

Your Ref: H14-0065-26
Our Ref: 1662-1 MJB SB

16 April 2026

Mr Mark Niland
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Dear Mr Niland

KESTON FIELDS LIMITED

**APPLICATION REF: H14-0065-40 FOR 40 DWELLINGS ON LAND OFF FARNBOROUGH CLOSE,
PINCHBECK, LINCOLNSHIRE, PE11 5AF**

We note Lincolnshire County Council has requested a contribution towards primary, secondary and sixth form education provision in association with the development of 40 homes at Farnborough Close, Pinchbeck (Application H14-0065-26).

We accept the established principle that, subject to meeting the tests, contributions can be payable to increase the size of schools to support the expansion of education facilities, it is reasonable to seek a contribution towards expanding education provision.

We are concerned, however, for the reasons set out below, that the County Council request does not meet the tests for planning contributions set out in paragraph 122 of the Community Infrastructure Levy Regulations as amended that requires any obligation 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 cash contribution sought in this case is £502,837.56. This contribution is based on the assumption that there is no capacity in the existing schools, and that the development will be completed or well on its way in the school year 2028/29.

The level of demand has been calculated using a Pupil Product Ratio (PPR) which identifies how many pupil places are expected to be generated by new houses. The PPR, as they appear in the adopted Local Plan, were prepared by the Lincolnshire Research Observatory (LRO) based on a long term study of young people living in newly built homes: this is a very different basis for calculation from that used to calculate demand for places based on the demographic projections used to predict overall demand for school places set out in the School Organisation Plan prepared by the County Council. The LRO work undertaken in the 2000s was a robust assessment of the actual level of demand generated by new housing at that time.

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The PPR for different school ages per dwelling used in the County Council's request for contributions calculation are significantly higher, in some cases double the PPR used in the adopted Local Plan:

<u>Dwelling size</u>	<u>Education Type</u>	<u>Local Plan PPR</u>	<u>LCC request PPR</u>
2 bed homes:	Primary	0.09	0.225
	Secondary	0.09	0.0785
	Sixth form	0.018	0.032
3 bed homes:	Primary	0.17	0.373
	Secondary	0.17	0.2169
	Sixth Form	0.034	0.078

It is not clear how the PPR used in the recent calculation has been derived, especially as it is our understanding that the LRO is no longer active, and in fact ceased operation before the Local Plan was adopted. The County Council needs to confirm the origin of the PPR used in their calculation for this application.

The request for contributions is based on the assumption that there is no capacity in any of the local schools. This is rarely, if ever, the case.

We understand that the County has argued that it cannot take existing capacity into account because schools are run by academies or private businesses, and capacity is, therefore, a commercially sensitive issue.

However, the assertion that capacity is not publicly available is wrong. Capacity of each school is published by the government every year. This publication is a legal requirement in a publication that uses figures collected from the schools by the County Council. The figures are collected halfway through the academic year and published in February or March. The capacity of each school is published each year and is publicly available online. As pupils tend, in the most part, to attend a particular school for a full school year it is not clear why publicly available information cannot be used to calculate current capacity.

An example of the reporting process, for Spalding Primary Academy, and dated 11 March 2026 can be inspected at: <https://get-information-schools.service.gov.uk/Establishments/Establishment/Details/148373>

The County Council request should include an assessment of existing and planned capacity at schools serving this area, using the publicly available information that it collects every year.

The County Council has a legal duty to ensure adequate school places are available and need to plan to meet those needs. This plan is set out in the Lincolnshire County Council School Organisation Plan 2024-25 (<https://www.lincolnshire.gov.uk/downloads/file/2605/school-organisation-plan-2019-2020>). This plan sets out projected demand for schools over the coming years, based on demographic projections based on registrations at General Practitioners – a very different approach to the LRO research on occupancy of new homes.

The findings of the report are of importance because the School Organisation Plan included projections for people aged 0 to 19 in the County up until 2033. These projections indicate that the school age population in the County will peak in 2030/31 and then begin to decline. The decline would be expected to lead to vacancies in the various

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schools, reducing the justification for new contributions. In this case, however, the speed of delivery is expected to be slower. Anglian Water have requested a condition which in effect restricts development until they have carried out works to expand the Water Recycling Plant serving the development. These works, which are set out in the investment plan running from 2025 to 2030, and may not be completed before 2029, and would consequently delay development. The homes would, therefore, be occupied after the planned peak in school age population.

