

**TOWN AND COUNTRY PLANNING ACT 1990**  
**(as amended)**

**Appeal by Hargreaves Land Limited, G. N. Wright,  
M. M. Wood, M. J. Wood, and J. D. Wood**

**LAND NORTH OF HEMINGFIELD ROAD,  
HEMINGFIELD, BARNSELY**

**EDUCATION MATTERS**

**Barnsley Metropolitan Borough Council**

**EDUCATION PROOF OF EVIDENCE**

**Ben James Hunter**  
BA DipMS

PINS Reference: APP/R4408/W/25/3359917

LPA Ref: 2024/0122

Date: 6<sup>th</sup> May 2025

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## 1. Background

- 1.1 My name is Ben James Hunter. I hold a Bachelor of Arts degree and a Diploma in Management Studies. I have been a Social Infrastructure Consultant for Education Facilities Management Ltd (EFM) since September 2017, and Associate Director of EFM since April 2022. Prior to this I was a Development Management Project Manager for Northamptonshire County Council (as was) since 2012, responsible for negotiating and securing Section 106 planning obligations. Prior to this I was responsible for negotiating, securing, and managing Section 106 planning obligations in an Officer role between 2008 and 2012. The last 17 years of my professional career have been related to the provision of development infrastructure.
- 1.2 I am experienced in giving evidence at Planning Inquiries and Local Plan Public Examinations. I am therefore aware of the application of the planning system in relation to these matters from both a developer and local authority perspective. I confirm that I understand that, notwithstanding my instructions, my primary duty is to help achieve the overriding objective by giving objective, unbiased opinion on matters within my expertise.
- 1.3 I am instructed to act for the Appellant in respect of this Appeal.
- 1.4 I confirm that the opinions expressed are my true and professional opinions.
- 1.5 EFM was instructed by Hargreaves Land Limited, G. N. Wright, M. M. Wood, M. J. Wood, and J. D. Wood, in April 2025. I was appointed to review the education situation, to establish whether harm is likely to be caused by this development proceeding, whether the existing facilities are able to accommodate the expected number of children (and people) that will be resident in the new housing (including the rest of the safeguarded site), and whether new education infrastructure would be required on site to accommodate those new residents (including the rest of the safeguarded site). I was also appointed to establish whether the planning obligations requested by Barnsley Metropolitan Borough Council ("**BMBC**") were Community Infrastructure Levy ("**CIL**") Regulation 122 ("**Reg 122**") (2) compliant, in that they were:



- (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.

1.6 I was subsequently instructed by the Appellant to prepare a Proof of Evidence to assist the Inspector in determining whether the education contribution requests from BMBC fulfilled the tests of CIL Reg 122 (2).

1.7 The Appellant and BMBC are not in agreement regarding whether education related planning obligations are necessary to make the development acceptable in planning terms. This is discussed further in the following Proof of Evidence.

1.8 The Proof of Evidence will demonstrate the following:

- (a) The request for education (primary and secondary) planning obligations from BMBC are unjustified; and
- (b) There is demonstrably no education-related reason to refuse this development application.

## 2 Introduction

2.1 This Planning Appeal relates to an outline planning application (2024/0122) made by Hargreaves Land Limited, G. N. Wright, M. M. Wood, M. J. Wood, and J. D. Wood (“the Appellants”) to Barnsley Metropolitan Borough Council (“BMBC”) seeking permission for the following proposed development estimated to be for 165 to 180 dwellings:

*Outline planning application for demolition of existing structures and erection of residential dwellings with associated infrastructure and open space. All matters reserved apart from access into the site*

2.2 The approximate redline boundary of the development site can be seen below in Map 1:



Map 1: Approximate Development Boundary

2.3 BMBC officers considered the Council's position in relation to this development in a delegation report dated 11<sup>th</sup> December 2024. The decision was to Refuse the application and the decision notice was issued on the same day.

2.4 Reason for Refusal ("RfR") 2 states the following:

*In the opinion of the Local Planning Authority, the proposal would constitute piecemeal development. The site forms part of a wider safeguarded site SL6, Land North East of Hemingfield, therefore the development this site would have a potential impact on the comprehensive development of the wider site, contrary to policy GD1 of the Local Plan.*

2.5 Whilst the above does not reference education, the requirement for education provision from this site, and the whole SL6 safeguarded site (which can deliver between 430 and 520 dwellings, although the latter number is likely to be overly high, and the site is much more likely to accommodate a lower number. However, to show the worst-case scenario, 520 dwellings will be utilised), will be discussed throughout this Proof of Evidence. The Council has been asked several times to particularise its concerns regarding effects on comprehensive development and has failed to do so. It has not raised education in that context, but the matter is addressed here for completeness.

2.6 In BMBC's Statement of Case ("SoC") in relation to this development, education was discussed in paragraph 10.2 (page 7) where in relation only to matters to be covered by a S106 Obligation, it is stated:

**10.2 Education** – The Education Officer has confirmed that there is a requirement for a contribution towards school places. The final contribution amount will need to be calculated based on the number of units put forward at reserved matters stage. The Education Officer has provided the appellant with pupil forecasts for Primary and Secondary schools. The location of the proposed development site is on the very edge of the Hoyland primary planning area and brings Wombwell schools into the equation when calculating pupil need. The Section 106 Agreement shall detail the formulas to be used for calculating the number of spaces and contributions required, set with the SPD Financial Contributions to School Places.

2.7 The education officer request that BMBC refer to in the SoC can be seen below. The BMBC education team has provided the following request for planning obligations in relation to education:

Number of Dwellings	Pupils per 100 houses	Pupil Yield	Cost per Place	Total Amount
<b>Primary</b>				
165	21	35	16,000	560,000
180	21	38	16,000	608,000
<b>Secondary</b>				
165	15	25	16,000	400,000
180	15	27	16,000	432,000

Table 1: BMBC Education Planning Obligation Request

2.8 Further data was provided by BMBC officers to support their request for education planning obligations, as reproduced below in Table 2. However, as this Proof of Evidence will elucidate, the request for such planning obligations is not supported by this data. Indeed, the Councils own information identifies a considerable quantum of surplus places currently in the school system, and forecast in the future:

Primary				Forecast NOR					
School	Distance from Development (miles)	PAN	Capacity	24/25	26/27	27/28	28/29	29/30	30/31
The Ellis CoE (IVA) Primary School	0.4	30	210	203	203	202	201	198	195
Jump Primary School	1.2	30	210	213	213	208	204	203	198
Kings Oak Primary Learning Centre	1.3	60	420	406	406	398	387	374	356
High View Primary Learning Centre	1.3	60	420	410	410	412	408	415	404
Greenfield Primary School	1.7	40	280	264	264	248	234	223	216
Wombwell Park Street Primary School	1.7	45	315	309	309	298	309	318	321
		<b>265</b>	<b>1,655</b>	<b>1,805</b>	<b>1,805</b>	<b>1,766</b>	<b>1,743</b>	<b>1,731</b>	<b>1,690</b>
Surplus or Shortage of Places (no.)				50	50	89	112	124	165
Surplus or Shortage of Places (%)				2.7%	2.7%	-4.8%	6.0%	6.7%	8.9%

Secondary				Forecast NOR					
School	Distance from Development (miles)	PAN	Capacity	24/25	25/26	26/27	27/28	28/29	29/30
Netherwood Academy	2	320	1,600	1,318	1,341	1,411	1,436	1,441	1,406
Kirk Balk Academy	2.4	270	1,350	1,334	1,348	1,356	1,349	1,345	1,312
		<b>590</b>	<b>2,950</b>	<b>2,652</b>	<b>2,689</b>	<b>2,767</b>	<b>2,785</b>	<b>2,786</b>	<b>2,718</b>
Surplus or Shortage of Places (no.)				298	261	183	165	164	232
Surplus or Shortage of Places (%)				16.1%	14.1%	9.9%	8.9%	8.8%	12.5%

Table 2: BMBC School Forecast

2.9 What the two Tables above demonstrate is that the development is expected to accommodate a maximum of 38 and 27 primary/secondary school aged children respectively when fully built out; however, there is expected to be as many as 165/232 spare places respectively in schools that could serve this development. On that basis, the need for planning obligations towards additional infrastructure provision is entirely unjustified.

