

To: Council

On: 22 June 2023

Report by: Chief Executive

Heading: Dargavel Primary – Independent External Review

1. Summary

- 1.1 At a Special Meeting of the Education and Children's Services Policy Board on 7 November 2022, the Board considered a report by the Director of Children's Services relative to the capacity of Dargavel Primary School. The Report advised Members that the Chief Executive had instructed a review into the matter which would begin in January 2023, with a report on the findings to be submitted to a meeting of the Policy Board following its conclusion. The Board agreed that an external review was required.
- 1.2. The Chief Executive advised Members on 5 December 2023 that David Bowles had been instructed to carry out the Independent External Review. Further, Members were advised on the Terms of Reference of the Review. The Chief Executive also advised on the potential timeline for preparation of the conclusion of the Review and that, given the nature of this matter, the outcome of the review to be reported to the first available Full Council Meeting following its conclusion.
- 1.3 The Independent External Review has now concluded and the Report has been received by the Council.
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2. **Recommendations**

- 2.1 Council is asked to consider and note the contents of the Independent External Review Report.
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3 **Background**

- 3.1 At a Special Meeting of the Education and Children's Services Policy Board on 7 November 2022, the Board considered a report by the Director of Children's Services relative to the capacity of Dargavel Primary School. The report advised that the school opened in January 2022 and that over the course of the 2022/23 school session the rate of admissions had been higher than anticipated. Accordingly, a forecast roll projection based on the existing school roll, known pre-school population within the school catchment area and potential future pace of house completions across the Dargavel development was carried out and the results of the preliminary stage provided clear conclusions that the existing school capacity would be materially insufficient to meet the future demand profile of the catchment area. The report further set out an interim solution for implementation for August 2023 and advised that a further report outlining options for a permanent solution would be brought to Board.
- 3.2 As part of that Report to the Board, and at the meeting itself, the Board were advised that the Chief Executive would instruct an Independent External Review to assess the circumstances which led to the very significant error in school capacity planning. The Board agreed that an external inquiry by an independent body such as Audit Scotland, was essential to determine what happened, how it happened and to ensure that this could not occur again
- 3.3. The Chief Executive advised Members on 5 December 2023 that he had set the Terms of Reference of the Independent External Review and had instructed the Review to take place. He further advised that Audit Scotland had been advised on the Terms of Reference and the Review arrangements. Audit Scotland had confirmed that based on the nature and stage of matters, they would not seek to become directly involved in a review of the circumstances that have led and contributed to the current issues. They had confirmed that the Terms of Reference and Review arrangements, including the identified Review Lead, were appropriate. Further they have advised that they wished to be kept

informed of progress of the review, and that they would wish to consider the Review report once concluded and any actions the Council takes in response.

- 3.4 The Chief Executive further advised Members that the Independent External Review would be carried out by David Bowles who had been appointed through SOLACE Business. David Bowles is a highly experienced former local government Director and Chief Executive having held a number of demanding and challenging Director and Chief Executive posts over a 25 year period across both England and Wales, including Chief Executive of four different authorities. In addition, he is a highly experienced lead on major independent investigations and reviews. He has been commissioned to carry out a number of significant, complex and sensitive investigations across both the local government sector and NHS on behalf of both local and national government both across Scotland and south of the border.
- 3.5 Members were advised that the Independent External Review Lead would have access to any and all reports, documentation and working papers he may require. It was anticipated that he would wish to interview a significant range of individuals, including officers both past and present and a range of parties external to the Council. The Head of Corporate Governance would act as a Single Point of Contact (SPOC) within the Council to provide and make available all necessary support and resources that the Review Lead may require.
- 3.6 Members were also advised the independent review had commenced, and that it was estimated that the Review would conclude and report by the end of April 2023. However, that estimated timeline would be subject to review and adjustment as appropriate recognising the timeline associated with the Dargavel development extended a very significant number of years into the early years of the millennium and as a consequence there would be a significant level of dependency for the review on historical records and a wide range of individuals now external to the Council.
- 3.7 The Chief Executive advised that the Terms of Reference set by him were wide ranging and that, while referencing the matters raised by the Board, they went well beyond those. The Terms of Reference are attached as Appendix 1 to this report.
- 3.8 The Independent External Review has now concluded and the Report has been received by the Council. The Report is attached as Appendix 2 to this report.
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Implications of the Report

1. **Financial** - none
2. **HR & Organisational Development** - none
3. **Community/Council Planning** – none
4. **Legal** – none
5. **Property/Assets** – none
6. **Information Technology** – none
7. **Equality & Human Rights** - The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report as it deals with Members considering the Report following the Independent External Review. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website. (Report author to arrange this).
8. **Health & Safety** – none
9. **Procurement** – none
10. **Risk** – none
11. **Privacy Impact** – none
12. **CoSLA Policy Position** –
13. **Climate change** - none

List of Background Papers

Dargavel Primary School Capacity Report by the Director of Children's Services 7 November 2022

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Independent Review

Terms of Reference

Dargavel Primary School Capacity Shortfall

Terms of Reference for Independent Review into the educational capacity planning that supported the definition of the required education provision to be provided under a S.75 agreement associated with the delivery of the BAE systems Dargavel community growth area development in Bishopton Renfrewshire.

1. Background

- 1.1. On the 7th of November 2022 a report was presented to the Education and Children's Services board – "Dargavel Primary School Capacity" - which set out a very significant projected shortfall in the capacity of Dargavel Primary School to meet future primary school education demand within the associated catchment area.
 - 1.1.1. Dargavel Primary School opened in January 2022 and was provided as part of a Section 75 agreement with BAE systems linked to the delivery of a masterplan development as part of the new community growth area of Dargavel which is located alongside the established Renfrewshire village of Bishopton due west of Glasgow airport and located near to the M8 motorway.
 - 1.1.2. The Dargavel development represents the biggest housing regeneration project in the history of Renfrewshire Council and constitutes the remediation and regeneration of a brownfield site of over 500 acres in size which in its previous life accommodated the Bishopton Royal Ordnance Factories (ROFs). It represents one of the largest brownfield site remediation developments across the UK.
 - 1.1.3. Engagement between the Council and BAE systems in relation to the development of a new community growth area located at Dargavel dates to the early part of this millennium with the original masterplan outline planning application received in 2006 and which received outline planning approval in August 2009. Outline planning approval was provided subject to an agreement being reached between BAE Systems and the Council in relation to planning obligations (known as section 75 Agreements in Scotland) for the provision of a range of either financial contribution to or provision of facilities including schools, health facilities, roads and footpath infrastructure, transport, open space parkland, community, leisure and play provision and affordable housing etc.
 - 1.1.4. The first section S.75 between the Council and BAE systems was signed in 2009 and updated twice in 2012, reflecting the outline planning consent at that time for a maximum 2,500 houses along with areas of the masterplan designated to be developed out for employment and commercial purposes. Within these versions of the S.75 agreement, provision was included for the delivery of a new primary school to accommodate a school roll capacity of 340 pupils. There were further revisions to the S.75 agreement in 2014 and 2017

- 1.1.5 A revision to the masterplan and outline planning consent was granted in 2018, which increased the outline planning consent for housing to over 4,000 houses, with the greater housing provision being approved in lieu of the areas previously earmarked for employment and commercial development. As a consequence of the revised outline consent, an updated S.75 agreement was signed in 2018, which identified the provision of an increased primary school capacity of 430 pupils – the 2018 S.75 agreement represents the most up to date version of this agreement.
- 1.1.6 The new Dargavel primary school was in broad terms a turnkey project, delivered to the Council by BAE Systems as the landowner and developer for the site. Construction commenced in 2020 and progressed throughout the pandemic period, opening later than originally scheduled in January 2022. Construction of new housing in the Dargavel development has been progressing since circa 2013, with approximately 2,200 houses completed to date. Pending delivery of the new primary school under the S.75 agreement, pupils were accommodated in Bishopton Primary School.
- 1.1.7 As noted above, the new the Dargavel Primary School opened in January 2022. Over the course of this session the rate of admissions to the new school was higher than expected. As a result, some initial work was completed to review likely registrations over the coming years which raised significant concern of a material shortfall in future capacity and a risk that this would emerge over a very short time horizon.
- 1.1.8 Work was subsequently progressed over the summer & early autumn period to review school roll projections to fully understand the potential scale and timing of the problem. This review included progressing a range of detailed work, including engagement with peer authorities with experience of education planning in developments of similar scale and nature to Dargavel, to help test the robustness of the revised figures produced internally by officers. It has now been estimated that the long term school roll projections for the new Dargavel school catchment may reach as high as circa 1,100 pupils – reflecting a very significant shortfall as measured against the 430 school roll which is encapsulated within the 2018 S.75 agreement. In addition, it was identified that the school capacity would be breached by the intake from next year’s school session (2023/24) and therefore there was both an immediate and acute capacity issue to resolve as well as a longer term capacity shortfall. At present, further independent analysis of these revised projections is being carried out by Edge Analytics to provide an independent validation of the broad scale and timing and also to refine these longer-term projections as appropriate to inform the longer term planning.
- 1.1.9 As soon as reasonable confidence was established by officers around the scale and timing of the problem, the requirement for a Special Board meeting of the Education and Children’s Services Board within the Council was triggered (occurred on the 7th of November) as well as active engagement with the school and wider community. As part of that report to the Board and the meeting itself, it was confirmed that the Chief Executive would instruct an independent review to assess the circumstances which led to this very significant error in school capacity planning. This Terms of Reference is a direct response to that commitment.

2. Independence of the Review

- 2.1. In view of the nature and scale of the implications it is deemed appropriate that the review should be carried out by an appropriately experienced external party independent to the Council.
- 2.2 The review will be led by David Bowles, appointed through SOLACE. David will have full independent freedom, access to information (subject to necessary data sharing agreements where appropriate), resources and ability to seek interviews with appropriate individuals as requested to progress the review.
- 2.3 Audit Scotland have been consulted on the Terms of Reference and the arrangements for the review and have confirmed that based on the nature and stage of matters, they would not seek at this point to become directly involved in a review of the circumstances that have led and contributed to the current issues. They have confirmed that the Terms of Reference and review arrangements, including the identified review lead, are appropriate and have advised that they will through the local audit team arrangements be kept informed of progress of the review, will wish to consider the review report once concluded and any actions the Council takes in response

3. Review Team Composition

- 3.1. As detailed above the review will be led by David Bowles, appointed through SOLACE Business. David is a highly experienced former local government Director and Chief Executive having held a number of demanding and challenging Director/Chief Executive posts over a 25 year period across both England and Wales. In addition, David is a highly experienced lead on major investigations and reviews. He has been commissioned to carry out a number of significant, complex and sensitive investigations and reviews across both the local government sector and NHS on behalf of both local and national government across in Scotland and south of the border.
- 3.2 The Council will via the Head of Governance provide a Single Point of Contact (SPOC) within the Council to provide and make available all necessary support and resources to the review team. Use will be made during the review of the work currently being progressed on behalf of the Council by Edge Analytics, specialists in the provision of pupil role projection services across UK local authorities.

4. Scope

- 4.1. In light of the scale of concerns identified, the review will seek to investigate: -
 - 1) The approach adopted to model and develop the projected educational capacity requirements for a new Dargavel Primary School and associated secondary education provision that ultimately informed the S.75 agreements from 2009 through to 2018. This aspect of the review should include but should not be limited to understanding: -
 - a) When this modelling work was first commenced in the Council
 - b) The broad modelling approach adopted, how this compared to best practice adopted across the UK and how this differed or otherwise from the approach

normally adopted by the Council for assessing the impact of smaller scale housing developments.

- c) What range of officers were involved directly or indirectly in determining, developing and quality assuring the capacity modelling?
 - d) What learning was sought from other local authorities across the UK or from external bodies who held experience of approaching similar long term education capacity planning for major community growth areas like Dargavel where this involved the provision of new educational facilities additional to the existing school estate?
 - e) Identification of the potential variable(s) or principle(s) within the modelling approach that directly contributed to the production of a projected school capacity requirement that has proven to fall significantly below actual requirements. Additionally, how specifically the process to update the capacity projections to inform the 2018 S.75 was undertaken, recognising that proportionately as the development increased in size the underlying primary school forecasting error became more pronounced.
 - f) The approach taken to apply due diligence checks and balances and appropriate review of modelling outputs to provide confidence in the information that supported the provision of specific requirements for the S.75 agreements.
- 2) The adequacy or otherwise of Council services operating as an effective and strongly collaborative corporate body in supporting the Dargavel development planning including the establishment of the projected future education demands over the broad period leading up to the final definition of the primary school requirements in 2018.
 - 3) The level and scale of senior officer oversight and the associated formal reporting at appropriate stages through the Council's internal governance process throughout this period.
 - 4) Identification through the 2009 to 2018 S.75 processes where opportunities to identify the underestimation of school capacity requirements were potentially missed before school construction ultimately commenced.
 - 5) Assessment of the effectiveness and engagement with the community in relation to the capacity planning process – specifically when and how concerns in the community in relation to future school capacity were brought to the attention of Council officers, the manner and adequacy of how these were responded to and ultimately handled by the Council.
 - 6) Post the 2018 S.75 agreement, the extent to which the Council was adequately preparing for the new school coming on stream in the lead up to and during the construction period and where any opportunities may have been available to

identify earlier the significant capacity deficiency in primary provision – this should include engagement during this period with the school leadership team, school community and wider community during this period.

- 7) Any other aspects deemed appropriate by the lead reviewer.

5. Methodology

- 5.1. The review methodology will be determined by the appointed Lead with full support provided in terms of access to reports, documentation, working papers etc. It is anticipated that requests for interviews with a wide range of individuals will be required, including officers both past and present and a range of parties external to the Council.

6. Reporting and Timescales

- 6.1. The review lead will prepare and produce a full report setting out in detail:
 - (a) review methodology adopted;
 - (b) review findings;
 - (c) review conclusions; and
 - (d) recommendations.
- 6.2. The review will commence in December and is estimated at this stage will take until the end of April to conclude and report. This timeline will be subject to review and adjustment as appropriate recognising the scale of dependency on individuals now external to the Council as well as the potential challenges associated with a review timeline that extends back a very significant number of years, potentially into the early years of the millennium.
- 6.3. The report and associated recommendations for any actions to be progressed will be presented to the first available full Council meeting following the report concluding and being made available. The report will be publicly available through the normal publication of full Council reports and will be appropriately shared with key community representatives as part of this reporting phase.

Report to Renfrewshire Council

**Independent Review of the Council's assessment of the
demand for education for Dargavel Village, secured in
Section 75 Agreements with BAE Systems**

**David J Bowles & Associates Ltd
June 2023**

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SECTION 1 - INTRODUCTION

1.1 General background

The development of the new village of Dargavel, in Renfrewshire, is an extremely complex and large project, which has evolved into one of the largest housing developments in Scotland.

Following the granting of planning permissions for housing in 2009 and 2018, by spring 2022 it became apparent that Renfrewshire Council had substantially underestimated the demand for primary school places for the village. By implication the demand for secondary education was also likely to have been significantly underestimated.

The scale of the problem was such that in November 2022 a special meeting of the Council's Education and Children Services Policy Board was held. The purpose of the meeting was to discuss Dargavel primary school capacity. It was reported that planning permission was in place for 4219 homes and that 2162 had been built. It was also reported that the current school roll was 463 with the school having a potential capacity of 609 pupils. The Board were advised that to protect the quality of learning, it would be preferable for the school not to exceed 548 pupils.

The minutes of the meeting state:

.... a forecast roll projectionprovided clear conclusions that the existing school capacity would be materially insufficient to meet the future demand profile of the catchment area. The projected figures showed a school roll of circa 600-620 in August 2023 and circa 685 – 705 in August 2024.

The school was originally designed as a 2 stream entry primary school catering for around 440 pupils, who chose to attend a non-denominational school, based on the development of around 4000 houses.

The Policy Board were asked to note:

that the Chief Executive had instructed a review into the matter which would begin in January 2023, with a report on the findings to be submitted to a meeting of this Policy Board following its conclusion.

The Board decided to approve, as an interim solution, the procurement of 6 new modular classrooms to be in place for August 2023 with options for permanent solutions to be considered in early 2023.

1.2 Terms of Reference

Following that meeting I was commissioned to conduct an independent review of how this situation transpired. My terms of reference are as set out below:

In light of the scale of concerns identified, the review will seek to investigate: -

- 1) The approach adopted to model and develop the projected educational capacity requirements for a new Dargavel Primary School and associated secondary education provision that ultimately informed the S.75 agreements*

from 2009 through to 2018. This aspect of the review should include but should not be limited to understanding: -

- a) When this modelling work was first commenced in the Council*
 - b) The broad modelling approach adopted, how this compared to best practice adopted across the UK and how this differed or otherwise from the approach normally adopted by the Council for assessing the impact of smaller scale housing developments.*
 - c) What range of officers were involved directly or indirectly in determining, developing and quality assuring the capacity modelling?*
 - d) What learning was sought from other local authorities across the UK or from external bodies who held experience of approaching similar long term education capacity planning for major community growth areas like Dargavel where this involved the provision of new educational facilities additional to the existing school estate?*
 - e) Identification of the potential variable(s) or principle(s) within the modelling approach that directly contributed to the production of a projected school capacity requirement that has proven to fall significantly below actual requirements. Additionally, how specifically the process to update the capacity projections to inform the 2018 S.75 was undertaken, recognising that proportionately as the development increased in size the underlying primary school forecasting error became more pronounced.*
 - f) The approach taken to apply due diligence checks and balances and appropriate review of modelling outputs to provide confidence in the information that supported the provision of specific requirements for the S.75 agreements.*
- 2) The adequacy or otherwise of Council services operating as an effective and strongly collaborative corporate body in supporting the Dargavel development planning including the establishment of the projected future education demands over the broad period leading up to the final definition of the primary school requirements in 2018.*
 - 3) The level and scale of senior officer oversight and the associated formal reporting at appropriate stages through the Council's internal governance process throughout this period.*
 - 4) Identification through the 2009 to 2018 S.75 processes where opportunities to identify the underestimation of school capacity requirements were potentially missed before school construction ultimately commenced.*
 - 5) Assessment of the effectiveness and engagement with the community in relation to the capacity planning process – specifically when and how concerns in the community in relation to future school capacity were brought to the attention of Council officers, the manner and adequacy of how these were responded to and ultimately handled by the Council.*

- 6) *Post the 2018 S.75 agreement, the extent to which the Council was adequately preparing for the new school coming on stream in the lead up to and during the construction period and where any opportunities may have been available to identify earlier the significant capacity deficiency in primary provision – this should include engagement during this period with the school leadership team, school community and wider community during this period.*
- 7) *Any other aspects deemed appropriate by the lead reviewer.*

Subsequent work by the Council has suggested that the capacity shortfalls will be even greater than was anticipated at the time of the Board meeting.

As the events under review span over 20 years there is considerable detail to consider.

