

*V. Final – 12 September 2022.*

Town and Country Planning Act 1990 – Section 78

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

**Land east of Newgate Lane East, Fareham,  
Hampshire, PO14 1AZ**

**Miller Homes Ltd and Bargate Homes Ltd**

**EDUCATION MATTERS**

Proof of Evidence of

**Heather Katherine Knowler**

BA(Hons), MA, MCMi

Planning Inspectorate Ref: **APP/A1720/W/22/3299739**

Planning Application Ref: **P/22/0165/OA**

Inquiry Date: Commencing 11 October 2022

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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:

*"Reason for Refusal (n) – In the absence of a legal agreement to secure contributions to education, the needs of residents of the proposed development would not be met."*

2.2 The Application is for "Residential development of 375 dwellings, access from Newgate Lane East, landscaping and other associated infrastructure works" on land to the east of Newgate Lane East in Fareham. Arising from this, Hampshire County Council (HCC) made a request dated 8 March 2022 for a total of £4,148,923 *"In line with the Children's Services Developers' Contributions guidance then to provide an additional 113 primary places... and for secondary 79 secondary places..."*

2.3 This Proof of Evidence will set out a full review of the local education position, and will conclude that there are, and will continue to be, sufficient places existing within the locality to meet the needs arising from the proposed development. Consequently, this proof will argue that the contributions requested by Hampshire County Council on 8<sup>th</sup> March 2022 (CDB.15) are unnecessary and do not, therefore, meet the tests of CIL Regulation 122.

2.4 An s106 obligation is being made to provide the financial contribution requested by HCC – subject to the Inspector finding this appropriate and in accordance with Reg 122 of the CIL Regulations. I do not, however, think it is necessary, as discussed within this Proof. This matter is addressed within Mr Jeremy Gardiner's planning proof of evidence.

### **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 Fareham Borough Council (FBC) is the planning authority. It has a CIL charging scheme in place but following a review carried out between 2018 and 2020 it is not clear that this now includes education facilities.

4.2 Hampshire County Council (HCC) is the education authority. It has published guidance on "Development Contributions towards Children's Services Facilities" (the "Developers' Guide 2022") (CDE.14) which is updated periodically, the most recent iteration being March 2022. The new edition has updated costs per pupil and some amended wording, but the approach is essentially the same as the previous version, upon which HCC sought contributions originally and upon which responses were made.

4.3 The Developers' Guide 2022 states (at para 2.2) that *"To satisfy the requirements in the NPPF and CIL Regulation 122, the County Council will assess the capacity of schools in the appropriate area. This will indicate whether additional capacity will be required to cater for the demand arising from planned development."* In addition (para 2.3) *"Where additional demand is not anticipated to require a new school, it is expected that a new development will be served by the nearest schools, which may require expansion."* And finally (para 2.4), *"Even where there is apparently sufficient capacity to cater for all, or part, of the additional demand, there may still be a need for additional facilities at a school. Schools which may in theory have spare capacity will be using those spaces for legitimate educational uses such as small group work... such spaces would need to be re-reprovided before those classrooms can be brought back into use for general teaching purposes."* These issues, among others, will be examined in more detail within the body of this Proof of Evidence.

## **5. Primary School Position**

5.1 The HCC Developers' Guide 2022 gives a pupil product ratio of 0.3 pupils per dwelling for primary pupils, excluding any one-bedroom dwellings or accommodation intended specifically for the elderly. For this development, at 375 dwellings, a total of 113 primary-age pupils is, therefore, calculated. This figure is not disputed.

5.2 Statute<sup>1</sup> prescribes a two-mile walking distance, beyond which local authorities are required to fund transport where the nearest available school is further away. There are nine primary-age schools within a two-mile walking distance of the proposed development which are shown in Map 1, plus the four catchment schools and one further school (St Jude's Catholic PS). HCC has based its request for contributions on the four catchment schools, all of which are beyond the two-mile walking distance.

5.3 A catchment school is a school which, as part of its oversubscription criteria, has an element which prioritises pupils from a local, defined area, above those from outside the area. All schools have oversubscription criteria which are referred to when more pupils apply for a school than there are places for. Both Wallisdean and Crofton Anne Dale Infant Schools, for example, have the following adopted criteria (abbreviated):

1. Children looked after, or previously looked after, by the state.
2. Children with exception medical / social need.
3. Children of staff.
4. Children living within the catchment with a sibling at the school.
5. Children living within the catchment.
6. Children living outside of the catchment with a sibling at the school.
7. Other children.

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<sup>1</sup> Education Act 1996 [Section 444(5)] and Education & Inspection Act 2006 [Section 508B]

In this area Wallisdean Infant and Junior Schools have catchments which cover the northern part of the site, while Crofton Anne Dale Infant and Junior cover the southern part.



Map 1: Primary schools within two-mile walking distance, plus catchment schools

5.4 The capacity and numbers on roll of the 13 schools are shown in Table 1. The beige highlight indicates the four catchment schools (two infant and two junior).

