

Statement of Common Ground EDUCATION

Land to the North of Possingham Farmhouse, Ashford Road,
Great Chart, Kent

Planning Application Reference:

22/00571

Planning Appeal Reference:

APP/E2205/W/3345454

Contents

1. INTRODUCTION	2
2. BACKGROUND	2
3. REASON FOR REFUSAL	3
4. PLANNING POLICY	3
5. RELEVANT GUIDANCE	4
6. MATTERS AGREED BETWEEN THE PARTIES.....	5
7. MATTERS NOT YET AGREED BETWEEN THE PARTIES:	7

THIS STATEMENT OF COMMON GROUND HAS BEEN AGREED BY:

KENT COUNTY COUNCIL

Signed



Name

David Adams

Assistant Director Education (South Kent)
Kent County Council

Dated

10th September 2024

HODSON DEVELOPMENTS LIMITED

Signed



Name

Ben Hunter

Associate Director – Education and Social Infrastructure
EFM Ltd
(on behalf of Hodson Developments Ltd)

Dated

10th September 2024

1. INTRODUCTION

- 1.1. This Statement of Common Ground (“**SoCG**”) has been prepared jointly by Kent County Council (“**KCC**”) and EFM on behalf of Hodson Developments Ltd (“**the Appellants**”). This statement concerns an appeal in relation to a site known as Land to the North of Possingham Farmhouse, Ashford Road, Great Chart, Kent (“**the Site**”).
- 1.2. This SoCG relates to the planning application (22/00571/AS) submitted by the Appellant in April 2022. This Appeal is due to outline planning permission being refused by Ashford Borough Council’s (“**ABC’s**”) Planning Committee on 13th December 2023. References to “the Parties” in this SoCG shall mean the Appellant and KCC as Education Authority.
- 1.3. “The Application” in this SoCG shall mean “Outline application made by Hodson Developments Ltd for 655 dwellings (including 30% affordable dwellings) to consider access only (excluding internal circulation routes) with all other matters reserved.”
- 1.4. This SoCG sets out a written statement of factual information about the Application, which is agreed between the Parties. The SoCG concludes with the areas that remain in dispute between the Parties.

2. BACKGROUND

- 2.1. The Application is on land to the North of Possingham Farmhouse, Ashford Road, Great Chart, Kent, and the outline application is for up to 655 dwellings in the administrative area of ABC, which is the Planning Authority. KCC is the Education and Children’s Services Authority.
- 2.2. For the purposes of school provision, the Application provides for up to an additional 655 dwellings.
- 2.3. KCC has requested planning obligations towards new Secondary School Infrastructure, and Special Education Needs and Disabilities Infrastructure.

3. REASON FOR REFUSAL

- 3.1. ABC detailed their Reasons for Refusal’s (“**RfR’s**”) following the Planning Committee. The first to eighth reasons are Planning issues unrelated to the delivery of Education provision. However, reason nine states:

In the absence of a legal agreement to secure planning obligations, including affordable housing provision, Building Regulations M4(2) and M4(3) compliant dwellings, custom and self-build housing, and financial contributions to mitigate the impact of the development on local services and infrastructure, together with the costs of monitoring and reporting, the application fails to secure the infrastructure and facilities required to meet the needs generated by the development.

3.2. The local infrastructure referred to in RfR nine would include Education infrastructure, for which KCC has requested Secondary and SEND contributions.

4. PLANNING POLICY

4.1. KCC has an adopted Planning Obligations Policy (dated 20th July 2023) that makes reference to contribution requests (section 3), Section 106 contributors (section 5), and to Education matters in Technical Appendices 3-11.

4.2. The Planning Obligations Policy does not hold statutory weight, but should be treated as a material planning consideration when determining applications or as part of any planning appeal.

4.3. The Policy makes reference to CIL Reg 122 in paragraph 1.4.1.2 in that a planning obligation must be:

- “a) necessary to make the development acceptable in planning terms
- b) directly related to the development, and
- c) fairly and reasonably related in scale and kind to the development.”

The National Planning Policy Framework (NPPF) (December 2023) makes reference to the CIL Regulation 122 (2) under paragraph 57.

4.4. Paragraph 55 of the NPPF (December 2023) sets out that:

“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.”

4.5. Paragraph 99 of the NPPF (December 2023) sets out 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 school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.”

