary schools (five year-groups) and upper schools (three year-groups) is not made clear.

8.9 Following receipt of this information, EFM carried out a comparison of the HCC calculation of pupil yield against that provided by the DfE in its Pupil Yield Dashboard, and this showed that the HCC pupil figures were considerably higher in total than would be anticipated from the DfE calculation. This difference is the one area that HCC and the Appellant have not yet been able to resolve and is explored in detail in Section 9 below.

## **9. Difference in Position Between the Parties.**

9.1 In August 2023 the DfE published non-statutory guidance entitled "Estimating Pupil Yield from Housing Development". This was aimed at local authorities with a responsibility for providing sufficient school places and it set out the department's "recommended approach to calculating pupil yield from housing development for the **purposes of securing developer contributions towards education.**" [DfE emphasis]. In addition, the department published data to provide baseline pupil yield factors, for local authorities to use (if they chose to) and to supplement and amend over time - or produce alternative local pupil yield evidence. The data is provided at a number of levels including school cohort, dwelling size, type and tenure. The DfE research covers the period from 2008 to 2022.

9.2 The DfE accepts that its data, covering 13 years of post-completion data may not fully capture the peak secondary and post-16 yields, nor does it account for the local movement of pupils. The data are described as a starting point, and this is understood.

9.3 HCC does not use the DfE pupil yield data, having already carried out its own research (PYS - CD5.9) and produced a calculation model (the HDM - CD5.12) as previously noted.

9.4 Following receipt of the HCC calculation of pupil numbers, EFM carried out a comparison between the HDM calculation and a calculation using the DfE Pupil Yield Dashboard and the same dwelling mix. The results were as follows (Table 7):

School Phase	Two-tier Year Groups	DfE Dashboard - Pupil Yield	Three-tier Year Groups	HDM - Pupil Yield
Primary	7	123		
Secondary	5	65		
Post-16	2	26		
First			5	127
Middle			4	97
Upper			3	73
Post-16			2	29
<b>Totals</b>	<b>14</b>	<b>214</b>	<b>14</b>	<b>326</b>

Table 7: DfE & HDM Pupil yield comparison

9.5 Comparing the total number of pupils calculated for the 14 year-groups between the two calculation methodologies, the HDM calculation is 112 (52%) pupils above the level calculated through the use of the DfE Dashboard. It must be noted here that the DfE calculation for the primary pupils sits close to the HDM calculation for first school pupils at 123 and 127 pupils respectively. Similarly, the DfE calculation for the secondary age pupils is close to the upper school pupils calculated by HCC (65 and 73 respectively). The visible difference is the number of years groups covered, as HCC has included middle schools, potentially in addition to the existing school phases.

9.6 Following a request from EFM for clarity on this, on 22 May 2024 HCC provided a comprehensive re-justification as to their calculation methods entitled "Hertfordshire County Council: 3231447OUT, Land East of the A10 - Position Report" (the Position Report) (Appendix 1). This report also included a comparison by HCC of the two different approaches in question, the HCC Calculation (based on the Hertfordshire Demographic Model - HDM) and the DfE Dashboard yields. HCC's Table 4 is reproduced below as Table 8:

**Table 4:** Estimated DfE PPR Yield and Projected HDM Yield for mainstream education at 3231447OUT, Land East of the A10, rounded to the nearest whole number.

Phase	Estimated DfE Pupil Yield	Projected HDM Pupil Yield
First (Primary)	129	127
Nursery	30	23
Middle	97	97
Upper (Secondary)	65	73
Post-16	20	29
<b>Total</b>	<b>342</b>	<b>349</b>

Table 8: HCC comparative calculations

9.7 From this it is clear that HCC has not reduced the DfE Pupil Yield to take account of the reduction in year groups for the three-tier system, it has simply produced the DfE figures for primary and secondary, and then added in an assessment for middle schools on top. This makes it abundantly clear that the HCC assessment was based on not 14 year groups (Yr R to Yr 13) but 18 year groups (Yr R to Yr 13 plus four additional years covering the middle school provision).

9.8 Paragraph 5.7 of the Position Report concurs with this by saying *“It is recognised that estimated DfE yields shown in Table 4 double count the final two years of Primary and first two years of Secondary yield which forms the Middle phase. Nevertheless, it should be recognised that the calibration of the HDM using PYS data has produced results which are not significantly different for multiple phases...”*[my emphasis] Unfortunately, HCC has failed to recalibrate its calculations to take account of this double counting when it comes to seeking financial contribution towards new school places and by its own admission is seeking a contribution on the basis of double counted figures. The double counting has been left in and the overall difference amounts to 97 middle school places at the least.



9.9 By leaving the first and upper school pupil yields unadjusted and adding in four middle school year-groups, the cost to the Applicant has been artificially increased by approximately **£2.2m** (based on 97 middle school pupils, as per Tables 6 and 8 above).

9.10 A request to HCC by EFM dated 23 May 2024 for this approach to be re-examined and addressed and for the HDM figures to be produced on the basis of primary and secondary school phases to provide a proper comparison was rebutted on 4 June 2024. A further request (4 June 2024) for this detail, following an on-line meeting, has not yet received a response.

9.11 Separately, HCC has expressed concern that the DfE Dashboard data does not provide for the increase in pupil numbers over time and that the product for a two-tier system cannot be simply apportioned to a three-tier system, as the HDM applies slightly different figures to each year group as they mature. However, these would be minimal and while some differences may be expected between approaches, it is clear that a significant overcalculation is being made due to the apparent inability of the HDM to be adjusted to account correctly for a three-tier schooling system.

## 10. Conclusions

10.1 In conclusion, the Appellant agrees that there are likely to be insufficient spaces at the local first, middle and upper schools and that, in principle, contributions towards these together with early years and childcare and Post-16 education are justified.

10.2 The demonstrative costs per pupil place are not in dispute at this time.

10.3 It is clear, however, that the pupil numbers calculated by HCC and listed in Table 6 (25 April 2024) and discussed by HCC in its Position Report of 22 May 2024 are significantly higher than would be calculated through the use of the DfE Pupil Yield Dashboard. While some variations are to be expected, it is considered that a yield which is more than 50% above the DfE Yield is excessive.

10.4 The HCC Position Report (Appendix 1) makes it absolutely clear that the figures provided to EFM on 25 April 2024 (Tables 6 and 8 above) have been double counted and have not been adjusted appropriately for the local three-tier system. This had led to a request for funding approximately £2.2m higher than might otherwise have been the case. On this basis the request for primary/first, middle and secondary/upper contributions cannot be considered to be CIL compliant in terms of being "fairly and reasonably related in scale and kind to the development" (CIL Regulation 122 - 2(c)).

10.5 The Applicant therefore seeks to reach an agreement whereby either:

- the costs relating to the middle school pupils are removed from the assessment and a sum totalling approximately £6,503,543 agreed for the other elements (primary equivalent, secondary equivalent, post-16, nursery and SEND), or
- an approach removing 2/7<sup>ths</sup> of the primary request and 2/5<sup>th</sup> of the secondary request to produce a commensurate contribution for middle school places.

**Appendix 1:**

Copy of HCC's Position Report provided on 22 May 2024 - separate attachment.