

Town and Country Planning Act 1990 (as amended)

S78 Appeal

Rebuttal Proof of Evidence in relation to Secondary Education Planning Obligations

Land North of Little Green Lane, Croxley Green

Appeal by Richborough Estates Ltd (the appellant) under S78 of the Town and Country Planning Act 1990 (as amended) against the decision of Three Rivers District Council to refuse planning permission in respect of the outline planning application for Development of up to 600 residential dwellings (Use Class C3(a)), construction of a 5-bedroom property for childrens social care and supported living (Use Class C3(b)). Two vehicular access points from Little Green Lane and further pedestrian / cycleway accesses. A one form entry primary school (Use Class F1(a)) (plus expansion land for a two form entry primary school). A mixed use local centre including provision for NHS health and social care services (Use Class E(e)), community building (Use Class F2), retail and cafe provision (Use Class E(a-c)), car parking and associated infrastructure. A country park, areas for play and recreation, allotments, community orchard and landscaping with associated infrastructure including sustainable urban drainage systems. (Layout, scale, appearance and landscape as reserved matters).

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Hertfordshire County Council (HCC)

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Appeal reference: **6004972**

Application reference: **24/2073/OUT**

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QUALIFICATIONS AND EXPERIENCE

My name is Christopher Martin. I have an MSc Spatial Planning and BSc Geography (Hons). I have 11 years experience in the public sector between development management and school planning. My current role is School Planning Manager (West), Children's Services, Hertfordshire County Council. In this role I am primarily responsible for School Place Planning in the west of Hertfordshire.

1.0 INTRODUCTION

1.1 I have read the proof of evidence (PoE) of Matthew Kinghan submitted on behalf of the appellant and seeks to provide a factual response to statements which are incorrect, or misunderstood, and seeks to provide clarity on the Education Authority's perspective as to why its sought planning obligations are required and satisfy the relevant tests set out in national planning policy.

1.2 HCC's engagement with the appellant has been ongoing, however, there remain matters of disagreement listed below. It should be noted the issues set out below have been raised as part of the planning inquiry and substantive discussions on these points did not take place during the planning application's determination period:

- Secondary Education
 - The quantum of existing school place capacity that can be relied upon to accommodate pupils that are anticipated from this development scheme.
 - The relationship between Rickmansworth and Watford Secondary Planning Areas (SPAs) and the need for growth across both SPAs to be considered together based on ability to provide additional places in Watford SPA and established pupil movement patterns between SPA areas.
 - The need for additional post-16 places to be provided to mitigate the development scheme.

1.3 HCC's position on the CIL compliance of the following matters have been agreed with the appellant and the local planning authority.

- Primary Education
 - Funding to deliver a 1FE new school will be provided (£6,300,360 index-linked to BCIS Q1 2024):
 - A site will be transferred to HCC that will comply with its land specification and servicing requirements.
- Secondary Education
 - HCC's pupil yield methodology for calculating pupils that will arise from the development site is accepted.
- SEND Education
 - The pupil yield and contribution calculations are accepted in full.

2.0 BACKGROUND

2.1 There is insufficient secondary school capacity in Greater Watford (Watford & Rickmansworth SPA) to accommodate growth from the proposed development. The schools in the area have seen continued demand pressure for an extended period, with all schools being full at year of entry and additional temporary provision having been provided. Forecasts indicate continued pressure for the interim, before some potential reducing demand towards in the next decade.

2.2 HCC's primary pupil forecast is underpinned by GP registration and uses the actual number of children in each age group, including those classed as age 0, to project future demand. The forecast therefore takes account of any changes to the birth rate within the relevant area. The forecasts also take into account migration patterns between different planning areas. At the secondary phase, the forecast uses pupil census data to inform its projections. An allowance of surplus is made for year to year fluctuations and additional pupils arising in-year from new development, based on schemes with existing

permissions. Although it should be noted that this does not represent the full impact of those schemes, which would typically be expected to fall outside the forecast period.