2.10 To look further at these figures, the timeline of this development is expected to be the following:

- i. Positive determination in 2025;
- ii. Approved Reserved Matters in 2026;
- iii. Commencement of development in 2027; and
- iv. Starting to accommodate children on site from 2028 onwards.

- 2.11 By the 2028/29 academic year, BMBC is forecasting that there will be 112 spare primary school places in schools that directly serve this development. This is the housing equivalent of accommodating 533 new dwellings prior to the schools being full, based on BMBC's child yield. This exceeds the number of dwellings that the entire safeguarded site is expected to be able to deliver. On that basis, how can it be said that planning obligations are necessary to make the development acceptable in planning terms? They clearly are not.
- 2.12 This exact issue was the subject of discussion during a Planning Inquiry in Sileby, Leicestershire in 2022<sup>1</sup>. In this case, Leicestershire County Council requested primary school planning obligations, in spite of confirming in evidence that the catchment area school would have a surplus capacity of 28 places should the development proceed. The Inspector clearly stated, in paragraph 50 of the decision, the following:
- From the evidence before me, it has not been demonstrated that the development would result in a deficit of primary school places at either the catchment school or the two other nearby schools. Therefore, the Primary Education Contribution is not necessary.*
- 2.13 The primary school planning obligation was subsequently "blue-pencilled" from the S106 agreement.
- 2.14 From a secondary school perspective, in the 2028/29 academic year when the development is expected to be starting to accommodate pupils on site, BMBC is forecasting that there will be 165 spare secondary school places. This is the housing equivalent of 1,100 new dwellings before the schools are full. Again, planning obligations are clearly not necessary to make the development acceptable in planning terms.
- 2.15 A similar scenario was tested at an Appeal in Nottinghamshire<sup>2</sup> in 2024, where Nottinghamshire County Council were requesting planning obligations from a development of 300 dwellings, not on the basis that there was not spare capacity in the schools to accommodate the demand (there was, as there is in relation to this

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<sup>1</sup> Appeal Decision APP/X2410/W/21/3287864

<sup>2</sup> Appeal Decision APP/W3005/W/24/3350529

Appeal), but that there may not be sufficient places in the future due to cumulative demand from development schemes in the pipeline (many of which were not submitted planning applications). The Inspector considered this and stated at paragraph 78 of the Appeal Decision the following:

*Fundamentally, significant capacity exists now to meet the needs arising from the appeal proposal. As such I cannot conclude that the sums sought for secondary education would be necessary or fairly and reasonably related in scale and kind to the development. Consequently, I have not taken the secondary education obligation into account.*

- 2.16 Again, as with the Sileby Appeal, education planning obligations were “blue-pencilled” from the S106 agreement.
- 2.17 While the figures in Tables 1 and 2 were presented by the Council to the Appellants prior to the refusal, as the application is now the subject of an Appeal, it has been necessary to undertake further due diligence and to apply the tests of CIL Reg 122 (2).
- 2.18 Following the Case Management Conference for this Appeal on 15<sup>th</sup> April 2025, I contacted the BMBC Education team in order to discuss the figures they had produced. However, the Council’s education officer refused to engage in a dialogue (see Appendix A). I subsequently reached out to the Case Officer to initiate discussions with BMBC Education team on 17<sup>th</sup> April 2025. The education officer responded to the Case Officer in an email of 30<sup>th</sup> April 2025 (see Appendix A).
- 2.19 The email of 30<sup>th</sup> April 2025 from the Education officer (14:40 – Appendix A) states the following:
- i. The statements made above about spare capacity exceeding the pupil yield of the development are correct;
  - ii. BMBC is asking for planning obligations not based on the current evidence, but based on what *could* happen (completely unevidenced) at some point in the future. The BMBC Education officer states that the Council can ask for money and then “give the money back” if it is not

utilised. As will be demonstrated throughout this Proof of Evidence, this is not CIL Reg 122 compliant, and is contrary to the best practice guidance of the DfE, and BMBC's own SPD;

- iii. The Officer claims that planning obligations can be utilised on "improvements to school building conditions". This is simply not CIL Reg 122 compliant, as any such improvements would be related to pre-existing issues, not increasing capacity for new pupils. Such improvements (the details of which is not specified or explained by the Officer) that would need funding regardless of whether development happened in the area, meaning that they are not directly related; and
- iv. The email concludes with a frank and highly surprising admission that BMBC "always take the contribution". This is contrary to the CIL Regulations, DfE guidance, and BMBC's own SPD. The evidence must support the request, or else the tests of CIL Reg 122 are not met.

2.20 As no agreement could be met in relation to the need for education planning obligations, this Proof of Evidence has been necessary in order to outline why the requests are excessive, and not necessary to make the development acceptable in planning terms, as has been clearly demonstrated and accepted in BMBC education's own evidence and email correspondence.

2.21 This Proof of Evidence confirms that not only is there no need for planning obligations for education provision, but also that there is no education related reason for this development not to be granted planning permission. This is because the spare capacity forecast in the system, for both Primary and Secondary School provision, exceeds the expected child yield of the entire safeguarded site, not just this development application.

2.22 Firstly, this Proof of Evidence will look at the statutory and policy matters that govern education.

### 3 Statutory and Policy Matters

3.1 With regards to education, there is a covenant between the State and its populace that has had statutory force for 155 years<sup>3</sup>, namely that; wherever a child shall live, who is not otherwise provided for, the State will provide a school in accordance with the statutory arrangements, from the State or developers, as appropriate<sup>4</sup>. The covenant is not caveated by considerations of transience, fixed or temporary abode, nationality, residential status or home education authority, and means that however children arrive within an area (or are housed within an area) the local authority's statutory duty has to be met.

3.2 **The Education Act 1996 (as amended) ("EA96"):** The primary Act relating to education is the Education Act 1996, which is; (a) a consolidating Act and (b) an Act amended from time to time by subsequent legislation. Unless otherwise indicated in this Proof as applying to education, all references are to the Education Act 1996 (as amended).

3.3 EA96 (at section 14(1)) states,

*A local education authority<sup>5</sup> shall secure that sufficient schools for providing – (a) primary education and (b) secondary education... are available for their area.*

3.4 Sections 14(2) to 14(6) go on to explain what is meant by sufficient schools and that it includes implicitly that the requirement is for sufficient appropriate school places.

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<sup>3</sup> The Elementary Education Act 1870 (section 5) thereafter Education Act 1921 (section 17), Education Act 1944 (section 8), Education Act 1996 (section 14)

<sup>4</sup> The Act actually says, "5. There shall be provided for every school district a sufficient amount of accommodation in public elementary schools (as hereinafter defined) available for all the children resident in such district for whose elementary education efficient and suitable provision is not otherwise made, and where there is an insufficient amount of such accommodation, in this Act referred to as "public school accommodation," the deficiency shall be supplied in a manner provided by this Act".