1.3 My background

I have been the Chief Executive of four different Councils, including having been appointed specifically to assist in the turnaround of failing Councils. I have worked in the private sector supporting business transformation in central and local government negotiating highly complex PFI and other contracts. I am a qualified accountant and have been a member of the Audit Committee of the Chartered Institute of Public Finance and Accountancy. I have held a number of Non-Executive posts including with the Institute of Public Finance, MoD Support Services and as the Chair of a large NHS Acute Trust in England. I am currently a Non-Executive Director for National Police Chiefs' Council, on their Audit and Assurance Board and am on the Council of Protect, the whistleblowing charity.

In the past, in England, on behalf of Councils, I led negotiations with central government on the financial implications of new town development on local authority services and their financing, under a financial support scheme called 'Undue Burden'. This included the impact upon education provision of the rapid development of housing. I have a general appreciation of the issues involved.

Over the past 15 years I have carried out a substantial number of special investigations and reviews in local government and the NHS in England, Wales and Scotland. These reviews have focussed on improving governance and have covered matters such as problematic procurements, contracting, unlawful payments, misconduct by members or officers and alleged fraud.

SECTION 2 - LIMITATIONS

2.1 It is not the purpose of my review to make 'findings' against any current or former employees. As is usual in these situations if, during a review, allegations arise or information is provided, which raises questions about the competence or conduct of an employee those concerns will be raised, in confidence, with the Council so that they may be considered via proper process.

2.2 It should also be noted that in general terms elected members are entitled to rely upon officer advice.

2.3 The roots of these problems go back over more than 15 years and there has been both a substantial change in Council staff and changes to officer structures. This has created some problems in terms of corporate and individual memories of key events and the identification and securing of historic documents.

2.4 I have relied mainly on documents, where these are available, to support my analysis but these do not necessarily always provide a full context or background as to why particular decisions were taken. Whilst the Council's records for formal meetings are still available it is more difficult to identify and retrieve informal documents and officer communications. Furthermore, all of the senior officers involved in the Dargavel development are no longer with the Council.

2.5 There are limits on the resources devoted to my report for the Council. Nevertheless, I should emphasise that at all stages the Council and its officers have been highly cooperative and retrieved sufficient documentary evidence that, subject to the caveats above, I consider what follows to be a reasonable interpretation of events.

2.6 I would like to thank officers, former officers, members, stakeholders and BAE for their assistance and co-operation.

SECTION 3 - EXECUTIVE SUMMARY

3.1 The development

Dargavel village was being developed on a former BAE Systems (BAE) owned site, which had become surplus to its requirement. It was the largest brownfield site in Scotland and over the past century had been used to produce munitions and as such, suffered from pollution.

Production ceased in 1999 and the Scottish Executive investigated the feasibility of remediation and redevelopment of the site. As a result of that work BAE proposed a development comprising a mix of housing, employment and supporting community infrastructure.

An outline planning application was eventually considered by the Council in 2008. The outline plans, providing for 2,500 housing units were eventually agreed by the Council with approval subject to Section 75 Agreement with the Council, dated August 2009. Section 75 Agreements establish a legal obligation upon developers to meet planning obligations, including those relating to social, community, education and other infrastructure to support their developments. The negotiation of a Section 75 Agreement must be concluded and signed before final planning approval is granted.

In 2016 BAE expressed concerns about the viability of the development and approached the Council requesting that more land be zoned for housing, for another 1350 residential units, which should have resulted in a total of 3850 residential units. A final Section 75 Agreement was entered into in 2018.

3.2 Assessment of education demand

It subsequently transpired that both the Section 75 Agreements entered into with BAE substantially underestimated the demand for primary and secondary school places. BAE was only required, by the Council, to provide a two form entry primary school for approximately 440 pupils and infrastructure to support up to 200 secondary school pupils. It is now estimated that the number of primary school places could eventually range between 1100 and 1500, with corresponding implications for secondary numbers. In terms of assessing financial contributions, surplus capacity in relevant schools would need to be taken into account.

Given the wording of the Section 75 agreement BAE's legal obligation to provide for the shortfall in primary or secondary school provision appears doubtful. I understand from the Council that to date BAE have not yet agreed any significant further contribution to the educational needs of primary and secondary school children arising from their development.

With regard to the two main Section 75 Agreements:

- **2009 Section 75 Agreement.** When education demand for primary education was assessed, the Council based its calculation on an adjacent area, Bishopton. Bishopton is a mature area with relatively low pupil demand; new housing developments on the scale of Dargavel yield much higher numbers of pupils. This one, deeply flawed, decision resulted in seriously underestimating demand at 340 primary school places.

- **2018 Section 75 Agreement.** This agreement was entered into because of the increase in residential units from 2500 to 3850. The Council's calculations had fundamental and obvious flaws; the flaws were so significant that they projected that the primary school roll would actually start to fall when less than 40% of the residential units were occupied. For the entire development BAE were required only to build a two stream entry school for 440 pupils i.e. an increase of only 100 primary school places on the earlier agreement.

Broadly a 60% increase in housing was to be served by only a 30% increase in the already woefully inadequate planned number of primary school places.

For secondary, BAE questioned the Council's calculation of 300 secondary school places and proposed, based on work they had carried out, 200 places. As far as I can assess the Council simply accepted BAE's calculations and did not seek the underlying data to challenge them. cursory examination of data provided by BAE suggests such a cap should have been open to challenge.

Had the Council used the information available on actual demand for education, then available, not only would it have enabled a more robust 2018 Section 75 Agreement dealing with the additional housing to be negotiated, the Council may have had leverage to, at least in part, remedy some of the defects in the original agreement dealing with the first 2500 houses.

Regardless of considerable uncertainty of estimating pupil need 20 years ahead, before detailed consents had been given and the housing mix known, the Council allowed BAE to cap its contributions in both agreements, leaving all of the risk with the Council.

It is difficult to see how both of these agreements, involving potentially millions of pounds of investment in primary and secondary education, could have been handled in a more incompetent manner. With regard to the 2018 Agreement in particular, there was overwhelming evidence from Council documents that pupil demand had been seriously underestimated before entering into that agreement. In addition, there were numerous legitimate concerns expressed by the Community Council, parent representatives, Councillors and others which were brushed aside, and not subjected to even cursory examination.

3.3 Contributory factors

From my review I would regard the following as the main contributory factors:

- a) **A failure of leadership in the education service.** It is difficult to conclude other than that senior education management were both incompetent and not sufficiently engaged in the project, allowing inexperienced staff to assess pupil demand with no proper oversight or review. This was an important commercial transaction. The Council itself would face significant capital costs in providing education facilities to support Dargavel, if it underestimated the demand in negotiations with BAE.
- b) **Limited corporate oversight of the project.** The initial planning application, in spite of its size, was handled much like any other with planning officers seeking observations from each department and co-ordinating negotiations. In 2015 to strengthen corporate engagement a Project Board was set up. A review of their

documents would suggest that it should have been apparent that education were struggling to understand the impact upon their services. There is no evidence of corporate intervention to provide internal support or to seek external advice to ensure that these matters were understood and resolved effectively.

- c) **Lack of clarity about the size of the development.** The size of the development has in large part been determined by three large applications from BAE for 3850 residential units. There are a number of smaller applications, amounting to further 441 residential units, upon which no developer contributions had been sought. It was not clear if any of these 441 units formed part of the 3850 approval, making a potential total of 4291. Different parts of the Council have been working on different housing numbers and indeed BAE have quoted different numbers. This matter has recently been resolved and the Council is now planning on 3982 residential units.
- d) **A complete and repeated failure to test data for reasonableness.** The Council had numerous opportunities to test data, by use of quick and simple calculations, for reasonableness. It failed to do so. There are also numerous examples where the application of simple common sense should have alerted the Council to the fact it had grossly underestimated demand.
- e) **Ignoring conflicting data.** There are frequent instances of conflicting data which were available in education and to others simply being disregarded by education and the wider Council. NHS data predicting much higher pupil yields was ignored.
- f) **Not either understanding or planning to manage the risk associated with large developments.** There is a risk that estimates of demand for 20 years ahead, particularly as they are produced before detailed consents on the type and mix of housing are approved, will be inaccurate. In this case all of such risk, was transferred back to the Council and the BAE's obligations limited in legal agreements.

The lack of understanding of these risks by the Council can be highlighted by an inept decision by the Council to reduce the size of the Dargavel school site. This has reduced flexibility and made it more difficult to place modular units on the site, without having a negative impact on pupil's experiences, potentially for the rest of this decade. I understand that the Council have already asked BAE to provide land to extend the existing site to mitigate this risk.

- g) **Focussing on capacity problems at Bishopton Primary School.** Officers were challenged by an unexpectedly early increase in children from the Dargavel development being admitted to Bishopton, treating it as a 'spike'. Their focus was on tackling those short-term capacity issues. At no time did they question why there was a problem and its cause; that they had seriously underestimated demand from the new development.
- h) **Ignoring emerging problems when agreeing to a 2 form entry primary school in 2018, which only increased the capacity of the planned Dargavel school by about 100 places.** Well before the 2018 agreement was signed there was ample evidence the Council had seriously underestimated primary school demand for the original planning application. It failed to go back and examine what was happening in the development to date, before entering into new negotiations. It compounded that error by an even bigger 'error' in the 2018 Agreement with an obvious error of logic.

- i) **A failure to recognise the growing school capacity problem until May 2022.** Even if the Council had not recognised it had underestimated demand before the 2018 Section 75 Agreement was entered into, it should have recognised the serious under provision well before June 2022, and started planning to increase capacity earlier. The error was so obvious it is difficult to see how it remained undetected for 6 years.
- j) **A failure to take any concerns expressed by others seriously.** I have found numerous examples of concerns being expressed by Councillors, MSPs, community representatives, individuals and even other officers. If any of the complaints or observations had been taken seriously, just a cursory examination of the data should have raised concerns. I have not found a single instance where a concern was properly investigated. Again, repeated opportunities to identify very serious deficiencies in the Council's approach were missed. The response by Council officers showed professional arrogance.

Recommendations, set out in Section 13, include:

1 Build a more robust model of primary school need for Dargavel.

The Council should continue to refine its pupil forecast model for Dargavel utilising information from the NHS and data on house sizes.

2 Reconsider catchment areas

The earlier decision on catchment areas was made on the assumption the developer would be meeting all of the costs of primary education, without needing to use the surplus capacity at Bishopton Primary School. That is no longer the case. In its future plans the Council should reconsider how surplus capacity at Bishopton can be used effectively.

3 Produce robust supplementary guidance on developer contributions

As the Council progresses its plans to issue supplementary guidance on developer contributions for education it should seek to learn from other Councils in Scotland. A development the size of Dargavel is exceptional and would need its own modelling techniques. However, for smaller developments the Council should create an evidence base to calculate specific yield factors derived from recent developments in Renfrewshire. Such robust data will ease future negotiations.

4 Seek to work cooperatively with BAE

Although ultimately the Council's responsibility, if BAE were aware that the Council underestimated demand then, by their acts of omission, they must have a degree of culpability.

BAE will have made a very substantial return from the increase in housing approved in 2018, and yet for this final phase have made contributions to education which are even more grossly inadequate than provided for in the first Section 75 Agreement.

When seeking agreement to the additional housing BAE did so on grounds of viability and called for the continuation of 'collaboration' and stakeholders needed to be 'open and

flexible' to ensure the development's 'viability and success'. Even though the Council has shown gross incompetence it should engage with senior management in BAE. BAE have a commitment to 'ethical and responsible behaviour in all aspects of what we do' and should be encouraged to see what steps they can now take to ensure the 'viability and success' of their Dargavel development.

Unless the Council and BAE can work together to resolve the current problems, BAE may face accusations, whether founded or not and regardless of Council incompetence, that it has financially benefited at the expense of Council taxpayers.

5 Corporate working and organisational culture

Although I understand that the Council has sought to improve and strengthen corporate working in recent years, the evidence would suggest there is a long way to go; simply establishing corporate working groups is insufficient if staff are in a mindset of 'not my problem'.

The Council needs to consider a significant change programme, not just on the issue of corporate working and personal responsibility, but also its organisational culture and values. It needs plans to build a stronger organisation where constructive challenge is welcomed and there is a clarity of what is expected of all of those in a leadership role.

6 Risk management

From documents I have seen the Council was unaware of the scale of risk it was taking in the calculation of pupil numbers. The identified risk in Council documents related to providing the school on time, not that the size of the school may prove to be inadequate. The failure to identify that risk has had two consequences; first the Council has been slow to react to the increase in pupil numbers and second the Council did not negotiate with BAE with that risk in mind.

The Council needs to review how it both identifies risk and manages it.

7 Role of members

Whilst protecting the integrity of the planning process, the Council needs to ensure the appropriate involvement of members in such developments.

8 Public confidence

These recent events and the matters described in this report will dent public confidence in the Council. The Council should work in an open and transparent manner in the resolution of these issues and particularly with the residents of Dargavel, who have legitimate concerns about the implications for their children during both their primary and secondary education.

SECTION 4 - NEGOTIATIONS WITH BAE - LEGAL CONTEXT

4.1 Legal Context

Councils can use their powers to ensure developers make contributions to offset the impact of their development on public services. However, each individual application must be considered on its merits and local planning authorities must act lawfully and ensure that demands for developer contributions, via Section 75 Agreements, agreed in advance of planning approval, are reasonable.

The Council entered into two main Section 75 Agreements. The first was in 2009 and related to up to 2500 residential units. The second was at the time BAE expressed concerns about scheme viability, securing an increase of 1350 residential units, with an agreement concluded in 2018.

Although there were changes in guidance, and new government circulars were issued during this period, the general principles throughout the Council's dealings with BAE have been the same. Developer contributions sought by Councils must:

- be necessary to make the proposed development acceptable in planning terms;
- serve a planning purpose;
- relate to the proposed development;
- fairly and reasonably relate in scale and kind to the proposed development; and
- be reasonable in all other respects.

4.2 Financial viability

Just because a Council can demonstrate a need for a contribution does not necessarily mean that it is possible for a developer contribution to be secured. For example, some developments which may be highly desirable, may not be financially viable if substantial developer contributions were demanded. In that context Councils may have to assess the financial viability of a scheme and the ability of the developer to meet desirable planning obligations and balance that against other policy objectives.

I have not seen what I would regard as a financial viability test for the Dargavel development. BAE have shared, at a high level, its stated costs of development with the Council and information on cash flows. As far as I have been able to establish it has not shared its returns. It did use financial viability as a reason for seeking an additional 1350 residential units in 2018.

4.3 Education Contributions

As far as contributions toward education are concerned these should be determined by:

- assessing the education needs arising from the development, based on relevant pupil yield factors;
- taking into account the capacity of existing schools which will serve the development, reflecting issues such as pupil migration across planning areas and local authority boundaries;
- The extent to which developer contributions are required;
- Clarity and certainty that these will be secured at the appropriate time.

Given the scale of this development and the creation of a new village at Dargavel it is inevitable that BAE's contribution to education and other infrastructure was likely be significant.

Many Councils in Scotland have issued supplementary guidance to their Local Development Plans. This guidance highlights areas where development is likely to impose burdens on education because of insufficient capacity, and sets out how the Council may assess the financial effects of that burden. The guidance also refers to the pupil yields that the Council would expect to use when calculating contributions from developers. The yields would usually be determined by surveys of completed developments establishing an evidence base capable of withstanding developer challenge. Yields would often be expressed as say, for example, 0.30 primary pupils per residential unit. There may be different yields for different sizes or categories of residential units.

Whilst such guidance has recently been drafted in Renfrewshire it has not been approved and was not available at the time of any of the Dargavel housing applications. In any case such yields, whilst being a useful guide, may not deliver reliable projections for developments of the size of Dargavel, with a build out periods of 20 years, but they are a useful starting point.

4.4 Negotiations

In reality a Section 75 Agreement is a contract arising from commercial negotiations linked to a planning application, albeit bounded by regulations. For a scheme of this size, given the likely scale of education need, developers would usually employ specialist advisers on the capacity of the local education system and the demand caused by the development. It would not be unusual for the specialist advisers to assist developers challenge Council calculations, the underlying pupil and associated cost assumptions. Councils would need robust evidence to withstand such challenges.

As will be clear from this review, although potentially developer contributions for education of many tens of millions of pounds were at stake, from the outset the Council:

- Failed to recognise that it did not have a track record and experience in assessing the educational impact of such a significant housing development;
- In consequence failed to assess properly the impact upon the education school estate;
- Failed to treat the commercial negotiations with the seriousness and rigour they deserved;
- Failed to understand the risks they were taking in the contract they negotiated.

As such the Council were ill prepared.

BAE's contribution to education per residential unit declined as negotiations progressed. BAE's financial returns as additional housing permissions were granted will have increased.

In agreements BAE capped their risk, as a result leaving substantial risk with the Council; risk the Council appeared not to have appreciated could materialise.

5 SECTION 5 - KEY PLANNING DECISIONS AND SECTION 75 AGREEMENTS

5.1 Historic document review

There are a substantial number of documents produced over the past 20 years relating to the scale and size of the development, approvals to be sought and permissions granted.

With regard to historic documents, in one dated February 2001, produced for BAE, the Council and other key partners, a range of scenarios are illustrated, all based on average household sizes of 2.7 people. The document suggest a single form entry primary school for 1500 households rising to a 2 form entry school at 3500 households. It also suggests that a new secondary school would be required at 1500 households. I have not been able to access underlying data but it is difficult to understand why 1500 households would be a trigger for a new secondary school when it only warranted a single form entry primary school. The primary yields look lower than I would have expected. Furthermore, it is a high level options appraisal and does not align with the applications submitted by BAE.

A report dated December 2002, by Cass Associates, BAE's advisers, built upon this report to provide a planning framework for regeneration, broadly in line with the application submitted. One of the principles behind its proposals was 'close integration with the existing community of Bishopton through a process of managed urban expansion' along with 'flexibility.....to respond to market opportunities'. The report states that there is a 'perceived weakness' in the range of existing housing stock in Bishopton with 91.6% owner occupied. It is proposed in the master plan that deficiencies should be addressed 'with some emphasis given to housing for rent, affordable housing and specialist housing for the elderly and young people. The projected number of residential units on 81 hectares was stated as being 2,300. Higher density housing would be provided in the central hub first and density would reduce moving out to the peripheral areas. The report suggest that the average household size would be 2.3 (the Renfrewshire average and below that of Bishopton).

The report suggests that initially primary pupils would be accommodated at Bishopton, which was projected to have circa 220 surplus places, and as that filled up a 12 roomed 'Shared Campus School' for all denominational children and the remaining non-denominational children would be investigated with the Council. The reason for proposing teaching all denominational children in the Shared Campus was that it was deemed unacceptable to bus almost 200 children out of area. The commentary in the report implies almost 600 denominational and non denominational children with a primary pupil yield of about 0.25 for 2300 houses. The estimated developer contribution to primary education was assessed at £2.5m.