School	Postcode	Distance	P Area	CAP	PAN Yr R	PAN Yr 3	NoR	Yr R	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6
Crofton Anne Dale Inf	PO14 3PH	2.3	8500017	270	90		96	270	90	90	90	0	0	0
Crofton Anne Dale Jnr	PO14 3PH	2.5	8500017	360		96		363	0	0	0	78	96	96
Wallisdean Infant	PO14 1HT	2.1	8500016	180	60			155	57	54	44	0	0	0
Wallisdean Junior	PO14 1HU	2.0	8500016	240		60		217	0	0	0	51	52	58
Holbrook PS	PO13 0JN	0.7	8500022	315	30	30		209	25	32	27	30	33	33
Bedenham PS	PO13 0XT	1.3	8500022	310	30	30		269	30	41	41	32	45	39
Woodcot PS	PO13 0SG	0.2	8500022	210	30	30		187	28	25	24	26	29	25
Peel Common Jnr School	PO13 0QD	0.6	8500023	220		60		190	0	0	0	42	47	58
Peel Common Inf School	PO13 0QD	0.6	8500023	180	60			113	35	38	40	0	0	0
Redlands PS	PO16 0UD	1.4	8500016	315	45	45		314	45	42	45	36	42	45
St Jude's Catholic PS	PO14 1ND	2.2	8500016	210	30	30		211	27	30	28	33	30	30
Rowner Jnr	PO13 1ND	1.9	8500023	256		60		207	0	0	0	48	56	44
Rowner Inf	PO13 0DH	1.7	8500023	180	60			151	54	49	48	0	0	0
			<b>Total</b>	<b>3246</b>	<b>435</b>	<b>441</b>		<b>2856</b>	<b>391</b>	<b>401</b>	<b>387</b>	<b>376</b>	<b>430</b>	<b>428</b>
			Surplus					390	44	34	48	65	11	13

Table 1: Primary Schools Number on Roll Spring 2022

NoR = Number of pupils on Roll, PAN = Published Admission Number, CAP = Capacity

5.5 The numbers on roll in January 2022 show that these schools had a surplus of 390 places (12%) across all year groups when compared with the total listed capacity. This level of spare capacity would be sufficient to meet the needs of a development three times the size of the proposed development.

5.6 On their own, the four catchment schools have capacity for 1,050 pupils and 1,005 on roll - a surplus of 45 places - which would not be sufficient to meet the needs of the development.

5.7 It is noted that the Published Admission Numbers (PANs) at two schools to the east – Holbrook PS and Bedenham PS - have recently been reduced. Both schools have moved from an intake of 45 per year to 30 per year, effectively removing 210 places from the area. This means that in future, the two schools will only admit 30 pupils per year rather than 45. This is an action that requires formal public consultation but means that in a time and place where pupil numbers are falling, the schools may control their admissions at a lower number to avoid small year groups.

5.8 The capacity data in Table 1 have not yet been adjusted for each school, but when they are a total of **180 spare places remain**. This remains sufficient to meet fully the needs of the proposed development.

5.9 The committee report of 22 February 2019 which reported on changes for a number of schools including Bedenham PS indicated generally that "Each school's governing body has made cogent educational and curricular arguments in favour of the reduction, and it is the LA's view that the proposed reductions do not compromise the Authority's duty to provide school places for local residents." While this may have been the case at the time, any request for funding from a development for additional school places in the area within three years of that decision suggests that the reductions were premature.

5.10 In addition, there is no evidence to show that either Holbrook PS or Bedenham PS could not revert to admitting 45 pupils. The planning history of both schools bears no mention of the addition of temporary accommodation to enable the PAN of 45 and it must be assumed, therefore, that the space remains available. Both schools had PANs of 45 back as far as 2009-10, indicating permanent accommodation being present.

5.11 While a school with a PAN of 45 (a 1.5 FE [Form of Entry] school) will need to teach in classes with mixed age groups, this is not uncommon and in Hampshire approximately 20% of all schools have a PAN which are not set at multiples of 30.

5.12 Finally, while it is understood that schools often prefer to operate in multiples of 1FE for ease of teaching the curriculum and avoiding mixed-age classes, in the round of changes that Bedenham PS reduced its PAN to 1FE, three others reduced their numbers from whole to part FE's (Grange Infant and Grange Junior reduced from 90 to 75 and South Wonston PS changed from 2FE to 1.5FE). The case for full FE schools is not, therefore, conclusive and while often preferred is by no means immutable.

5.13 The four catchment schools are grouped into two separate groups for planning and forecasting purposes with a total of 11 other schools. While the eastern schools are

contained within a further two groups, comprising a total of 14 schools. Between them, the four planning groups are forecast to have approximately 1,254 surplus places by 2025-26. A summary table (Table 2) is provided below:

<b>Groups</b>	<b>Fareham E/C</b>	<b>Crofton</b>	<b>Gosport North</b>	<b>Gosport Central</b>	<b>Total</b>
May 2021 Actual	2779	1067	695	2492	7033
2021-22 F/c	2767	1040	659	2470	6936
2022-23 F/c	2788	1017	629	2415	6849
2023-24 F/c	2782	1010	601	2322	6715
2024-25 F/c	2775	978	556	2244	6553
2025-26 F/c	2820	974	532	2186	6512
Listed Capacity	2993	1058	835	2880	7766
<b>Forecast Surplus</b>	<b>173</b>	<b>84</b>	<b>303</b>	<b>694</b>	<b>1254</b>

Table 2: Summary forecasts for four local planning areas

5.14 Finally, from heat maps supplied by Schoolguide.com (Appendix 1) it becomes clear that two of the catchment schools, Wallisdean Infant and Junior take few, if any, pupils from the area of the proposed development. Of the other two catchment schools, Crofton Anne Dale Infant and Junior, a small number attend from the area of the proposed development. The schools which have served the area are Holbrook PS and Woodcot PS. The maps are provided at Appendix 1.

5.15 In summary, there are sufficient places available within the local schools to accommodate the pupils arising from the proposed development, and more space is forecast to arise over the next four years. Beyond this, HCC's request for funding is explored in more detail in Section 7.

## 6. Secondary School Position

6.1 The HCC Developers' Guide 2022 gives a pupil product ratio of 0.21 pupils per dwelling for secondary pupils, excluding any one-bedroom dwellings or accommodation intended specifically for the elderly. For this development, at 375 dwellings, a total of 79 primary-age pupils is, therefore, calculated. This figure is not disputed.

6.2 The catchment secondary schools are Crofton School and Fareham Academy, both of which are within the three-mile statutory walking distance for children of eight and over. There are also three further schools which are also within that distance, including one which is much closer. The schools are shown in Map 2.