<sup>5</sup> The local education authority has since 2010 been somewhat confusingly renamed 'local authority' to take account of the authority incorporating the duties of the children's services authority. For the purposes of clarity throughout this proof the term 'education authority' is used as the generic title to keep a clear separation from the planning authority.

- 3.5 EA96 (at Section 7) imposes a duty on *“every parent of every child of compulsory school age to cause him to receive efficient full-time education either by regular attendance at school or otherwise”*.
- 3.6 Section 14(1), together with s7, derives directly from s5 Education Act 1870 via s17 Education Act 1921 and s8 Education Act 1944. There have been no material changes over time, merely consolidating legislation, changes to school leaving ages and changes to terminology from time to time. It is, thus, a longstanding duty for the Education Authority as successor to the local school boards to provide sufficient schooling for children.
- 3.7 EA 96 Section 11 requires the Secretary of State for Education (i.e. the State) to exercise their powers in respect of those bodies in receipt of public funds which carry responsibility for securing school provision for promoting school education. The duty of the education authority (to secure sufficiency of provision) is to enable the State to discharge its responsibilities within the covenant. Thus, the original premise still holds true: for all children of statutory school age, who are not otherwise provided for, **the State provides a school**, *<my emphasis>* in accordance with the prevailing statutory provisions.
- 3.8 EA96 Section 14 Subsection 3A is a more recent modification to its duty through a requirement for the education authority to exercise its functions under this section with a view to increasing: (a) diversity in the provision of schools, and (b) increasing opportunities for parental choice, and was inserted into Section 14 by Section 2 Education and Inspections Act 2006 with effect from 25<sup>th</sup> May 2007.
- 3.9 Thus, the duty of the education authority is to enable the State to discharge its responsibilities within the covenant; but, with sufficient headroom to allow for the discharge of its S14 (3A) duties.
- 3.10 In securing sufficient schools for its area, an Education Authority assesses existing capacity and pupil numbers, data on births and migration, and how parental preferences are manifested. It forecasts (usually with a high degree of accuracy) the need for additional capacity in each school planning area for the ensuing five years for primary schools and seven years for secondary schools.

- 3.11 The Education Authority then passes this information to the State [currently the Education and Skills Funding Agency (“ESFA”)] being the school’s operational arm of the Department for Education (“DfE”) by way of the School Capacity Returns (“SCAP”). The State then allocates additional school places as and where shown to be necessary. Each additional school place is accompanied by central government formula driven capital funding associated with that place. This is known as Basic Need funding. Basic Need allocations to an education authority are aggregated into a single capital sum to be dispensed by the education authority to each project according to its needs.
- 3.12 Basic Need funding on a per-pupil-place basis covers increases in pupil numbers forecast, by the Education Authority, beyond existing and planned capacity, to arise because of rising birth rates, rising survival rates, rising inward migration rates and new housing (except when covered by Section 106 agreements or CIL).
- 3.13 The Basic Need pupil place funding system recognises that, whether or not a Section 106 agreement or a CIL charge has been applied by an LPA to a planning permission, is a matter purely for the LPA. It recognises the duty of the LPA to secure sufficient housing for its population and its growth agenda. The ability (or not) of a planned housing scheme to fund the accompanying school places should not sway the determination of a planning application for that scheme by the LPA. The disapplication of Basic Need provision where there is a Section 106 agreement or CIL is simply to avoid double-funding.
- 3.14 **Securing developer contributions for education (August 2023):**
- 3.15 In order to provide further clarity to education authorities, the DfE produced and published two Best Practice Guidance documents related to delivering schools to support housing growth under the Education Act 1996. These are non-statutory Guidance documents for local authorities planning for education to support housing growth and seeking associated developer contributions. The second of these Guidance documents is related to education provision in garden communities, and is therefore not relevant to this Planning Appeal. The first, however, is related specifically to securing developer contributions for education.
- 3.16 The Guidance document is clear that (paragraph 7, page 8):

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

- *The education needs arising from development, based on up-to-date pupil yield factors.*
- *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.*
- *The extent to which developer contributions are required and the degree of certainty that these will be secured at the appropriate time.*

3.17 **Barnsley Metropolitan Borough Council Education Planning Obligation Policy**

3.18 BMBC have a supplementary planning document (“SPD”) entitled “Financial Contributions to Schools” (May 2019). This SPD includes the child yield of new developments, which is as follows:

- 21 pupils per 100 homes; and
- 15 pupils per 100 homes.

3.19 This is consistent with the planning obligation request detailed in Table 1. The child yield multipliers used by BMBC are not in dispute.

3.20 Paragraph 3.2 of this SPD states the following:

**3.2** When assessing the need for a contribution the Council will consider:-

1. How many pupils a development will generate; and
2. The available spaces at schools in the school planning area within which the development is located; and
3. The condition of schools in the school planning area within which the development is located, in particular whether any work is required to ensure the school is fit for purpose and can be considered to be "*appropriate*" infrastructure in line with Local Plan policy I1.

3.21 Point 2 of paragraph 3.2 is particularly pertinent to this Appeal because, as will be discussed below, current and future capacity far exceeds the expected child yield of this development, which makes the request for funding unnecessary to make the development acceptable in planning terms. Further, the Council has made no suggestion at any stage that the relevant schools it has assessed in terms of capacity are not fit for purpose or not appropriate schools for either the current school populous or any addition to it (3.2 point 3).

3.22 It is for this reason that this Proof of Evidence has been produced.

3.23 Appendix A shows that BMBC stated on 15<sup>th</sup> April 2025 that the calculations have been prepared in accordance with the SPD:

Afternoon Ben,

The Education contribution calculations have been prepared in accordance with the Supplementary Planning Document (SPD). Furthermore, additional detailed information regarding the current capacity of schools within the area was provided in response to a previous request.

Should you require any further clarification or additional information related to this matter or any other inquiries that may arise, please do not hesitate to contact the Planning Officer overseeing the appeal. They will coordinate the response from the relevant council services to ensure all your questions are comprehensively addressed.

Thanks,  
Richard.

**Richard Waterhouse**  
School Place Planning Manager  
Education, Early Start and Prevention  
Children's Services  
Barnsley Council

3.24 This claim of accordance with the SPD is disputed, as if calculations had been prepared in accordance with the SPD, then available spaces at schools in the planning area would have been used to determine whether the development would cause a shortfall of spaces. They have not been, meaning the Council's approach in this case is contrary to the adopted policy of the Council.

#### 4 Education Provision

- 4.1 Schools should be operationally full to meet the financial audit requirement for best value from public assets. This is demonstrative of a properly functioning school system. School funding is predicated on the number of pupils that are on a school's roll, so it is in the best interest of schools to maximise intake within their capacity. Accordingly, many schools take from a wide catchment area and some enrol over capacity.
- 4.2 The statutory rules on enrolment are that whilst schools may have a catchment area and ordered criteria for admissions, those rules only apply if the school is oversubscribed. Otherwise, whoever applies is admitted irrespective of where they live. This is known as 'More Open Enrolment'. It fosters the expression of parental preferences for schools that are not necessarily those closest to home.
- 4.3 BMBC operates under a statutory duty (S14 Education Act 1996) 'to secure sufficient schools'. The term 'sufficient' is not defined and thus reliance is placed on the dictionary definition – enough – adequate – not too little and not too much. Thus, as set out above, the normal state for a school is that it is operationally full.
- 4.4 In my assessment, I consider all primary schools<sup>6</sup> within a two-mile walking distance, and all secondary schools that lie within a three-mile walking distance of the development. The two and three-mile criteria are the distances prescribed in the Education Act beyond which local authorities are required to provide or fund transport where the nearest available school is further away.