As far as secondary education was concerned, although Park Mains may come under some pressure to 2006, the report concluded that declining roles suggest that school should cope. Denominational provision was more complex but with the then planned new school west of Linwood, existing planned provision should cope.

With total development costs of £64.5m (including a £2.5m contribution to Education and £28m for remediation costs), residential land valued at £875k per hectare and affordable housing land at £340k per hectare, the scheme was judged as viable.

There was an updated Master Plan issued in 2006 and updated in 2008. Originally it had been planned to provide 2300 residential units on 81 hectares. This was now increased to

2500 residential units on 94 hectares, over 6 phases, with a school site being identified in 2016. There are no other comments on education in the Master Plan.

5.2 Consideration of Outline Planning Application - December 2008 and first Section 75 Agreement

Although the planning application was submitted in June 2006, it was not until December 2008 that the Planning and Economic Development Policy Board considered an outline application from BAE for the development of the site. The Board had an extensive report from officers of almost 60 pages, dealing with a wide range of complex planning issues.

The application included seeking consent for a mixed development, including 2500 houses. The Board agreed to approve the application subject to a Section 75 Agreement. The resolution of the Board, as worded, did not require officers to report back on the proposed terms of the Section 75 Agreement. The agreement was entered into on 7th August 2009.

This agreement required the developer, in accordance with an Education and Community Facilities Brief, to provide:

community facility space with a gross floor space between 585sqm and 715 sqm in the form of IT and/or library and/or meeting rooms and a larger space for multifunction use;

a school capable of accommodating 340 pupils in the pre school and primary school age together with the all weather synthetic turf playing field suitable for use by pupils of primary school age of no less than 60 by 40 metres with associated ball stop fencing and floodlighting;

Subject to certain caveats the community facilities space of was to be completed before the 411th residential unit was occupied and the primary school and playing field component before the 1714th unit was occupied.

Clause 5.6 required that the brief be reviewed every 5 years and in the event of agreement between the parties the Landowner (BAE) will prepare a fresh brief. That clause however specifies that:

for the avoidance of doubt the gross floor space restriction on the community facilities and.... total number of pupils to be accommodated shall not be subject to review.

The agreement provided for the community and education facilities to be transferred to the ownership of the Council for nil consideration.

There were no obligations with regard to secondary education.

Some of the precise terms were varied slightly in revised Section 75 Agreements, culminating in a 2012 Agreement but there were no changes to the requirement for the primary school.

5.3 'North Park' housing application

In November 2017 the Communities, Housing and Planning Policy Board considered an in principle application for approximately 350 houses on an area which had been zoned as

semi natural space. By this stage it was also clear that BAE would be submitting a further application for a substantial increase in housing.

The North Park application was eventually approved, subject to a Section 75 Agreement.

5.4 'Employment Land' – application for a substantial increase in housing development

At the same meeting in November 2017 as the North Park application was considered the Communities, Housing and Planning Policy Board held a pre-determination meeting to consider a significant change to the proposals for development at Dargavel, brought forward by BAE. The reason for the application had been stated to be due to concerns about the viability of the whole scheme.

BAE were seeking planning permission in principle for the redevelopment of land (previously identified for industrial purposes) for housing. The site area extended to 37 hectares of development land with an '*indicative capacity for some 1000 housing units*' (and a further 6 hectares of strategic landscape corridors).

Objectors representing Bishopton Community Council and Dargavel Residents Association attended the meeting and made representations. Their concerns were wide ranging and according to the minutes of the meeting included '*the capacity of the new build school*'.

At a Council meeting on the 2nd March 2018 the planning application by BAE for this substantial increase in the housing component of the development at Bishopton was considered. Council were advised:

With regard to education provision the applicants have agreed to the enhancement of the primary school provision as well as reviewing all other educational requirements the details of which will require to be negotiated and enshrined within a new section 75 agreement

The Council were also advised that the school would be sited in a central location. The application was agreed in principle, subject to a Section 75 Agreement, to be approved at a future meeting of the Communities Housing and Planning Policy Board.

5.5 Final Section 75 Agreement – concluded October 2018

In May 2018 the Communities Housing and Planning Policy Board considered a report on the Section 75 agreement. This was to replace the existing Section 75 Agreement and accommodate the North Park and Employment Land applications. The report to the Board indicated that the new consent:

provides for approximately 1000 units increasing the anticipated number of homes to approximately 4000 over the site as a whole.

The original application was for 2500 residential units, North Park was for 350 units and the former employment land 1000 units, making a total of 3850 units. The report to the Board also stated:

Education and Community Facilities

5.10 The terms provide for construction of a new two stream primary school capable of accommodating 440 pupils with associated synthetic playing field, to be completed by June 2021. The scale of required provision and timescale for delivery reflects extensive discussions with the Director of Children Services and has been informed by a detailed review of roll projections associated with the development. Delivery of the primary school is now approximately 5 years earlier than previously anticipated.

5.11 Design of the new primary school is well advanced and has been informed by extensive consultation with the Director of Children's Services. The school has been designed to ensure that spaces are flexible and this provides the opportunity for the building to be used for community purposes out of school hours.

5.12 Designs in respect of the school will be finalised in late summer 2018, with a formal planning application anticipated to be submitted by BAE Systems in autumn 2018.

5.13 The Director of Children's Services has advised that the development will necessitate an extension to Park Mains High School for approximately 300 pupils and will be required by 2028/9.

The report referred to there being two phases of housing. The first phase being 2500 which would include 625 affordable units and the second phase of 1500 which would include 415 affordable units.

The report states that the revised Section 75 agreement reflects the scale of obligations previously secured. However, under the original agreement there was a trigger point of the occupation of the 600th house for the 'community facilities component' in the form of IT and/or library and/or meeting rooms and a larger space for multi-function use' to be provided. I understand that as a result of reviews by officers it was considered that there were already sufficient community facilities in the area and that further capacity may undermine the viability of existing provision.

The report to members did not draw attention to this change or the reasons. The school space was being described as being designed in a flexible manner for community use out of hours. I understand that, at the instigation of education, the final design limited the attractiveness of the school for community use.

I note that this report to members referred to an extension of Park Mains School with developer contributions for approximately 300 pupils. The Section 75 Agreement itself however is capped at 200 pupils.

The new Section 75 Agreement was entered into in October 2018. It was agreed as a substitute for the previous Section 75 agreement. The agreement itself is silent as to the total number of houses but refers to the 3 planning applications submitted by BAE which total 3850 residential units. I refer to matters relating to the size of the development later.

The key parts of the Section 75 Agreement actually entered into relating to education include the following:

- **Primary education**

The Education and Community Facilities Building to be provided by BAE was defined as a building and grounds suitable to accommodate:

A 2 stream primary school with necessary landscaping, access and parking, and all weather synthetic turf playing field suitable for use by pupils of primary school age and no less than 60 by 40 metres with associated ball stop fencing and floodlighting

The agreement provides a mechanism by which various matter are agreed and subject to meeting those timescales, BAE was to complete the school no later than 1st June 2021. The agreement was silent with regard to pupil numbers.

Unlike the 2009 agreement there was no clause to review education need every 5 years.

- **Secondary education**

The Secondary Schools Strategy was defined as:

The strategy prepared by the Landowner following consultation with the Council's Director of Children's Services which will propose a fair and reasonable financial contribution for the provision of secondary school facilities necessary to accommodate the additional pupils that will require secondary education directly as a result of and within the catchment of the development

The Secondary School Contribution was defined as:

The financial contribution for the provision of secondary school education due to the anticipated impact resulting from the Development, such sum and payment schedule forming part of the secondary school strategy agreed and approved under ... this Agreement

The more detailed agreement however refers to the Council providing:

Robust and credible evidence in respect of the anticipated shortfall in secondary school places in the catchment of the Development

A robust and credible methodology for the calculation of the pupil yield arising from the development (subject to a maximum pupil yield from the development of 200) and confirmation that this methodology is applied across the catchment of the Development.

There were clauses such that if any part of the secondary contribution was not utilised or committed in certain timescales then the funds would be returned to BAE.

- **Early years**

With regard to early years the agreement stated:

The Councils early years provision duty is acknowledged by the Landowner. The parties hereby agree to meet at least once per annum to discuss the provision of

early years education in the Bishopton area with a view to assisting the Council to comply with its early years provision duty declaring that in such discussions the party shall act reasonably and in good faith and that the Council should not be entitled to ask the landowner to make a financial contribution.

SECTION 6. - SIZE OF THE DARGAVEL DEVELOPMENT

6.1 Planning approvals covered by Section 75 Agreements

Before considering the appropriate level of education provision it is necessary to determine the size of the development such provision is intended to support.

Throughout my review I have been concerned that the number of residential units in reports is often referred to in relatively vague terms such as 'indicative', and at the time of the consideration of the 2018 Section 75 Agreement 'approximately 4000' houses.

The major applications submitted by BAE would produce 3850 residential units, which are all referred to in the final 2018 Section 78 Agreement:

Date	Development	Approval
10/08/2009	Original	'a maximum of 2500 residential units'
2/10/2018	North Park	'a maximum of 350 residential units'
2/10/2018	Employment Land in core development area	'a maximum of 1000 residential units'

Even though applications or reports may have used words such as 'approximately' the formal permissions, as issued by the Council, provide no flexibility, and are described as '*a maximum of*' suggesting the development should not exceed 3850 residential units.

I have come across a range of house numbers being used, by officers and BAE exceeding 3850. At the commencement of my review the Council was working on a total of 4291 residential units.

6.2 Other approvals

The reason for the discrepancy arises from the way a number of other applications have been handled.

The following applications together with other small approvals, including for the Council itself, by way of grant of Certificate of Lawful Use or Development, had been deemed to be in addition to the three major applications above, and give rise to the quoted 4291 residential units:

Date of approval	Developer	Number of units	Decision
26/08/2014	Persimmon	132	Planning and Policy Board
15/05/2015	Persimmon	49	Officers under delegated powers
29/03/2016	Persimmon	48	Officers under delegated powers
21/11/2016	Persimmon	49	Officers under delegated powers
20/09/2017	Persimmon	30	Officers under delegated powers
01/08/2018	Stewart Milne	13	Officers under delegated powers
30/07/2018	McCarthy and Stone	49	Officers under delegated powers

This is an increase of 441 residential units over and above the number implicit in the final Section 75 agreement.

However, it is not clear to me why all these applications were being treated as additions to the 3850 consents referred to in the Section 75 agreement. These applications were approved when, at the time, there was a limit of 2500 homes in force through the updated 2009 Section 75 Agreement agreed in 2012.

I understand that Section 75 Agreements are not just binding on BAE but are also binding on any successors in title.

If these application and consents had been intended to change the planned use of land and increase the permitted number of residential units then I would have thought that these applications would have been explicit in such intent and subject to their own Section 75 Agreement, as was the case for the North Park application for 350 houses referred to at 5.5 above. However, they are not.

If this level of development had proceeded these additional units would have very direct implications for education provision and, as they are not covered by Section 75 Agreements, would increase the capital costs directly borne by the Council and taxpayers. It would be a significant failure of the Council.

6.3 Review of house numbers

The Council had identified this issue and commenced a review of house numbers. I now understand that has been concluded and the Dargavel development will be limited to 3982 residential units.

The fact that there had been 'confusion' about house numbers is however of concern.

SECTION 7 - METHODOLOGY FOR ASSESSING DEMAND

7.1 Guidance

I am aware from work I have carried out in England, on the impact of new town development, that education demand early in the life of a development can be excessive. In some cases, there is a risk that in 20 years or so there is a surplus capacity in the school system.

I have not found any guidance issued for Scotland in dealing with very large developments. In England, guidance has been issued by their Department for Education on setting education contributions for Community Infrastructure Levies. That guidance states:

New housing tends to attract more young families than older housing, yielding higher numbers of pupils particularly in the pre-school and primary age groups, though this stabilises over time until the development resembles the mature housing stock.

We advise you to respond to initial peaks in demand, such as planning for modular or temporary classrooms, securing a large enough site to meet the maximum need generated by the development. Where new settlements are planned, you may wish to carry out demographic modelling to understand education requirements in more detail, taking account of similar developments and different scenarios such as an accelerated build rate.

Put simply what can happen is that the birth rate in newly occupied houses is higher than average. After an extended period of time it can fall to below average. This can result in a peak in demand. A large development completed in a short timescale is more likely to have a significant peak which lasts for a shorter period of time than the same size development completed over a longer timescale. Understanding the size of a peak, if any, and how broad it is helps inform whether it is more effective to use permanent solutions for that peak or, for example, modular classroom.

I understand that there is no Scotland wide standard for the 'routine' forecasting of school roles.

7.2 Council roll projections and 'simple new build yields' for developments

The Council has a model for 'routine' forecasting of individual school rolls extending forward about 10 years. The model, referred to as the 'Standard Projection' model uses school registration data and a blend of historical and forward projecting data, birth rates and moves into and out of area. It is updated with new house building/occupation data.

The model currently assumes for primary education that for each new 100 houses there would be 25 non-denominational primary pupils and 9 denominational primary pupils i.e. 34 children per 100 houses. These are referred to as the new build pupil yield:

Primary new build yield per house	
Non-denominational	0.25
Denominational	0.09
Total	0.34

The yields take into account issues such as children attending private education or being home schooled. For primary schools, as it is not known which age group new children from developments may be in, additional children are spread evenly across the 7 years in the model. Actual denominational choice can vary depending upon issues such as ease of access. To assess how many denominational children from new developments may attend non-denominational schools, the model looks at past patterns for that area. The assessment of the number of residential units in a development would usually exclude student accommodation and accommodation for the elderly.

I understand that the yield factors above are derived from looking at other developments which have taken place in the past i.e. they are specifically for new housing. However, I have not been able to access the underlying data supporting these yield factors, identify how and when they were determined or what developments they were based upon. This is a very significant shortcoming as if these factors were to be used to help inform negotiations with developers, it leaves the Council open to challenge.

As far as I can assess these factors were not being used in 2009, when the first Section 75 Agreement was entered into.

No doubt, from time to time, there is criticism of the accuracy of the model, but it is deemed to be suitable by the Council for informing school rolls for several years ahead. I understand that it has successfully taken into account small housing developments, where these form part of existing catchment areas.

The Council's secondary new build yield is:

Secondary new build yield per house	
Non-Denominational	0.14
Denominational	0.05
Total	0.19

As I understand the situation these are derived from surveys around 10 years after the completion of a development. Often by this point the full impact on secondary education will not be apparent. Such factors may be suitable for short term forecasting secondary demand but not for negotiations, or large developments.

Adjusting this for the full flow of primary children into secondary education and using staying on rates for S5 and S6, appropriate at the time, then combined denominational/non-denominational yields would be:

Secondary yield per residential unit:

For 2009 Agreement	0.262
For 2018 Agreement	0.273

Because the Council has not got an evidence base to justify the yield factors, I compared them with those used by a number of other Councils in Scotland in their Supplementary Guidance to their Local Development Plans. Renfrewshire's fall broadly in line with other Councils. Although not always directly comparable with Renfrewshire's 0.34 for primary schools, Highland's primary is 0.30, Edinburgh is 0.30, Dundee 0.35, Falkirk is 0.38 and Borders is 0.30. There are different factors for flats. These yields assume an 'average' mix

of housing; if there were a higher proportion of bungalows the yield may overstate demand and if a higher mix of large house may understate demand.

On that basis, the Renfrewshire yield factors are a reasonable starting point for quick and simple calculations of the number of school places needed.

7.3 Large, long term developments such as Dargavel

Dargavel does not fall into a category suitable for the Council's 'Standard Projection' type of model; there is no historical data upon which to build the model and furthermore the planning horizon includes a build out of over 20 years.

As stated above often where there are very large developments such as Dargavel the influx of population can be even more skewed to a younger age group, more likely to have young children or be planning a family. It may not accord with smaller new developments, completed over 2-3 years. Furthermore, the Council's new build pupil yield, above, for primary and secondary school places may be an indicator of 'average' demand, it does not show how demand will vary over time, when peaks, if any, may arise or if there is a plateau followed by a decline to a level consistent with a mature development. If models are not robust the Council can end up with surplus capacity.

For a development of this scale, a build out of over 20 years, national birth rates may vary over time and can be affected by issues such as economic circumstances. The rate at which people move can impact upon demand, as can a range of socio-economic issues. House sizes can have a significant impact. I have repeatedly been told that there is a higher proportion of large houses in Dargavel. Analysis in an English county, used as a comparator by BAE, suggest that the primary pupil demand for a 4 bed and a 5 bed house can be 135% and 175%, respectively, higher than a 3 bed property. Analysis by one of the Scottish Councils, in 7.2 above, suggest primary pupil yields for 'general social rented housing' at 0.40, well in excess of the average.

The assessment of pupil demand is carried out at outline planning approval. For developments of this scale, with a build out of 20 years, the approval only refers to a maximum number of residential units; it does not specify their size. The Council's assessment of housing need along with the developer's assessment of the market and profitability can impact upon what is approved, over that 20 year period. The Council and the developer will not know the mix until the point of detailed consent.

Parental choice between denominational and non-denominational places is a significant factor in Renfrewshire. In primary schools, pupils are given two choices, either their nearest denominational school or the nearest non-denominational school. For Dargavel parents may prefer to send their children to a brand new school within walking distance, rather than face a bus journey to a denominational school. For secondary education choice will also be an issue. Staying on rates in s5 and S6 vary and have increased markedly over the years.

Finally, the geography of an area and the capacity of adjacent schools over the next 20 years will need to be taken into account when determining the size of any new build required for developments such as Dargavel.

The Council is not in control of any of these factors; to 'fix' the demand for education so far ahead with so many uncertainties is an impossibility.