Map 2: Secondary Schools

6.3 The capacity and numbers on roll for the five schools are shown in Table 3.

School	Postcode	Distance	P Area	CAP	PAN Yr 7	NoR	Yr 7	Yr 8	Yr 9	Yr 10	Yr 11
Bridgemary	PO13 0JN	0.85	8500049	1200	240	777	170	157	182	145	123
Crofton	PO14 2AT	1.47	8500047	1083	216	1093	226	222	214	218	213
Fareham Acad	PO14 1JJ	1.89	8500047	900	180	854	177	180	179	150	168
Brune Park Community	PO12 3BU	2.74	8500049	1755	300	1329	278	253	295	251	252
Cams Hill School	PO16 8AH	2.67	8500047	1056	240	1214	245	256	260	234	219
				5994	1176	5267	1096	1068	1130	998	975
			Surplus			727	598	626	564	696	719
			Occupancy			87.9	64.7	63.0	66.7	58.9	57.6

Table 3: Secondary Schools Data Spring 2022

NoR = Number of pupils on Roll, PAN = Published Admission Number, Cap = Capacity

6.4 At Spring 2022 the schools had 727 fewer pupils on roll than their full listed capacity figure. This equates to a surplus of 4.85FE and is largely due to the low take up of places at Bridgemary School, which at less than a mile away is the closest school to the development, and Brune Park Community School. Between them, these two schools alone have 849 surplus places.

6.5 The five schools in Table 3 above are grouped into two separate groups for planning and forecasting purposes, comprising seven schools in total. The forecasts for the two areas are shown in Tables 4 and 5.

Fareham Cent/East - 8500047	Yr 7	Yr 8	Yr 9	Yr 10	Yr 11	Total
May 2021 Actual	808	804	756	722	717	3807
2021-22 F/c	797	801	795	737	708	3838
2022-23 F/c	826	793	797	780	730	3926
2023-24 F/c	828	820	787	779	770	3984
2024-25 F/c	794	822	814	768	768	3966
2025-26 F/c	761	786	815	794	757	3913
2026-27 F/c	787	753	780	795	783	3898
2027-28 F/c	808	779	746	761	785	3879
Group Listed Capacity	804					4020

Table 4: Fareham Central/East Secondary Forecasts (2021)

Gosport Sec - 8500049	Yr 7	Yr 8	Yr 9	Yr 10	Yr 11	Total	Post 16	Inc P-16
May 2021 Actual	751	821	742	714	699	3727	473	4200
2021-22 F/c	804	750	811	735	712	3812	447	4259
2022-23 F/c	808	797	738	798	726	3867	467	4334
2023-24 F/c	789	796	785	718	786	3874	461	4335
2024-25 F/c	759	777	784	766	707	3793	465	4258
2025-26 F/c	715	748	763	764	753	3743	465	4208
2026-27 F/c	732	702	734	744	751	3663	469	4132
2027-28 F/c	714	720	689	715	731	3569	467	4036
Group Listed Capacity	890					4450		5083

Table 5: Gosport Secondary Forecasts (2021)

6.6 The forecast for the Fareham Central/East Group (Table 5), which includes the catchment schools of Crofton School and Fareham Academy, indicates that the schools are expected to fill to close to capacity by 2023-24 and decline thereafter.

6.7 For the group located to the east of the development (Table 6), the picture is less tight. The group is forecast to reach a maximum total roll of 4,335 in 2023-24, but set against a total capacity of 5,083, there will be approximately 748 surplus places and this group will have ample capacity to meet the forecast need. This group includes the school which is closest to the proposed development, and which has the largest surplus, and there can, therefore, be no case for seeking contributions towards additional places.

## 7. HCC Request for Contributions – Early Years, Primary and Secondary

7.1 HCC issued a request for funding towards education provision on 8 March 2022 (CDB.15) which covered early years, primary and secondary provision.

7.2 For early years provision a contribution has been sought and has been agreed between the parties. It is not, therefore, discussed further within this Proof.

7.3 Within its request, the County Council sought a total of £2,161,125 for “...an additional 113 primary places...”. The Authority based its request on just the four catchment schools – Crofton Anne Dale Infant and Junior and Wallisdean Infant and Junior.

7.4 For secondary schools a request for 79 places at a total of £1,987,798 was made. The Authority based its request on the two catchment schools, Crofton School and Fareham Academy.

7.5 A total, therefore, of £4,148,923 was requested by HCC to meet the needs of 113 additional primary and 79 additional secondary school pupils. Subsequently, in response to correspondence dated 1 April 2022 from EFM (Appendix 3), HCC offered to reduce the total request to £2m (at Appendix 4). Notwithstanding this, the approach of assessing only the catchment schools was retained, with the use of contributions suggested only as “...relating to school infrastructure improvements...”

7.6 In my professional opinion the requests for both primary and secondary are unnecessary and do not meet the tests of CIL Regulation 122 for a number of reasons:

- Sufficient places exist within a two-mile walking distance (primary) and a three-mile walking distance (secondary)
- Forecast declines in pupil numbers (primary)

- Reliance on catchment schools only (primary and secondary)
- Use to which contribution funding is proposed (primary and secondary)

### Sufficiency of Local Places

7.7 Primary - There are currently 45 surplus places within the four catchment schools plus 345 surplus places available across the nine further schools that lie within or just beyond the two-mile walking distance. This produces a total of 390 surplus places when set against the declared capacity of the schools.

7.8 When theoretical capacity for 210 pupils is removed from that figure to account for the reduction in PAN at two schools, 180 places remain available to meet the needs of the proposed development. Even accounting for 30 pupils calculated to arise from the Bargate development (99 dwellings immediately to the south of the proposed development) approximately 150 places would remain available. This remains more than sufficient to meet the needs of the 113 pupils arising from the proposed development.