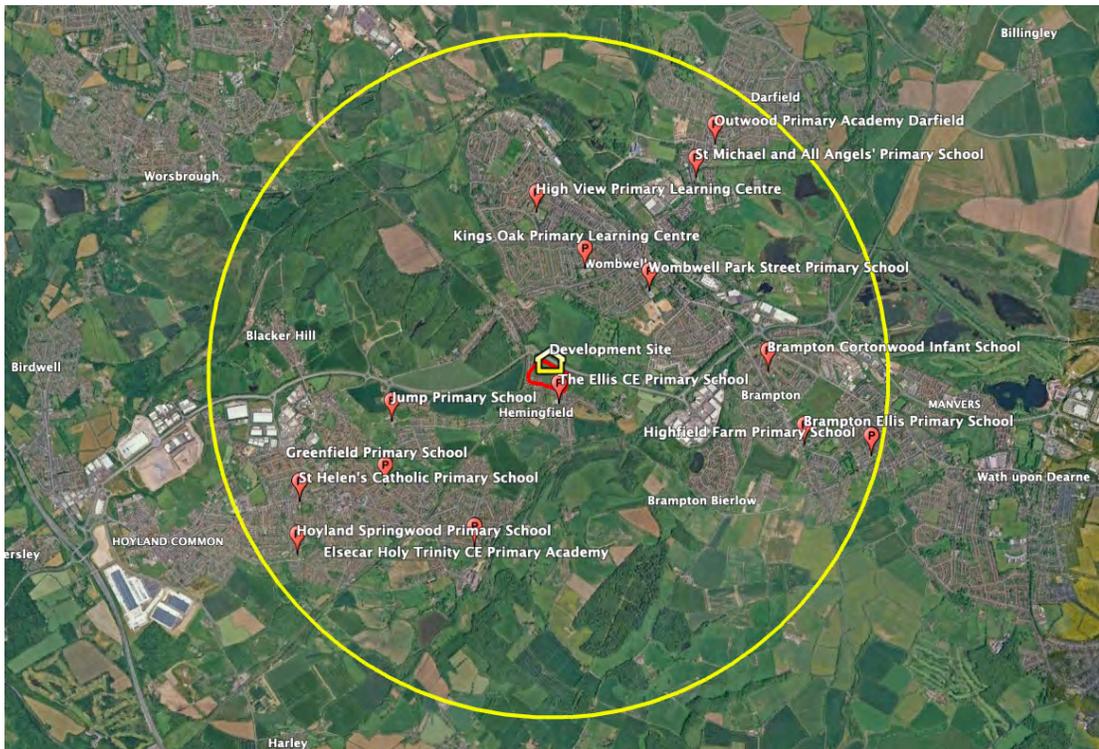
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<sup>6</sup> Distances have been calculated based upon coordinates near to the development (centrally). Once the development is built out, some parts of the site will be further/closer than shown.

**5 Primary Education**

5.1 There are at least thirteen state funded schools accommodating primary school aged children within a two-mile *radius* of the development site. Three of these schools are outside of BMBC’s administrative area (in neighbouring Rotherham) and have therefore been discounted. Of the ten remaining schools, six are within two-miles *walking distance* of the proposed new houses. These are the same six schools in the consultation response from BMBC.

5.2 The location of all the 13 schools within a two-mile *radius* of the proposed new dwellings, in relation to the development boundary, can be seen below in Map 2:



Map 2: Schools in relation to the development site

5.3 The latest school roll data in the public domain (2023/24 academic year) for the six schools within a two-mile *walking distance* of the site (which corresponds with the schools highlighted as appropriate capacity by BMBC) can be seen in the Table below:

Primary School Name	Postcode	LA Name	Distance (miles)	Capacity	PAN	NoR	Yr R	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6
The Ellis CE Primary School	S73 0PS	Barnsley	0.3	210	30	203	24	30	30	30	31	29	29
Jump Primary School	S74 0JW	Barnsley	1.2	210	30	213	29	27	29	32	30	33	33
Kings Oak Primary Learning Centre	S73 8TX	Barnsley	1.3	420	60	406	52	57	60	62	60	58	57
High View Primary Learning Centre	S73 8QS	Barnsley	1.3	420	60	410	54	59	60	58	60	59	60
Greenfield Primary School	S74 9RG	Barnsley	1.7	280	40	264	40	39	40	34	39	35	37
Wombwell Park Street Primary School	S73 0HS	Barnsley	1.7	315	45	298	29	45	45	45	45	44	45
<b>TOTAL</b>				<b>1,855</b>	<b>265</b>	<b>1,794</b>	<b>228</b>	<b>257</b>	<b>264</b>	<b>261</b>	<b>265</b>	<b>258</b>	<b>261</b>
Surplus							37	8	1	4	0	7	4
Available Surplus %							14%	3%	0%	2%	0%	3%	2%

Table 3: School Roll Data (January 2024 Census)  
PAN = Planned Admission Number; NoR = Number on Roll

5.4 The location of the six schools considered by BMBC as per Table 1 and can be seen in the map below:



Map 3: Schools within statutory walking distance of the development site

5.5 To summarise the above, there were 61 spare places in the six schools closest to the proposed new dwellings in the 2023/24 academic year shown in map 3. This far exceeds the maximum of 38 pupils that this development is expected to accommodate even when fully built out. It also exceeds the Councils suggestion of 50 surplus spaces in the 24/25 academic year (see Table 2 above) showing the

Councils view of surplus is likely to be very conservative. As Table 2 also shows however, the number of surplus places is expected to grow significantly in the future to and beyond the point in time at which pupils from the development would be expected.

5.6 It should be noted that the highest number of spare places was in Reception Year, which indicates that rolls are falling.

5.7 This development is directly north of, and very accessible to, a school known as The Ellis CE Primary School. This is a One Form of Entry ("1FE") primary school approximately 0.3 miles from a mid-point of the development site. The school, as of the previous academic year, was operating at 97% of its available capacity.

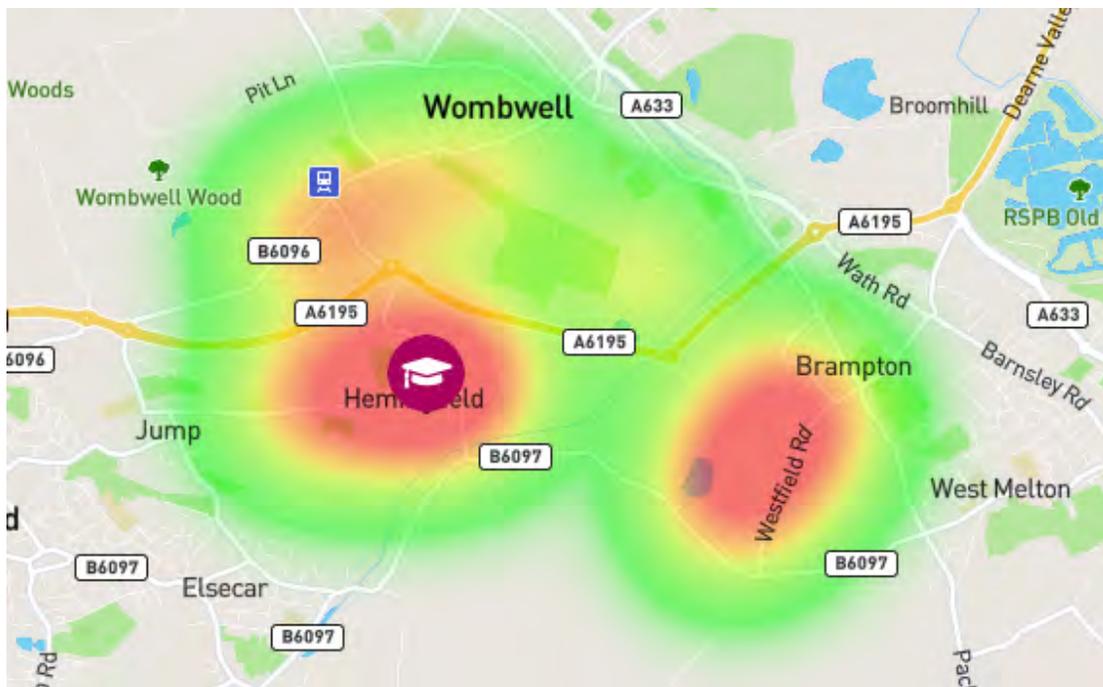
5.8 However, that number is not indicative of how many places are available for the pupils of this development site. The admissions criteria of the school favours pupils who live within Hemingfield, as shown below, such that new residents of Hemingfield at the Appeal site will get priority:

1. Where the number of applications for The Ellis CE Primary School received during the normal admissions round exceeds the admission number of the school, then admission will be determined in accordance with the following priority of admission criteria:

- a) Where the child is a Looked After Child (LAC), a previously Looked After Child (PLAC) and children who have been in state care outside of England (IPLAC) (see definition 5 – Looked after Children).
- b) Children who, or whose parents/carers (see definition 1) regularly (see definition 3) attend the parish church of St Mary's, Wombwell or St George's, Jump.
- c) Whether the child has any brothers or sisters (see definition 2) in the school at the time of admission who were admitted into full time school during or before the academic year 2016/17.
- d) Whether the child is resident in the village of Hemingfield and has any brothers or sisters (see definition 2) in the school at the time of admission.
- e) Whether the child is resident in the village of Hemingfield.
- f) Whether the child has any brothers or sisters (see definition 2) at the time of admission who were admitted into full time school after 1<sup>st</sup> September 2017.

5.9 However, because the school currently has relatively limited demand from Hemingfield itself, the school accommodates a significant number of pupils from further away, including Brampton, which is over the administrative border in Rotherham's area. It should be noted that Brampton has its own school – Brampton

Cortonwood Infant School – that as of the previous academic year was operating at 68% of its capacity with 48 spare places. This means that if there is housing growth in Hemingfield, pupils applying from Rotherham (specifically Brampton) in future will be pushed back in to schools in their area (such as Cortonwood Infant School). This will result in The Ellis CE Primary School being a sustainable solution for the new residents of the appeal site and a more sustainable solution for the residents of Rotherham, using schools closer to home. It means more children will be able to walk to their local school:



Map 4: The Ellis CE Primary School Catchment Area Heat Map (via schoolguide.co.uk)

- 5.10 While there is sufficient capacity in the 6 closest schools that can serve this development (as confirmed by BMBC in their consultation response – see Section 2 of this Proof of Evidence) it is also important to look forward to ascertain how many places will be available at schools in the slightly wider area, also when the development is building out and accommodating children on site, and general trends across the area.
- 5.11 There are ten schools in the Barnsley Primary Planning Area 13 group, which includes the Ellis CE Primary School directly south of the proposed new dwellings. While not all of these schools are within two-miles walking distance, they are organised

together, because there is cross over of admissions. The DfE states in their best practice guidance:

*Depending on local admission arrangements and patterns of parental preference, children living in a development might reasonably attend any school within the pupil planning area (or even an adjoining one in some cases), and you should not assume that they will all attend a particular school unless there are no likely alternatives.*

5.12 When looking at all the schools within the planning area to ascertain what future rolls are likely to look like, the ten schools have a combined capacity of 2,310 pupil places:

Primary Planning A...	School Name	Primary Capacity	Secondary Capa...
3700113	Elsecar Holy Trinity CofE Primary Academy	210	0
3700113	Hoyland Springwood Primary School	210	0
3700113	Jump Primary School	210	0
3700113	Birdwell Primary School	210	0
3700113	Greenfield Primary School	280	0
3700113	West Meadows Primary School	210	0
3700113	Hoyland Common Primary School	420	0
3700113	Tankersley St Peter's CofE (Aided) Primary School	210	0
3700113	The Ellis Church of England (Voluntary Aided) Primary School	210	0
3700113	St Helen's Catholic Primary School	140	0

Table 4: Primary Planning Area 13 Schools

5.13 In the 2024/25 academic year, the schools had a combined roll of 2,056 pupils, which equated to 254 spare places (11% surplus capacity). However, BMBC is forecasting a large fall in pupil numbers in the coming years, so that by the 2028/29 academic year, the schools are expected to have a roll of 1,860 pupils which is 450 spare places (19% surplus capacity):

LA name	Year	Planning Area Code	Planning Area Name	Planning Area Phase	nc Year Group	Pupil Forecast and ...
Barnsley	202425	3700113	Primary Planning Area 13	Primary	Primary total	2056
Barnsley	202526	3700113	Primary Planning Area 13	Primary	Primary total	2002
Barnsley	202627	3700113	Primary Planning Area 13	Primary	Primary total	1934
Barnsley	202728	3700113	Primary Planning Area 13	Primary	Primary total	1908
Barnsley	202829	3700113	Primary Planning Area 13	Primary	Primary total	1860

Table 5: BMBC SCAP Forecast

- 5.14 It should be noted that all developments with approved reserved matters (up to around September 2024) within these planning areas have their child yields included in the projections.
- 5.15 When applying the child yield used by BMBC to spare capacity of 450 pupils, this is the housing equivalent of 2,143 dwellings before the schools are full. This development’s child yield of some 180 dwellings, and the child yield of the remainder of the safeguarded land for a top-end of 520 dwellings, can therefore be comfortably accommodated in the Planning Area without the need for any expansions.
- 5.16 Furthermore, as is demonstrated in Section 2 of this Proof of Evidence, and Appendix A, the entirety of the safeguarded site’s child yield can be accommodated solely in the 6 closest schools to the development site.
- 5.17 BMBC’s SPD states that it is necessary to assess the available *spaces at schools in the school planning area within which the development is located*. This is consistent with the best practice guidance as quoted above. When looking solely at the 6 closest schools to this development (see map 3), planning obligations are not justified. When you consider the schools in the wider planning area, the request is even more egregious.
- 5.18 For completeness and comparison, there are seven schools in the neighbouring Primary Planning Area 08 group, which also includes the second closest school to this development. These schools have a combined capacity of 2,030 pupil places:

Primary Planning A...	School Name	Primary Capacity	Secondary Capa...
3700108	All Saints Academy Darfield	210	0
3700108	Outwood Primary Academy Darfield	210	0
3700108	Wombwell Park Street Primary School	315	0
3700108	Upperwood Academy	315	0
3700108	St Michael and All Angels Catholic Primary School	140	0
3700108	High View Primary Learning Centre	420	0
3700108	Kings Oak Primary Learning Centre	420	0