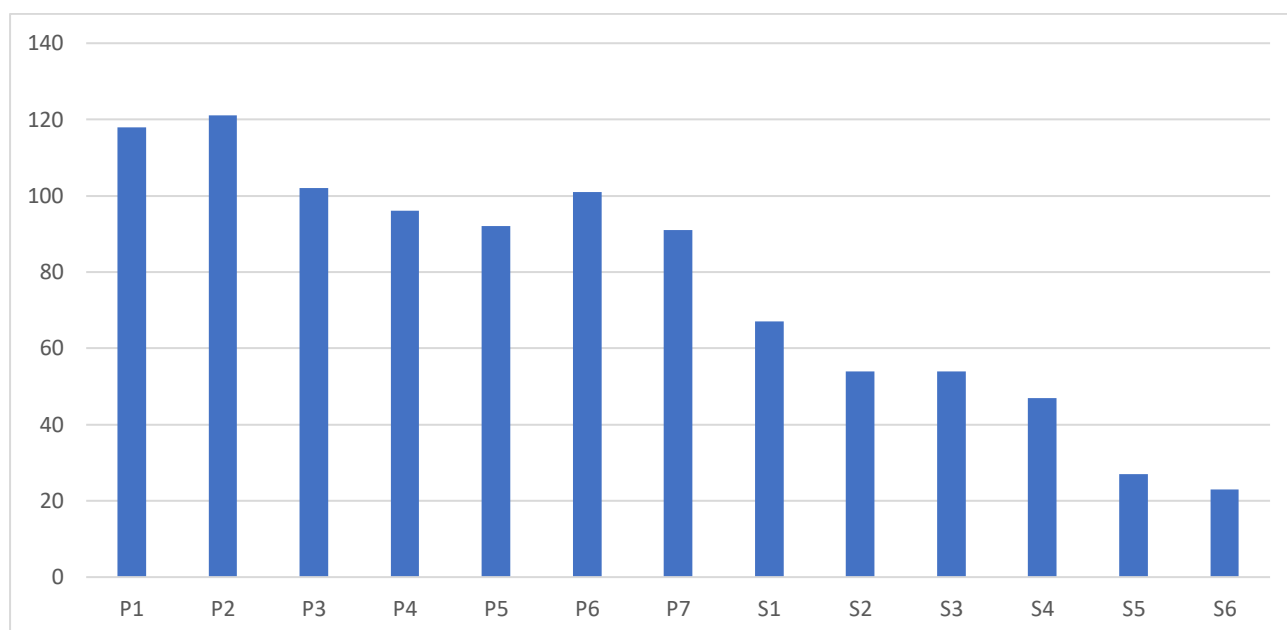
Any sophisticated model would need to take such factors into account with different scenarios and different outcomes.

These complications should have caused the Council to assess whether it had the skills and expertise internally not only to determine pupil demand, with such rigour that it could withstand commercial negotiations with BAE, on the likely demand for education, but also to ensure it could plan future education provision with a degree of competence. If not, the Council should have sought assistance.

As will be evident these are not straightforward calculations and there will be uncertainty and the assumptions made at the outset may not materialise in practice. Building flexibility into any plans, including into the design of schools, and securing large enough sites is paramount.

The chart below shows the number of pupils in 2022 with a Dargavel post code by year for primary and secondary years. Eight years after the first house was occupied, the pupil numbers are still heavily weighted toward primary. A model would help the Council understand how demand would increase and flow through the system and help it plan capacity accordingly. Simple new build yields as in 7.2 will not do that as they assume year in and year out the pupil yield will be 0.34; in practice it will rise and then fall, different phases of a 20 year building programme rising and falling at different times.

2022 Dargavel pupil numbers by school year group



Robust data from modelling should have underpinned negotiations with the developer, seeking sufficient land for flexibility and perhaps above a certain level, sharing risk.

By the time of the 2018 Section 75 Agreement the Council had data on what was actually happening in the first phases of the development. This could have informed its modelling. It also had access to NHS Health visitor data which provides an indication of future demand.

From the documents I have been able to access, in assessing the likely demand for primary education, for this particular development the Council, other than a minor adjustment for yields for flats, did not look at any of the characteristics of the development (house sizes, proportion of likely retirement properties etc, likely age profile of occupants and other socioeconomic factors). For 2018 it did not look at the impact of the first phases of the development to inform its calculations. It never considered the risk that its assessment may be wrong.

7.4 Quick and Simple calculations

Whilst the Council did not build a 'sophisticated' model, common sense and the use of its current new build yield factors above should nevertheless have made it aware that its 'ask' of BAE was woefully inadequate.

In my report I use such 'quick and simple' indicative calculations of demand, based on the number of houses and pupil yields. It is the sort of 'sense check' I would expect officers to do when looking at the results from a more sophisticated model to check for reasonableness and ensure there are no fundamental errors.

As I demonstrate later in this report 'quick and simple' indicative calculations, if carried out should have raised serious concerns about the robustness of the methodology used by the Council in its negotiations with BAE. So should the application of simple common sense.

7.5 Surplus Capacity

In negotiations developers would normally expect the Council to take into account surplus capacity elsewhere within the local education system and reduce their contributions accordingly. They are four existing schools where possible surplus capacity would need to be reflected in those calculations and negotiations with the developers. These are:

Primary Schools:

- Bishopton Primary school.
- St John Bosco, a denominational school

Secondary Schools

- Park Mains High School.
- Trinity High School, a denominational school

In 2018 a review was carried out of secondary school rolls which identified a number of issues of local timetables, classification of practical and non practical learning spaces and other matters which had tended to understate capacity. In the case of Park Mains, the capacity of that school has been increased by 191 places to 1591. The capacity of Trinity High was increased from 1032 to 1201.

SECTION 8 - 2002–2009 – NEGOTIATION OF THE ORIGINAL SECTION 75 AGREEMENT

8.1 Process for consideration of applications

Many Councils rely upon planning to pull together responses to planning applications from other departments. Planning officers notify departments of applications received and those departments will respond with any concerns or issues. One would expect education to assess local school capacity and decide if there was sufficient surplus capacity in the local system. If there was not, they would advise planning and a developer contribution would be sought via a Section 75 Agreement.

In 2006 there was a presentation by senior planning officers to the SMT of the former Planning and Transportation Directorate, which made the broader directorate aware of the scale and scope of the proposed development and the challenges it would place upon the Council and its departments. The presentation referred to 2500 houses over a 15 year period and referred to '*improved education and community facilities*'. It identified '*challenges for the Council* including '*delivering community gain*' and '*co-ordinating/managing role of various departments*' and raised the question of the role of the Corporate Management Team (CMT), the most senior officer group in the Council. The presentation was planning orientated.

Whilst this recognised the significance of the development, there were no formal structures with strong corporate oversight. The final agreement did however go to the Council's Corporate Management Team for sign off.

8.2 Initial comments on demand for 2009 Section 75 Agreement

The first application was submitted June 2006 and the Council then entered into a more formal process of negotiation with BAE on the implications of the development. Negotiations were led by planning, seeking input and advice from other departments as appropriate.

I would have expected a starting point to be a review of previous documents and any indication of what BAE may be expecting. The most recent of which was the 2002 report referred to at 5.1 which suggests around 600 denominational and non-denominational primary children, but for 2300 houses. I have not been able to assess whether officers reviewed this report.

As part of the above process, in August 2006 there was a response from education to planning commenting upon the outline application. It stated that given the size of the development:

Pre school requirements..... the existing capacity would not be sufficient. A full financial contribution from the developer would be required so that additional spaces could be made available.

Primary school requirements... for non denominational pupils it is anticipated that an additional new non denominational school of similar size to the existing primary school would be required..... The anticipated roll projections for the denominational sector indicate that a school within Bishopton would not be viable

and places would be made available within the existing capacity at schools out with but near to Bishopton.

Secondary school requirements. *Falling school rolls mean that there would be sufficient capacity for non denominational pupils at Park Mains High School at Erskine. Consequently, a new secondary school at Bishopton is not proposed. For the denominational sector pupils could continue to attend Trinity High School in Renfrew or could be accommodated at the new St Benedict's High School in Linwood.*

8.3 Note dated May 2007 updating estimates

Although the comments made in August 2006 at 8.2 above suggest a school of a 'similar size' to Bishopton, which would imply in excess of 500 pupils, by 2007 it was only proposed that school be for 340 children. I have not been able to establish why this change arose or whether the reference to Bishopton actually related to the then present roll, not capacity.

The note states:

The role projection for primary indicates there would eventually be a maximum of 400 children in the primary age range from the housing development: 340 non denominational and 60 denominational

The note formed a briefing note responding to questions posed in a meeting in April 2007 with representatives of the Council's external solicitors. In relation to the 2500 new houses, it states that in calculating roll projections:

The calculation of the number of children from the dwellings makes use of national factors. The roll projections are based on existing trends and secondary school stay on the rates.

An annex sets out the projections but does not provide any further indication of the methodology. The only document I have found which provides an indication of the methodology was a note produced for secondary projections referred to in 8.5 below.

In looking at various options, including combining services with Bishopton:

it is also assumed that the existing village of Bishopton has 2100 dwellings and these dwellings will produce a pro rata number of children compared to the housing development.

I do not regard this as a safe assumption. Bishopton, I understand, is a 'mature' area with a falling birth rate. As far as I can assess the average yield factors for new developments referred to in 7.2 were not in use at this time. The Council failed to recognise that new development such as Dargavel are likely to attract younger families and have a higher birth rate.

The note also referred to the uncertainty about class sizes, given the aspiration of a number of political parties to reduce them.

With regard to secondary, the note states:

The role projection for secondary indicates that there would eventually be a maximum number of 318 children in the secondary age range from the housing development. 271 non denominational and 41 denominational.

It concludes there would be no justification for the creation of a secondary school and pupils would continue to be bused to Park Mains High School, Erskine which was assessed as having sufficient capacity. Indeed the note suggests that a new secondary school at Bishopton, with corresponding changes to catchment area, would threaten the viability of Park Mains.

The report looked at a range of options to meet the need and concluded:

A new build campus including community facilities for non denominational pupils and for early years children from the housing development.

a maximum of 340 school places in 2028'

This appears to pre-determine the catchment area for the school. Faced with such a proposal most developers would refuse to meet the full cost of such a new school when there were around 220 vacant places so readily available at Bishopton.

It also stated the site of no less than two hectares would be required for the proposed facility and to provide school and community playing field facilities would be:

...considerably more the than the combined total of £3m proposed by Redrow for schools community and library facilities.

8.4 Note dated March 2008

In February 2008 there was a meeting between members, officers and Bishopton Community Council. From an internal note of the meeting, although focussed on the case for a primary/secondary campus to serve both Bishopton and Dargavel, the meeting was wide ranging. Secondary education pupil estimates, transport costs, the merits or otherwise of smaller secondary schools and surplus capacity in the system were discussed.

The note of the meeting suggests that the Community Council estimated a combined demand for secondary places at between 700 and 800 for the 2500 house development and the existing Bishopton area. It was reported that the Council's own estimate was 320 additional secondary pupils of whom approximately 270 would be non-denominational, which when combined with Bishopton secondary pupils would be a maximum of 500 non-denominational pupils. The note states that Renfrewshire had not completed its calculations at that stage and discussions with BAE were ongoing.

The note indicates that in terms of both finance and the inevitable limited education subject choice associated with small secondary schools, that the Council could not support such a proposition for a Bishopton/Dargavel secondary school.

8.5 Report dated May 2009

In May 2009 a report was produced called Bishopton Housing Development 3-18 School Proposal. It was in response to:

representation from the Bishopton Community Council to establish a new secondary school in Bishopton. The Community Council has raised the prospect of a 3-18 education and community campus in the village as a consequence of proposed housing development on the site of the former Royal Ordnance Factory.

The report concluded:

that when all factors are considered it is neither reasonable nor viable to build a new secondary school in Bishopton or to build a 3-18 school and that the best use of Council resources will be to provide for primary education at the existing Bishopton Primary School until such time as new housing indicates that an additional new primary school is required.

It identified how the 'base projection' was assessed:

The impact of each development is assessed based on separate child/property ratios for houses and flats for each postcode sector. Thus new properties in any area are assumed to generate the same proportion of children to dwellings as existing properties in the same area.

It is a complex note but in summary it produces a requirement for 340 primary pupil places based on:

- The primary yield for houses, with a different weight used for flats, both based upon the development having the same yields as Bishopton.
- It was assumed that the birth rate would fall by about 1% per annum.
- It's assumed the same denominational mix as Bishopton.

The report states that

While the assumption that new properties in any area generate the same proportion of children to dwellings as existing properties in the same area seems reasonable, this may not be reflected in practice.

The report is interesting in that it indicates an awareness of different yields for different types of property, the need for sensitivity analysis and the impact of denominational and non-denominational issues. It also refers to the need for flexibility *'to respond ...to the actual numbers of school children generated'*.

None of this flexibility appear to have been reflected in the Council's negotiations or agreement in 2009 with BAE, which was for a fixed size school.

The 340 places in the BAE agreement is consistent, taking into account pupil choice, with an average 0.136 pupils per residential unit. This is consistent with the then Bishopton primary non denominational yield of 0.141 and an assumed decline in the birth rate of approximately 1% per annum. I have also seen notes of meetings where community representatives referred to the Council having used a 1:7 ratio for the development which is consistent with this analysis. This is very substantially below the yield calculations referred to in Section 7.

I can see no logical reason whatsoever for basing the calculations on the current experience of Bishopton, a mature established area. Common sense should suggest that a new development of this scale is likely to generate a significantly higher demand for places,

attracting younger families. This assessment is not based on using the surplus capacity at Bishopton; it is therefore significantly lower than suggested in the 2002 Master Plan referred to in 5.1.

This report contained a sensitivity analysis for secondary education to demonstrate that if a yield for areas other than Bishopton was used, a new secondary school still would not be viable.

As stated, the approach presumed that the catchment area for the new school would be Dargavel village and that the surplus capacity at Bishopton would not be used. I have found no formal or informal consideration of that issue and the implications. It would of course be open to the Council and BAE to take such a decision based on issues of community cohesion and marketing of the development with some agreement on costs.

On data available it would not be unreasonable to assume a long run surplus capacity at Bishopton of circa 220 places.

8.8 Quick and simple indicative calculations for primary education

The statement:

While the assumption that new properties in any area generate the same proportion of children to dwellings as existing properties in the same area seems reasonable

is not reasonable. I do not have the specific new build yield factors for that period, but birth rates then were higher than now.

Using the 'quick and simple' methodology as referred to above and the rates in use in 2016 then it should have been evident to the Council that the demand for primary education would have been significantly more than provided for in the then draft BAE agreement. The calculations would have been:

Primary school places for 2500 houses:

Non-Denominational	2500 x 0.25	625
Denominational	2500 x 0.09	225
	Total	850
	Less assumed denominational choice of 15% which was consistent with that area	-127
	Net pupils for non- denominational schools	723
	Less surplus capacity at Bishopton	-220
	Additional school places needed at Dargavel	503

I would have expected this to have been a starting point for a more sophisticated assessment looking at house sizes, demography etc. I would have expected the phasing to have been examined to identify the size of a peak, if any.

This is well in excess of the provision in the Section 75 agreement for 340 places for the new school, which was based upon not using the surplus capacity at Bishopton.

Even had such factors had not been available (in which case the Council should have identified the shortcoming) had there been a sensitivity analysis for the primary calculations

and demand been based on Howwood (used for the sensitivity analysis referred to in the report at 8.3), with a primary yield of 0.225 at the time, then the result would have been 490 places.

Such sensitivity analysis calculations, if they had been carried out, may well have caused the Council to reconsider its approach, appreciating the significant difference in places required by using different assumptions and the risks it was taking.

8.9 Quick and simple indicative calculations for secondary education

For secondary school pupils the note states that there would be a demand for a maximum of 318 pupils , 271 non denominational and 41 denominational. As far as I can assess the 41 is incorrect and should have been 47.

Using the 2016 quick and simple new build yield factors in 7.7 the pupil numbers could be of the order of:

$$2500 \text{ residential units} \times 0.262 = 655$$

This would need to be split denominational v non denomination, taking into account choice.

Park Mains School was also falling in utilisation. It was projected to fall to 943 by 2026, which with a stated capacity of 1400 at that time would result in 457 surplus places. Even allowing for some of the 655 denominational pupils to opt for denominational schools, there could have been a potential problem projected at that time depending on continuing demographic trends.

Trinity High School was experiencing declining roles and would have been able to cope with demands from Dargavel for this phase.

On this data it is difficult to see how the Council so readily assumed but there would be no need for a developer contribution towards secondary education particularly, non denominational secondary education. Based on the calculations above it should have taken the time to examine the issues in more depth with a more sophisticated and robust model before agreeing to no contribution or have negotiated clauses such that the matter could be reviewed later and the parameters for calculating contributions set.

The Council subsequently uncovered an error in its capacity calculations as referred to in 7.5 which it would have needed to declare to BAE. Taking that into account it is unlikely that a developer contribution would, in all eventuality, be justified.

I must emphasise that these 'quick and simple' calculations for primary and secondary are just that. They are common sense calculations which I would have expected officers to use to 'sense check' any assessment from a model. Had they carried out these rudimentary calculations it would have shown their assessment was grossly understating demand.

8.10 Negotiations with BAE Systems

Developers normally employ their own consultants to assess demand and challenge Council estimates and assumptions when they negotiate Section 75 agreements. Indeed, at the present time BAE's consultants are challenging the Council's estimates for the demand for secondary education in the 2018 Section 75 Agreement.

On the information I have seen it would be difficult to conclude other than that had BAE engaged any such consultants, they would have regarded the Council's 'ask' for primary education as a potential very significant underestimate.

However, BAE have told me they that at that time they did not have the expertise and relied upon the Council. They do however want certainty on any amount that they will contribute.

It is extraordinary when a 2002 document by BAE's advisers suggested higher pupil numbers, the Council suggested a much lower number. It is even more extraordinary that a clause, relating to reviewing the demand for education every 5 years, stated:

For the avoidance of doubt ... the total number of pupils to be accommodated in the school....shall not be subject to review

This clause passed all the risk to the Council. Any projections of demand can be wrong, this was a large development with a long build out phase with significant uncertainty; indeed the Council was already aware of that, as set out in 8.5 with the reference to the need for flexibility to respond to the 'actual numbers of children generated'.

I have not been able to establish exactly how this clause was negotiated or by whom.

Finally, the agreement allowed for the developer to build the school to the Council's specification. For large developments this is not an unusual practice and provided that the Council is in control of the specification, shifts the construction cost risk to the developer. Indeed, in England their Department for Education supported developer delivery of schools in principle and issued guidance on a number of complex contractual issues.

8.11 Signing off the Section 75 Agreement

I refer to the arrangements above for dealing with planning applications. In this case given the size and complexity of the development there was corporate sign off for the agreement.

In August 2009 a paper was submitted to the then Director of Planning and Transport which sought approval to the signing of the first Section 75 Agreement. The paper stated:

One of the key areas where there would be a capital implication for the Council would be in relation to the funding and delivery of pre school and primary education funding and the provision and delivery of community facilities in the form of a community centre. If all the works to provide a 340 pupil primary school were to be procured by the Council it is estimated that the cost would be in the region of £5.975m with a further £275,000 for a synthetic playing field, none of which includes the cost of land. Simply for the Council to procure a 650 metre square community centre would cost in the region of £1.98m excluding land.

The position initially adopted by the developer was to reserve a site of no more than one hectare and make a contribution of £2.5 million toward the construction of a primary school and to make a contribution of £850,000 towards improving library and community facilities.

