

Town and Country Planning Act 1990
(as amended)
S78 Appeals

Stevenage Borough Council - Statement of Case - Appendix 3

**Statement in support of planning obligations sought
towards Hertfordshire County Council (non-highways)
services**

Appeal by Hill Residential Ltd under S78 of the Town and Country Planning Act 1990 (as amended) against the decision of Stevenage Borough Council to refuse planning permission in respect of the Full application for the proposed demolition of existing office building (Use Class B1) and structures, and the construction of seven apartment buildings comprising 576 dwellings (Use Class C3) together with internal roads, parking, public open space, landscaping, drainage and associated infrastructure works.

Land West of Lytton Way, Stevenage, Hertfordshire, SG1 1AG

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On behalf of Hertfordshire County Council (non-highways) services

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1.0 Introduction

- 1.1 This statement has been produced by Hertfordshire County Council (HCC) in order to assist the Inspector in considering the acceptability of the (non-highways) Section 106 (S106) planning obligations sought by HCC in order to mitigate the impact of the development at Land West of Lytton Way, Stevenage.
- 1.2 It is widely recognised that some developments may impact on infrastructure and services and that planning obligations should be made to offset those impacts. Where applicable, Hertfordshire County Council seeks contributions on residential developments for education, youth, childcare, waste and library facilities. Provision of fire hydrants is also routinely sought. In the case of the proposal for 576 dwellings at Land West of Lytton Way, Stevenage, S106 obligations are sought towards primary education mitigation in addition to the provision of fire hydrants.
- 1.3 It is considered that the requirements of Hertfordshire County Council, as indicated previously in correspondence with Stevenage Borough Council and set out in this document below, do meet the tests of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended 2019) and are in accordance with Policy IT3 of the Stevenage Borough Council adopted Local Plan (adopted 22 May 2019).
- 1.4 HCC's Growth and infrastructure Unit acts on behalf of Education, Youth, Childhood Support, Library, Waste and Fire and Rescue Services. Highway matters are dealt with by Hertfordshire County Council Highways.

2.0 Planning Policy Context

- 2.1 The following policy is relevant:-

Central Government Advice

- 2.2 The Government published a revised National Planning Policy Framework (NPPF) in February 2019. This sets out the Government's planning policies for England and replaces previous versions of the NPPF.
- 2.3 The NPPF sets out a "*presumption in favour of sustainable development*" (paragraph 10 of the National Planning Policy Framework) which is seen as a thread running through both plan-making and decision-taking. The document states there are three overarching objectives to sustainable development; economic, social and environmental. The descriptions of the first two objectives emphasise the need for development to be supported by and have access to infrastructure and local services (paragraphs 8a and 8b, of the National Planning Policy Framework).
- 2.4 The importance of education infrastructure is set out within Section 8: 'Promoting Healthy and Safe Communities' of the NPPF, with paragraph 94 stating that:

'It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and*
- b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted."*

2.5 In Section 4: Decision-making, the NPPF also states "*Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition*" (paragraph 54). Conditions cannot be used in relation to the payment of financial contributions to mitigate the impact of a development (Circular 11/95: Use of conditions in planning permission, paragraph 83).

2.6 The Community Infrastructure Levy Regulations 2010 (CIL) came into force in April 2010 and were subsequently amended in September 2019. They set out restrictions regarding the use of planning obligations within Regulation 122 which states,

"A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:-

- Necessary to make the development acceptable in planning terms;*
- Directly related to the development; and*
- Fairly and reasonably related in scale and kind to the development.*

2.7 HCC therefore consider the provision of necessary infrastructure and community services, as sought for this development, to be an essential part of the Government's philosophy in relation to the creation of sustainable communities.

Development Plan Policy

2.8 The principle and policy for seeking S106 financial contributions towards education provision from this development is set out in Policy IT3: Infrastructure of the adopted Stevenage Borough Council Local Plan (adopted 22 May 2019). This policy states the following:

'Planning permission for sites of 200 dwellings or more, including smaller sites being brought forward in phases that will cumulatively exceed this threshold, will be granted where applicants satisfactorily demonstrate how infrastructure needs arising from their proposals will be met'.

2.9 In addition, Stevenage Borough Council is currently in the process of preparing S106 guidance in the form of a Developer Contributions Supplementary Planning Document (SPD). The SPD will set out situations in which S106 obligations will continue to be sought from new developments and will signpost to Hertfordshire County Council's position and policy in terms of seeking financial contributions. The SPD is currently being consulted upon.