7.9 Nonetheless, as discussed above, there is no evidence suggesting that physical capacity is to be removed alongside the PAN reductions at Bedenham and Holbrook Primary Schools. There would remain, therefore, approximately 210 "hidden" surplus places within the schools. Were additional places required, the priority should be to bring that capacity back into use rather than to seek contributions for increasing space at a greater distance from the development.

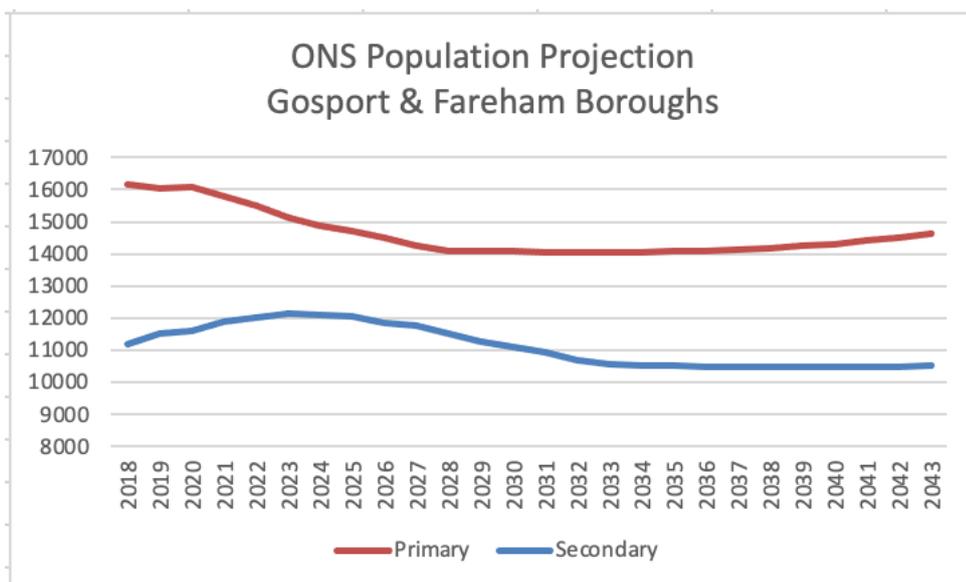
7.10 Further, following an appeal in 2019 (ref: APP/P4605/W/18/3192918) on the site of the former North Worcestershire Golf Club where secondary school places were at issue, the Secretary of State agreed with the Inspector's conclusion that (paragraph 12.14) "...the assessment of capacity in local secondary schools should be based on the physical capacity of the local schools rather than their PAN." [My emphasis] (CDJ.26)

7.11 Secondary - A similar argument is made for the secondary element in that, with 727 surplus places currently available within the five schools within a three-mile walking distance, there are sufficient places to meet the needs of the proposed development and of any underlying growth through to 2025-26.

Falling Rolls

7.12 The most recent school forecasts indicate that for the four primary school planning groups concerned, roll numbers are now set to fall into at least the medium term, increasing the number of surplus places becoming available. Secondary rolls are forecast to rise within the next two years but decline thereafter.

7.13 In the longer term and more broadly across the two boroughs, the ONS Long Term projections for the combined boroughs show the numbers of primary-aged children declining significantly in the medium term, with no view of an increase until the late 2030's (Graph 1). The secondary trend is similar but occurs approximately five years later and shows that by 2024 the peak has been passed and numbers will be in decline for the next decade, and static for the decade after that.



Graph 1: ONS Projections – Gosport and Fareham Boroughs

7.14 With projected numbers reducing, a trend endorsed by the HCC's own forecasts, the need for any additional places is not made out.

#### Reliance on Catchment Schools

7.15 HCC's Developers' Guide 2022 (CDE.14) states at paragraph 2.3 "*Where additional demand is not anticipated to require a new school, it is expected that a new development will be served by the nearest schools...*" (my emphasis). There is no indication within the Guide that the identification of a school as a catchment school will form part of HCC's assessment. On previous occasions within the immediate area, HCC has taken a broader perspective and considered a wider range of schools. This was evident, for instance, in the 2021 appeal on the Bargate land to the south (CDJ.1), for which the primary catchment schools were Crofton Anne Dale Infant and Junior Schools, but where a contribution for work at the closer schools at Peel Common was sought and agreed. There is, therefore, no logical reason why HCC could not take account of a wider range of schools in this case.

7.16 For this proposed development HCC, in its request for primary school places, has assessed only the four catchment schools (Crofton Anne Dale Infant and Junior Schools, and Wallisdean Infant and Junior Schools) without due acknowledgement that there are eight other schools which lie closer to the proposed development and another just beyond the two-mile distance.

7.17 The situation is repeated in HCC's approach to the secondary school situation, with only the two catchment schools considered and the remaining three schools available within the three-mile statutory walking distance being excluded, including one less than a mile away.

7.18 National Planning Policy Guidance<sup>2</sup> states “*Plan makers and decision makers should consider existing or planned/committed school capacity and whether it is sufficient to accommodate proposed development within the relevant school place planning areas*” [my emphasis] and “*Plan makers should also consider whether pupils from planned development are likely to attend schools outside of the plan area and whether developer contributions may be required to expand schools outside of the area.*” [my emphasis]. NPPG clearly expects a broader range of schools to be assessed than merely a catchment school, and particularly when a number of schools lie closer to the development, these must be considered “relevant”.

7.19 When the focus on catchment schools was queried, HCC responded (emails of 1 April and 20 April 2022 – Appendices 3 and 4) with a number of statements including “*You mention the places available at other local schools, but we would not consider it a sustainable option to consider utilising a number of schools to provide any additional places that may be needed.*” This is nonsensical, as the most ‘sustainable’ option is to acknowledge that schools on the doorstep may be chosen by parents, over the catchment schools which are beyond two miles away. In addition, there is nothing to say that all parents moving into a development would expect their children to attend the same school.

