

Appeal Reference: APP/T2350/A/11/2161186

LPA Ref: 3/2010/0719

TOWN AND COUNTRY PLANNING ACT 1990
(as amended)

APPEAL BY Gladman Developments Ltd

IN RESPECT OF

Land at Henthorn Road Clitheroe

EDUCATION: Summary Proof of Evidence

Prepared by
Stephen Bernard Clyne
LCP (Dip.SMS) Cert Ed MAE

Date: December 2011



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Summary Proof of Evidence

1 My name is Stephen Bernard Clyne. My main proof sets out my qualifications and experience. It also sets out my experience at preparing proofs for planning inquiries.

2 The Appellant sought my advice on the 7th September 2011 having received an indication from the LPA that LCC had markedly changed the sum sought as an education contribution. Subsequently I was asked to enter into negotiations with LCC with a view to preparing a Statement of Common Ground and for any outstanding matters to prepare a proof of evidence for this Inquiry.

3 My evidence identifies that although there are no matters of principle between the parties, there remain three outstanding matters as yet not agreed.

4 The Appellant does not agree that the document entitled Planning Obligations in Lancashire Policy is soundly based. Indeed it is agreed between the parties (and LCC in correspondence use the term 'paper' rather than 'policy') that it has not been adopted by the LPA and is currently being revised to include the CIL tests to reflect the recent changes affecting the provision of school places.

5 Flowing from the reliance by LCC on this document is a contribution sought which is double that which could be agreed as proportionate, fair and reasonable.

6 The reasons are threefold:

6.1 The assumed yield of children from new housing is some 30% higher than that sought by LCC's statistical neighbours, either because LCC assumes that the net new enrolment in local schools from new development is 100% of the resident children, or that it includes categories of housing in its calculation that do not result in any net new enrolments, and LCC has not carried out any research to assess the proportion of households on new developments who do not change schools when changing home address.

6.2 LCC has from a choice of three Department for Education cost per pupil place multipliers, selected one that is inappropriate in the circumstances where in all likelihood additional places will be added to existing schools and not through the provision of a new school. LCC has chosen a substantially higher DfE Cost Multiplier.

6.3 LCC has taken a stance on indexation that suggests that in the period from 4th quarter 2008 when the DfE Cost Multipliers were last revised and published indexation has added 10.72% to the costs when the index applicable to the DfE Cost Multipliers has fallen from 198 to 179. That is a fall of 9.6%.

- 7 In September 2010, LCC in its response as statutory consultee to the LPA in respect of the Appeal site sought £307,837 for primary school places and nothing for secondary school places. This was confirmed in the Planning Officer reports to the Planning Committee meetings 14th July 2011 and 15th September 2011. However in a letter from the Head of Planning Services to Councillors dated 8th September a figure of £1,485,398 for primary and secondary places was mentioned.
- 8 As an attachment to an email to me dated 25th November 2011 the figure was raised again: this time to £1,712,435.
- 9 My independent researches have found no supporting evidence for the asserted child yield figures in the LCC Planning Obligations document. In fact I have found that all of LCC's statistical neighbours that publish child yield figures on average seek 30% less than LCC. That research by one of the statistical neighbours confirms from questioning families on new developments by interview that a significant proportion do not change schools.
- 10 My conclusion is that LCC is probably counting the number of residents when in order to meet policy, circular and CIL regulation requirements it should be counting the net new enrolments in local schools as a consequence of the development.
- 11 Recalculating the appropriate contribution using, the average of its statistical neighbours, a more realistic child yield, the appropriate DfE Cost Multiplier and applying indexation consistent with the indexation embedded in the Cost

Multiplier over many years, results in an offer of £728,864.12, which the Appellant believes is fair and reasonable, directly related to the education impact to be mitigated, and is CIL Regulation 122 compliant.

- 12 It is my opinion as set out in this proof that the LCC methodology for calculating developer contributions towards education is flawed. The published document that supports it is currently being revised. The local planning authority has never adopted it despite it being published 5 years ago. Other local authorities with very similar characteristics have a significantly different approach to child yield. For all of these reasons I believe that it, and LCC's calculation emanating from it, should be afforded very little weight.