Background to County Council policy

2.10 The County Council has for many years sought contributions from developments towards the provision of services across Hertfordshire. Until summer 2007, saved structure plan policy was used to justify seeking planning obligations, together with local plan and other planning policies where appropriate. Given the changes to the planning system at that time and in an effort to clarify and simplify the County Council's requirements, it produced guidance for developers and local planning authorities on the subject of planning obligations which could be used to support and inform existing local development plan policies and to assist in the provision of planning obligations related supplementary planning documents. The current guidance is the Planning Obligations Guidance – Toolkit for Hertfordshire, published in January 2008 ("The Toolkit") (Appendix A).

2.11 The production of the Toolkit reflected the advice which was provided at paragraphs B25-30 of Circular 5/05 "Planning Obligations", which among other things required all tiers of government with legitimate land-use planning interests to be involved at an appropriate level and in a focused way in providing an evidence base and setting planning obligation policies.

2.12 Whilst the Toolkit provides education costs, in the form of a planning obligations contributions table (Table 2, on page 18), it is important to note that these costs are only for school expansions and not for new school projects. This is set out in paragraphs 10.6 and 12.4 of the Toolkit:

'Contributions from developments of less than 300 dwellings can be calculated using the table calculators shown below. These tables illustrate the effect of threshold requirements for dwellings and the charges that could apply. Developments larger than 300 units will be considered individually and specific on-site or off-site provision may be sought for land or built facilities such as schools and other community facilities.' (paragraph 10.6)

'However, it should be noted that the indicative contributions table is not appropriate for larger developments, for instance, those giving rise to need for a new school.' (paragraph 12.4)

2.13 When considering the cost of new schools, and the level of contributions which should be sought, HCC applies the Department for Education (DfE) scorecard costs. The rationale for this is the DfE guidance (Securing developer contributions for education,

November 2019, Appendix B) which is clear that when calculating the cost of education provision the assumed cost of mainstream school places should be based on the national average costs published in the DfE school place scorecards (paragraph 15 of Securing developer contributions for education, November 2019):

'We advise that you base the assumed cost of mainstream school places on national average costs published in the DfE school place scorecards.'

- 2.14 The current DfE Scorecard costs, which form the basis of the level of contributions sought from this development, can be found in Appendix C.
- 2.15 HCC is currently consulting on updated guidance (known as the Guide to Developer Infrastructure Contributions), which applies the updated DfE Scorecard costs to the County Council requirements. However, as this document has yet to be adopted the Planning Obligations Toolkit remains the currently adopted document in terms of setting out the County Councils need and justification for seeking financial contributions, with the DfE Scorecard providing the relevant costs that should be applied.
- 2.16 HCC has a responsibility to ensure that appropriate mitigation measures are in place prior to the need generated by a development site. With consideration of lead-in times for project delivery, HCC's position is to seek payment of financial contributions at the earliest trigger and in advance of the need being generated. This also reduces risks of later trigger points.
- 2.17 HCC has not seen a draft Section 106 agreement for the above proposed development. The County Council does not encourage the submission of S106 unilateral undertakings which it has not had an opportunity to comment on as a result of the requirements of CIL Regulation 122.

3.0 Justification

- 3.1 As set out above, it is widely recognised at all levels of policy that some developments may impact on infrastructure and services provided by public bodies and that, where relevant, this impact should be addressed through financial mitigation to offset those impacts.
- 3.2 In terms of education contributions, the overriding principle which governs Hertfordshire County Council's approach is that development proposals which generate a net increase to the number of dwellings within any given area would in most cases result in an increase in children, and as such would necessitate the need for school places to be provided for the children requiring them.
- 3.3 In order to determine whether or not an education contribution is required, the County Council firstly calculates the number of pupils arising from the development and then compares this to the capacity of the pupil planning area (PPA) in which the development is located. This is a well-established process based on robust figures and information.

3.4 When calculating the number of pupils and considering the pressure on the schools within the pupil planning area the County Council considers the cumulative impact of any developments in the immediate area. In assessing the impact of the development at Land to the West of Lytton Way the County Council also had regard to other developments (e.g. allocated sites, planning applications and known windfall sites) in and around the Stevenage town centre area. The wider Stevenage town centre area is expected to generate significant volumes of new dwellings for which a new 2 Form of Entry (FE) school in the Stevenage town centre is required in order to mitigate this significant impact. The requirement for this school, and the need for it to serve the wider Stevenage town centre area is set out within Policy TC2: Southgate Park Major Opportunity Area (Stevenage Borough Council Local Plan):

‘Within the Southgate Park Major Opportunity Area, as defined on the Policies map, planning permission will be granted for:

e. A new primary school on the Eastgate car park’

3.5 Furthermore, paragraph 7.26 (of the Stevenage Borough Council Local Plan) notes that the purpose of this new primary school is to mitigate the additional growth within Stevenage town centre and the wider area:

‘A new primary school, in a suitable urban (as opposed to edge-of-town) form, will be located on the Borough Council’s current Southgate car park to serve the needs not only of the new Southgate Park residents but also of the larger new residential community proposed in and around Stevenage Central.’