- 2.3 Beyond the forecast period there is less certainty, as those children have not yet been born. The most recent, 2020 interim projections from the Office for National Statistics (ONS) project that Total Fertility Rates (overall birth rates) will rise from 2023 onwards, trending upwards across the proposed development period and beyond. It is also noted that the actual Total Fertility Rate (TFR) for 2021 was higher than projected. Similarly, as set out with in our dialogue with the appellant, there is a significant number of unbuilt permissions in the Greater Watford area at the point the last set of forecasts were produced, further growth from known new development beyond the forecast period could offset any fall in demand within existing residences. Additionally, there are a number of live planning applications and planning appeals being determined currently. Furthermore, the Regulation 19 Three Rivers Local Plan (publication anticipated by 31 July) set a context of increased certainty that more growth will be coming forward locally that HCC must be able to accommodate anticipated pupil yields from within its school estate.
- 2.4 In light of the existing and projected pressure on school places in the area, the scale of development at the appeal site and potential yields arising across a sustained period, HCC has engaged constructively with the Appellant to secure new primary provision and the ability to deliver additional secondary provision. The principle of new provision being required by the development is agreed, however the scale of required additional secondary school provision required remains in dispute the outstanding details of this are detailed below.

3.0 SECONDARY EDUCATION

The quantum of existing school place capacity that can be relied upon to accommodate pupils that are anticipated from this development scheme.

- 3.1 Both the Appellant and HCC agree that secondary education contributions will be included within the Section 106 agreement and appropriate triggers for the payment of the contributions will also be included. The amount of contribution that should be paid to mitigate the developments impact, and in turn the number of school places that need to be created are in dispute. HCC requires the development to provide funding for 120 secondary school places, equating to £3,628,920, and 25 post-16 places, equating to £756,025, giving a total contribution of £4,384,945 (index linked) while the developer considers £1.6 million to be a policy compliant ask of the development based on their understanding of capacity. HCC's methodology for calculating these contributions is set out in Appendix A.
- 3.2 HCC's position is that a full planning obligation, calculated in accordance with the Hertfordshire Demographic Model (HDM) is required on the basis that there is no local capacity that will be available to accommodate the children that will arise from this development scheme when those pupil yields are expected to arise. HCC's commentary on available capacity is presented in Appendix B that was issued in response to the education report included in Mr Kinghan's PoE. Our position sets out that the Rickmansworth SPA and Watford SPA show 118 surplus forecast places at the end of the forecast period. There are 2,262 total school places currently offered across the two SPA areas, meaning there will be a forecasted surplus of 5% without accounting for pupil yields that will arise from live commitments and recently consented schemes. It is really important to note that completed and committed housing are no longer fully taken account of when producing school forecasts. The forecasting methodology used by HCC only incorporates the expected arising pupil demand from housing each forecast year of those children who could be of the relevant entry age. Any other arising demand, of which is the majority, would arise beyond the forecast period. As such we must consider this yield as an addition to demand forecast.

- 3.3 HCC considers surplus of between 5% and 10% is generally accepted as necessary to maintain flexibility for forward planning purposes. HCC considers that this level of surplus assists in managing in-year demand from families moving into an area, any unexpected fluctuations of demand on a yearly basis, and helps ensure sufficient places remain available throughout the life of a cohort. This approach is consistent with Department for Education guidance referenced in the National Audit Office's report Capital Funding for New School Places (2013), which notes that it was reasonable for authorities to aim for between 5% and 10% surplus capacity and identifies 5% as the minimum level required to provide operational flexibility (paragraphs 1.16 and 1.17).
- 3.4 We offer two points of locally relevant commentary on this position. The secondary school forecasts that are relevant to the appeal scheme show a 5% operating surplus at the end of the forecast period. This forecasted surplus is not likely to manifest as the pupil yields from the completions and commitments below are not yet showing in the published forecasts but will appear iteratively as future forecasts are published annually. Moreover, even if that 5% figure was used across the Rickmansworth and Watford SPA areas, when taken together, the Department for Education ([Appendix C](#)) advise operating margin is there to provide the kind of operational flexibility described above, rather than meet the need for additional school places arising from proposed developments.' Therefore, it is not reasonable for the relevant level of surplus to be absorbing arising yield from new developments such as this one.
- 3.5 To further this point, we attach the Watford Borough Council Annual Monitoring 2024 – 25 (February 2026) report that presents figures of:
- 2,974 net residential completions between 2021/22 – 2024/25 and
 - 2,340 residential commitments that are anticipated to be delivered by 2029
- HCC expects to see pupil yields of between 4-10FE from those completions and commitments impacting the forecasts, based on applying its strategic planning ratios that have been developed for school place planning purposes. These figures are set out in

Appendix D. The majority of arising from these schemes have not yet been accounted for in the published school forecasts.

3.6 Within Three Rivers District, there are a number of live planning applications and planning appeals within the relevant school planning areas that will contribute to future housing delivery and associated pupil demand across the Watford and Rickmansworth SPAs. These in addition to this appeal site, these include:

- Land East of Green Street and North of Orchard Drive (24/0538/OUT);
- Catlips Farm (26/0194/OUT); and
- Land East of Oxhey Lane, Carpenders Park (25/1020/OUT)

If these schemes were to be consented there would be generate further demand for secondary provision within the area.