#### Use of Contributions

7.20 The HCC request indicates that the original request for more than £4m was based on the need for 113 primary and 79 secondary places, stating “*Even where there is apparently sufficient capacity to cater for all, or part, of the additional demand, there **may** still be a need for additional facilities at a school. The reason for this is that the*

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<sup>2</sup> NPPG Para: 008. Ref ID: 23b-008-20190315 (copy at Appendix 2)

*method of assessing capacity does not take full account of the need for schools to have dedicated space for specialist facilities, such as ICT.” [emphasis added]*

7.21 This was also covered by the Inspector for the appeal relating to the North Worcestershire Golf Club referred to above and agreed by the Secretary of State as follows (paragraph 12.14) *“It is also an important distinction given that planning obligations should not be requested or used other than for capital work to increase the physical capacity of a local school or schools to provide any additional places that area required.”* [My emphasis]

7.22 It is now clear that the intention of HCC’s request is to provide improvements to the catchment schools, but not necessarily to provide additional pupil places. This is referenced in HCC’s email of 20 April 2022 in which it was stated *“I do not agree that the developer should not be responsible for contributing to resolving educational need in the catchment schools as this development will result in any surplus places being taken up thus increasing the impact on the facilities with the school...”*

7.23 Finally, where any schools is identified as not having certain facilities or facilities being undersized then this is an existing shortfall affecting the school at its existing size and it cannot become the responsibility of the developer. The schools were constructed to meet their stated capacity - at which size they have been operating for many years.

7.24 HCC was requested to provide evidence as to the physical shortfalls experienced and some broad indicators were provided indicating undersized spaces and the absence of some specialist spaces. Following a further request, HCC made available the Net Capacity Assessments (NCAs) for each school. These are assessments which are undertaken by the Education Authority for submission to the DfE on a periodic basis, with every space within a school building listed and measured. These produce a calculation as to the number of children which the school can accommodate.

7.25 An analysis of the NCAs for the primary schools shows that there are some space shortfalls, but these do not affect the number of pupils the schools are assessed to accommodate. Consequently, were a contribution to be made towards these schools, no additional pupil places would be created, and the schools would continue to accommodate the same number of pupils as they have for the last 10 years and more.

7.25 The secondary schools show evidence of some undersized classrooms which affects the number of pupils able to be accommodated.

7.25 Nonetheless, with sufficient places available in both primary and secondary schools in the vicinity to meet the needs of the development, the request for contributions towards education provision cannot be considered CIL compliant. It remains, therefore, with the education authority to convince the Inspector in this case that the contribution requested complies with the CIL Regulations.

## **8. Travel to School – Highways Issues**

8.1 HCC's request of March 2022 includes a request for cycle and footpaths to be provided from the development to the catchment area schools. These are being reviewed along with routes to the schools to the east. Any work associated with identified needs will be carried out as part of the wider highways works required for the development.

## **9. Conclusions**

9.1 In conclusion, there are sufficient primary and secondary school places within the statutory walking distances of the proposed development to meet the needs calculated to arise. There can, therefore, be no case for the payment of contributions to create

further places, as the request does not meet CIL Regulation 122 (2) (2a) as they are not “necessary” to make the development acceptable in planning terms. The necessary places exist.

9.2 In seeking contributions based only on the catchment schools HCC has not adhered to its own stated methodology, and its approach appears arbitrary. Correspondence subsequent to the original request of March 2022, produced no detailed justification as to the needs of the catchment schools for such funding and simply states that the consideration of more local schools (with surplus places) would not be an “sustainable option”. Nothing could be more sustainable than to use existing surplus places at close proximity to the proposed site, and indeed this approach would ensure that local schools maintained their rolls at a healthy level in a period and locality with declining numbers.

9.3 While secondary school numbers are due to increase within the catchment schools for a short period, there will remain more than sufficient places to meet the needs of the development within accessible schools to the east.

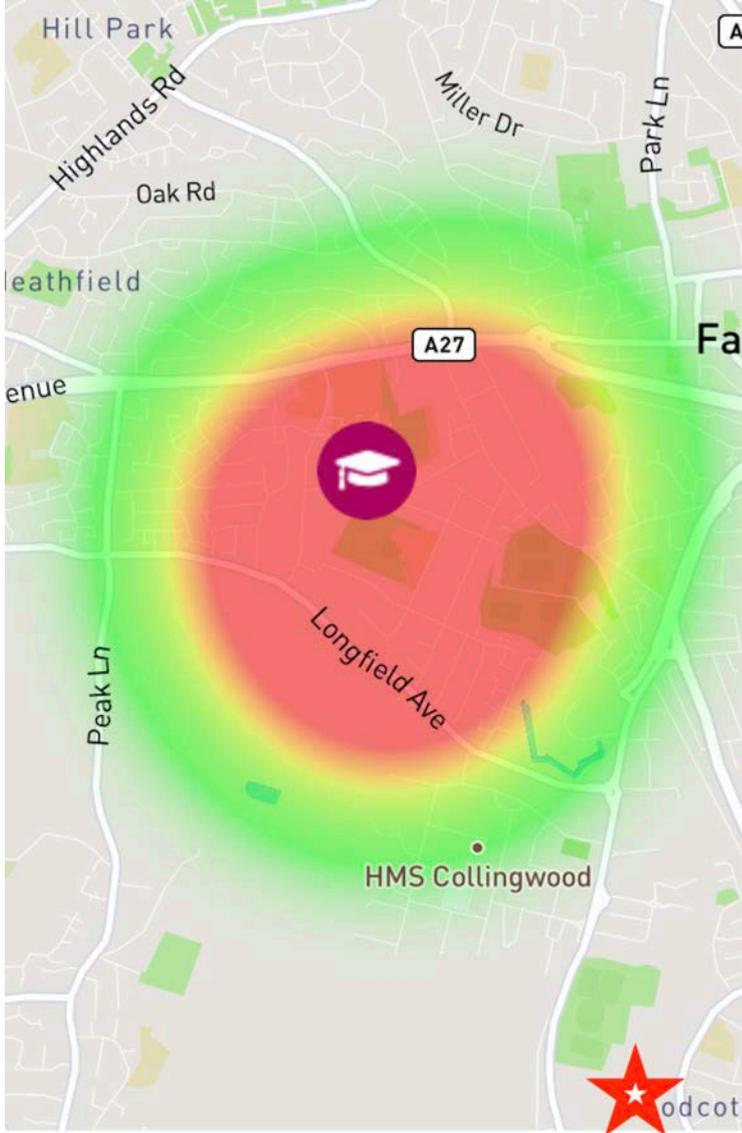
9.4 The need for any funding for primary and secondary school infrastructure is, therefore, refuted. The need to ensure suitable and safe travel routes to both catchment and non-catchment schools is accepted and will be dealt with through the Highways works for the whole development.