3.6 In order to calculate the number of pupils arising from developments, the County Council has developed a census-based model (known as the Hertfordshire Demographic Model). The Model projects the average number of children likely to emerge from different types, sizes and tenures of dwellings over time. A guide to the Hertfordshire Demographic Model, which provides a more detailed explanation as to the inputs and outputs of the Model, is provided in Appendix D.

3.7 The modelled yields are calibrated against observed yields from recent new developments in Hertfordshire, which have been assessed as part of a recent, detailed, pupil yield survey (further information on the Hertfordshire County Council Pupil Yield Survey is included in Appendix E). This ensures that the Hertfordshire Demographic Model is based on the most up-to-date information and means that the Hertfordshire Demographic Model adheres to paragraph 8 of the DfE Guidance (Securing developer contributions for education, November 2019):

‘Pupil yield factors should be based on up-to-date evidence from recent local housing developments, so you can forecast the education needs for each phase and type of education provision arising from new development.’

- 3.8 Given that the Hertfordshire Demographic Model is based on the most up-to-date information related to development in Hertfordshire and provides the County Council with the necessary baseline evidence in order to support the requests for financial contributions, the County Council therefore considers that the Hertfordshire Demographic Model is a reasonable and robust approach to calculating pupil yield. Further justification and evidence on the use of the Hertfordshire Demographic Model is in section 1.1 of the Guide to the Hertfordshire Demographic Model (Appendix D).
- 3.9 Once the pupil yield has been calculated, current information on the school capacity is then used to determine if there is sufficient space to accommodate the children arising from the development.
- 3.10 For primary school provision consideration is given to the school capacity over the next four years, as birth information is not known further into the future. The school capacity is considered at the point that the development starts to yield children rather than any earlier date in time.
- 3.11 When considering whether or not there are surplus school places the County Council only considers the pupil planning area which the proposed development lies. The reason for this is that if journeys to school exceed the statutory walking distances, or do not have an available route, the County Council would be required to provide transport, with additional ongoing revenue costs and sustainability concerns. In addition, not planning on this basis could give rise to issues of accessibility, additional congestion from car trips and road safety (crossing roads and cycling etc).
- 3.12 If there is a lack of capacity at the schools within the pupil planning area to meet the needs arising from the development then the County Council will seek a financial contribution from the development in order to provide for the additional places.
- 3.13 The approach set out above clearly demonstrates that the principle and process of seeking education contributions applied by Hertfordshire County Council is both sound and reasonable.
- 3.14 Seeking education contributions as set out within this document also conforms to the three CIL tests (as set out within Regulation 122 of the CIL Regulations 2010 and paragraph 56 of the NPPF):
1. Through the process of analysing the capacity of the pupil planning area contributions are only sought where they are **necessary to make the development acceptable in planning terms** (e.g. where sufficient spare capacity does not exist to mitigate the level of children arising).
 2. Contributions are spent on the school(s) whose pupil planning area the development is in and are therefore **directly related to the development**.
 3. The level of contribution is proportional to the number of children arising from it and is therefore **fairly and reasonably related in scale and kind to the development**.