The negotiations have reached the stage where the developers have agreed:

- *to provide a serviced site sufficient to accommodate a primary school and a community centre on a shared campus of approximately 2 hectares and to erect a school building capable of accommodating 340 pupils in the pre school and primary age groups together with an artificial turf pitch and floodlighting. The building would be provided to a turnkey specification, which excludes furniture and equipment.*
- *The title/facility would be transferred to the Council at nil consideration.*
- *To erect a community centre building extending to some 650 square metres sharing the same campus as the school to the same turnkey specification as the school comprising IT room/library room meeting room and a larger space for multifunction use.*
- *The title/facility would also be transferred to the Council at nil consideration.*

Based on school projections the school building is not expected to be required until the completion of some 1700 houses within the development site ie 2017 to 2019. The community centre is anticipated to be required earlier in the development programme to satisfy the demands of the new residents from the first 400 houses at the end of the first phase ie 2010 to 2012. Provision would require to be made in future programmes in anticipation of these facilities.

In order for negotiations on the Section 75 agreement to be progressed to a speedy conclusion it is necessary for a definitive position to be adopted as to whether such an arrangement is acceptable. The primary school/community component is one of the two fundamental elements of the agreement the other being healthcare facility and it is impossible to make further progress until this is established. The developers required to conclude the agreement to achieve a planning permission which will enable them to commence works within a tight time scale, imposed by forthcoming changes to the landfill tax a regime.

A view requires to be taken on whether the framework of developer contributions... and the concomitant implications for future Council resourcing represent and a proportionate package of obligations.

The note was also taken to a meeting of the CMT on 29th July 2009 before the agreement was signed. The note did not refer to risk generally or that the Council was taking all the risk on primary and secondary provision.

The minutes of that meeting state:

The CMT discussed the framework of the developer contributions summarised in Appendix 1, in particular the proposed primary school and community centre....

[an officer] emphasised the timescale involved for signing off, issuing planning permission, then completing the detailed planning permission. The CMT noted that the contaminated land issue needs to be dealt with as soon as possible.

It is not clear exactly what was discussed in relation to the primary school.

I have not been able to assess whether the issue of the impending change in the landfill tax regime impacted upon the negotiations and the level of diligence paid by the Council to the transaction and time devoted to negotiations of the developer contributions or the level of corporate challenge. However, one of the significant errors, that of basing demand on Bishopton, was made at the outset, almost 2 years before the agreement was signed.

The agreement was entered into that month.

SECTION 9 - FAILURE TO RECOGNISE UNDERPROVISION FOR EDUCATION PRIOR TO ENTERING INTO THE 2018 SECTION 75 AGREEMENT.

9.1 Significant failures

The terms of reference require me to comment upon whether opportunities to identify underestimation of required capacity were missed. My review shows that opportunities were missed, but of significant concern is the fact that there was ample evidence of problems well before the final Section 75 Agreement was entered into, in October 2018.

I deal with failures derived from internal Council documents up to 2018 in this section, highlighting missed opportunities to deliver a much improved 2018 Section 75 Agreement.

I have also been asked to comment upon how the Council responded to concerns expressed by the community. I do so for ease in Section 12. However, many of those concerns were expressed during the period before the 2018 Agreement was entered into.

Community concerns go back to 2012. In 2014, after the first few houses were occupied the Community Council identified to officers that at that early date, the pupil yield could be out by as much as 40%, later suggesting it could be out by 70%. Detailed and specific concerns were expressed by community representatives at the pre-determination meeting on the application for an additional 1350 houses. Numerous other concerns were expressed by Councillors, stakeholders and others.

When you take the weight of information in this section, derived from internal Council documents, and combine that with Section 12, it is incomprehensible that the problems with the Council's calculations were not recognised before entering into the 2018 Agreement and not acted upon until 2022.

As will be evident later, the 2018 Agreement was worse than the original agreement.

9.2 Establishment of Project Board 2015

As referred to in 8.1 above the arrangements for negotiating and agreeing the 2008 Section 75 Agreement appeared to be relatively informal. In 2105 the newly appointed Chief Executive sought to strengthen corporate working. This coincided with the Dargavel development beginning to impact upon services.

In July 2015, with the support of the Chief Executive the then Director of Development and Housing Services, recommended to CMT that the Bishopton Community Growth Area Project Board be established, for a number of reasons, including:

As the initial phases of development gather momentum a formal project management structure is considered necessary to provide for successful delivery

BAE and their representatives were not members but did attend the Board and its subgroups by invitation. The focus of this Board was to deliver the existing agreement, not to negotiate subsequent agreements.

It was agreed that the Project Board would be supported by a number of subgroups, one of which was referred to as the Education/Community Facilities Focus Group.

In September 2015, prior to the first Board meeting, there were email exchanges between education officers and the Head of Bishopton Primary School. At that stage it was reported that the number of Dargavel pupils in the school was 77. As far as I am aware this is the first data produced. Given the uncertainty of the accuracy of the models used I would have expected some curiosity from officers; are the early indications of demand in line with our projections? I have found no such analysis or commentary. Had they looked at the data the number of houses occupied, readily available data, was 330. A simple pro-rata calculation to 2,500 houses would yield 583 pupils, well in excess of the planned school capacity of 340. All officers looked at however was where the children were coming from, to help inform education planning. This data was not reported to the Board.

The Board had its first meeting in September 2015 chaired by a member of CMT. A senior education officer was a member. Planning were also represented. Eventually a senior planning officer took over as chair of the Board

The agendas for their meetings included progress on the original proposals and the degree to which BAE and the Council were meeting their respective Section 75 Agreement obligations. At the first meeting, which was held before BAE approached the Council to substantially increase the housing component of the site, an update on education was given which reaffirmed the problems with capacity at Bishopton:

July 2015 roll projections suggests 80% capacity (the percentage at which pupils can be comfortably accommodated) at existing primary school reached in 2018, much earlier than previously anticipated. Three year timescale for delivery of new school suggests programming requires to begin in 2015.

And:

Steer needed from Project Board on education requirements prior to the meeting, particularly in relation to the scope of facilities (one school or two).

I understand that these comments refer to whether there should be one combined school for Bishopton and Dargavel. Broadly the same update was provided to the CMT meeting later that month.

9.3 October 2015 CMT and Subsequent Project Board

A briefing note dated October 2015 for a CMT meeting stated:

Meeting ... confirmed that in principle shared campus approach with community facilities is appropriate. Agreed to confirm approach, education would progress an appraisal of three sites (village core, Central Park fire ponds) and options (super school, new primary school as provided for in Section 75). Scope and time scales to be confirmed with education.

This report confirmed the continuing concerns about capacity at Bishopton:

September 2015 roll projections and discussions with education suggest that pupils cannot be comfortably accommodated beyond 2020. This remains much earlier than anticipated within the Section 75 (2027). The three-year time scale for delivery of a new school suggests programming requires to begin in 2017.

A further meeting of the Project Board was held on the in November 2015. The briefing note for the meeting stated that:

role projections suggest pupils cannot be comfortably accommodated beyond 2021. The time scale for the new primary school is much earlier than anticipated within the Section 75 agreement 2027. Three year timescale for delivery suggest programming requires to begin in 2018.

The repeated references to the school being required in 2027 in these documents and elsewhere is technically incorrect; the agreement is based on the school being available before 1741 houses were occupied, not a date. Officers should have been monitoring the number of houses built and occupied, against demand. Had they been doing that it would have alerted them to the fact that pupil yields were going to be higher than allowed for in the Section 75 Agreement. At no stage was there any attempt to tie Dargavel pupil numbers to house occupancy and the relationship to the 1714 occupied houses trigger or the likely total pupil demand for the school.

9.4 March 2016 CMT

In March 2016 CMT considered a report on progress against the Section 75 Agreement. They were advised that the Council’s preferred approach with regard to education and community facilities was:

- one new primary school within the site.
- proposed shared campus incorporating community facilities.
- current roll projections indicate that school needed by 2021.
- Discussions with BAE required in relation to timescales.

In advance of the meeting a senior officer had asked for a briefing on the roll and progress on the new school. An education manager asked an education officer to produce a note. The note provided an updated roll projection for Bishopton which had been provided to the Parent Council. It was stated that:

Overall it was projected that the school would be over capacity by 2024. Whilst schools can operate at 100% capacity to avoid operational difficulties for the school it was suggested to planning colleagues that when the school reached 90% occupancy, this would be the preferred time to deliver the new school (estimated 2021/22).

However, the note then commented that whilst that roll projection had assumed a 2016 P1 intake of 53 the actual intake had been 77, whilst other years had been under the original projections. Close analysis of the note also shows that the Council’s standard model for projecting P1 intake in 2017 was 50 whilst using NHS data the estimate was 75. A summary of the data is below:

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2027
‘Standard Roll Projection’	411	428	441	471	476	471	451	496	535	569	593	619
Projection with NHS Data	411	457	496	531	539	534	512	558	569	578	596	619

It is not clear to me why this did not raise concerns. The NHS data from health visitors adds to the quality of data available on school admissions in the next 4-5 years. It was showing consistently higher information in that period. The fact that the forecast then converges back to exactly the same number as the Standard Roll Projection model in 2027 is because those children have moved through the system and the health data was not used to inform subsequent intakes. The thrust of the note and data for later years seems to have treated these two years as an aberration, indeed it was referred to as a '*spike*' and that Bishopton would still be able to cope until 2021/22.

The information should not have given any comfort at all. In fact it should have raised concerns that if the NHS data continued at the levels being experienced, the Council would have a significant problem.

I would have expected the information from the NHS to have caused some rather searching questions about the validity of the Council's modelling. I have not found any evidence which shows that to be the case.

The minutes of CMT suggest that this data may not have been made available to them.

9.5 The importance of NHS data

The NHS's data although imperfect, for example it depends upon people registering with their doctor, is extremely powerful as it is drawn from the health visitor service. It provides, by post code, the number of children aged 1,2,3,4 and 5. Postcodes do not equate to catchment areas and so judgements are needed in the use of the data. The fact that it consistently shows higher results than expected, is because the Council's model had been based on Bishopton, a mature area with a declining school roll.

As it provides information on actual births, rather than assumptions used in other models, it is a very powerful addition to the actual pupil registrations at Bishopton. In my opinion considerable weight should have been given to this information because if it was representative of the following phases of housing development, it could signify a very significant problem for the Council.

In this, the first instance NHS data being used, it was only used to inform the first 5 years assumptions. Later it was used to inform longer term projections and showed an increasing divergence with the Council's existing model. On that basis the scale by which the Council had underestimated demand became more evident. Even without the use of NHS data there were increasing signs of problems.

9.6 Calculation of primary school demand for increased housing

It should be noted that the Council calculated the education demand for the planned increase in residential units in May 2016. They assessed it as 100 additional primary places for the increase of 1350 houses. I make this point here as the same officers dealing with concerns about capacity, in the following sections (which postdate the calculations), were officers familiar with those calculations.

9.7 Increasing signs of problems

In May 2016 the Head Teacher of Bishopton expressed concerns about capacity and also shared with education concerns expressed by parents. The response from education was:

Everything confidential at the moment so please don't share it but I'm looking at accelerating the new build

Accelerating the new build of a school which was grossly undersized was not the correct answer to the problem.

Even at this stage when the problems were obvious, I have found no evidence that, as the Head of Bishopton school expressed increasing concerns about capacity, officers ever went back to the most fundamental issue, and that was pupil demand.

After the calculations at 9.4 were produced there was a meeting of the Project Board, in June 2016, where it was reported:

Current role projection figures provided by education May 2016 informed by new NHS data suggest that the existing school will be at capacity by 2019.

This is around three years earlier than previously anticipated and suggests that there is now an urgent need to commence programming for the new school.

analysis of the potential impact of BAE's revised proposals [the plan for a further 1500 house referred to in the next section] for the site suggest a resultant increase in the primary school provision to 2 stream school the 440 pupils. Requirements in relation to secondary school provision are being considered further to inform further discussions.

The tables with NHS data were not provided to the Board. The same information was reported to the Bishopton Community Growth Focus Group on the 24th June 2016. There is no sign that either of them took any action.

Bishopton school facing capacity problems three years earlier than suggested would be due to either of two issues:

- BAE were completing houses much more rapidly than expected, or
- the Council had under scoped the original school for 340 pupils.

or a combination of the two.

Early data was suggesting higher intakes in P1. The Council's 'Standard Projection' methodology assumed that for new developments the intake would be spread evenly over the years, P1 to P7. Continuing high P1 intakes should have alerted officers to problems as it implied higher birth rates and eventually a sharp increase in pupil yields.

In addition, there were differences between P1 intake in August and P1 rolls in the following July showing relatively large in year increases.

By this stage the Council already had sufficient evidence that it should re-assess its position and that plans for only a 100 pupil increase for an additional 1350 houses were suspect.

It took a further six years to identify the problem.

9.7 May 2017 notes to Senior Education Management

A note dated May 2017 was produced within education and provided to a senior education officer. The calculations carried out in 2016 to support a two stream entry school with 434 children shown later at 10.4 was included. I was informed that the note was produced in large part to comment upon the roll at Bishopton. It also contained the following analysis and commentary:

Currently there are 653 completed builds, which are occupied (registered for Council Tax) at 4 May 2017. The trajectory estimates 796 by end of 2017. Below is a breakdown of the current pupils within our schools.

Dargavel Pupils - Primary - 23 May 2017

Count of Year/Stage	Column Labels							Grand Total
Row Labels	P1	P2	P3	P4	P5	P6	P7	
Barran Primary School				1			2	3
Barsail Primary School			1				1	2
Bishopton Primary School	40	17	23	20	16	9	8	133
Bushes Primary School						1		1
Houston Primary School	1	1			1			3
Inchinnan Primary School	1		1					2
Langbank Primary School							1	1
Our Lady of Peace Primary School					1			1
Rashielea Primary School							1	1
St Anne's Primary School - Renfrew		1			1		1	3
St Anthony's Primary School					1			1
St David's Primary School				1	1			2
St Fillan's Primary School	1		1					2
St James' Primary School - Renfrew						1		1
St John Bosco Primary School	7	2	5	4	1		2	21
The Mary Russell School	1							1
Grand Total	51	21	31	26	22	11	16	178

Dargavel Secondary Pupils - 23 May 2017

Count of Year/Stage	Column Labels						Grand Total
Row Labels	S1	S2	S3	S4	S5	S6	
Gryffe High School				1	1		2
Paisley Grammar School		1		1			2
Park Mains High School	14	11	8	11	6	7	57
Trinity High School	2	2	3	1	1		9
Grand Total	16	14	11	14	8	7	70

With 653 units occupied, there were 178 primary pupils from Dargavel post codes. On a simple pro rata basis, allowing for total of 2500 houses the number of places required (whether at the new Dargavel school or St John Bosco) would be 605 pupils. It should have been immediately evident that the planned 340 place Dargavel non-denominational school would not be able to cope with pupil numbers for the first phase of the development

The note also indicated that there were 70 secondary school pupils and on a pro rata basis that would equate to 425 pupils.

Both of these simple pro-rata calculations may underestimate demand as it can take years for the underlying maximum yield to arise.

Cursory examination of this note, produced well before the 2018 Section 75 agreement was entered into should have caused officers of the Council to both reassess the demand arising from the first 2500 houses in the 2009 Agreement but also to reassess their obviously flawed 2016 assessment of the demand they were using in their negotiations with BAE for the 2018 Agreement, which I refer to later.

Is it credible, as set out in the note above, that if only 653 residential units produce a demand for 178 primary school places, that the new agreement for around double that number of residential units (1350) would increase demand for non-denominational places by only 100 places? Simple application of logic should have raised concerns.

Another note of the same date between education officers, dealing with Bishopton and when its capacity would be exceeded, used two roll projection models:

The current capacity at Bishopton is 544 pupils, the current school roll is 428. For 2017/18 August the P1 confirmed numbers are 105 pupils. This figure together with other stages enquiries we anticipate 478 pupils. By the end of 2017/18 session it is projected the figure will be 526.

Last year we projected that by the end of term the roll would be 507 pupils. Whilst our standard roll projection model has not been exceeding the total figures projected for the school, we are aware that numbers projected for P1 intake have been lower than what is being achieved. We have been monitoring our roll projection model in line with NHS information available and will continue to do so.

Table 1 – Standard Roll Projection Model

Roll Projections Summary 30/05/2017													
School	Capacity	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Bishopton PS	544	526	574	613	636	643	653	626	574	572	574	572	575

Table 2 – Roll Projection Model based on NHS Info

Roll Projections Summary (NHS Info) 31/05/17													
School	Capacity	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Bishopton PS	544	526	584	642	682	693	730	733	705	717	724	729	753

You will note that the standard model fluctuates rising in 2019 and dropping in 2024. The NHS model has steady increase which reflects actual numbers within the community and averages of high intakes for future years.

Both models however indicate that by end of 2018 session the current capacity is exceeded.

Recipients of this note should have become concerned at the growing problem. First it clearly stated that the P1 intakes have been higher than the original projections. Second, P1 projections will roll forward into later years and ultimately secondary education. Third, that roll projections on a different methodology, using NHS data were showing considerably higher number of pupils, indeed by 2028 some 30% higher for the combined Bishopton and Dargavel cohort. Fourth, it would not be unreasonable to assume that all of this excess was attributable to Dargavel, suggesting a much higher primary pupil yield than the Council had assumed. Last, it is also implausible that demand would fall from 2022 and then plateau as in the Council's 'Standard Projection' model, a period when new housebuilding would be continuing.

It is interesting to do a roll comparison with the estimates provided above to the senior officer for a CMT meeting in March 2016 with these latest 2017 projections:

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2027	2027	2028
2016 'Standard' for senior officer pre CMT	411	428	441	471	476	471	451	496	535	569	593	619	n/a	n/a
2016 NHS for senior officer pre-CMT	411	457	496	531	539	534	512	558	569	578	596	619	n/a	n/a
2017 'Standard'			526	574	613	636	643	653	626	574	572	574	572	575
2017 NHS			526	584	642	682	693	730	733	705	717	724	729	753

It is difficult to see, with this data, why serious questions were not being asked about the Council's assumptions and planning models. The NHS data would suggest that the Council had seriously underestimated demand. On the NHS data, after removing the Bishopton cohort, the new school planned in the 2018 agreement for 440 pupils would be at capacity, again well before the development was even close to completion.

Many millions of pounds in education investment were at stake and the absence of any curiosity let alone challenge is very concerning.

Again as far as I can assess the focus was on making sure Bishopton had the capacity to cope, rather than on analysing the underlying cause of the problem.

9.8 May 2017 – Systra Transport Study

Systra were commissioned to carry out a Transport Assessment of the Dargavel development by BAE. The report commented there have been significant changes to the scale and composition of the development since the last study updated in 2015. This study states that it takes account of those changes. The report is based upon a total of 4080 homes and provides an indicative phasing of the number of homes occupied.

The report states:

The original development proposal included 2,642 houses. Previously Renfrewshire Council's Education Department considered that this scale of residential development would generate 550 additional pupils when complete and fully occupied. This number of additional primary school pupils has been factored up to take account of the increase in the number of houses to 4,080 on completion of the development. This gives a new figure of 854 additional primary school pupils.

This report will not have been widely circulated at the time but will have been seen by a number of officers involved with Dargavel; its estimate of pupil numbers is well in excess of the Council's calculations and should have caused questions. At the time of preparing this report even though it states that the Education Department assessed demand at 550 pupils. I have not been able to establish the exact source of this data.