9.5 In conclusion, an s106 obligation is being made to provide the financial contribution requested by HCC – subject to the Inspector finding this appropriate and in accordance with Reg 122 of the CIL Regulations. I do not, however, think it is necessary, as discussed within this Proof and further in Mr Jeremy Gardiner’s planning Proof.

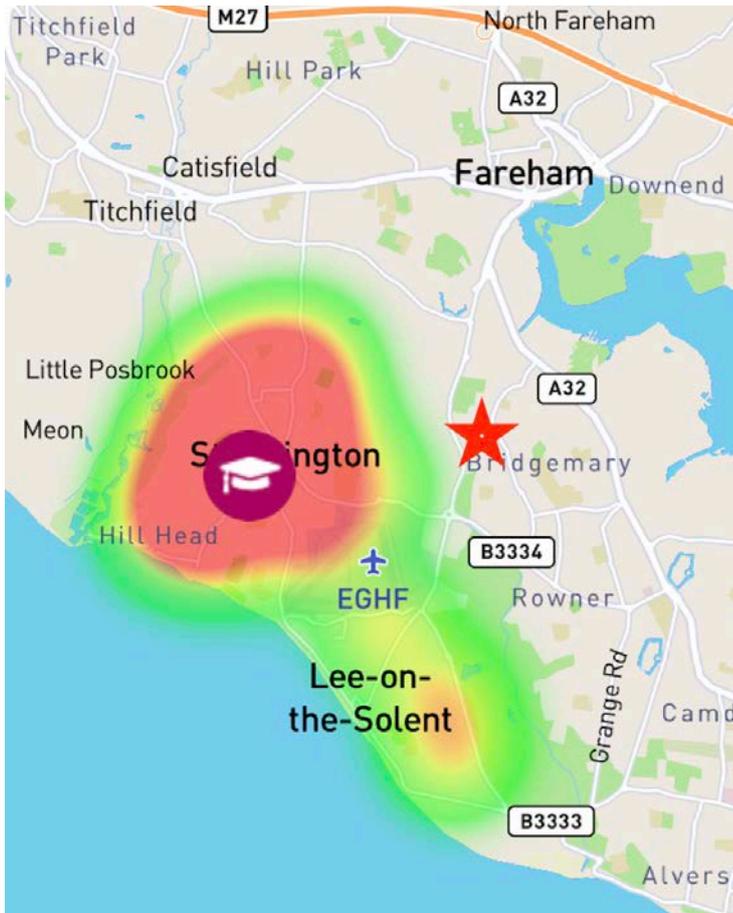
**Appendix 1 – Attendance Heat Maps for catchment primary schools**

**(Scholsguide.com)**

*Red star indicates approximate location of proposed development*



Wallisdean Inf & Jnr



*Crofton Anne Dale Junior (Infant has similar profile)*

## **Appendix 2: NPPG Para 008**

### **What contributions are required towards education?**

Plans should support the efficient and timely creation, expansion and alteration of high-quality schools. Plans should set out the contributions expected from development. This should include contributions needed for education, based on known pupil yields from all homes where children live, along with other types of infrastructure including affordable housing.

Plan makers and decision makers should consider existing or planned/committed school capacity and whether it is sufficient to accommodate proposed development within the relevant school place planning areas. Developer contributions towards additional capacity may be required and if so this requirement should be set out in the plan. Requirements should include all school phases age 0-19 years, special educational needs (which could involve greater travel distances), and both temporary and permanent needs where relevant (such as school transport costs and temporary school provision before a permanent new school opens).

Plan makers should also consider whether pupils from planned development are likely to attend schools outside of the plan area and whether developer contributions may be required to expand schools outside of the area.

When local authorities forward-fund school places in advance of developer contributions being received, those contributions remain necessary as mitigation for the development.

The Department for Education has published [guidance for local education authorities on developer contributions for education](#).

Paragraph: 008 Reference ID: 23b-008-20190315

Revision date: 15 03 2019

### **Appendix 3 – EFM letter to HCC (1 April 2022)**



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[Schoolplaceplan@efm-ltd.co.uk](mailto:Schoolplaceplan@efm-ltd.co.uk)

**FROM THE DESK OF HEATHER KNOWLER**

**Direct Line: 07860 919915 / 01622 743085**  
**heather@efm-ltd.co.uk**

FAO: Mr Glenn Parkinson  
Strategic Development Officer  
Children's Services Department  
Hampshire County Council  
Elizabeth II Court North  
WINCHESTER  
Hampshire, SO23 8UG

1 April 2022

CC: Mr P Kneen, Principal Planner, Fareham Borough Council

Dear Glenn

Land East of Newgate Lane East, Fareham – Reference: P/22/0165/OA  
Request for Contributions Towards Education Facilities

I refer to your letter to Mr Kneen of 8 March 2022 in relation to the above application, in which you outline Hampshire County Council's request for contributions towards education facilities arising from the proposed development.