4.0 Primary Education Provision

Previous S106 Requirements

- 4.1 When the application for this development (19/00474/FPM) was presented to the Stevenage Borough Council Planning and Development Committee on 3 March 2020 it included the following County Council requirements, which had been provided by Hertfordshire County Council in October 2019 and December 2019 in response to the planning application consultation (see Appendix F and Appendix G):
- **Primary education provision** (towards the new primary school proposed in Stevenage Town Centre) – £3,333,870 (indexation to be applied)
 - **Secondary Education** – £3,019,212 (indexation to be applied)
 - **Childcare Services** – £21,515 (indexation to be applied)
 - **Library Service** – £59,730 (indexation to be applied)
 - **Youth Service** – £5,834 (indexation to be applied)
 - **Waste Service** – either £32,629 (enlargement of existing facility) or £57,811 (replacement of existing facility) (indexation to be applied)
- 4.2 It should be noted that since the SBC Planning Committee on 3 March 2020 there have been a number of material changes which have altered the County Councils approach and position. These have meant changes to the primary education, secondary education, childcare, library, youth and waste services contribution requests.
- 4.3 Firstly, since 1st April 2020, Stevenage Borough Council have implemented their Community Infrastructure Levy (CIL) charging schedule. This change has resulted in Hertfordshire County Council removing its request for financial contributions towards secondary education, childcare, library, youth and waste services due to these requirements now falling under the remit of the SBC CIL.
- 4.4 Whilst those requirements set out in paragraph 4.3 will no longer be sought through S106 obligations HCC considers that the primary education contributions should continue to be sought through S106 obligations rather than through CIL. Firstly, the Government is clear that S106 obligations can be sought if they meet the statutory tests (set out in paragraph 2.6 above). This is regardless of whether a CIL charging schedule has been adopted by a Local Planning Authority. This position is set out as follows (taken from the Ministry of Housing, Communities & Local Government website, providing guidance on the use of planning obligations and process for changing obligations, and specifically on paragraph 002, Reference ID: 23b-002-20190901 - *When can planning obligations be sought by the local planning authority?*):

‘Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:

- *necessary to make the development acceptable in planning terms;*
- *directly related to the development; and*
- *fairly and reasonably related in scale and kind to the development.*

These tests are set out as statutory tests in regulation 122 (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework. These tests apply whether or not there is a levy charging schedule for the area.'

4.5 As set out in paragraph 3.14 above and section 7 below, HCC considers that the primary education contributions being sought from this development (towards the new primary school in Stevenage town centre) robustly meets the three statutory CIL tests (as set out within Regulation 122 of the CIL Regulations 2010 and paragraph 56 of the NPPF) and therefore S106 obligations can be sought.

4.6 Further justification for seeking S106 obligations from this development towards primary education mitigation is set out in paragraphs 9.0.9 – 9.0.12 of the SBC draft Developer Contributions SPD (November 2020) (Appendix H). These state that:

'However, in instances where a development creates an impact that only has one potential mitigation, and that mitigation must be implemented to ensure the proposed scheme is acceptable in planning terms, HCC will request financial contributions to fund that scheme' (paragraph 9.0.9).

'This is most likely to occur for developments in and around the Town Centre where primary education capacity is low due to the historic low levels of residential development and the subsequent lack of need for primary schools there' (paragraph 9.0.10).

'With the Town Centre regeneration and many private schemes being proposed and brought forward in the area, a new demand for education is being created. Land for a 2-Form Entry primary school is being provided within the Town Centre and this facility will be used to meet the needs of the majority of new developments in the surrounding area, not just the Town Centre, as defined in the Local Plan, because of the lack of alternative schools nearby, the lack of future capacity within these schools and in the wider HCC school catchment area, and also the lack of ability for those schools to expand due to constraints on-site as identified by HCC' (paragraph 9.0.11).

'As such, it is likely that HCC will seek financial contributions towards build costs and purchasing land for the school from nearby developments where they can demonstrate that pupils arising from those developments will place demand on Town Centre education, predominantly at the new school' (paragraph 9.0.12).