I CONFIRM THAT THIS SUMMARY PROOF EVIDENCE IS PREPARED ACCORDING TO THE SAME AFFIRMATION AS MY MAIN PROOF OF EVIDENCE

Appeal Reference: APP/T2350/A/11/2161186

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TOWN AND COUNTRY PLANNING ACT 1990
(as amended)

Appeal by Gladman Developments Ltd

IN RESPECT OF

Land at Henthorn Road Clitheroe

Proposed residential development of up to 270 residential dwellings, doctors surgery,
landscaping, open space, highways and associated works

EDUCATION ISSUES

Proof of Evidence of

Stephen Bernard Clyne

LCP (Dip.SMS) Cert Ed MAE

Date: December 2011



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1 Introduction
Qualifications and experience

My name is Stephen Bernard Clyne. I hold a Licentiate of the College of Preceptors (LCP) in Schools Management and Education Law as well as being a qualified schoolteacher, facilities manager, project manager and school place planner. I have been a contributing member of the British Society for Population Studies since March 2003, presenting to the Annual Conference in 2008. I am a practising member of the Academy of Experts since May 2006.

I worked as a teacher for 22 years before moving into education consultancy specialising in accommodation and premises issues, on behalf of both public and private sector clients.

In 1990, I established EFM Ltd, an education consultancy, which advises on schools, school provision, the implications of population forecasts on schools, school design and operating schools. It is also responsible for the premises management of schools and project management of construction works.

I am experienced in giving education evidence for planning inquiries including Local Plan Inquiries, public examinations, Section 78 and CPO Inquiries.

School place planning has a particular relevance to the house building/ development industry where understanding and mitigating the impact on schools infrastructure of new housing can be a significant obligation. I advise a number of major house-builders, local authorities and developers by informing master plans, negotiating for and against local education authorities and appearing at inquiries.

I am therefore well aware of the application of the planning system in relation to education matters from both a developer and local authority perspective.

Background

- 1.1 The Appellant has submitted an application for the residential development of up to 270 residential dwellings, and associated works at land off Henthorn Road Clitheroe. The application was validated on the 17th August 2010, recommended for approval by officers and refused by Committee on 19th September 2011. The reasons for refusal were solely in relation to highways matters.

- 1.2 Prior to the determination of the application, the local education authority, Lancashire County Council ("LCC"), the local authority with responsibility for education, sought a contribution (£307,837) towards providing additional Primary School places, by letter to Ribble Valley Borough Council ("LPA") (20th September 2010) (CD3.56). This was confirmed in

the Officer Report to Committee 14th July 2011 (CD 3.9) and repeated in the updated report to Committee (15th September 2011). (CD 3.2)

- 1.3 In a letter responding to questions from Councillors raised at the Planning Committee meeting (14th July 2011) (ref: JM/EL/3/2010/0719/P) dated 8th September, the Head of Planning Services (John Machole) set out a different request for an education contribution. (CD 3.5).
- 1.4 This request, calculated at 2011 rates listed £1,172,530 for primary school places and £321,868 for secondary school places (total £1,485,398). The letter did not form any part of the Report to the Committee, and according to the minutes of the Committee Meeting was not raised at the Committee Meeting (confirmed by the Appellant's representative who attended the Meeting).
- 1.5 On the 8th November, on behalf of the Appellant, I wrote to LCC setting out a series of questions mainly trying to ascertain what exactly the LCC sought and on what basis. On the 23rd November 2011 LCC issued a further note seeking to clarify some points and a note of the contribution now sought (somewhat higher than in September to LPA Councillors) in which the total sum now sought had risen to £1,712,435, comprising £1,160,316 for primary school places and £552,119 for secondary school places. (App SC1)

- 1.6 On the 9th December 2011, the Appellant and officers from LCC met, in the presence of the LPA case officer, to further explore common ground and to identify where differences remained.

- 1.7 On the 16th December 2011, on behalf of the Appellant, I wrote to LCC confirming the outstanding issues were the matter of multiplier, indexation and whether LCC in assessing the impact had double counted a proportion of it. (App SC1)

- 1.8 This proof of evidence focuses on those particular points of difference.

- 1.9 I should however observe that there is an important issue of due process and fairness, which this appeal raises. I am advised by others in the Appellant's team that it is their view that the application should never have been firstly deferred and secondly refused on the grounds raised in the reasons for refusal. Had the application in fact determined in July 2011 then the Appellant's would have been faced with a payment of just over £300,000. As it is, and through matters which are entirely out of their control they face a claimed payment of over £1.7M. If it is decided that permission should never have been withheld in the first place then I well understand my client's sense of aggravation in this regard.