Table 6: Primary Planning Area 08 Schools

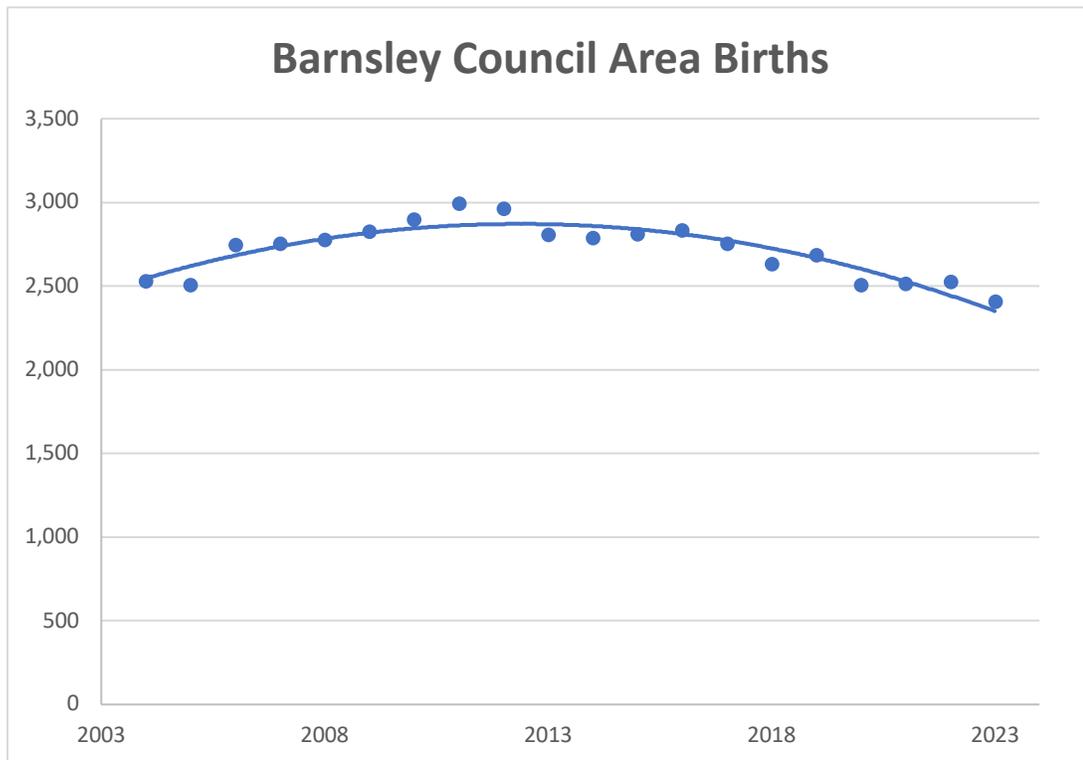
- 5.19 BMBC is forecasting falling rolls in this Planning Area also, so that by the 2028/29 academic year, the schools are forecast to have a combined roll of 1,841 pupils,

which is 189 spare places (9% surplus capacity). This is the housing equivalent of 900 dwellings before the schools are full (again, exceeding the child yield of 520 dwellings):

LA name	Year	Planning Area Code	Planning Area Name	Planning Area Phase	nc Year Group	Pupil Forecast and ...
Barnsley	202425	3700108	Primary Planning Area 08	Primary	Primary total	1927
Barnsley	202526	3700108	Primary Planning Area 08	Primary	Primary total	1920
Barnsley	202627	3700108	Primary Planning Area 08	Primary	Primary total	1896
Barnsley	202728	3700108	Primary Planning Area 08	Primary	Primary total	1872
Barnsley	202829	3700108	Primary Planning Area 08	Primary	Primary total	1841

Table 7: BMBC SCAP Forecast

- 5.20 This means that the two Planning Areas closest to this development are forecast to have sufficient capacity to accommodate the child yield of over 3,000 new dwellings without the need for any new infrastructure.
  
- 5.21 The falling pupil numbers in the two closest Primary Planning areas are not surprising when considering the wider demographics of the area. For example, in 2023 Barnsley saw the lowest number of births they had seen in the previous two decades, and births have been falling as a trend since the peak in 2011 (which is consistent with the national picture where births in 2023 were the lowest they had been since 1977). These falling birth numbers are clearly impacting the number of children working their way through to the school system:



Graph 1: Barnsley Council Area Births per Annum

5.22 To summarise the above:

- A development of up to 180 dwellings is expected to accommodate a maximum of 38 primary school aged children on site when fully built out;
- Across Barnsley, birth numbers are falling, and in 2023 they were the lowest they had been in over two decades;
- The closest primary school to this development is having its numbers inflated by pupils attending from outside of the administrative area;
- The six closest schools to this development site had, as of the 2023/24 academic year (see Table 3), 61 spare places, which exceeds the child yield of this site;
- BMBC confirm in their consultation response that roll numbers are expected to fall, so that by the 2030/31 academic year the six closest schools to this

development are forecast to have 165 spare places, which is over four times the child yield of this development, and also exceeds the child yield of the rest of the safeguarded land of circa 520 dwellings (the very top end, based on the Council's SHELAA, which is 109 primary school aged children);

- When assessing the trends in pupil demand at Primary Planning Area level, the two Primary Planning Areas that contain schools that could directly serve this development are forecast to have a combined 639 spare places, which is the housing equivalent of over 3,000 dwellings prior to any expansion being required; and
- The request for planning obligations demonstrably deviates from BMBC's own SPD on education planning obligations and is therefore contrary to their own Policy.

5.23 On the basis of the above, planning obligations are clearly not necessary to make the development acceptable in planning terms, and should therefore not be a requirement of the Section 106 Legal Agreement.

5.24 The pupils that will be resident in the proposed new housing will actually be a net benefit to an area that is seeing falling rolls, as schools are funded on the basis of the number of pupils they have on the roll. Therefore, from an education and sustainability perspective, the development should be looked upon positively.

5.25 There is evidently no primary education related reason for this development not to progress.

**6 Secondary Education**

6.1 There are three state funded schools accommodating secondary school aged children within a three-mile *radius* of the proposed new housing. The schools are all within the BMBC administrative area, and are grouped together in the same Secondary Planning Area. Of the schools, only two are within a three-mile *walking distance*, and thus only these schools have been considered to be appropriate when assessing the pupils of this development. This is consistent with the consultation response from BMBC. These schools are Netherwood Academy and Kirk Balk Academy.

6.2 The schools in relation to the proposed new dwellings can be seen in the map below:



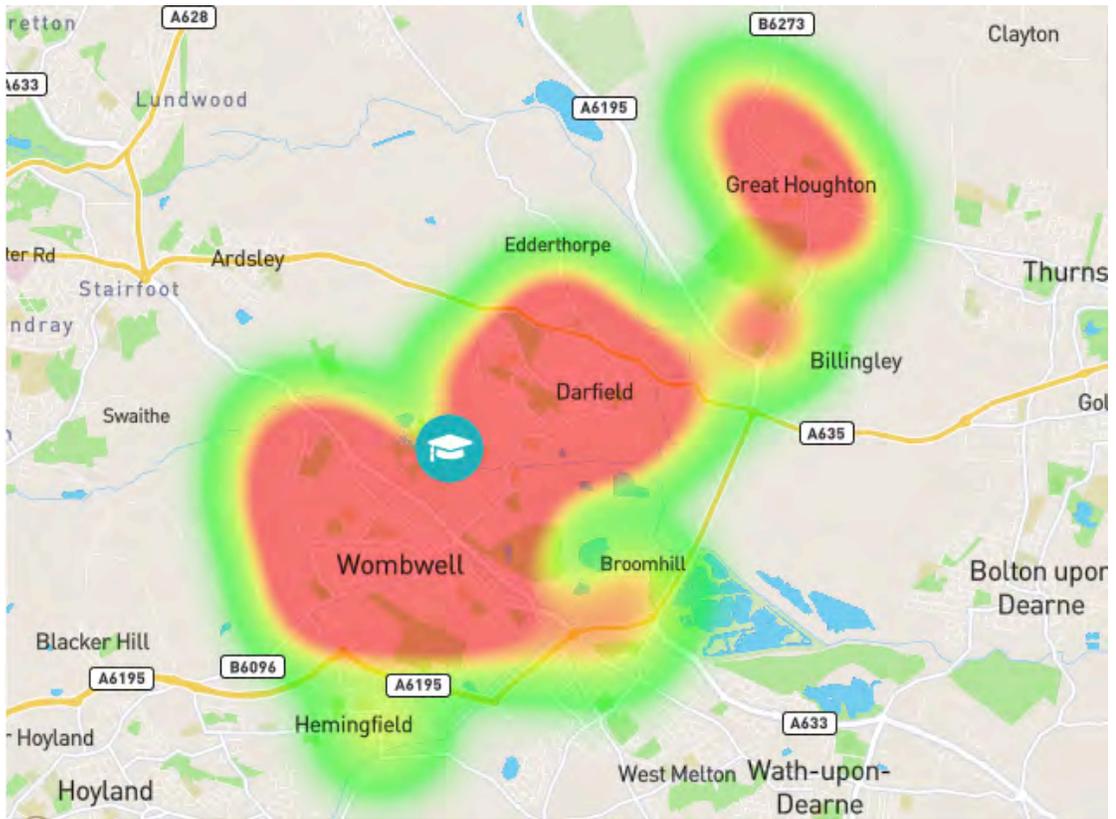
Map 5: Schools in relation to the development site