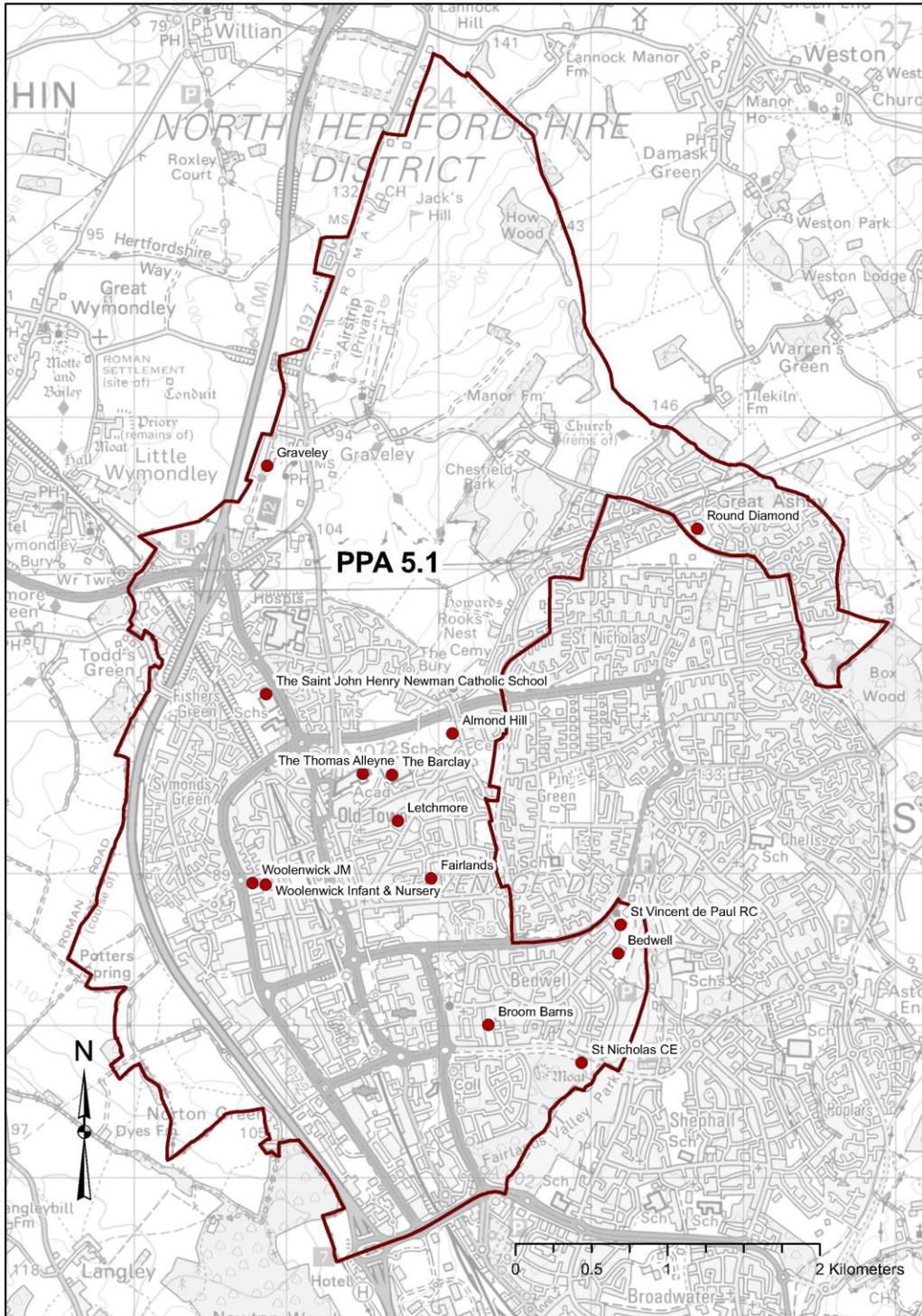
- 4.7 The position as set out in the Stevenage Borough Council draft Developer Contributions Supplementary Planning Document (November 2020) is applicable to the development at Land West of Lytton Way and therefore primary education contributions should continue to be sought through S106 obligations.
- 4.8 In addition, SBC has only recently adopted their CIL Charging Schedule and the detailed funding priorities for CIL receipts have not yet been agreed. As explained in the Council's Infrastructure Funding Statement (See appendix I), the Council is currently updating its Infrastructure Delivery Plan which will be used to guide the use of CIL receipts in the future. As things stand, no monies have been committed from the Council's CIL receipts to the fund the town centre primary school. The expectation is that the town centre primary school will be funded through S106 contributions from the developments in the area. Furthermore, any bids from the County Council to use some of the Borough Council's CIL receipts will be in direct competition with bids for other infrastructure within the borough, giving no certainty on what infrastructure CIL will fund.
- 4.9 Finally, as set out in section 1.4 of HCCs draft Guide to Developer Infrastructure Contributions document (see Appendix J), HCCs expectation is that, where a local planning authority has adopted a CIL charging schedule, financial contributions will still be sought through S106 obligations in instances where they are required to mitigate the specific and direct impacts of that development.
- 4.10 For the reasons set out above, the primary education contributions sought from this development should continue to be through S106 obligations rather than through CIL.
- 4.11 In addition to changes through SBC adopting a CIL charging schedule the level of primary education contribution being sought by the County Council has also been revised since the December 2019 response. The County Council calculates education contributions towards new school provision based on pupil yield arising from the Hertfordshire Demographic Model. It is a common position that, in order to reflect the latest available data, the pupil yield model is updated periodically in order that the most relevant and appropriate information is used. This planning application has overlapped two iterations of the pupil yield model. Since the SBC Planning and Development Committee in March 2020, the County Council has revised the Hertfordshire Demographic Model which has resulted in the level of financial contributions sought from this development towards primary education mitigation to be revised.
- 4.12 HCCs revised request for primary education contributions was made on 5th October 2020 (Appendix K). This uses the most up-to-date and current version of the Hertfordshire Demographic Model and resulted in a reduction in the primary education contributions to £1,670,732 (indexation to be applied). Further details on how the contribution of £1,670,732 has been calculated are set out below.