My Involvement in this Case

1.10 The Appellant first sought my advice on the 7th September 2011 having received an indication from the LPA that LCC have changed its position markedly, and without any adequate explanation for having done so. Subsequently I was asked to advise upon the basis of the request as well as to enter into negotiations with LCC with a view to preparing a Statement of Common Ground and for any outstanding matters to prepare a proof of evidence for this Inquiry.

2 Statutory and Policy Matters

The Community Infrastructure Levy Regulations ("CIL")

2.1 The Community Infrastructure Levy Regulations 2010¹ came into force on the 6th April 2010 and Regulations 122 and 123 apply to planning obligations whether or not a local planning authority has or intends to adopt the Community Infrastructure Levy.

2.2 Regulation 122 places limits on the use of all planning obligations arising under s.106 of the 1990 Act. The CIL Regulations, whilst they restate

¹ SI 2010 No 948

² Appeal reference: APP/L5810/A/05/1193656: Appeal by Linden Homes South East Ltd, Former

three of the five Secretary of State's policies in Circular 05/2005, by virtue of imposing legal tests, remove the latitude exercised by many local authorities in their application of the policy advice in Circular 05/2005.

2.3 Regulation 122 (2) requires all planning obligations to 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 Policy of the Secretary of State (for Communities and Local Government)

2.4 Circular 05/2005 provides the policy guidance on the use of planning obligations made under section 106 of the Town and Country Planning Act 1990 as substituted by the Planning and Compensation Act 1991. A s.106 obligation which did not meet the tests of the circular might nonetheless be lawful and enforceable but should not, in the view of the Secretary of State be afforded weight in the planning balance. That is to avoid the potential of planning permissions being bought and sold.

2.5 Section B15 of Circular 05/2005 sets this out succinctly,

" ... If a proposed development would give rise to the need for additional or expanded community infrastructure, for example, a new school classroom, which is necessary in planning terms and not provided for in an application, it might be acceptable for contributions to be sought towards this additional provision through a planning obligation".

2.6 From the perspective of my evidence, one purpose of a planning obligation is to secure some form of provision that will ensure that a local authority will continue to be able to meet the educational needs and aspirations of all those in its area, including those arising as a direct consequence of proposed development.

2.7 By way of example, the Secretary of State for Communities in a recent decision letter to a section 78 Appeal, under the heading '*Whether an education contribution is necessary as a matter of principle*', stated:

"The Secretary of State agrees with the inspector that, ... where a need arises from the proposed development that cannot be met by existing or planned provision, an education contribution will be appropriate".²

² Appeal reference: APP/L5810/A/05/1193656: Appeal by Linden Homes South East Ltd, Former Seeboard Site Twickenham Middx; decision dated 30th May 2006 Secretary of State's Decision Letter at its paragraph 10. (App SC2)

The Policies of Ribble Valley Borough Council

2.8 The District-wide Local Plan (adopted June 1998) (CD 7) under the heading Legal Agreements 3.6.1 Policy G10 says,

"The local planning authority will seek to enter into agreed planning obligations to secure the acceptability of proposals when a condition on a planning permission would not be practical. Planning obligations will be sought by negotiation and agreement with developers in the following circumstances":

- (i) where a proposal needs particular infrastructure;*
- (ii) to control occupancy of dwellings;*
- (iii) to control the use/occupancy of tourist accommodation;*
- (iv) to secure the provision of open space in major developments;*
- (v) where a proportion of a site, or a whole site, is to be developed for social needs housing to control the occupancy and continuing affordability of that housing;*
- (vi) to control the products sold at outlets where a general retail use would not be acceptable;*
- (vii) to replace essential facilities lost as a result of the implementation of an otherwise acceptable proposal;*
- (viii) to control the environment of a site in advance of the implementation of a proposal."*

The Policies of Lancashire County Council

2.9 LCC relies on its document Planning Obligations in Lancashire Policy – adopted November 2006 and updated (for changes in national planning guidance, building costs and key personnel) September 2008. It also provides clarifications to matters raised following adoption and correct drafting errors. (App SC3) This is not however a document which has any formal status as a development plan document nor as a supplementary planning document. Indeed it has not, so far as I have been able to ascertain even been adopted by RVBC. It can only carry limited weight as policy therefore.

2.10 Thus in relation to LPA policy G10(i), the LCC policy document says that;

“This paper is **not** a formal supplementary planning document (SPD) under the Planning and Compulsory Purchase Act 2004”.