The county Council should be required to take into account the potential delay in construction, and the impact this will have on projected availability of school places.

The County Council has also failed to specify where and how the money will be spent; there is only a reference to the "Spalding Primary Planning Area". This description is very general and fails to provide any certainty on the works that would be undertaken and therefore cannot be audited reliably. The Lincolnshire County Council School Organisation Plan 2024-25 (the most recent document found on line refers to Spalding East Primary Area and Spalding West Primary area, but not the Spalding Primary Planning Area: even then, the Spalding East and West Areas do not appear to be defined geographically, although the constituent schools are assigned to the East and West areas.

It seems the school Planning Areas change, without being defined. There is no certainty regarding where and how the money will be spent and, as such, there is insufficient evidence to demonstrate that the money is necessary to make the development acceptable in planning terms (because of the lack of information about existing capacity or existing planned expansion of the local schools) or that the funding is fairly and reasonably related to the development, because there is no indication where the money would be spent.

We would expect that the target school and scope of works should be identified, to ensure the money can be audited, and guarantees given that the scheme is directly related to the development that has generated the funds. Without this detail, it is impossible to audit the monies and to know when and how they are spent and to know that the contributions were fairly and reasonably related in scale and kind to the development.

The County Council should be required to quantify where, when and how the monies are expected to be spent.

There is also an established principle when preparing a CIL charging schedule that developers can only be made to contribute towards infrastructure if the level of demand exceeds existing and planned provision. The County's request appears to assume that, despite the apparent lack of capacity in local schools, no provision is being made to provide for an anticipated increase in demand for places, either by the County Council or individual Academy Trusts.

The request should identify the investment plans that are being put in place to meet the increasing demand for school places being derived from the existing population, and not just the residents of new developments. This investment will also provide capacity for new development in future.

The request for a contribution towards Education provision appears to fail the tests set out in the CIL regulations on the following grounds:

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- The PPR for new residential development used to calculate the demand is based on figures different from those in the Local Plan. Whereas the Local Plan was based on research undertaken by the Lincolnshire Research Observatory, the new figures, which are often double the PPR set out in the Local Plan, have not been justified.
- The assumed completion date is at odds with other factors that will influence the development. Whereas the County Council has assumed the development will come on track in 2028/29, Anglian Water is requesting a condition which would delay occupancy of any dwellings until they have confirmed there is capacity in the Foul Water network. This confirmation is expected to delay development to a period when demand for school places is expected to be in decline.
- There is a failure to take account of current and predicted capacity of existing schools or existing plans to expand schools to meet predicted needs.
- There is a lack of certainty about how, where and when money would be spent.

Without confirming the above issues, the request fails to demonstrate that the request is in accordance with the tests set out in the CIL regulations and the request for contributions should be dismissed.

This is not just our opinion. The Decision Letter for a recent planning appeal for residential development at Little London, Long Sutton in South Holland (Appeal reference APP/A2525/W/25/3372173) explored the issue of Section 106 contributions, including those for education. The Inspector considered the request for education contributions and concluded:

“22. A contribution of £152,296.54 has been indicated as being a requirement for education. There is minimal evidence submitted with this appeal which indicates how this figure meets the statutory tests including how this figure is calculated, where the commuted sum would be spent and how it relates to planning policy.”

The details of the information submitted to the Inspectorate are not available. The appeal regulations, however, require the appellant and the Local Planning Authority to submit all relevant information from the application file. This must include the comments from the NHS, the Highway Authority and the County Council (with regard to education contributions) and the viability appraisal information (provided by both the applicant and the Local Planning Authority). Indeed, the Inspector refers to the requests from the NHS and the Local Highway Authority. It must be assumed that the Inspector had the request for Education contributions in front of him when making his decision and concluding that the requests did not meet the tests set out in the CIL regulations.

We note the education request for the appeal site took an identical approach to calculating the request for the application for 40 dwellings on Farnborough Close and as such this request similarly fails to meet the requirements of the CIL regulations.

We request, therefore, that you review the County Council's request in light of the points we have raised and the conclusion of the Inspector in the Long Sutton appeal.

We look forward to receiving your conclusions on this matter to either confirm that the request does not meet the tests for Developer contributions, or to explain why the request is deemed to be acceptable.

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Please contact the office if you wish to discuss this issue.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'M Braithwaite', is written over a light pink rectangular background.

Michael Braithwaite MRTPI

Enc Appeal Decision (Ref: APP/A2525/W/25/3372173)