3.7 Three Rivers District Council recently published its Regulation 19 Local Plan for consultation on 31 July 2026. The local plan, in Policy SP1, makes provision for the delivery of at least 9,253 dwellings over the 16-year plan period 2026–2042. The land allocations comprise of the live planning applications referenced above, alongside other schemes that the Secretary of State has directed Three Rivers District Council to allocate in their Regulation 19 Local Plan which gives HCC a reasonable level of certainty that they would be considered acceptable in principle for development. There is a clear direction of travel from the government that housing delivery in Three Rivers is expected to increase significantly in the coming years. The district is covered entirely by the Watford and Rickmansworth SPAs meaning that capacity pressure on the secondary schools in the district is now only more certain to increase as the plan progresses. The emerging local plan (Policy SP3), and adopted local plan (Policy CP8), require infrastructure delivery to support the delivery of new growth to align with the Infrastructure Delivery Plan. The Infrastructure Delivery Plan (Appendix E) clearly documents the position of need for new secondary school places, and the requirement for all growth to contribute proportionately to funding those.

3.8 Table 3.1 of Mr Kinghan's PoE uses information that is misleading and not appropriate for the assessment that the PoE undertakes, however, some clarifications are offered on this dataset later in Mr Kinghan's PoE (paragraph 3.9 and table 3.2). The number of places indicated for each school is reliant on the 'Get Information about Schools' DfE dataset. However, the number of places is based upon 'The number of pupil places the establishment can accommodate' this in turn is produced formulaically by the total built area of a school and determines how many pupils could be accommodated. This does not realistically reflect the actual operating capacity of a school, which is determined by its Planned Admission Number. By utilising this figure, the applicant is over-inflating the capacity of these schools, which is typically associated with larger building sizes or significantly inflated sixth form capacity. The table below shows the actual capacity (Year 7 – 11) for each school. Table 1 below shows the actual capacity (year 7-11) for each school.

School	Places (Yr 7 – Yr 11)	Number on Roll	Surplus / Deficit	% Capacity
Croxley Danes School	900	895	5	0.56
Rickmansworth School	1260	1261	-1	0
Westfield Academy	1200	1173	27	2.25
St Clement Danes School	1200	1199	1	0.08
Total	4560	4528	32	0.7

Table 1 – Current on-roll / capacity numbers for schools referenced in the appellant's evidence

3.9 The table above demonstrates that there is, currently, only 32 surplus places in the local schools that are referenced in Mr Kinghan's PoE rather than the inflated figures set out in Table 4.1 of his report. Mr Kinghan's PoE then goes onto suggest that *a number of families may move into the Proposed Development from within the same school*

catchment areas and therefore the proposal would not generate additional pupils in these instances. This is an incorrect assumption. While families may move internally, any movement will vacate properties that can then be backfilled with pupils moving into the area to still cause an additional pressure on the local school system; albeit this will likely be a lower demand than from new housing.

3.10 HCC accepts that pupil yields will take a period of time to peak, and for full impact on school capacity to be realised, however, this impact will not be evenly spread across all year groups, it will see generally the largest figure entering year 7 and aging through. This is, fundamentally, why HCC references the importance of other sites that have recently been completed, are expected to be completed or are anticipated to be consented through the same time period. It is entirely relevant to monitor development proposals that are being delivered simultaneously as their will be a cumulative impact on local secondary schools being realised concurrently that means there will be inadequate places available without additional funding to deliver new provision.

3.11 Mr Kinghan's PoE goes onto make further unreasonable assumptions relating to school capacity. We consider that it is not reasonable to utilise Department for Education SCAP return figures as they include whole school capacity, including Sixth Form. The information included by the appellant in relation to Sixth Form capacity assumes each school is operating with a ~75% sixth form capacity compared to its PAN. This assumption is not correct, schools generally do not have a set capacity for sixth form and will determine the appropriate number yearly based on demand and wider capacity within the school. As such implying that two of the schools have significant surplus places is misleading.

3.12 Moreover, the methodology used by Mr Kinghan assumes the number of children entering the schools in Year 7 will remain the same throughout the course of their education to Year 11. This is an unreasonable assumption, there will inevitably be in-year movement of pupils, particularly from new development. This is one of the main reasons we hold a

level of surplus to accommodate children who move into the area and will require a school place in-year. In table 5.8 Mr Kinghan's PoE states that states that demand of 908 pupils has been used as the baseline position beyond the forecast period. It is not reasonable to make this assumption as the figures could change significantly to this time period, particularly due to the commentary in 3.5 & 3.6 of this rebuttal.