6.3 The latest school roll data in the public domain can be seen below in Table 8:

Secondary School Name	Postcode	LA Name	Distance (miles)	Capacity	PAN	NoR 7-11	Yr 7	Yr 8	Yr 9	Yr 10	Yr 11	Post 16
Netherwood Academy	S73 8FE	Barnsley	2	1,600	320	1,236	272	256	232	239	237	0
Kirk Balk Academy	S74 9HX	Barnsley	2.4	1,350	270	1,333	272	274	267	264	256	0
<b>TOTAL</b>				<b>2,950</b>	<b>590</b>	<b>2,569</b>	<b>544</b>	<b>530</b>	<b>499</b>	<b>503</b>	<b>493</b>	<b>0</b>
Surplus							46	60	91	87	97	
<b>Available Surplus %</b>							<b>8%</b>	<b>10%</b>	<b>15%</b>	<b>15%</b>	<b>16%</b>	

Table 8: School Roll Data

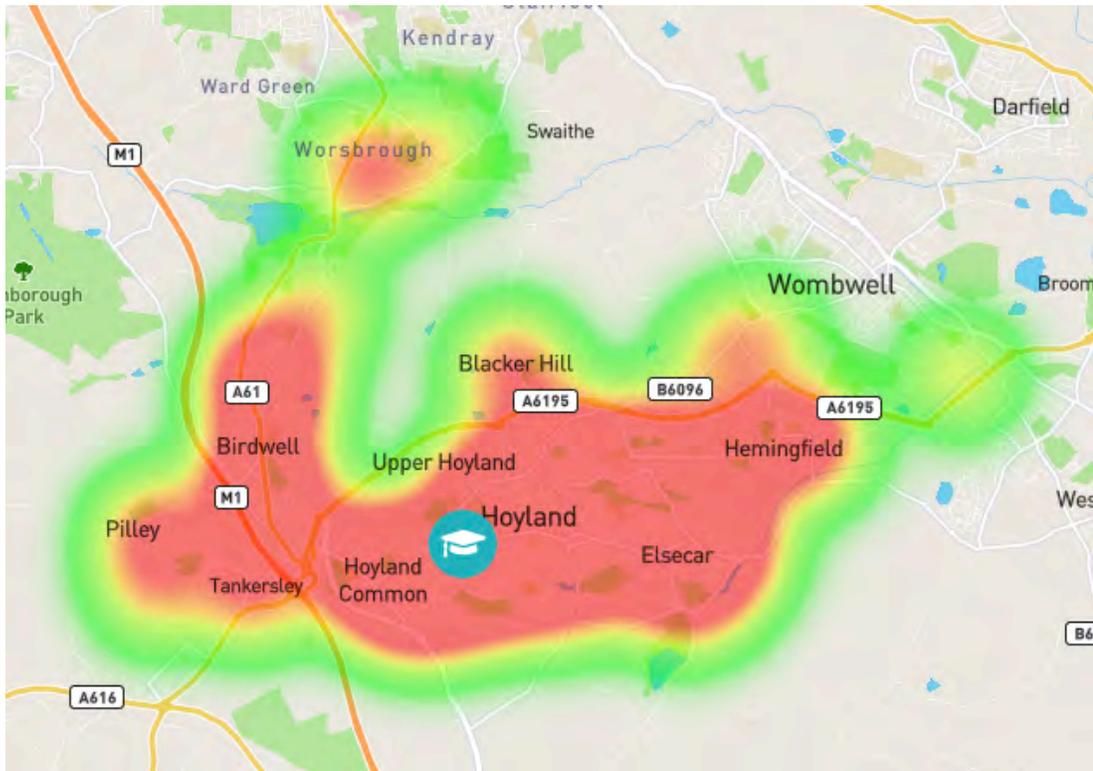
- 6.4 To summarise the table above: there were 381 spare places in the two closest schools to the development site (discounting the school that is a bit further away); both of the schools serve Hemingfield, as will be outlined below. A development of 180 dwellings is expected to accommodate a maximum of 27 secondary school aged children on site, meaning that there was over 14 times the child yield of this development in spare capacity in the two closest schools to this development.
- 6.5 It should also be noted that a development of circa 520 dwellings (the very top end based on the Council’s SHELAA) would be expected to accommodate 78 secondary school aged children on site when fully built out. This means that the two schools have almost five times the child yield of the whole safeguarded site.
- 6.6 The closest school to the proposed new dwellings is Netherwood Academy. This is a large, almost 11FE secondary school, that as of the previous academic year was operating at 77% of its available capacity with 364 spare places. The school is Ofsted “Good”.
- 6.7 The school will serve the pupils who will be living on this development site, as demonstrated in the map below showing the current home locations of the attendees:



Map 6: Netherwood Academy Catchment Area Heat Map

6.8 The second closest school to the proposed new dwellings is Kirk Balk Academy. This is a 9 Form of Entry (Ofsted “Good”) secondary school that as of the previous academic year was operating under capacity with 17 spare places.

6.9 This school also serves pupils from Hemingfield, as shown in the map below:



Map 7: Kirk Balk Academy Catchment Area Heat Map

- 6.10 A total of 381 spare places across the two schools is the housing equivalent of 2,540 dwellings prior to the schools being full. It is therefore unclear as to how BMBC can justify requesting planning obligations from this site of 180 dwellings. There is no evidence that expansions will be necessary, as there is no business case to justify them; in fact, there is no case of any nature to justify expansions. As with primary schools the entirety of the children from the safeguarded site, at the worst-case scenario top-end, can be accommodated, not just the pupils from this application.
  