Current S106 Requirements

- 4.13 The development at Land West of Lytton Way falls within the pupil planning area (PPA) 5.1 Stevenage North West (see Map 1 of PPA 5.1 area below). The closest schools to

the development are Woolenwick Infant and Juniors School, Fairlands Primary School, Letchmore Road Infants School and Broom Barns Primary School.

Map 1: Pupil Planning Area 5.1 – Stevenage North West Map



4.14 The current forecast data for the capacity of the schools in PPA 5.1 is shown in Table 1 below:

Table 1: Pupil Planning Area 5.1 – Stevenage North West 2020/21 forecast data

5.1 Stevenage North West									
School Code	School Name	Places Available 2020-21	Actuals			Forecast			
			2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
2109	Letchmore Infants' and Nursery School	90	89	88	89				
2110	Fairlands Primary School	90	85	88	90				
2169	Broom Barns Community Primary School	30	30	29	30				
2188	Bedwell Primary School	45	33	25	29				
2406	Woolenwick Infant and Nursery School	60	60	60	59				
3018	Graveley Primary School	16	8	16	16				
3369	St Nicholas CofE (VA) Primary School and Nursery	30	27	30	30				
3977	Saint Vincent de Paul Catholic Primary School	60	58	55	59				
Total Year R Pupil Demand			390	391	402	388	388	390	377
Total Year R Places Available		421				421	421	421	421
Surplus or Shortage of Year R Places (No.)						33	33	31	44
Surplus or Shortage of Year R Places (%)						7.8%	7.8%	7.4%	10.5%
Surplus or Shortage of Year R Places (FE)						1.1	1.1	1.0	1.5

Source: EDGE analytics

4.15 The forecasts include an assumed pupil yield from proposed new housing growth, based only on sites with planning permissions, and updated annually as advised by the Local Planning Authority. As the forecasts are based on actual 0-4 year olds, the primary forecasts only project four years into the future. Therefore, the forecasts do not capture the significant scale of housing growth beyond this period or the anticipated demand from it. If the yield arising from other proposed developments, for which planning permission is still to be granted, was also to be included in Table 1 then it would result in there being no surplus capacity in these schools.

4.16 As can be seen from Table 1 and the supporting information there is no surplus capacity in the schools in this area. Therefore, further primary education infrastructure is required to mitigate this development.

4.17 There is insufficient expansion capacity within existing primary schools in close proximity to the town centre to meet the anticipated demand from the new housing arising within and around the edge of Stevenage town centre, which includes this development. Hertfordshire County Council's strategy is therefore to establish a new school provision within the town centre.

4.18 The requirement for a new primary school to serve the wider Stevenage town centre area is set out within Policy TC2: Southgate Park Major Opportunity Area (Stevenage Borough Council Local Plan):

‘Within the Southgate Park Major Opportunity Area, as defined on the Policies map, planning permission will be granted for:

e. A new primary school on the Eastgate car park’

4.19 Furthermore, paragraph 7.26 (of the Stevenage Borough Council Local Plan) notes that the purpose of this new primary school is to mitigate the additional growth within Stevenage town centre and the wider area:

‘A new primary school, in a suitable urban (as opposed to edge-of-town) form, will be located on the Borough Council’s current Southgate car park to serve the needs not only of the new Southgate Park residents but also of the larger new residential community proposed in and around Stevenage Central.’

4.20 The requirement for a new primary school in the Stevenage town centre to serve the wider area is also set out in paragraphs 9.0.9 – 9.0.12 of Stevenage Borough Councils draft Developer Contributions Supplementary Planning Document (November 2020) (the relevant paragraphs are already set out in this Statement, see paragraph 4.6 above). Given that the development at Land West of Lytton Way falls within this area the expectation is that the new town centre primary school will mitigate the impact arising from this development and therefore that S106 obligations are sought towards this project.

4.21 This new 2 Form of Entry primary school was part of the planning application 19/00743/FPM (for the site known as “SG1”), which has recently been granted planning permission subject to the signing of a S106 legal agreement, which is sufficiently progressed. With the granting of the planning permission for the SG1 development there is further certainty and therefore deliverability of the new town centre primary school.

4.22 As set out above, given that the mitigation project for this development is a new primary school, rather than an expansion of an existing primary school, there is justification for seeking a S106 financial contribution from this development towards that project.