9.9 June 2017 Briefing Note

A briefing note was produced by planning on the 7th June 2017 and sent to senior officers in that Directorate in preparation for a meeting on the Section 75 Agreement.

The note referred to NHS data producing:

'substantially higher increases in intake than the Standard Model'

Internal changes to existing building layout and additional staffing....as contingency measures

On this basis school needed earlier

Again no linkage was made between this problem and the need to take stock and review the plans for the 2018 Agreement which on simple calculations was a 60% increase in housing but only a 30% increase in the already woefully inadequate planned primary pupil places, in the 2009 Agreement.

9.10 Preparation for discussion with Councillors – December 2017

In December 2017 a senior education officer sent an email in the following terms:

I have a discussion with local Councillors yesterday from Bishopton. They are looking for our reasoning for the 440 figure for the new school. Have you got something I can share?

Can you also give me the most up to (date) roll projections for the area.

A briefing note was produced showed that with 808 houses built (which will be higher than the number occupied) there were 249 pupils from the Dargavel area.

A similar pro rata calculation for 2500 houses would result in 770 pupils, again considerably higher than the Council's model was suggesting or provided for in the 2009 Section 75 Agreement or planned for the 2018 agreement.

As before two tables were shown using the two differing roll projection models for the combined Dargavel/Bishopton area; the Standard Model and the NHS model.

	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
'Standard Roll Projection'	531	592	624	640	647	664	643	624	637	653	662	672
Projection with NHS Data	483	532	577	602	647	736	791	843	882	922	957	963

Both models showed a substantial increase in projected 2028 pupils than the earlier data shown at 9.7. The model using NHS data showed a primary pupil population by 2028 of 963, some 40% higher than the standard methodology used by the Council and considerably higher than the earlier projections.

If the projections based on the NHS data were correct, then, removing the Bishopton cohort, would suggest that there would be in excess of 600 Dargavel pupils by 2028, even though there was a further 8 or 9 years of building. The same officers in the Council were about to enter into an agreement for a school to support only 440 children.

The NHS data shows lower numbers in the earlier years. I understand that was due to some data quality problems. When corrected I understand it would still show the position in 2028 as being well in excess of the capacity.

The information generated a response from the senior education officer:

Thanks for the attached. I'm not in the office today but will need to sit down with you in order to understand the figures.

On plain reading of the entire note and some superficial analysis it would be hard to see how the information could give any confidence in briefing Councillors.

I have not been able to establish which Councillors expressed concerns nor have I been able to establish if the officers sat down 'in order to understand the figures'. What I have been able to establish is that it made no difference.

I have seen no evidence that the reasons for the conflict in data ever caused or triggered any form of review or reconsideration until June 2022.

9.11 Final Observations

Officers may argue that the continuing focus on the capacity of Bishopton, as it came under increasing pressure, earlier than planned, distracted them. However, the sheer scale of the shortfall in capacity was so blatantly obviously, that it could not be attributed to just an issue of timing or a 'spike'.

The pro-rata comparisons I have made in this report are not 'accurate' but indicative. Using technically incompatible definitions, comparing 'apples with pears', can skew results. However, it is a convenient and simple way to sense check information. Does it look about right, is it in line with what I would expect? Such sense checking repeatedly produces alarmingly different pupil demand than provided for in the agreement with BAE, not some slight skewing due to technical differences. The differences are significant and obvious as is the conflict with NHS health visitor data, which adds significantly to the reliability of forecasts.

The detailed data was not circulated extensively to different parts of the Council but was given to senior education staff. It is inconceivable that this shortcoming was not identified by education management triggering a more detailed review. The general thrust of the data and its implications for Bishopton was shared, particularly at the Project Board. I would have expected the Project Board to have challenged education and escalated the matter.

The Council failed to realise that it should use NHS data and actual demand data to date, in its new negotiations with BAE for the 2018 agreement. It would be difficult for BAE to refute the impact on services, when provided with such data, based on the actual impact of the development to date.

The Council therefore had ample evidence, and time, not to repeat the same error as in the 2009 Agreement and grossly underestimate demand. The Council did not do that.

Even if a senior manager was unconvinced by the NHS and other data and certain in their own mind that the original calculations of demand were correct, I would at least expect them to get the models and data re-examined to satisfy themselves that the new agreement with BAE was sound, particularly given the scale of investment involved and the implications for the Council if they erred. To fail to do so would be negligent in their duties to Council taxpayers.

As shown in the next section, the 2018 Section 75 Agreement was even more one sided and fell well short of securing a reasonable contribution from BAE for education, with significant consequences for Council taxpayers.

SECTION 10. - NEGOTIATION OF THE FINAL 2018 SECTION 75 AGREEMENT

10.1 BAE's concerns about viability

By November 2015 BAE were concerned about the viability of their original scheme. In a presentation that month to the Council, they outlined a proposed planning application to increase housing.

Their presentation included the following:

Without continued collaboration this, the largest single privately funded brownfield regeneration programme currently in the UK, would fail.

All stakeholders to this project need to remain open and flexible to accommodate change in order to preserve its viability and success. This has been the story to date.

From this point officers were formally aware of the potential for a substantial change to the project.

In April 2016 BAE gave a more detailed presentation to officers. It referred to the significant investment to date, provided some high level financial data but referred to the current project as:

'financially unviable'.

The reason for these concerns was stated to be that land which had been earmarked for employment was not proving to be attractive to the market and would, in any case, result in substantial losses. BAE referred to the high cost of bringing the land to market relative to its value, as employment land, the significant up front investment and that BAE did not expect to break even on the project until 2016. The implication that even after that date its financial returns from the development, for the risk it was taking, raised questions about viability.

It indicated to the Council that it would be submitting a planning application to increase housing from 2500 to 4000. BAE wished to allocate another 122 acres to housing and work in partnership with the Council to deliver this new project. They proposed a total of 11 acres for social rented housing and indicated a willingness for other mechanisms to provide affordable housing. I understand that this would extend the project to 2037.

In my opinion if viability was a genuine issue when it was raised the Council should have considered looking at this matter in more detail. BAE would in due course have to remediate the site; should such costs be included in their viability appraisal? BAE has substantial provisions in its balance sheet for environmental and other issues, so had it made provision for remediation costs on the closure of Bishopton? Had BAE indemnities from the MoD when the site, already contaminated, was acquired, or otherwise compensated for the liability they were taking on? What was the likely value of land with and without planning approval? No viability assessment was carried out by the Council.

It may be that no full viability assessment was necessary as the developer's gain on receiving planning permission for over 100 acres of housing land, would be so significant. I

understand that land in the area, with planning permission, can be valued in excess of £1m per acre.

Given the scale of housing proposed and the consequent very substantial benefit to BAE, on face value viability should not inhibit full and proper contributions to public infrastructure, in line with planning guidance and regulations.

10.2 BAE's view of additional demand for primary education

In the above presentation in 2016 BAE identified a proposed option for a primary school campus which would include a

'3 form entry school'.

A paper produced by the BAE's advisors in May 2016, outlining possible questions for a Master Plan review workshop with the Council, included the following:

- *What are the implications of the revised housing trajectory on education provision in terms of size of primary school and when it is required?*
- *What are the specifications for a new primary school?*
- *Is there potential for the progressive expansion of a primary school as house numbers increase?*
- *Is the starting point a single form entry school? When?*
- *Are there Council space standards for a single form entry school which is capable of expansion to a three form entry school?*
- *Is there potential for 'advanced funding' by the Council?*
- *When is the community building needed?*

Given this change and the increase in housing it was necessary for the Council to reassess the demand for education. BAE have told me that the reference to a 3 form entry school was not a proposal but a 'prompt to aid discussion'. Officers intimately involved in the pending negotiations with BAE were at the presentation.

10.3 May 2016 Education and Community Facilities Workshop and June 2016 Project Board

The paper referred to at 10.2 above formed part of a joint Council/BAE workshop on 9th May 2016.

The minutes of the meeting are not extensive. However, the report to the June 2016 Project Board states:

Analysis of the potential impact of BAEs revised proposals for the site suggest a resultant increase in the primary school provision to a two stream school of 440 pupils. Requirements in relation to secondary school provision are being considered to inform further discussions.

A further report to the Board on an outline Section 75 Agreement states:

New primary school for 440 pupils with all weather play area

Generally reflects discussion at Workshop meeting of 9th May.

I have not been able to establish how, when BAE 'suggested' a 3 form entry school in papers to the workshop (which in any case would have been completely inadequate) a proposal emerged from the Council for what amounted to a 2 form entry school. Officers with a responsibility for school capacity planning were again present.

Of additional concern is that by this date, as shown in 9.4, reservations were already being expressed about capacity issues at Bishopton and initial NHS data was available. The implied yield for the extra 100 primary places proposed by the Council was only around 0.07 places per pupil for the extra housing for non-denominational places. It is implausible that extra housing would have a much lower yield than the first 2500 houses (which in any case had been seriously underestimated at a yield of only 0.14, also for non-denominational places). The yield in the new calculations was only 0.11 for the development as a whole for non-denominational places, a fact which on its own should have caused concerns.

10.4 The Council's calculations – the new model

Theoretically at this stage the calculations should concentrate upon the demand caused by the increase in housing as further developer contributions would be based upon the demand caused by that increase. The Council however assessed the demand for the whole development.

I have found no evidence that officers went back to the original calculations for the first phase. Had they updated that (flawed) model just with the increase in house numbers they may have assessed demand at around 520 places. The original 2009 Section 75 Agreement and its updated version dated November 2012 both required there to be a five yearly review of the 'education and communities development brief'. No review was carried out. I have not been able to establish why; it may be that events had overtaken the Council and BAE, given the pending application for an additional 1350 houses. However, had a proper review been carried out, in say November 2017, five years after the updated agreement, there was ample evidence, by then, of the Council underestimating the school capacity needed. Such a review may have avoided subsequent problems.

Unlike in 2009, the Council did not assume that the demand would be in line with Bishopton. Instead it used the new build pupil yields set out in 7.2. Whilst this should have been an improvement, it misapplied the approach.

Officers, not experienced in these matters, produced the calculations based on 3965 residential units. The number of units was taken from a BAE update on the likely projection of house building at the time. The officers were unaware of the presentation by BAE the previous month, which referred to a 3 form entry school.

I reproduce the Council's calculations below for primary education.

Column 3 shows the expected number of houses to be built each year. Column 4 shows the annual number of expected pupils arising from that increase in housing, i.e. in 2017 220 houses would be built and based on a yield of 0.34 (denominational and non-denominational) those houses would generate, on average, 75 pupils per year.

Year	Trajectory	Per Year Build	TOTAL@0.34	P1 to &7 Totals
2014	241	241	82	
2015	413	172	58	
2016	576	163	55	
2017	796	220	75	
2018	1027	231	79	
2019	1232	205	70	
2020	1421	189	64	483
2021	1611	190	65	466
2022	1781	170	58	465
2023	1951	170	58	468
2024	2096	145	49	442
2025	2297	201	68	432
2026	2517	220	75	437
2027	2702	185	63	436
2028	2867	165	56	427
2029	3022	155	53	422
2030	3172	150	51	415
2031	3337	165	56	422
2032	3512	175	60	413
2033	3657	145	49	388
2034	3777	120	41	366
2035	3894	117	40	349
2036	3949	55	19	315
2037	3965	16	5	270
	TOTAL	3965	1348	

The Council took the highest annual increase in pupil numbers over any 7 year rolling period, (column 5) and assumed this would be the peak capacity demand; in other words they had assumed that would be the maximum requirement for the school. The highest 7 year period (of increases in pupil numbers), happened to be 2014 to 2020 which gave total pupil numbers of 483. 7 years was used because primary education lasts for 7 years.

Officers then assumed that 90% would go to Dargavel and 10% of the children would go to denominational schools. Their calculations were:

483 x 0.9 = 434 for Dargavel, being 90% of the total
and approx. 49 denominational places

However, looking at a rolling 7 year average and finding the highest and assuming that will be highest number of pupils ever attending the school is incorrect. As the 7 year rolling average moves forward their calculations assumed that in 2021 as an additional 65 children attend school, for houses built that year, those built 7 years earlier in 2014 (214 houses) will have no children of primary school age. If you apply this logic to 2044 (7 years after building

finished) the model would suggest there would then be no pupils from Dargavel in primary schools.

Officers had completely misunderstood the basis of the 0.34 yield which is an average applying to every house, no matter when it was built. Correctly applying the 0.34 factor to the total number of houses the 'quick and simple' calculations would have given:

3965 houses x combined primary pupil yield of 0.34 =	1348
Assume 90% attend Dargavel	= 1213
So the remaining 10%	135 denominational places

Their assumption on the proportion of denominational children opting for Dargavel, was 10% whilst the 2009 calculations assumed 15%.

The extent of the calculations is a two page spreadsheet, the first page showing the annual house completion rates provided by BAE and the second comprising the above and associated tables.

For the reasons set out earlier the use of a 0.34 primary yield may not give an accurate assessment, but if applied correctly could be a useful starting point. One would expect a model to produce a range and that for 1213 pupil places to fall within that range. Even if the Council used this 'quick and simple' calculation correctly along with the design of flexible schools and the acquisition of big enough sites it would not now be facing problems of such a scale.

The Council attempt at this simple calculation was incorrectly applied. However common sense should have suggested to the Council that its calculations were wrong:

- If you increase housing by about 60% does an increase in school capacity of about 30% look right?
- Would you expect the school demand to start falling when only around one third of the houses had been built?
- If you roll the model forward pupil numbers would decline to nil; showing a fundamental flaw.
- Would you expect a brand new development to only have a primary yield of about 0.11 pupil places per residential unit?

The 'model' is so clearly wrong that it is difficult to envisage that it was ever subjected to any scrutiny by more senior education management.

The model was designed in part to identify a peak. However, even if the error of logic had not been made as this 'model' uses the same yield every year it will not do that; it will plateau. In practice the pupil yield will increase and be above the Council average and then fall as the development matures and could then be below the Council average. Each phase will go through this cycle. This type of model would not show that.

I would have expected a more sophisticated model as suggested in Section 7.

Most Councils would expect the developer to challenge calculations and seek to minimise their contributions and maximise their returns; they would expect some tough negotiations. Councils would therefore prepare a strong case supported by clear evidence for education need as part of negotiations. Here Renfrewshire were potentially in a strong position. There

was already a body of evidence of very high demand from the existing limited development and NHS and other data showing how this would grow. The Council could have prepared a very strong case for substantial developer contributions. It did not; it used the flawed model above.

I note that BAE's presentation to the Community Liaison Group in June 2017 no longer referred to a 3 form entry school; it referred to a 2 form entry school.

The Council has now retained Edge Analytics and I understand that their assessments for Dargavel Primary School fall within a range of 1100 and 1500.

This fundamental error in the primary school calculations 'contaminated' the Councils approach to secondary education. The Council calculated 300 places for the entire development.

The secondary level calculations were based on all denominational children (26.5%) going to denominational schools with no allowance for choice (either as a result of an incorrect assumption or in error, but either way not supported by the evidence):

483 (peak demand as in table above) $\times 0.735 = 355$ non-denominational children
Park Mains impact = 355 pupils / 7 year stages = 50 pupils per year

This was then converted to the number of pupils in each year assuming a staying on rate of 100% for S5 and S6, which again is incorrect:

Total secondary requirement 50 pupils \times 6 years = 300 pupils (for the entire development).

The (flawed) calculation in 2009 just for the first phase of 2500 houses produced a need for almost as many places at 271 non denominational places.

Again, common sense should have raised serious questions. Could it realistically be suggested that 300 secondary pupils was the peak non-denominational demand for a development of some 3965 houses, as projected in these calculations?

However, at this stage the negotiations should have been for the additional housing. On that basis on a quick and simple calculation using the yield based on staying on rates at the time in 7.2, the Council should have been considering additional demand:

1350 additional house $\times 0.273 =$ **368** secondary places which using the same assumptions for choice as in 2009 would be of which around **320** non-denominational places.

This type of 'quick but simple' calculation gives a feel for the likely demand.

To complete the assessment the Council would also need the surplus capacity at Park Mains and also, given the scale of pupil numbers, the impact on Trinity High.

From correspondence it is clear that the officers who prepared the model expected it to be updated from time to time with new information on the rate of house building. Before the 2018 Section 75 Agreement was entered into BAE provided, to planning, an indication of the likely mix of the 1350 additional housing units. Although the mix would only be finalised at the time of detailed consent, it was anticipated that over 40% of the units would be either 4 or 5 bedroom houses. These are likely to have higher pupil yields. This information was not

provided to education officers. As far as I have been able to assess neither planning or education had an understanding of the importance of the housing mix in assessing pupil demand.

10.5 BAE's letter of April 2018

In April 2018 BAE wrote to the Council:

With regard to secondary education:

BAE acknowledge the contribution to secondary education will be required to provide for around 300 pupils generated from the development. To date education have not provided further details on the likely costs and time scales

a high quality two form entry school that includes the facility that can be used by the community. This school is to be provided by BAE systems at no cost to Renfrewshire Council.

From this it has become increasingly clear that the original community facilities in the 2009 agreement would not be provided. I understand that the Council looked at demand and facilities in the area and were concerned that further substantial facilities in Dargavel might undermine existing facilities in Bishopton. BAE also stated:

In addition...we are also prepared to offer up to £500,000 for fittings, fixtures and equipment... and a £50,000 contribution..... to fund a dedicated Clerk of Works for the duration the construction period....

The contribution offered by BAE of £500,000 was never included in the Section 75. I understand that BAE instead accepted a change to the specification for the school to include additional equipment and fittings, however I have not been able to verify the value of that additional requirement.

The stated target date for delivery was June 2021. In relation to secondary education BAE stated they were prepared to offer:

a phased contribution toward improving facilities for secondary education of £2,000,000 to be paid to Renfrewshire Council over the period 2030 - 2034

BAE stated that this would result in an overall contribution to education of the order of £20million, with the aggregate value of Section 75 Agreements and planning gain being in excess of £70 million.

10.6 BAE's proposal for secondary education in August 2018 and the Council's response.

With regard to secondary education the Council and BAE were at cross purposes. The Council had completely incorrectly calculated a figure of 300 non-denominational secondary school pupils for the total development of 3965 houses. BAE were not concerned with that. They regarded the financial demand for the first 2500 houses to be a settled matter, with no contribution. They were only concerned about the impact of the additional housing through the new planning permission. In their minds they were concerned with the secondary demand from 1350 houses.

BAE wrote to the Council in August 2018 stating that although in the Communities Housing and Planning Policy Board paper in May 2018, a figure of 300 non-denominational pupils was provided as being the impact on secondary education, in the absence of a Renfrewshire Council contribution policy, it was difficult to place a monetary value upon it. BAE commented this value could be agreed at a later date provided it was possible to describe a mechanism, to determine such a value, in a revised legal agreement.