2.11 Moreover the LCC policy document (as amended) pre-dates the consultation and enactment of the Community Infrastructure Levy (“CIL”) legislation and more importantly the implementation of the CIL Regulations; particularly CIL Regulation 122 (2.1 – 2.3 above)

2.12 The LCC policy document in its background introduction says;

“Lancashire

1.12 *At the moment local planning authorities do not have a consistent approach to planning obligations across the County. There is no strategic policy guidance in the Joint Lancashire Structure Plan.*

1.13 *Several Councils have general local plan policies on the subject, but there is a general lack of detailed guidance and clear procedures for specific topics. The main exception to this relates to public open space.*

1.14 *As a result, solutions have been sought and negotiated for individual proposals, which has often led to inconsistency and long, expensive delays in processing applications. The problem has been made worse by a lack of clear rationale behind requests to developers and vague procedures for processing information within and between organisations. There is a clear need for consistent procedures and suitable guidance on good practice.*

This Document

1.15 *This document provides guidance in establishing principles for the current round of LDF development in Lancashire.”*

2.13 Document status notwithstanding, on the question of education, for which

LCC is the statutory duty holder, the policy document explains:

"There has been a downward trend in Lancashire's school rolls for a number of years in both primary and secondary schools. This has resulted in several schools having significant numbers of spare places. (Para 2.1.2.4)

However, increased birth rates for the last three years, combined with some significant pockets of new housing development and the removal of surplus places in some schools will reduce the numbers of spare places available in some primary schools in future years. (para 2.1.2.5)

Planning Obligations will be sought for educational facilities, such as extra classrooms where schools within 2 or 3 miles are projected to be over-subscribed in excess of 10% above their net capacity, as a direct result of residential developments, as follows:

- In Principal Urban Areas, Main Towns³ and Key Service Centres⁴ – for C3 residential development of 50 or more dwelling units.
- In areas outside of Principal Urban Areas, Main Towns and Key Service Centres – for C3 residential development of 10 or more dwelling units (para 2.1.2.8)

2.14 The LCC policy document continues by setting out a formulaic approach based on Department for Education Cost Multipliers (see section 4 below) for dwellings with 2 or more bedrooms:

Primary schools = 0.35 per unit x DfES multiplier (£12,257) x locational factor (0.95 Lancashire,) = £4,075 (Lancashire) per dwelling

Secondary schools = 0.25 per unit x DfES multiplier (£18,469) x locational factor (0.95 Lancashire,) = £4,386 (Lancashire) per dwelling.

2.15 It continues, "DfES multipliers used are for 2008/09. All costs will be updated each year to reflect current DfES multipliers. If the DfES stops issuing cost multipliers, costs will increase each year in line with RICS indices of inflation."

2.16 As noted above, by email (25th November 2011) LCC confirmed that the 'policy' document is not a RVBC adopted document. (APP SC1)

³ Main Development Locations as identified in JLSP Policy 2.

⁴ Key Service Centres (Market Towns) as identified in JLSP Policy 4

"The 'Planning Obligations in Lancashire' paper has not been adopted by Ribble Valley. This policy is currently being revised to include the CIL tests to reflect recent changes affecting the provision of school places and to include CIL implications. A cabinet member approval of this policy is expected by the end of the year."

No indication about proposed changes or date for consultation has been published.

- 2.17 In my opinion although LCC continues to seek to rely on the document, very little weight can be given to it.

3 The Contribution Sought by LCC for Education

- 3.1 The principle of an education contribution towards mitigating the impact of residential development is accepted in full, provided it is reasonably related in scale to the impact, is necessary and cannot be met from existing or planned provision (i.e. if it meets the tests of Regulation 122).

- 3.2 The practice of using Department for Education ("DfE") Cost Multipliers is widespread amongst local authorities as a proxy, it being designed for grant aid purposes, for calculating developer contributions. The DfE, on its website explains *"Cost Multipliers are costs per pupil for the construction of accommodation to provide for additional pupil places. The Multipliers are compiled to inform Basic Need funding allocations"* each year from the DfE to local education authorities. The DfE produce two multipliers – one for new schools and one for extensions to existing schools. The Basic Need

Cost Multiplier is the weighted average of the two (60% new schools and 40% enlargements) that when multiplied by the number of additional places allocated that year across a local education authority area makes up the Basic Need grant at a national rate. The grant is then adjusted by a location factor to adjust for differences in building costs in different areas of the country. (App SC4)

3.3 DfE Cost Multipliers are not published every year. In the intervening periods, it is therefore perfectly reasonable to subject the Multipliers to indexation. The DfE publish the chronology of the Multipliers and the DfE explain that the current period runs from April 2003 when real project costs informed the Multipliers. Each revision thereafter has made adjustment for changes to design guidance, space standards and specifications, and the published Multiplier indexed to the Public Sector Non-housing Index (PUBSEC). (App SC 4) PUBSEC is published by the RICS (Building Cost Information Service).