The request seeks to secure a contribution of £2,161,125 to meet the cost of an additional 113 primary places and £1,987,798 for secondary places, together with £500,000 for early years. In addition, cycle and footpaths are requested from the development to the identified catchment schools to ensure safe travel to school.

At the request of the applicants, Miller Homes and Bargate Homes, I have reviewed the request in some detail and have a number of issues with the basis upon which the contribution has been sought. I have not reviewed the travel issues and these will be addressed separately by others as necessary.

The issues which arise are as follows:

- Reliance on catchment schools
- Places existing locally
- Falling rolls
- Distance to catchment schools
- Use of contribution funding



Reliance on Catchment Schools – HCC, in its request, has assessed only the four catchment schools (Crofton Anne Dale Infant and Junior Schools, and Wallisdean Infant and Junior Schools) without due acknowledgement that there are eight other schools which lie closer to the proposed development, some in Fareham and some in neighbouring Gosport. There is a further school which lies approximately 2.2 miles from the site – closer than several of the catchment schools.

With all four catchment schools further than two miles from the development site, were the children from the development to be accepted into those schools, HCC would be responsible for funding their transport to school. Two miles is the walking distance beyond which children below the age of eight years should have their transport funded to their nearest available school. Arguably, the fact that the Crofton Anne Dale and Wallisdean Schools are identified as the catchment schools makes them potentially more “available” than others more locally, as pupils from within the catchment have a higher priority for admission than those from outside the catchment. This situation, therefore, runs the risk that children from the development will gain admittance to their catchment school in preference to a closer school to which they could walk.

Furthermore, only the catchment schools have been reviewed and no others. This runs contrary to HCC’s own Guidance, National Planning Guidance and recent appeal decisions.

HCC’s own Guidance states at paragraph 2.2 *“Where the additional demand is not enough for a new school, in the interests of integrating new development into existing communities and to promote sustainability principles relating to travel to school, it is expected that a new development will be served by its nearest schools.”* [my emphasis]. In this instance, this is not the approach HCC has followed.

National Planning Policy Guidance states<sup>1</sup> *“Plan makers and decision makers should consider existing or planned/committed school capacity and whether it is sufficient to accommodate proposed development within the relevant school place planning areas”* and *“Plan makers should also consider whether pupils from planned development are likely to attend schools outside of the plan area and whether developer contributions may be required to expand school outside of the area.”* [my emphasis].

NPPG clearly expects a broader range of schools to be assessed than merely a catchment school, and when a number of schools lie closer to the development these must be considered “relevant”.

Places Existing Locally - There are currently 31 surplus places within the four catchment schools plus 302 surplus places available across the nine further schools that lie within or just over the two mile walking distance. This produces a total of 333 surplus places when set against the declared capacity of the schools.

It is understood that two schools (Holbrook PS and Bedenham PS) have both reduced their Published Admission Numbers (PANs) from admitting 45 pupils a year to 30. There is no indication that the physical capacity of the schools has been reduced nor that the accommodation was in any way temporary. The committee report from 22 February 2019 which reported on changes for a number of schools including Bedenham PS indicated generally that *“Each school’s governing body has made cogent educational and curricular arguments in favour of the reduction, and it is the LA’s view that the proposed reductions do not compromise the Authority’s duty to provide school places for local residents.”* While this may have been the case at the time, any request for funding from a development for schools in the area within three years’ of that decision suggests that the reductions were premature.

It is noted that approximately 20% of the Authority’s schools do not operate in PANs of multiples of 30. Finally, while it is understood that schools often prefer to operate in multiples of 1FE for ease of teaching the curriculum and avoiding mixed-age classes, in the round of changes that Bedenham PS reduced its PAN to 1FE, three others

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<sup>1</sup> NPPG Para: 008. Ref ID: 23b-008-20190315



(Grange Infant, Grange Junior reduced their numbers from 90 to 75 and South Wonston PS changed from 2FE to 1.5FE. The case for full FE schools is not, therefore, conclusive and while often preferred is by no means immutable.

Even so, when theoretical capacity for 210 pupils to account for the theoretical reduction, 123 places remain available to meet the needs of the proposed development. If the 30 pupils calculated to arise from the Bargate development (99 dwellings immediately to the south of the proposed development) approximately 93 places still remain available.

Nonetheless, as discussed above, there is no evidence suggesting that physical capacity is to be removed alongside the PAN reductions at Bedenham and Holbrook Primary Schools. With pressure mounting on places in the vicinity and physical capacity remaining “hidden” within the schools, the priority should be to bring that capacity back into use rather than to seek contributions for further space at a greater distance from the development.

Further, following an appeal in 2019 (ref: APP/P4605/W/18/3192918) on the site of the former North Worcestershire Golf Club, the Secretary of State agreed with the Inspector’s conclusion that “...the assessment of capacity in local... schools should be based on the physical capacity of the local schools rather than their PAN.” [My emphasis] HCC has not followed this approach.

**Falling Rolls** – The most recent school forecasts indicate that for the three planning areas concerned, roll numbers are now set to fall into the medium term, increasing the number of surplus places becoming available.

This is corroborated by the ONS Population Projections for both Fareham and Gosport in the medium term and longer term. Examination of the ONS Mid-Year estimates for the two local wards in Fareham and the three in Gosport (Tables 1 and 2) mirror this trend with reductions of 74 in Fareham and 54 in Gosport between 2022 and 2024:

Age	0	1	2	3	4	5	6	7	8	9	10
Children	108	139	133	158	131	156	175	168	153	180	175
2020								1,138			
2021						1,121					
2022					1,074						
2023				1,060							
2024			1,000								

Table 1: MYE for Stubbington and Fareham South Wards (2020)

Age	0	1	2	3	4	5	6	7	8	9	10
Children	117	138	135	131	149	147	161	158	151	188	154
2020								1,108			
2021						1,085					
2022					1,032						
2023				1,019							
2024			978								

Table 2: MYE for Bridgemary North and South and Peel Common Wards (2020)

With clear current and projected numbers reducing, a trend endorsed by the HCC’s own forecasts, the need for any additional places is to be seriously questioned.