- 6.11 Looking forward to when the development will be building out and accommodating children on site: There are three schools in the organised collectively in the South East Area Secondary Planning Area, which includes both schools discussed above, and the third school just outside of the three-mile walking distance (but that has some cross over with admissions). The three schools have a combined capacity of 4,150 pupil places:

Secondary Plannin...	School Name	Primary Capacity	Secondary Capa...	School Places
3700009	Kirk Balk Academy	0	1350	1350
3700009	Netherwood Academy	0	1600	1600
3700009	Astrea Academy Dearne	0	1200	1200

Table 9: South East Area Secondary Planning Area Schools

6.12 In the 2024/25 academic year, the schools had a combined roll of 3,785 pupils, which equated to 365 spare places. BMBC is forecasting a small increase in pupils in the coming years, so that by the 2030/31 academic year, the roll is expected to rise to 3,876, which will reduce the spare capacity to 274 spare places:

LA name	Year	Planning Area Code	Planning Area Name	Planning Area Phase	nc Year Group	Pupil Forecast and ...
Barnsley	202425	3700009	South East Area	Secondary	Secondary total	3785
Barnsley	202526	3700009	South East Area	Secondary	Secondary total	3844
Barnsley	202627	3700009	South East Area	Secondary	Secondary total	3920
Barnsley	202728	3700009	South East Area	Secondary	Secondary total	3944
Barnsley	202829	3700009	South East Area	Secondary	Secondary total	3958
Barnsley	202930	3700009	South East Area	Secondary	Secondary total	3881
Barnsley	203031	3700009	South East Area	Secondary	Secondary total	3876

Table 10: BMBC SCAP Forecasts

6.13 Spare capacity of 274 places is the housing equivalent of 1,827 spare places prior to the schools being full. Therefore, a development of 180 dwellings (and 520 dwellings) can comfortably be accommodated within the existing Planning Area without the need for any expansions. BMBC confirm this themselves in Appendix A. This is evidence that planning obligations for secondary education do not fulfil the tests of CIL Reg 122, as they are evidently not necessary to make the development acceptable in planning terms.

6.14 BMBC confirm themselves in their own evidence that there will be 232 spare places in the two schools within a statutory walking distance of the proposed new dwellings. This is over eight times the child yield of this site.

6.15 What should also be considered is that while there is a small increase in pupils expected in the coming years (although never sufficient to take the schools over capacity) this is likely to be short-term, as the primary school numbers working through the system are that much lower, and falling, meaning that any increase is likely to be temporary.

6.16 To summarise:

- The existing spare capacity in the two schools that directly serve this development have almost five times the child yield of 520 dwellings, which itself is an absolute worst-case scenario;
- BMBC is expecting the schools to have spare capacity into the next decade; and
- In the longer term, the numbers working through the Primary School phase are lower, and this any minor increase in roll numbers is expected to be short-term.

6.17 On the basis of the above, planning obligations are clearly not necessary to make the development acceptable in planning terms, and should therefore not be required in the Section 106 Legal Agreement.

## 7 Conclusion

- 7.1 BMBC has provided evidence to the Appellant which demonstrates that planning obligations are clearly not necessary to make the development acceptable in planning terms. This is because, from both a primary and secondary school perspective, the number of spare places far exceeds the child yield of the development when fully built out, as well as the totality of the safeguarded land site.
- 7.2 The request for Planning Obligations from BMBC is directly contrary to their adopted SPD, which outlines the methodology for which the planning obligations should be secured, and requires existing school surpluses to be taken into account.
- 7.3 The above Proof of Evidence therefore confirms two points: firstly, that planning obligations are not CIL Reg 122 (2) compliant and should therefore not be set out in the Section 106 Legal Agreement; and second, that there is no primary or secondary school reason why this development cannot be granted planning permission.

Signed:

A handwritten signature in black ink, appearing to read 'Ben Hunter', is written over a light grey circular stamp.

**Ben Hunter**

Associate Director – Education and Social Infrastructure  
EFM

6<sup>th</sup> May 2025

## Appendix A – Emails between EFM and BMBC

### Email to Richard Waterhouse: 15<sup>th</sup> April 2025



### Email from Richard Waterhouse: 15<sup>th</sup> April 2025



Email to Laura Bennett: 17<sup>th</sup> April 2025

**BH** Ben Hunter  
Fwd: Planning Application 2024/0122  
To: developmentmanagement@barnsley.gov.uk. Cc: Sarah Woodner [Details](#)

FAO Laura Bennett,

I hope you're well.

I am writing on behalf of Hargreaves Land Limited in relation to the Appeal at land north of Hemingfield Road, Hemingfield.

During the CMC on Tuesday, it was raised that there were questions regarding the Education planning obligations currently requested by BC. I reached out to Richard Waterhouse (please see the email chain below) to start discussions, and Richard suggested that I seek clarification through you in the first instance as the Case Officer for the application.

Having reviewed the current request for planning obligations for both Primary and Secondary School provision, I am unsure if the request can satisfy the scrutiny of a Planning Appeal, as the spare capacity in the school system currently, and forecast in the future, exceeds the child yield of the site.

For example, the development is forecast to accommodate a maximum of 38 Primary School aged children. However, the schools that could accommodate these children are forecast to have a minimum of 50, and a maximum of 165 spare places between now and the 2030/31 academic year. That does not demonstrate that expansions are necessary to make the development acceptable in planning terms.

For Secondary, the development is forecast to accommodate a maximum of 27 Secondary School aged children. However, the schools that could accommodate these children are forecast to have a minimum of 164, and a maximum of 298 spare places between now and 2029/30. That also does not demonstrate that expansions are necessary to make the development acceptable in planning terms.

BC's spd on Education planning obligations states that available spaces at schools in the school planning area within which the development is located will be considered when establishing whether planning obligations are justified. I cannot see that this methodology has been applied to the calculation.

I am keen to speak to BC Education in order to get some clarity on the above, and hopefully come to an agreement prior to the start of the Inquiry. As mentioned in my email to Richard, it may be that a topic-specific SoCG is required in lieu of a Proof of Evidence, and if I am missing something from the evidence provided to date, I would welcome receiving that clarification.

I would therefore be grateful if you would speak to Education and confirm that a discussion between us would be useful to hopefully narrow our areas of disagreement.

I look forward to hearing from you.

Kind regards,

**Ben Hunter**  
Associate Director - Education and Social Infrastructure  
Mob: 07497 338456  
EFM (Educational Facilities Management Partnership Ltd)  
Suite 2, Unit 10,  
Bradburys Court,  
Lyon Road,  
Harrow,  
HA1 2BY

**Email from Richard Waterhouse to Laura Bennett 30<sup>th</sup> April 2025**

**From:** Waterhouse, Richard (SCHOOL PLACE PLANNING MANAGER) <[RichardWaterhouse@barnsley.gov.uk](mailto:RichardWaterhouse@barnsley.gov.uk)>  
**Sent:** 30 April 2025 14:40  
**To:** Bennett, Laura (SPATIAL PLANNING PROJECT MANAGER) <[LauraBennett@barnsley.gov.uk](mailto:LauraBennett@barnsley.gov.uk)>  
**Subject:** RE: Planning Application 2024/0122 - Hemingfield Road Public Inquiry

Laura,

Ben is correct in his assumptions about current spare capacity in both Primary and Secondary. This is the current projections based on the latest birth data we have which only covers births for children starting school up to 2028.

The difficulty with planning applications and education contributions is the potential delay between agreements being entered into, developments commencing and houses becoming occupied. This can run into years and during this time birth rates could increase to levels of previous years. This would put pressure on existing school provisions, so contributions are taken to account for this. If the places are not needed, we can always give the money back at the end of the agreement period, but if we don't take the money, we will be left to fund the creation of places ourselves.

Having said this, the SPD also allows for improvements to school building conditions, so the contributions could also be spent on this if it is not required for places.

I am new to responding to planning applications and the full planning process, but I have been going on advice from colleagues that used to respond - as the SPD includes for both places and condition, we always take the contribution.

I'm happy to discuss this further, as I don't want to put additional pressure on the council in the inquiry.

Thanks,  
Richard.

**Richard Waterhouse**  
**School Place Planning Manager**  
**Education, Early Start and Prevention**  
**Children's Services**  
**Barnsley Council**

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