BAE commented that one approach to determine the impact on secondary education would be to assess an average secondary pupil yield for each household using the aggregate data for Renfrewshire. This, they stated would be an average of 13 pupils per 100 dwellings. As the additional application was effectively for 1350 houses this resulted in the yield of 175 pupils. It is highly unlikely that the 13 pupils per 100 houses quoted by BAE would be representative of a new build such as Dargavel.

They further commented:

An alternative approach, which is more detailed and founded on a considerable amount of historic evidence, is applied by Lancashire County Council (Education Contribution Methodology, April 2018). This methodology is sensitive to the housing mix and accounts for variation in house sizes in any one development. If this approach was to be applied and the current estimated housing mix for the Dargavel village development used (issued in previous correspondence) then the yield would be 157 pupils.

BAE proposed that the limit in Renfrewshire for which BAE should be liable should be set at 200 pupils.

It is interesting to note how Lancashire calculate the pupil yield. Lancashire has a Community Infrastructure Levy. On pupil yield their policy document states:

In 2012 Lancashire County Council undertook an analysis to determine the number of pupils who attend mainstream schools who live in recently built houses. The analysis on which this yield is based includes a cross section of Lancashire conurbations taking into account a mix of rural, urban and city locations. The sample used takes into account a range from large developments to individual dwellings. Because of this analysis, Lancashire County Council uses a method of assessing the impact of a development based on the mix of the size of the development, based on the number of bedrooms in each property to be built. The pupil yield for each size of house can be seen in the table below.

<i>No of Bedrooms</i>	<i>Yield per development - primary</i>	<i>Yield per development secondary</i>
<i>1</i>	<i>0.01</i>	<i>0.00</i>
<i>2</i>	<i>0.07</i>	<i>0.03</i>
<i>3</i>	<i>0.16</i>	<i>0.09</i>
<i>4</i>	<i>0.38</i>	<i>0.15</i>
<i>5+</i>	<i>0.44</i>	<i>0.23</i>

The yields will not be directly comparable, not just because of differences in demography but also because of the differences in the education systems. In addition, these yields

include infill and small estates. It is more likely that larger developments such as Dargavel may attract an even greater proportion of young families and result in higher yields.

The Lancashire secondary data suffers the same problems as Renfrewshire's data, as set out in 7.2. It is highly unlikely that 10 years after a development the full impact on secondary education will be evident in schools. The substantially lower yields for secondary in the table above in comparison with primary yields suggest that large numbers of primary school children 'disappear' from the education system, never arriving in secondary education. They do not. They still need to be provided for; the information in the table is adversely affected by an issue of timing, as children move through the system, often not arriving in secondary schools until well after a development is 10 years old.

This point is further supported by using the above data and approach for calculations of primary education demand. On the above yields and the same housing mix, making some adjustment for different education systems, the number of primary pupil places for 1350 houses is around 380 places. Allowing for the denominational split this would exceed 320 non-denominational primary places and be over three times the increase in the number of places being proposed by the Council. These 320 children will enter secondary education and even allowing for the differing number of years in primary and secondary education, will likely exceed the 200 pupil cap proposed by BAE.

In my opinion no reliance should have been placed upon BAE's calculations of a cap by the Council.

The 'simple yield' calculation above at 10.4 produced over 320 secondary pupils, also significantly more than the proposed cap. The capital cost of the provision of just 120 secondary school places above the cap could be a minimum of £3m and potentially more. These issues are not insignificant.

At the Project Board in August 2018, it was clear that the level of the secondary contribution had still not been determined and remained to be finalised.

Although a number of education staff saw this BAE letter, I have identified no evidence whatsoever that either they or anybody else in the Council questioned BAE's assessment or were asked to critique it. Indeed as far as I have been able to assess BAE were not asked to provide further information to support their calculations.

Education replied to BAE proposals on secondary education in September 2018:

Your explanation and rationale is very clear and this has proved to be very helpful in aiding our discussion.

I would like to confirm that this will be captured in the updated Section 75 agreement in line with practise associated with other aspects of provision.

With regard to secondary calculations an officer said to me 'we never really bottomed it'. A failure to take the time to understand this issue properly and so be in a position to protect the interest of Council taxpayers and simply accept BAE proposal was gross incompetence by senior management. Members had been advised that the Section 75 Agreement would be based on 300 additional pupils and authorised officers to enter into the agreement on that basis. Given that, officers should have ensured they had robust reasons for any change. They did not.

I accept entirely that it is more difficult to assess, with certainty, secondary demand as it peaks so late. Developers find it easier to challenge secondary numbers as catchment areas are large so small changes in birth rates, economic circumstances, housing turnover etc can impact upon the demand from pre-existing housing; given the size of catchment areas there could be many other developments impacting demand. Calculations of surplus capacity may be regarded as increasingly speculative. However, that does not excuse failing to even try to understand the issues and develop fair and reasonable mechanisms for developer contributions.

10.7 Negotiations with BAE Systems

Again, as far as I can assess, as with the 2009 agreement, there were no real negotiations.

Between 2016, when the Council first estimated the demand for the increase in primary school places, and signing the agreement in 2018 the Council had ample evidence that demand for such places was well in excess of their estimates, which would ultimately impact upon secondary school numbers as well. BAE briefly came up with a higher 'prompt for discussion' for primary education, with a 3 form entry school (still woefully inadequate) instead the Council used its own lower assessment, a 2 form entry school.

Under the agreement the secondary contribution was supposed to be based on:

a fair and reasonable financial contribution for the provision of secondary school facilities

Putting aside the flawed nature of the Council's calculations, the Council came up with a higher number for secondary education but then simply accept BAE's lower calculations and a cap of 200 places, without even cursory examination. It is not clear to me that a cap at that level was '*fair and reasonable*'.

I note that, as there is a cap, there is provision for the Council to repay part of the contribution to BAE in certain circumstances. If, notwithstanding the above, the Council was of the view that it was prepared to accept a cap it should have negotiated a much higher cap with BAE still having the comfort of a similar repayment clause, to avoid overpayment.

Although not the most significant element of the agreement this demonstrates the naivety and inexperience of the Council and the lack of commercial awareness. Given the very substantial gain for BAE from the new housing provision, the Council should have been in a strong position.

All of the education calculations, even if technically sound, would be speculative and based on assumptions which may or may not materialise. This agreement covers a build out period again of about 20 years. There was no certainty about the type of housing approvals which would be granted over that time and house sizes. The 2009 Agreement had provision for reviews of education every 5 years (although in that agreement BAE capped their liability as well). This agreement should have had similar reviews. The Council should have negotiated review clauses under which further education contributions may be payable, or other equivalent arrangements.

Given the huge uplift in land values, the Council should have been in a strong negotiating position.

Regardless of uncertainty on pupil numbers over 20 years ahead, the Council allowed BAE to effectively cap its future liability for both primary and secondary. The Council should not have accepted such conditions. Even worse they were capped at levels which were so blatantly wrong.

BAE will have gained very substantial financial benefits from this new agreement, increasing its rate of return. Council taxpayers however will now be faced with substantial additional costs.

10.8 Significant failings

The Council failed at virtually every stage. The 2018 Section 75 Agreement even more significantly underestimated demand.

There were sufficient warning signs, set out in Section 9, well before the 2018 Section 75 agreement was entered into that education's calculations were flawed. There was a good body of evidence, from the existing development and NHS data, for the Council to be in a strong position in negotiations for fair and reasonable contributions for the new housing. The Council could even have been in a strong enough position to seek adjustment for the 2009 Agreement.

The failings are more basic than a failure to have a sophisticated model. One does not need to be an expert in demographic modelling to have appreciated the Council's approach was wrong. The application of simple common sense should have alerted the Council to the scale of the problems.

Millions were at stake for primary and secondary provision. I cannot comprehend the lack of professionalism in dealing with this matter.

For both primary demand and secondary demand the Council again failed to protect the interests up the Council taxpayer.

SECTION 11 - EVENTS POST SIGNING THE OCTOBER 2018 SECTION 75 AGREEMENT

11.1 Failings between 2018 and 2022

Concerns about the capacity at Bishopton and contradictory NHS data on rolls, should have alerted the Council to the significant problems with its calculations well before signing the Section 75 Agreement in 2018. However, between signing the 2018 Agreement and June 2022, when the problem was finally identified, there were many instances which should also have alerted the Council to the problems. Had they done so, although too late to affect the Section 75 Agreement, the Council could have started planning to resolve the problems much earlier.

In addition to issue set out here, Section 12 also outlines concerns expressed by others, some of which was during this period.

The most significant instances are set out below.

11.2 Confirmation of a new school for Dargavel rather than larger school to serve Bishopton/Dargavel – November 2018

In November 2018 the Education and Children Service Policy Board considered a report on primary school provision in Bishopton and Dargavel following a motion at Council meeting in September 2018 requiring the Director of Children Services to produce a report setting out the merits and cost implications of building one large primary school in Dargavel village for the whole of Bishopton including the Dargavel development. The report stated:

The estimated maximum number of primary school pupils generated by the Dargavel housing development is expected to be in the region of 400 to 450 pupils. A school to accommodate these numbers can be delivered within the funding arrangement agreed with the developer.

It further commented:

Children's services' assessment of this information generates a maximum school roll of circa:

- • 740 pupils for a combined Primary School;
- • 310 pupils for the existing Bishopton Primary School; and
- • 430 pupils for the new build "Dargavel" Primary School.

After consideration of the issues, it was decided to continue with the 2 form entry new school, as planned, to serve Dargavel village.

This report was written relying on the 2016 2 page spreadsheet which was fundamentally flawed. It was also prepared when it should already have been apparent there were serious issues.

Bishopton with approximately 2100 houses and a relatively mature area would have 310 pupils whilst Dargavel, with a likely higher birth rate and approximately twice as many houses, would only have 430 pupils. Had this report gone back to basics the problem may well have been identified.

11.3 Catchment area review – early 2019

At a subsequent meeting in January 2019 the Education and Children's Service Policy Board agreed to consult on a catchment area review for Bishopton primary school and the new primary school to be built in Dargavel village. It was necessary to establish catchment arrangements for the new school.

A number of the responses commented adversely on the proposed size of the Dargavel school.

- *The proposed 2 stream school is not large enough for whole of Dargavel*
- *With Dargavel having another 7 years of build ahead I cannot see how the new school can cope with the potential numbers.*
- *The size of new school is too small. This may have been based on original Dargavel village plan however since then 3 proposed industrial areas are now going to be houses. Size of school should be increased to accommodate for growing village.*

As part of the consultation a very significant number of adverse comments were made that Bishopton was overcrowded using terms such as 'choked', 'overloaded', 'at full capacity' causing it to be 'unsafe and unmanageable'.

The Council's response to the concerns was:

The developer's obligation in terms of the Section 75 agreement is to provide a school for the number of houses built within the Dargavel Village. The new school is being designed in line with Scottish Government guidance and Council roll projection methodology.

Putting aside any issues on roll projection methodology, under the terms of the Section 75 Agreement the developer obligation is not to 'provide a school for the number of houses built' but to build a 2 stream entry school. The risk is firmly with the Council.

The community comments were telling; proper consideration of them and just cursory examination of the data available as early as 2016, should have raised concern.

Following that consultation, new catchment areas for both schools were approved at the Education and Children's Services Policy Board in August 2019.

11.4 Planning approval for school – February 2019

In February 2019 planning permission was granted for the primary school by officers under delegated powers.

I understand that the size of the site had been reduced 'to avoid an oversized site that requires extensive maintenance' but still exceeded the requirements of the School Premises Act 1967. It was also stated that flexibility 'has been built into the design of the building to cater for any future increase in the number of pupils.'

The decision of education to reduce the size of the site was challenged by planning in the following terms:

The size of the site appears to have been reduced in comparison to the previous pre application layouts. We note that the site could potentially be seen as overdeveloped given the proximity of the sports pitch and the car parking area to the building itself. Playground space appears to be limited given the number of pupils and it would be difficult to extend the school in future if required.

BAE's representatives responded that the changes had been made at the request of education. I have not been able to find any assessment of the saving made as a result of this act.

This extraordinary decision, to reduce the size of the school site, shows just how disconnected education officers were from the reality of what was happening to pupil numbers and how immune they had become to concerns expressed by a wide range of stakeholders. It is not clear to me why the issue was not escalated.

11.5 Commissioning Phase – opening of new School

The Council and Dargavel school, along with support from Bishopton school had extensive commissioning plans, overseen by a Project Group. One of the key issues to be resolved was the anticipated intake.

On 7th October 2020 an email was sent to a senior education officer:

Just before I stopped for leave we did an update on analysis of Bishopton pupils who live in Dargavel which is detailed below.

	<i>P1</i>	<i>P2</i>	<i>P3</i>	<i>P4</i>	<i>P5</i>	<i>P6</i>	<i>P7</i>	<i>Total</i>
<i>Bishopton Primary - Dargavel pupils</i>	<i>76</i>	<i>60</i>	<i>62</i>	<i>66</i>	<i>52</i>	<i>37</i>	<i>31</i>	<i>384</i>

A senior education officer responded:

That's a bigger number than I was expecting. If they all want to move then partial occupancy of the building will be difficult. We really need to get a better sense of who will be wanting to move.

This table should have been of immediate concern. With around another 15 years of build to go there were already 384 pupils. In addition, if the P1 intake for 2021 and 2022 was at a similar level, not unreasonable assumptions given the data, Dargavel school would quickly be at capacity.

It is highly likely that many Dargavel children who had already commenced their education at Bishopton Primary School would wish to remain there and perhaps parents would wish to send their younger siblings to the same school. However, the comments above from the senior education officer simply ignore the underlying trend data and the severe problem the Council is about to face.

Notes of the new school's Project Group's meetings show that in December 2020 the intake (based on all those yet to express a preference opting for Dargavel), would be 334:

Anticipated 2021 Intake

There are currently 392 Dargavel Primary pupils in Bishopton Primary School.

An exercise has been undertaken to ascertain projected numbers for August 2021. P1 – P6 pupils (362 in total) have been asked their intentions for next session:-

*132 have confirmed they wish to stay in Bishopton Primary,
52 have still to confirm, and
178 wish to transfer.*

The current P1 registration numbers are 104. In summary if we include the pupils still to decide and new registrations anticipated intake is 334.

Bishopton / Dargavel Analysis											
	P1	P2	P3	P4	P5	P6	P7	Total	Capacity	% Occupancy	
Current Roll @ 3 Dec 2020	111	93	102	109	89	70	68	642	668	96	
	P1	P2	P3	P4	P5	P6	P1-P6 Total				
Current Total Dargavel Pupils	79	60	63	69	51	40	362		P7 = 30 = 392 pupils		
Confirmed Staying	20	14	19	24	29	26	132				
Dargavel Transferring	47	40	40	31	17	3	178				
Dargavel Still To Confirm	12	6	4	14	5	11	52		230 if still confirm decide to go		
Anticipated Rolls @ Aug 2021	P1	P2	P3	P4	P5	P6	P7	Total	Capacity	% Occupancy	
Bishopton Total Roll - School not Ready	141	111	93	102	109	89	70	715	668	107	
Bishopton & Dargavel Pupils Staying	37	52	47	58	64	67	56	381	546	70	
Dargavel Transfer & Still To Confirm	104	59	46	44	45	22	14	334	440	76	
	Figures @ 03/12/20 - who had registered										

I understand that as pupil preferences were clarified the planned intake fell to around 300 pupils.. A separate two page briefing note was produced in December 2020. This stated:

Capacity for 440 pupils

Later in the note it stated:

There are currently 392 Dargavel primary pupils in Bishopton Primary School

Even at this stage it appeared officers were continuing to focus on the problems of capacity of Bishopton when again a superficial examination of the data would imply very significant problems; that they had seriously underestimated demand.

It was not until June 2022 that the Council started to appreciate that it had problems.

11.6 Recognition of the problem

By early 2022 there had been a number of changes of staff. In late May the Head of Dargavel School raised concerns about pupil numbers. That week a senior education officer, for the first time, requested a review of pupil projections, which was completed at the end of June.

As I understand the position because of concerns about the results and the need for other data it was decided to carry out a further analysis, consulting with other Councils which had experience of large housing developments, to seek to verify the scale of the problem.

Factors not reflected in the original calculations were also identified. I understand that it was not until late September that senior staff were 'confident' about the scale of the problem and the type of contingency arrangements which would be needed.

SECTION 12. - COUNCIL RESPONSE TO QUESTIONS RAISED BY THE COMMUNITY AND OTHERS

12.1 Overview

In the Terms of Reference, I have been asked to comment on how the Council responded to expressions of concern from the community and indeed others.

As indicated in Section 9, there was overwhelming data, from internal council documents, on emerging pupil numbers, before the 2018 Section 75 Agreement was signed, that the Council had seriously underestimated demand. The failure to act based on that information alone is extraordinary; however, when combined with the sheer level of concern expressed by others, it becomes impossible to comprehend.

There is overwhelming evidence that Councillors from across the political divide, community and school representatives, MSPs and the public expressed concerns to the Council. Some expressed their concerns to their MSPs or the government. I have not found a single instance where any of these were treated seriously and triggered any proper investigation within the Council. The comments appear to have been brushed aside with an increasing degree of irritation, and what some may regard as professional arrogance.

In discussion representatives of the community and Councillors have used phrases such as 'deaf eared'. Complainants were wrong, the Council was right; this view was expressed with such confidence and assertiveness that many complainants doubted themselves and reluctantly 'trusted the experts'. The strength of confidence expressed by education, by officers some had worked with, and respected, was such that complainants took their concerns no further.

Earlier in the report I identified a number of examples of where concerns were raised including:

- Responding to concerns expressed by Bishopton Community Council in March 2008 at a meeting with the Council (8.4).
- Responding to Councillors who had expressed concerns in December 2017 (9.10).
- Responding to concerns at the Pre-determination meeting for additional housing (5.4).
- Responding to concerns expressed during the public consultation on catchment areas in spring 2019 (11.3).

However, there were many others, some well documented and others not so.

12.2 Bishopton Community Council

There is evidence that the Community Council expressed concerns directly to education on a significant number of occasions over and above those referred to above.

In September 2014 a senior education officer attended a Community Council meeting. There was an extensive discussion with concerns being expressed that the early indications were that the Dargavel school would be too small, with comments that at present there were 1.4 pupils for every seven houses compared with the Council's assumption of 1 pupil for every seven houses. The concerns were clearly expressed, and I have found no sign of them being acted upon.

In January 2017 the Community Council wrote to a senior education officer posing the question as to whether the proposed school for the 2018 Agreement, given the increase in housing, was big enough.