3.4 The LCC document Planning Obligations in Lancashire Policy (App SC3) at 2.1.2.11 page 25 says,

"If the DfES (the former name for the DfE) stops issuing cost multipliers, costs will increase each year in line with RiCS (sic) indices of inflation".

LCC has confirmed (App SC1) that indexation can in fact move up and down. Inexplicably, LCC does not want to apply the PUBSEC index despite it being compliant with its policy, i.e a RICS index and the index being

applied continuously to the DfE Cost Multipliers by the DfE over a long period. In fact PUBSEC is embedded in the multipliers

3.5 Thus the choice of Index remains a matter that is not agreed. If further elucidation of this issue is provided in evidence then I reserve the right to respond further, however as matters stand LCC's case appears to be wholly unjustified.

3.6 In its latest iteration (at the time of preparing this proof) LCC assesses that the Appeal site will yield 95 new applications to local primary schools across Clitheroe town and 68 new applications to secondary schools, based on the formula: 35 primary and 25 secondary pupils per 100 dwellings. The 68 secondary applications is discounted for a number of existing surplus places identified by LCC to remain surplus in five years time, resulting in the assessment being reduced to a net 30 secondary applications. LCC has provided its data and methodology for forecasting future secondary school rolls, which is based on existing primary school rolls rolled forward, having been adjusted for year on year gains and losses, normally experienced. The LCC forecast is not disputed.

3.7 The LCC Planning Obligations in Lancashire document at the box below paragraph 2.1.2.11 (App SC3) provides a child yield formula: (0.35 primary school pupils and 0.25 secondary school pupils per dwelling) for all dwellings with two or more bedrooms, provided the development has 10 or more dwellings. No information is given about how the formula has

come about or upon which it is based. It is noted that a flat with 2 bedrooms is treated in exactly the same way as a 6-bedroom house. Inexplicably, a development with 9 eligible dwellings (6-bedroom?) makes no contribution whilst a development of 10 eligible dwellings (2-bed flats?) makes a contribution in full for all 10 dwellings. At the meeting on the 9th December 2011, no explanation or rationale was offered.

3.8 With no explanation provided by LCC to justify this formula in support of its claim together with the contrary evidence that I set out in section 4 below, the number of pupil places sought if this Appeal is upheld is not agreed.

3.9 The total sum now sought of £1,712,435 is therefore not agreed.

4 The Appellant's Case

Indexation

4.1 Appendix SC4 sets out in detail the DfE Cost Multipliers methodology, how they are produced, including how indexation has been applied at each revision since 2003. It also sets out the way in which the next set of multipliers will be produced and the applicable index. The Appellant is content that the national methodology is compatible with the LCC Planning Obligations in Lancashire Policy document, that requires indexation to be RICS compliant, and has based its offer on the PUBSEC index.

Child Yield

- 4.2 My investigation of child yield from new housing reveals that there are local authorities that have carried out research and subjected that research to peer scrutiny by publishing it. LCC is not one of them. Some local authorities have carried out extensive surveys of new housing on a regular basis: most notable are Kent, Oxfordshire, the Berkshire Authorities, Wandsworth, Northamptonshire and Surrey. The Greater London Authority Data Management Analysis Group (DMAG), which has a formidable demographic facility, has researched the survey work of these local authorities, and to which I have contributed as a moderator. The GLA subjected their work to peer scrutiny through publication and wide circulation.
- 4.3 The Audit Commission holds the remit for reporting to Government on how local authorities manage the supply and allocation of school places. It published a national report in 1996, a management handbook in 1997 and an update in 2002. More recently the Audit Commission has provided guidance via a web-based toolkit. (App SC5) The tool-kit methodology relies upon comparison with each local authority's 'statistical neighbours'.
- 4.4 Statistical neighbours are a nationally recognised basis for comparing local authorities based on agreed profiles. (App SC6) The approach was developed: by the Audit Commission, the Office of Population Census and

Surveys, and the Office for Standards in Education. It groups local authorities by closeness in a set of variables. For the Audit Commission, the indicators include: income, wealth and employment; mobility of families with dependent children over a 12 month period; size; and population density; population growth/decline; and population sparsity. There are also ethnicity variables.