5. RELEVANT GUIDANCE

5.1. The Department for Education (“**DfE**”) published guidance on “Securing Developer Contributions for Education” (August 2023) setting out under paragraph 7:

“It is important that the impacts of development are adequately mitigated, requiring an understanding of:

- The education needs arising from development, based on an up-to-date pupil yield factor;
- The capacity of existing schools that will serve development, taking account of pupil migration across planning areas and local authority boundaries;
- Available sources of funding to increase capacity where required; and
- The extent to which developer contributions are required and the degree of certainty that these will be secured at the appropriate time.”

5.2. Paragraph 66 states:

“If a new school opens in a single phase below its full capacity while it awaits pupils moving to the development, this does not represent an available surplus for other developments assessing their own impact and mitigation unless circumstances have changed for the original development, such as a redesign of later phases which will give rise to fewer pupils than previously planned. Complementary uses that share the school site can be considered for a temporary period while a new school fills. In practice, you may prefer to deliver the school in phases using modular construction methods, linking capacity more closely to emerging need, though the initial phase must still provide a viable sized school.”

5.3. This is not an exclusive recitation of relevant paragraphs of the DfE 2023 guide.

6. MATTERS AGREED BETWEEN THE PARTIES

- 6.1. The description of the Application in paragraph 1.3 of this SoCG is agreed between the parties.
- 6.2. The identification of relevant Planning Policy Guidance and that related to securing developer contributions in Section 4 and other relevant guidance in Section 5 of this SoCG is agreed between the parties.

Education

- 6.3. The Parties agree that KCC is the (Upper Tier) Local Authority (Education and Children’s Services Authority), and is the strategic planner for schools and school places with a statutory duty to secure sufficiency and diversity of provision for its area. The Local Authority as Strategic Commissioner of Education Provision has a key role in securing funding to provide sufficient education provision in the County, particularly in schools. The cost of providing additional school places is predominantly met from Government Basic Need Grant, monies secured via developer contributions and prudential borrowing. Public funding should not negate housing developers’ responsibility to mitigate the impact of their development in education and should not be seen as an alternative to meeting needs through a s106 agreement.
- 6.4. The Parties agree that KCC’s Development Pupil Yield, as outlined in Appendix 6 of KCC’s Developer Contributions Guide and set out below, has been applied to the updated education assessment for secondary education need, that these yields are appropriate and the development is expected to generate 86 pupils requiring secondary school places.

	Pupil Yield	Pupil Yield
	Primary (Mainstream)	Secondary (Mainstream – Years 7-11)
Per House	0.28	0.20
Per Flat	0.07	0.05

Table 1: KCC Adopted Pupil Yield Multipliers

- 6.5. The parties agree that KCC’s pupil forecasting methodology to produce SCAP submissions is appropriate and accurate.
- 6.6. The parties agree that there is no justification for Early Years or Primary School planning obligations.
- 6.7. The parties agree that the request for Special Education Needs and Disabilities infrastructure is justified.

6.8. It is agreed between the Parties that the current request for planning obligations in respect of Secondary School and Special Education Needs and Disabilities provision from KCC consists of the following:

Educational Sector	Request
Secondary School Infrastructure	£5,587.19 per applicable house and £1,396.80 per applicable flat towards Secondary Education places
SEND Infrastructure	£559.83 per applicable house and £139.96 per applicable flat towards the provision of additional SEND places and/or additional SEND facilities to serve the needs of the development within the District

Table 2: KCC Education Request (9th August 2024)

The assessed need for 86 secondary school spaces and 4.7 SEND specialist places, is based on the housing mix submitted as part of the application for planning consent. As this mix may change it is appropriate that any agreed obligations are expressed in this form. It is agreed these financial figures are subject to indexation, with an indexation base date of Q1 2022 (as per KCC’s Developer Contribution Guide para 3.8.3).

6.9. It is agreed between the Parties that the closest non-selective secondary school to the development will be Chilmington Green School when it moves on to its permanent site, and the nearest selective schools are Highworth (girls) and Norton Knatchbull (boys).

6.10. It is agreed between the Parties, to the best of their current knowledge, that Chilmington Green School will be a 6 Form Entry School when it opens on its permanent site in September 2025.

7. MATTERS NOT YET AGREED BETWEEN THE PARTIES: CRITICAL ISSUES

7.1. The key determinative issue is: whether planning obligations for additional Secondary School infrastructure provision are justified under the tests of CIL Regulation 122.

7.1.1. The appellant’s argument is that they are not. Capacity will exist in the Ashford Non-Selective Secondary Planning Area.

7.1.2. The County Council's argument is that they are. The capacity at Chilmington Green Secondary School is to mitigate the impact of that development and is not available to other developments.