4.23 Hertfordshire County Council utilises the Department for Education (DfE) scorecard when calculating financial contribution requests towards the provision of new schools. The DfE guidance (Securing developer contributions for education, Nov 2019) is clear that when calculating the cost of education provision the assumed cost of mainstream school places should be based on the national average costs published in the DfE school place scorecards (paragraph 15 of Securing developer contributions for education, Nov 2019):

‘We advise that you base the assumed cost of mainstream school places on national average costs published in the DfE school place scorecards.’

- 4.24 The DfE scorecard costs can be found in Appendix C. Based on the, current, 2019 DfE Scorecard the cost of a new 2FE primary school (including nursery provision) is £9,228,600. This cost is based on 450 places available at the new school multiplied by the £20,508 cost per place for a new build school (see Appendix C for scorecard per place cost for new primary schools).
- 4.25 The forms of entry of primary aged pupils (including nursery places) modelled to arise from the development is 0.36FE, calculated using the Hertfordshire Demographic Model. This is based on the development mix set out in Table 2 below. This mix has been provided by the applicant and has studio flats omitted due to producing a negligible pupil yield.

Table 2: Development mix for Land to the West of Lytton Way, Stevenage (without studio flats)

FLATS		
Number of bedrooms	A) Open Market & Shared Ownership	B) Affordable Rent
1	223	26
2	241	16
3	40	10
4+	0	0
Total	504	52

- 4.26 0.36FE is 18% of the capacity of a new 2FE primary school (0.36FE/2FE). Therefore, the primary education S106 contributions (which include the cost of nursery provision at the new primary school) which are sought from this development are **£1,661,148** (£9,228,600 x 18%). These are based on costs as of 1Q2020 (BCIS All in TPI) so indexation will need to be applied from this date.
- 4.27 It is recognised that although the land for the primary school is part of the SG1 development site, the need for the school also arises from other development sites in the area, which includes the development at land west of Lytton Way. The preferred approach is for the primary education contributions paid by the other sites in the area to be increased by the relative % of the primary school land costs. Therefore, it is reasonable that proportionate land costs are also applied to the primary education contribution arising from this development.
- 4.28 HCC is clear that, given the allocation for education use within the adopted local plan (Policy TC2: Southgate Park Major Opportunity Area, Stevenage Borough Council Local Plan), this land should be valued as education use rather than residential. This is consistent with the approach which has already been successfully adopted in other parts of the county.

- 4.29 As has already been established, this development is generating **0.36FE** of primary education yield. This is **18%** of the overall capacity of the new 2FE primary school (0.36FE / 2FE). The primary education contribution paid by the development at land west of Lytton Way therefore needs to be increased by 18% of the primary school land costs.
- 4.30 It should be noted that in a number of recent instances HCC have received land from developers, towards school provision, at nil value as without the facilities provided by the school expansion the development would not have been viable. The most recent example HCC have of valuing land for educational use valued the land at approximately £35,000 per acre (so approximately £86,450 per hectare, £35,000 x 2.47).
- 4.31 As set out in the SG1 planning application (19/00743/FPM), and therefore defined through the granting of planning permission, the school site in question is 0.6159 hectares. Therefore, the value of the land is £53,245 (£86,450 x 0.6159). 18% of the land costs (18% being the demand arising from the development) is **£9,584** (£53,245 x 18%).
- 4.32 Therefore the total financial contribution request for primary education mitigation sought from this development is **£1,670,732** (£1,661,148 + £9,584) (based on costs as of 1Q2020 – BCIS All in TPI, indexation to be applied).

Triggers

- 4.33 HCC has a responsibility to ensure that appropriate mitigation measures are in place prior to the need generated by a development site. With consideration of lead-in times for project delivery, HCC's position is to seek payment of financial contributions at the earliest trigger and in advance of the need being generated. This also reduces risks of later trigger points.
- 4.34 The new town centre primary school is required to be open for September 2024. To meet this date construction is required to begin by the start of 2023, with design and planning work required prior to this date. It is reasonable to seek contributions from developments to cover these advance stages of work and to cover the start of construction. Based on likely build rates in relation to the timescales for the new school coming forward, the County Council therefore considers that the following triggers for payment of the primary education contributions arising from this development are reasonable and justifiable:
- 50% of the primary education contribution prior to commencement of development;
 - 50% of the primary education contribution prior to occupation of 200 dwellings.

Indexation

- 4.35 The County Council will also require that indexation is applied to the primary education contributions. The DfE costs are based on costs as of 1Q2020 – BCIS All in TPI. Therefore increases in indexation needs to be applied from the finalised index figure published by the Royal Institution of Chartered Surveyors in its last quarterly publication

prior to that date, to the finalised Index figure published by the Royal Institution of Chartered Surveyors in its last quarterly publication published before the date of payment of the contributions.