4.5 The ten closest local authorities, to the chosen one (in our case Lancashire) on these measures are then described according to how close. Extremely Close is WED equivalent⁵ to 0.25 per standardised variable; Very Close is equivalent to less than 0.55/sv; Close is equivalent to less than 0.85/sv; Somewhat Close is equivalent to 1.15/sv; and Not Close is equivalent to 1.15/sv or more.

4.6 On these measures LCC has 2 extremely close statistical neighbours. These are: Nottinghamshire and Bury. It has 8 very close statistical neighbours. These are: Calderdale, Sefton, Derbyshire, Stockton-on-Tees, Kent, Staffordshire, Northamptonshire and Dudley. LCC is unusual by having 2 'Extremely Close' and the balance of 8 'Very Close'. (Only 16 out of 154 local authorities have more extremely close statistical neighbours).

⁵ Weighted Euclidean distance between local authorities

- 4.7 In the absence of any evidence to support the LCC's assertion of a school place impact of 35 primary and 25 secondary pupils per 100 dwellings, it is appropriate to make comparison with its statistical neighbours.

| | Primary/ 100 dwellings | Secondary/ 100 dwellings | Comment |
|------------------|---------------------------|-----------------------------|--|
| Lancashire | 35 | 25 | |
| Nottinghamshire | 21 | 16 | |
| Bury | No SPD | | |
| Calderdale | 24 | 17 | All affordable excluded |
| Sefton | No SPD | | |
| Derbyshire | 20 | 15 | |
| Stockton-on-Tees | 26 | 20 | |
| Kent | 28 | 20 | |
| Staffordshire | 21 | 15 | Exclude affordable for secondary |
| Northamptonshire | 30 | 21.4 | |
| Dudley | 25.9 | 22.8 | All affordable excluded. Ratios calculated for appeal site mix |

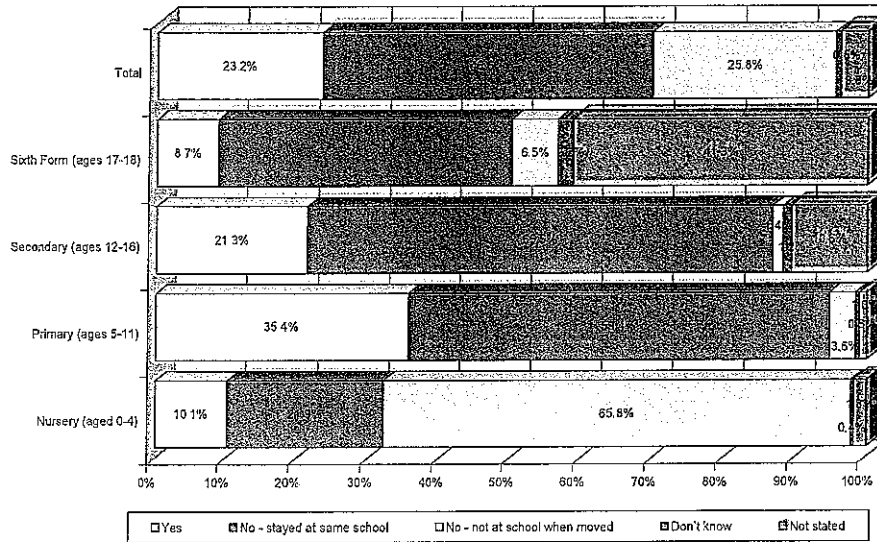
- 4.8 Despite a close demographic similarity, not one statistical neighbour seeks a planning obligation based on child yield levels near that asserted by LCC. Indeed the average is just 70% of the LCC formula, with the closest statistical neighbour (Nottinghamshire) operating on just 62% of the LCC formula.
- 4.9 Of these local authorities, Kent stands out as having undertaken detailed research that asked, as part of its surveys questions about local migration

and whether children changed school when they moved to new housing. All of the research is available for peer scrutiny. (App SC7).