**Distance to Catchment Schools** – HCC assessed only the four catchment schools, all of which lie beyond the statutory two-mile walking distance. There is, therefore, an apparent assumption that children from the proposed development will attend at one of those schools – necessitating transport to be paid for by the local authority. The



approach taken is clearly nonsensical as few education authorities would choose to pay for school travel if it were not necessary. If the assumption is otherwise, then a wider range of schools should have been assessed, and the spare capacity in those schools taken into account.

Use of Contributions – The HCC request indicates that *“Even where there is apparently sufficient capacity to cater for all, or part, of the additional demand, there may still be a need for additional facilities at a school. The reason for this is that the method of assessing capacity does not take full account of the need for schools to have dedicated space for specialist facilities, such as ICT...”* This was also covered by the Inspector for the appeal relating to the North Worcestershire Golf Club referred to above, and agreed by the Secretary of State as follows *“It is also an important distinction given that planning obligations should not be requested or used other than for capital work to increase the physical capacity of a local school or schools to provide any additional places that area required.”* [My emphasis]

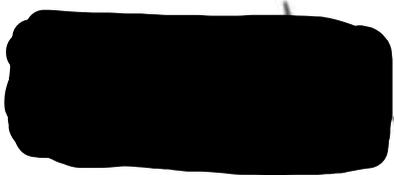
It is far from clear that the intention of HCC’s request is to provide additional places, but potentially to create additional or improved facilities. If no additional places are to be added, then the size of the school will remain the same and the school will be assessed as serving the pre-existing number of pupils.

If a school is identified as not having certain facilities (eg an ICT room) then this is an existing shortfall affecting the school at its existing size and cannot become the responsibility of the developer. Any contribution made in these circumstances must consequently be considered a “benefit” of the development rather than a necessity to make the development acceptable in planning terms – and should be dealt with outside of the S106 process.

There are, therefore, a number of clear grounds upon which the request for contributions fails the CIL Reg 122 test of being “necessary to make the development acceptable in planning terms” or “directly related to the development” and I would be grateful if HCC could review its position, taking my comments above into account.

I look forward to receiving your response in due course.

Kind regards



Heather Knowler  
Consultant – EFM

## **Appendix 4 – HCC response email (20 April 2022)**

**From:** Parkinson, Glenn <[glenn.parkinson@hants.gov.uk](mailto:glenn.parkinson@hants.gov.uk)>  
**Sent:** 20 April 2022 12:20  
**To:** Heather <[heather@efm-ltd.co.uk](mailto:heather@efm-ltd.co.uk)>  
**Cc:** [pkneen@fareham.gov.uk](mailto:pkneen@fareham.gov.uk); Trevor Moody <[trevor.moody@pegasusgroup.co.uk](mailto:trevor.moody@pegasusgroup.co.uk)>; Mark Jackson <[Mark.Jackson@miller.co.uk](mailto:Mark.Jackson@miller.co.uk)>; Daniel Sampson <[Daniel.Sampson@miller.co.uk](mailto:Daniel.Sampson@miller.co.uk)>; Jeremy Gardiner <[jeremy.gardiner@pegasusgroup.co.uk](mailto:jeremy.gardiner@pegasusgroup.co.uk)>; Nick Whittington <[Nick.Whittington@pegasusgroup.co.uk](mailto:Nick.Whittington@pegasusgroup.co.uk)>; Paul Thomas <[paul.thomas@bargatehomes.co.uk](mailto:paul.thomas@bargatehomes.co.uk)>  
**Subject:** RE: Land at Newgate Lane East, Fareham - P/22/0165/OA

Good morning,

Thank you for your response.

The key lesson here is that it would have been very helpful for the developers to engage with me before submitting an application. In the absence of any previous discussions or information on the proposed development, I have had to assess my response based on my initial assessment of the impact on school places locally and as such requested the full amount of contributions for providing additional places.

The location of the development within the school catchment areas identified is a fact. As such, these are the schools that pupils living in the new houses will be eligible to attend. As such, they will, if no suitable walking and cycling routes exist and relevant distances are relevant, be eligible for home to school transport. The developer should, therefore, mitigate this impact.

You do not mention in your letter that parents, when making preference for a school for their child, will take a number of factors into account, not always choosing a school that is closest. You quote HCC's Guidance where we state "it is expected that a new development will be served by it's nearest schools" It is not always the case that this will be possible or desirable, again, for a number of reasons. In this particular case the position is that we regard the current catchment schools as the right approach in this particular circumstance. You mention NPPG as well and I can confirm that the matters you highlight have been considered when reaching the decision that the existing catchment schools will remain those for this development.

You mention the places available at other local schools, but we would not consider it a sustainable option to consider utilising a number of schools to provide any additional places that may be needed. Having reviewed the latest pupil forecast data I can confirm that there will be no requirement for a contribution based on the provision of additional pupil places.

I do require a contribution relating to school infrastructure improvements as well as the requirement to address the need for sustainable and active travel routes to the catchment schools. I do not agree that the developer should not be responsible for contributing to resolving educational need in the catchment schools as this development will result in any surplus places being taken up thus increasing the impact on the facilities within the school. It is perfectly justified, therefore, to seek a contribution towards the improvement of such facilities.

I am, therefore, prepared to reduce the requirement for a contribution by 50% in relation to the primary and secondary contributions. The requirement for the early years payment should remain in full.

Regards,

Glenn  
**Glenn Parkinson**  
**Strategic Development Officer**  
**Children's Services Department**  
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[Chat to me on Teams](#)