5.0 Fire Hydrants

- 5.1 All dwellings must be adequately served by fire hydrants in the event of fire. The County Council as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. HCC therefore seek the provision of hydrants required to serve the proposed residential units by the developer through standard clauses set out in a legal agreement or unilateral undertaking. If the developer does not provide the hydrants required as a direct result of their development the responsibility and cost would fall upon the County Council.
- 5.2 In addition, buildings fitted with fire mains must have a suitable hydrant provided and sited within 18m of the hard-standing facility provided for the fire service pumping appliance.
- 5.3 Paragraph 6.1(c) of BS 5588-5 2004 states that every building needs to have a suitable hydrant:
 - Not more than 60m from an entry to any building on the site;
 - Not more than 120m apart;
 - Preferably immediately adjacent to roadways or hard-standing facilities provided for fire service appliances; and
 - Not less than 6m from the building or risk so that they remain usable during a fire (generally a water supply capable of providing a minimum of 1500 litres per minute at all times should be provided).
- 5.4 The requirements for fire hydrant provision are set out with the Toolkit at paragraph 12.33 and 12.34 (page 22). The provision of public fire hydrants is not covered by Building Regulations 2010 (Part B5 as supported by Secretary of State Guidance 'Approved Document B'), see Appendix L.
- 5.5 Regardless of the location of existing public hydrants, it is considered that the layout of the site (due to the overall size of the development site in question) will necessitate the need for new hydrants to ensure that homes are served within the minimum required distance. The Fire and Rescue Service have confirmed hydrants will be required from this proposal.
- 5.6 The provision of fire hydrants is sought from this development, sufficient to address the needs of the proposed development in the event of a fire, as opposed to a financial contribution. In practice, the location and number of hydrants is determined at the time the water services for the development are planned in detail and the layout of the development is known which is usually after planning permission is granted.

6.0 Audit Trails and Monitoring

- 6.1 Information regarding Section 106 deeds and the obligations relating to the County Council and its services are kept in both paper form and in electronic databases. These enable effective monitoring and reporting of Section 106 matters both internally to Members and service departments and externally to District/Borough Councils, developers and members of the public at least twice yearly. HCC related Section 106 matters are also subject to Internal Audit assessment.
- 6.2 When Section 106 funding is received, each contribution is allocated an individual account enabling each one to be individually managed, monitored and reported on.
- 6.3 Before Section 106 funding can be spent by a service provider a request needs to be submitted setting out amongst other details, the Section 106 funds being sought (including identifying the individual accounts) and the purposes/projects each will be used towards. This request is then assessed to ensure compliance with the terms of the Section 106 deed and the requirements of Section 106 contributions. The request must then be authorised by the Assistant Directors of HCC Property and Finance, the Assistant Chief Legal Officer and reported to the Executive Member for Resources. Members of the relevant electoral divisions are also informed.

7.0 Summary and Conclusions

- 7.1 HCC is seeking financial contributions towards primary education provision together with fire hydrant provision to mitigate the impact of this proposed development.
- 7.2 It is considered that these requirements meet the tests set out within Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended 2019). This is as follows:

- Necessary to make the development acceptable in planning terms:-

Recognition that contributions should be made to mitigate the impact of development are set out in planning related policy documents as outlined above (see Section 2). The provision of community facilities is a matter that is relevant to planning.

The development plan supports provision of planning contributions. Policy IT3 of the Stevenage Borough Council Local Plan (adopted 22 May 2019), the Stevenage Borough Council draft Developer Contributions SPD (November 2020) and the Hertfordshire County Council Toolkit covers the requirement for development to provide for its infrastructure consequences. The contributions sought will ensure that additional impacts brought on by the development are mitigated.

- Directly related to the development:–

The primary education project for which financial contributions are being sought is the new town centre primary school. This is in close proximity to the proposed development at Land West of Lytton Way and therefore directly related to mitigating the impact of the development.

Only those fire hydrants required to provide the necessary water supplies to the buildings comprising this proposal for fire fighting purposes are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.

- Fairly and reasonably related in scale and kind to the development:–

The financial contributions sought for primary education mitigation are based on the likely primary pupil yield arising from the development at Land West of Lytton Way. The pupil yield has been calculated using the Hertfordshire Demographic Model which allows the yield to be calculated based on the specific size, type and tenure of each individual dwelling or unit. Therefore, the level of contributions sought are fairly and reasonably related in scale and kind to the development.

Only those fire hydrants required to provide the necessary water supplies to the buildings comprising this proposal for fire fighting purposes are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.