4.10 The conclusions that I have drawn from my researches on this matter and my discussions with various local authorities, is that some simply try to count the number of residents whilst others seek out the net impact on its schools. Whereas for big developments that include their own new schools infrastructure, the difference might be moot, for developments that rely on existing schools the difference between gross population and net impact will be significant. There are a number of reasons:

4.10.1 Most migrants to new housing will not have moved very far. It is likely that migrants to a new development with its own new school will see that school as an attractive feature that persuades them to change their child's school. However for smaller developments, like the Appeal site, without a new school, moving school is less likely especially if the move is but a short distance. The Kent survey (App SC7) identifies this point clearly, as shown in the chart below. Whilst moving home may release a property that is then occupied by another household, in many cases the replacement household is smaller. Indeed, in the period 2001 – 2009, for Ribble Valley, the Office for National Statistics population estimates compared with the Valuation Office Agency figures for dwelling stock show an increase of 1413 dwellings and a fall in child numbers. (-155 aged 0-14 [-246 0-4, -6 5-9 and +97 10-14]) (App SC7)

Chart 9: Did the Child Change School as a Result of the Move?



4.10.2 Families moving to RSL Rent and Affordable Rent dwellings are nominated/allocated by the local housing authority on the basis of need. They are already local households and in the majority of cases are not replaced. (Newly formed and hidden households that are living in with family, those in unfit accommodation and to a lesser degree the relief of over-crowding). The re-housing relieves housing need pressures but does not necessarily add to pressure on school places. Including them amounts to double counting. All of the RSL and Affordable Rent dwellings on the Appeal site are 2-bed or larger. Being allocated on the basis of need (and Housing Corporation occupancy assumptions) means that each will have one or more dependents to warrant the additional bedroom(s). The dependents are either of pre-school age and are already in LCC's

forecasts, of school age and already on roll at a local school, or above school age and with no impact on any local schools. Had LCC's figures been presented for peer review then it is likely in my view that this concern would have been picked up and addressed

4.11 The flaw in LCC's unsupported or verified assertion of pupil numbers is brought into focus immediately the comparison is made with the statistical neighbours. (see table at paragraph 4.6 above) Although different local authorities have arrived at their child yield, by, one must presume, different routes the answer is broadly the same. Some explicitly excluding the social rent sector or the affordable sector because they are already local and in the system; others through surveys that include questions of distance moved and changing/not changing schools. The conclusion that I draw, borne out by the consensus, is that LCC has finished up seeking contributions based on a child yield some 30% higher than is fair and reasonable, proportional or necessary. (31% primary and 29% secondary)

4.12 At paragraph 3.2 (above) the use of DfE Cost Multipliers is considered to be a fair basis for calculation the cost of providing an additional school place and is common practice amongst local authorities. There are, though three different DfE cost multipliers that are all based on the same formulation that started in its present format in 2003. (App SC4) There is the Cash Multiplier for new schools, the Cash Multiplier for extensions to existing schools, and the Cost Multiplier (otherwise known as Basic Need), which is

the weighted average between the two. This weighted average is designed for grant purposes where the DfE assume 60% of the grant will be spent on new schools and 40% on extensions to existing schools.

4.13 Although there are no published plans for new schools in Clitheroe, LCC is seeking to reserve its position by using the Basic Need Cost Multiplier figures per pupil place. The Appellant believes that LCC's position is untenable but is prepared for the offer to be recalculated at the time that any payment is due and LCC identify that there is a new school confirmed that will serve the Appeal site. As it seems most unlikely that it will be a new school, the use of the extensions multiplier is the most appropriate, fair and reasonable, and proportional.

The Calculation

4.14 The step-by-step calculation is set out in full at App SC8. Averaging the statistical neighbours suggests that the development will yield 65.61 primary and 48.06 secondary pupils.

4.15 LCC has confirmed that it anticipates that there will be a surplus of 38 secondary places in five years time to be set against the net new enrolments. This results in a true net impact and need for a contribution for 10.06 secondary places.

4.15 The resulting calculation can be expressed as:

((Child Yield Primary x Extension Multiplier x Location Factor) + (Child Yield
Secondary x Extension Multiplier x Location Factor)) x Indexation

$$\frac{((65.61 \times \pounds 11,079 \times 0.9) + (10.06 \times \pounds 16,791 \times 0.9)) \times 179}{198} = \underline{\underline{\pounds 728,864.12}}$$

5 Matters Agreed

5.1 The principles are agreed. Where a need arises from the proposed development of the Appeal site that cannot be met by existing or planned provision an education contribution is appropriate.

5.2 There is unlikely to be any spare primary school capacity and only a limited amount of spare secondary school capacity available in the area when the Appeal site is developed and occupied.

5.3 The use of DfE cost multipliers is an appropriate way to calculate the cost implications and if a revision of the 2008/09 cost multipliers has not been published when any contribution falls due, it is appropriate to adjust the contribution through indexation.