The relationship between Rickmansworth and Watford Secondary Planning Areas (SPAs) and the need for growth across both SPAs to be considered together based on ability to provide additional places in Watford SPA and established pupil movement patterns between SPA areas.

3.13 The appeal scheme is in Croxley Green and is shown in **Figure 1** of this report. Figure 1 shows the location of the site in relation to the two SPA areas that we reference in this report. There is a portion of the site that is within the Watford SPA boundary, and a significant portion of the site sits within the Rickmansworth SPA. This figure demonstrates the real-world relevance of having to consider both areas together when planning for secondary school places in the Greater Watford geography.

3.14 To demonstrate the connection between the two planning areas, the County Council has undertaken analysis to demonstrate where pupils living within the SPAs go to school and where pupils attending the schools in the SPAs live. For the schools in the Watford SPA, 73% live within Watford, whilst 2.7% live with Rickmansworth. However, for those children who live within Watford, only 54% attend a Watford school and 17% attend a Rickmansworth School. For the schools in the Rickmansworth SPA, 46% live within Rickmansworth, whilst 31% live within Watford. Whilst, for those children who living within Rickmansworth, 91% attend a Rickmansworth school and 7.2% attend a Watford school. This shows an intrinsic link between the two areas and predominately that to ensure capacity, significant numbers of children from Watford need to attend Rickmansworth schools.

3.15 Paragraph 3.3 of Mr Kinghan's PoE acknowledges that whilst 3 miles, as is the statutory walking distance for secondary age pupils, 'children may inevitably attend schools further away in the catchment and beyond. This is particularly key for this area in terms of education planning, as the adjoining Watford and Rickmansworth Secondary Planning Areas are generally considered together due to the significant cross over a pupils between these areas; this is particularly exacerbated due to the presence of selective criteria schools on religion and aptitude.

The need for additional post-16 places to be provided to mitigate the development scheme

3.16 HCC considers that a planning obligation is required to fund the delivery of additional post-16 places. This is on the basis that the development will generate 25 post-16 pupils which will equate to a financial contribution of £756,025 (index linked). The appellant takes the view that this contribution is not considered necessary to make the proposal acceptable in planning terms.

3.17 As set out above, Mr Kinghan's PoE makes assumptions around theoretical sixth form capacity that are not accurate. The appellant assumes that each school is operating with a ~75% sixth form capacity compared to its PAN. This assumption is not correct, schools generally do not have a set capacity for sixth form and will determine the appropriate number yearly based on demand and wider capacity within the school. Ultimately, each academy trust that operates the individual schools can dictate the appropriate size of sixth form on a yearly basis based on the school's operation preferences.

3.18 HCC is required to ensure an adequate supply of post-16 places, and uses its technical expertise to ensure provision is in place. It is not considered likely, for the secondary capacity issues and operating preferences set out above, and applying observed stay-on rates that there will be sufficient capacity for the children arising from this scheme to access a post-16 place without creating new places. Thus a planning obligation for this

is sought. The project identified (the expansion of Croxley Danes School and / or provision serving the development) as the mitigation for this scheme will be delivered in a manner that will provide both new 11-16 and post-16 places.

4.0 CONCLUSION

- 4.1 HCC's position in support of the planning obligations that remain in dispute is founded on a combination of robust evidence, methodologies that have been tested and scrutinised through other planning inquiries, and a detailed understanding of local pupil movements and demographic trends. While we acknowledge that the appellant takes a different view on certain matters, we respectfully request that, should planning permission be granted through the inquiry process, the planning obligations sought by HCC are secured as part of any permission issued.
- 4.2 In summary, the appellant has undertaken an incorrect appraisal of local secondary school capacity based on an incorrect use of datasets and incorrect assumptions on wider migrations trends, which significantly impact the demand situation. The appellant is overly reliant on assumptions around how yield will arise and trends into the future.
- 4.3 The justification for the requested planning obligations has been set out within this statement and in previous correspondence submitted to the inquiry. The obligations sought satisfy the relevant statutory and national policy tests and are necessary to ensure compliance with the requirements of the development plan, should the proposal be considered acceptable in all other respects and planning permission be granted.
- 4.4 We trust that this written submission, together with its supporting attachments, adequately represents HCC's position. However, should the Inspector require any further information or clarification, we would be pleased to provide additional assistance to support the inquiry process.

Figure 1 – A location plan of the site relative to Rickmansworth & Watford SPA