6 Matters yet to be Agreed

- The net number of new enrolments at local schools likely as a consequence of the development of the Appeal site,

- which of the three DfE Cost Multipliers is it most appropriate to use to calculate the cost of a school place, and
- whether it is reasonable to switch from the RICS build cost index PUBSEC, which has been the sole indexation factor since at least 2003, to some other unspecified index.

7 Summary and Conclusions

7.1 The Appellant first sought my advice on the 7th September 2011 having received an indication from the LPA that LCC had markedly changed the sum sought as an education contribution. Subsequently I was asked to enter into negotiations with LCC with a view to preparing a Statement of Common Ground and for any outstanding matters to prepare a proof of evidence for this Inquiry.

7.2 My evidence identifies that although there are no matters of principle between the parties, there remain three outstanding matters as yet not agreed.

7.3 The Appellant does not agree that the document entitled Planning Obligations in Lancashire Policy is soundly based. Indeed it is agreed between the parties (and LCC in correspondence use the term 'paper' rather than 'policy') that it has not been adopted by the LPA and is

currently being revised to include the CIL tests to reflect the recent changes affecting the provision of school places.

7.4 Flowing from the reliance by LCC on this document is a contribution sought which is almost double that which could be agreed as proportionate, fair and reasonable.

7.5 The reasons are threefold:

7.5.1 The assumed yield of children from new housing is some 30% higher than that sought by LCC's statistical neighbours, either because LCC assumes that the net new enrolment in local schools from new development is 100% of the resident children, or that it includes categories of housing in its calculation that do not result in any net new enrolments, and LCC has not carried out any research to assess the proportion of households on new developments who do not change schools when changing home address.

7.5.2 LCC has from a choice of three Department for Education cost per pupil place multipliers, selected one that is inappropriate in the circumstances where in all likelihood additional places will be added to existing schools and not through the provision of a new school. LCC has chosen a substantially higher DfE Cost Multiplier.

- 7.6 LCC has taken a stance on indexation that suggests that in the period from 4th quarter 2008 when the DfE Cost Multipliers were last revised and published indexation has added 10.72% to the costs when the index applicable to the DfE Cost Multipliers has fallen from 198 to 179. That is a fall of 9.6%.
- 7.7 In September 2010, LCC in its response as statutory consultee to the LPA in respect of the Appeal site sought £307,837 for primary school places and nothing for secondary school places. This was confirmed in the Planning Officer reports to the Planning Committee meetings 14th July 2011 and 15th September 2011. However in a letter from the Head of Planning Services to Councillors dated 8th September a figure of £1,485,398 for primary and secondary places was mentioned.
- 7.8 As an attachment to an email to me dated 25th November 2011 the figure was raised again: this time to £1,712,435.
- 7.9 My independent researches have found no supporting evidence for the asserted child yield figures in the LCC Planning Obligations document. In fact I have found that all of LCC's statistical neighbours that publish child yield figures on average seek 30% less than LCC. That research by one of

the statistical neighbours confirms from questioning families on new developments by interview that a significant proportion do not change schools.

7.10 My conclusion is that LCC is probably counting the number of residents when in order to meet policy, circular and CIL regulation requirements it should be counting the net new enrolments in local schools as a consequence of the development.

7.11 Recalculating the appropriate contribution using, the average of its statistical neighbours, a more realistic child yield, the appropriate DfE Cost Multiplier and applying indexation consistent with the indexation embedded in the Cost Multiplier over many years, results in an offer of £728,864.12, which the Appellant believes is fair and reasonable, directly related to the education impact to be mitigated, and is CIL Regulation 122 compliant.

7.12 It is my opinion as set out in this proof that the LCC methodology for calculating developer contributions towards education is flawed. The published document that supports it is currently being revised. The local planning authority has never adopted it despite it being published 5 years ago. Other local authorities with very similar characteristics have a significantly different approach to child yield. For all of these reasons I

believe that it, and LCC's calculation emanating from it, should be afforded very little weight.

THE EVIDENCE WHICH I HAVE PREPARED AND PROVIDE FOR THIS APPEAL REFERENCE APP/T2350/A/11/2161186 IS TRUE AND HAS BEEN PREPARED AND IS GIVEN IN ACCORDANCE WITH CODE OF PRACTICE FOR EXPERTS OF THE ACADEMY OF EXPERTS AND I CONFIRM THAT THE OPINIONS EXPRESSED ARE MY TRUE AND PROFESSIONAL OPINIONS