In March 2017 Bishopton Community Council also complained to BAE, copying in a number of Councillors and planning. The e-mail was titled 'Education provision in Bishopton'. The email commented upon relative house and pupil numbers and the proposal for 2 form entry school. It stated:

This is still inadequate and in the light of an increase of approximately one third in the number of overall houses numbers woefully so.....

and that the initial projections were

far off the mark when the initial plans were submitted

I could not see, in the drafting of the response by the Council, any critique of the observations made by the Community Council. Indeed the internal correspondence again focused on the capacity at Bishopton, not the question raised about the capacity of the new school. The Council's response stated:

Any agreed planning application to extend the site would require a review of the role projection model based on increasing housing numbers and phasing. It would be anticipated if expansion were agreed this would result in a 2 stream primary school (434)

The same concerns were expressed in a meeting with a senior planning officer, the same month. Assurances were given that the school would meet the need.

As indicated above in November 2017 the Community Council made representations to the Pre-Determination meeting for the expansion of housing on the site and specifically the size of the school. The Council minutes are not extensive but I understand the Community Council made specific reference that on a pro-rata basis the school should be for 570 children and not 440 as planned, with references to other developments of a similar size in Scotland with substantially higher education provision. No action was taken.

In March 2018, after further representations on capacity issues, education responded to the Community Council in what I would regard as a dismissive manner:

I don't feel I can add anything to previous discussions on these matters

In another interaction with the Community Council, supported by a Councillor, a 4 page analysis was submitted to education. Again, cursory analysis of the 4 page document should have caused genuine concerns within the Council. The response to the Councillor stated:

Whilst I note the concerns raised by the community council I do not accept that the role projection is inadequate. There will always be uncertainty and I have repeatedly acknowledged this. We must balance this against the resources available to ensure all children in the area continue to have access to high quality learning. I am confident this remains the case.

These comments I find confusing, particularly as they were made before the 2018 Agreement was signed. The Council should not need to 'balance resources'; the challenge was that the Council needed a realistically estimate of pupil demand and negotiate a fair and reasonable deal with BAE where not all of the 'uncertainty' sat with the Council.

12.3 Exchange with an MSP July 2018

In July 2018 an MSP raised a question with education on behalf of a resident. The email from their office stated that they had:

been contacted by a resident of Bishopton with concerns over the capacity of Dargavel Primary School. I have noted her exact comments below for your information.

"Many houses are 3/4 bedroom and designed for families. Taking a conservative estimate of 50% of houses being for families and an average family size of two children then a reasonable estimate for the number of school age children would be around 2000. Please advise me as to how and why Renfrewshire Council are basing education provision on 300 children."

Could officers provide a response to the constituents concerns.

The reply sent by an education officer, with a senior education officer copied in, stated:

Your enquiry regarding a constituent's concern over the capacity of the proposed new primary school at Dargavel has been passed to me to provide you with a response. At this time I can confirm that the planning arrangement for the new school is based on the Council's standard roll projection model which is informed by housing data from our planning department and known trends from early years provisions. This analysis has determined that the combination of a new double stream school, for circa 440 pupils, and the existing provision within Bishopton Primary School, which accommodates circa 540 pupils, will provide sufficient pupil places for the overall area.

I hope this information is of assistance.

The complaint appears to be referring to the period when the planning permission was limited to 2500 residential units and the Council's plans were for 340 primary school places. The reply refers to the planned provision for primary places for the whole development for over 3850 houses, giving a false impression. In addition, the Council had not intended to use the surplus capacity at Bishopton. At the date of this query there was ample evidence that the MSP's constituent's concerns were entirely justified for either the planning permission then in force and even more so for the intended new agreement. The reply appears to be misleading.

12.4 Concerns on behalf of Dargavel Residents Association and Council response January 2019

On the 24th of January 2019 a representative of the Dargavel Residents Association contacted planning, copying in an MSP and a Councillor.

While (it's) obviously great news that the school has been brought forward and will be delivered in 2021, there is a real concern from the residents that the size of the school was not significantly increased with increase in the number of homes from the initial 2800 to 4050.

The response from planning was:

With regard to the school this matter was discussed extensively with colleagues in our education department who considered that the size of the school was appropriate to the anticipated population... from the development of some 4000 homes..

I have difficulty in understanding this response. An 'extensive' discussion between planning and education should have exposed the problems.

12.5 Concerns expressed by Councillors and officers

I should emphasise that Councillors will not have had access to the documents I have seen and therefore will only have been able to express their concerns in general terms.

I also have observations about the limited involvement of Councillors generally, and I refer to this in my conclusions.

The former Convener of the Education and Children's Services Policy Board has informed me that he raised concerns on 3 occasions with senior education management. On the first occasion, in January 2018, he was accompanied by another Councillor. The meeting was arranged because they were aware of the concerns expressed by the Community Council and that the Community Council was not satisfied with the response. The second occasion was when the Section 75 Agreement was being entered into where concerns were expressed that the increase in the size of the school did not seem to match the increase in housing. The third occasion was a pre-agenda briefing. I understand that the confidence of education officers, along with comments about tried and tested models, officers had carried out these calculations before etc resulted in assurance that the concerns were unfounded.

A number of other Members from a range of groups have stated that concerns were expressed about the proposed 2018 Section 75 Agreement on other occasions. For example, from notes of the Council meeting in March 2018, where the application was agreed subject to a Section 75 Agreement, concerns were expressed about the size of the school. In such cases members were given assurances that the calculations were correct.

Planning officers have told me they 'questioned' Education about the size of the school but were reassured that the two-stream school was appropriate. As stated in 11.4 above they also questioned the decision to reduce the size of the site for Dargavel school.

However, whilst I have no reason not to accept that planning officers raised questions, given the conflicting data they saw and concerns from the community, in my opinion they should have escalated those concerns. Planning were leading the negotiations and as such should have been well placed to be aware of the implications of a failure to negotiate a fair and reasonable deal with BAE.

12.5 Concerns expressed by parents and residents

I have also seen a range of other correspondence from individuals and obtained information and feedback from representatives of both Dargavel and Bishopton Parent Councils and Dargavel Residents Association.

One of the earliest documented concerns was in 2012, by an individual about the size of the school and questioning whether basing Dargavel on Bishopton yields was correct given the aging population in Bishopton. A number of senior officers were copied in on the letter to the Scottish government commenting:

On the Primary School provision there is in the Section 75 a requirement for a 342 roll Primary School to be handed over to the Council before completion of 1725 dwellings. This is approximately the size of the current primary school which serves an 'aged' community of just over 2000 dwellings. With the new community likely to have a considerable number of young families and the current village releasing more family houses onto the market as 'the aged' migrate to flats and sheltered housing in the new development can these facilities cope?

This had no impact.

Concerns about the response from the Council in meetings was such that an FOI was submitted in 2013 asking for details of the model and seeking a meeting. The Council declined a meeting based on their being no new information.

Further representations were made, not just on the size of the Dargavel school but also on the overcrowding at Bishopton Primary School in a number of meetings and a further FOI was submitted in 2020. Regardless of wide ranging concerns about pupil yields and related matters, the Council stated that it had 'complete confidence' in its calculations.

Parents are fearful that the need to expand secondary provision will be a re-run of Dargavel.

12.6 Escalation of concerns

I have found little in the way of evidence that concerns were escalated directly to the Chief Executive, asking for their intervention.

However, in a joint letter from the Residents Association, Community Council and Development Trust to the then Chief Executive in late 2021 widespread concerns were expressed about the whole development failing to meet expectations, including concerns about education. Disquiet was expressed about the planned school provision calling for a review of modelling and as far as I can assess referring back to concerns voiced at the 2018 pre-determination meeting. It was suggested by the Council that a series of meetings take place to explore a wide range of issues but for a number of reasons, including COVID, these did not take place; regardless, at least in respect of education, matters were overtaken by events.

SECTION 13 - CONCLUSIONS AND RECOMMENDATIONS

13.1 Overall conclusion

The overriding conclusion is that the Council was completely unaware of, and therefore unprepared for, the impact that a development such as Dargavel would have upon the education service.

It approached negotiations and assessment of the impact of the development in an amateur manner, failing to understand that it had neither the technical skills nor the financial awareness to conclude what was a commercial negotiation with BAE.

Combined with a failure of management oversight and gross incompetence the Council did not negotiate fair and reasonable terms for the provision of education, in its various Section 75 Agreements with BAE.

It failed to secure adequate school provision for the Dargavel development.

As BAE's profit will have increased, its contribution to education per child has reduced, in large part due to officer incompetence, negotiating agreements which were grossly inadequate. The Council then allowed all the risk associated with the uncertainty of future school rolls to be borne by the Council.

The failure of the Council to identify the issue, regardless of overwhelming evidence of problems and numerous legitimate concerns expressed by key stakeholders, resulted in the final Section 75 Agreement, concluded in 2018, increasing the level of under-provision still further.

The Council's failing will impact upon the quality of children's educational experience and will impose significant additional costs on Council taxpayers in the years to come.

13.2 Broader implications and perceptions

This is not simply a financial issue. Members of the Parent Council have raised very significant concerns about the impact of overcrowding on the Dargavel school. There are already concerns about relatively tight constraints on play areas and existing high levels of noise in a largely open plan building. There are genuine concerns that further development of the site will adversely impact many aspects of children's education, social interactions and play. Concerns were expressed that those with hearing problems or other difficulties may struggle in increasingly crowded and noisy conditions. Whilst many parents recognise that communication with the Council has improved, there is a significant confidence gap, not just in relation to Dargavel but concerns about their children's secondary education and the adequacy or otherwise of the plans for Park Mains. There are concerns that the Council will resort to minimum space standards at Park Mains and the school be of such a size that their children's secondary education will be adversely affected as well.

The Council have told me they are aware of these concerns and are seeking additional land for Dargavel and looking carefully at space standards at Park Mains.

Public confidence has been damaged not just because of education but because there are strong perceptions that the Council allowed BAE to reduce its contributions to many areas of public infrastructure as the development grew. In some other areas many expected that

contributions would increase pro-rata to the increase in housing approved in 2018, and they did not. However, the biggest reduction, that of removing community facilities from the first Section 75 Agreement was as a result of decisions of the Council itself, as was the decision to restrict the size of the school site and limit its suitability for community use. The assessment that the increase of at least 1350 houses would only require an extra 100 primary school places was also ultimately the responsibility of the Council.

A schedule showing a comparison of Section 75 Agreements is attached as Annex 2.

13.3 Out of sight out of mind

The education element of the Dargavel development project was unusual in terms of the Council's normal processes. If there had been a proposal to build a brand new school to meet new demand, which had arisen through a whole range of reasons and the scheme was to be funded by the Council itself, there would have been corporate business cases and capital investment and appraisal processes and procedures in place. For such a scheme I would have expected a high degree of rigour and corporate challenge before justifying the building of the school and determining its size. Officers would have to satisfy members as well, through capital investment decisions.

However, in this case as the education provision was to be secured through contract negotiations with BAE, those arrangements did not apply. Given the sums of money which should have been involved, potentially tens of millions to meet education demand, I would also have expected considerable rigour to apply. If the Council failed to negotiate a fair contribution from BAE, Council taxpayers would have to foot the bill. Regardless of that risk it was treated as an adjunct to a planning application, led by planning and not as a set of important commercial negotiations.

As a result of this not being a 'traditional' capital project, the Council as a whole, not just education, treated the education component as something happening over there and out of sight and out of mind. The Council did not give it due attention.

13.4 Recognition of risk

One of the biggest failings of the Council was the failure to recognise risk.

Developments on this scale have risks for both BAE and the Council. A 20 year development plan can be affected significantly by factors outside both the Council's and the developer's control. Both parties to the Section 75 Agreements are therefore interested in managing and minimising their risk.

At the time of negotiating the agreements neither side would know the final housing mix, which can have a very significant impact on the number of pupils.

Given the uncertainty of school projections for over 20 years ahead for a new development such as Dargavel, projections would produce a range of outcomes, almost certainly well in excess of the normal pupil yields. BAE would have been unlikely to 'pay' for the worst case scenario on pupil numbers. The Council would not accept contributions based on the best case scenario, resulting in possible risks for the Council.

One would therefore normally prepare thoroughly for such complex contract negotiations to protect the interests of Council taxpayers. For education the Council did not.

I have identified virtually nothing dealing with risk and risk management. What little there was, rated the delivery of Dargavel school as 'green'.

BAE would want to limit its exposure and provide certainty to its Board about the site's financial returns and maximise them. The Council should wish to protect its position and that of its Council taxpayers to make sure that the developer pays a fair and reasonable contribution and shares risk.

The former happened, the latter did not.

13.5 BAE and the Council

Any responsible developer, subject to viability, should seek to make sure that it provides appropriate and adequate support to public services and infrastructure and is likely to use the costs of providing such support as a lever to increase the development potential of its site. Indeed BAE did so, claiming viability in 2016 for seeking a substantial increase in house building, approved in 2018. Indeed for cash flow reasons there were exploratory discussions with the Council, about the Council constructing the school.

As far as I can assess, regardless of the concerns expressed in 2016, issues of development viability limiting developer contributions do not apply in this case; the gains to BAE from giving over 100 acres approval for housing will be very substantial, with further more limited gains on other additional land for social housing. The shortfall in contributions to education infrastructure is due to the woefully inadequate and grossly incompetent negotiation of the education element of the Section 75 Agreement by the Council. The various 'asks' from the Council were so inadequate that I understand BAE simply agreed them; there were no hard commercial negotiations.

What is difficult to understand is that, from documents, the Council seemed aware of the risk and uncertainty in its calculations in 2009 but made no effort to assess that risk or seek ways of minimising it or share it.

BAE accepted no risk whatsoever. Where the Council struggled to articulate its 'ask' for secondary education in 2018, BAE made a proposal, which cursory examination should have shown was likely to have been inadequate. The Council simply accepted those proposals, without even asking to see justifications or rigorously examining them, agreeing a cap of 200 places. This was grossly negligent and inexcusable.

BAE likewise capped its risk for primary school places.

Developers like certainty and want to limit risk. Given the lack of precision in education forecasts for large developments with a build out of over 20 years the Council should not have accepted all the risk sitting with the Council, particularly where issues have not been 'bottomed out'.

I have been told by the Council that BAE were amenable and easy to deal with. BAE told me they did not approach developments with the adversarial style some other developers may show. They have no education expertise and relied upon the Council.

As the development increased in size there was an erosion in public benefit. School places, already grossly underprovided, fell by 25% per residential unit.

Common sense would suggest that the final phases of the development, permitted under the 2018 Section 75 agreement would be particularly profitable with much of the highway and other infrastructure already provided for in the financial plans. By the time of that agreement there was ample evidence in place that the Council had erred in its earlier school calculations. The Council did not take the time or effort to use information from the first phase of the development and NHS data to build a model to inform education need for primary and secondary education for the final phases. The Council should have been in a strong negotiating position to ensure the situation did not deteriorate further. For the relative size of the development, the 2018 Agreement was substantially worse than the original agreement.

As far as the education elements of the agreement are concerned there was a complete lack of professional leadership and oversight from within the education service with reliance on calculations by junior staff and middle managers, unfamiliar with dealing with these issues and, frankly, unaware of their importance.

13.6 Terms of Reference:

In relation to the various terms of reference:

ToR1 The approach adopted to modelling the capacity required

The 2009 Agreement was based on a flawed assumption that the Bishopton catchment area would be an appropriate exemplar and failed to recognise the characteristics of new developments and their higher yields. The 2018 Agreement, although based on more appropriate yields contained fundamental errors of logic. The problem was exacerbated by:

- **The Council does not have detailed supplementary guidance for securing developer contributions.** Many Councils in Scotland now have supplementary statements supporting their Local Development Plans, which set out in some detail how demand for education will be assessed, including taking into account surplus capacity in schools. The Council did not have such a document to help guide negotiations with BAE. In 2022 the Council started to prepare such advice.
- **Failure to seek advice.** I found no evidence that advice and support from within or outside the Council was sought until 2022. All of the work was carried out in, and overseen by, education.
- **No modelling of how demand may change over time.** The attempts at modelling in 2009 and 2018 simply did not appreciate that whilst simple yields were helpful many other factors should be built into models, if education capacity is to be planned effectively. They include ranges of birth rates, denominational choice, house mix, economic conditions which can affect moves into and out of the area etc. They would allow for yields to change over time, peaking and then falling to the levels of a mature development. None of this could be assessed by the Councils approach, hampering effective planning of school places.
- **The use of different numbers of residential units.** The arbitrary application of Section 75 Agreements has resulted in difficulty tracking the total planned size of the development at different times. Education's calculation of need for primary education was assessed based on 3965 residential units. Secondary was assessed by BAE on an equivalent of 3850. At the time it was expected that there may be 4291 units. It is only in recent weeks that the Council planned to restrict development to 3982 units.

- **Failure to use pupil data from the early phases of development to inform the 2018 negotiations.** It was apparent from data which was readily available, before the 2018 Agreement was concluded, that the Council had under scoped demand. That data could have been used for an improved 2018 Agreement.
- **Due diligence.** I have not identified any due diligence on the calculations. Relatively junior and/or inexperienced staff compiled the 2018 calculations. Regardless of the scale of concern expressed I have found no evidence of management oversight or any critiquing of their work.
- **Failure to understand risk.** When projecting pupil demand forward by 20 years there can be no certainty that the projections will materialise in practice. For example, the outline consent upon which the calculations were based does not specify house sizes. Not only did the Council fail to build flexibility into its plans, it took on all of the financial risk.

ToR2 The adequacy of collaborative working to deliver the Dargavel development including the final definition of the 2018 pupil numbers

There are two aspects; the delivery of the project and pupil numbers. A Project Board was established to oversee the implementation of the Section 75 Agreement. From minutes and discussions, it was effective in ensuring that the development, as a whole, was delivered in line with agreements. It was not set up to oversee negotiations. There was though:

- **A failure of leadership in the education service.** The calculations supporting the negotiations with BAE, particularly for the 2018 Section 75 agreement were carried out by inexperienced staff. The same staff also produced significant conflicting data. cursory examination of the data by education management should have caused alarm. It is difficult to conclude other than that senior education management were not sufficiently engaged in the project which, if scoped properly, should have delivered very significant external investment in education.
- **A failure of collaborative working.** There was a clear failure of collaborative working particularly between planning and education, especially in relation to matters such as the impact of house sizes on education demand and risk. In addition, I understand that the Education/Children's Services management team rarely discussed the Dargavel Primary school project or the wider ramifications of the development of the site. In such circumstances there was a lack of support sought or given from the wider directorate to those education officers involved in the definition of pupil numbers. The Project Board also failed to act and bring in support from within the Council or elsewhere.

ToR3 The level and scale of senior management oversight and formal reporting

Project arrangements were enhanced in 2015 to strengthen corporate engagement with the establishment of the Project Board. Theoretically these structures should have enabled the Council to work more effectively with top management input and support. However, rather than a Director chairing the Board, it was eventually chaired by a senior planning officer intimately involved in negotiations with BAE and so not in the best position to question or challenge the Council's approach; defined roles of project sponsor or project manager were not established. Regardless of that I am surprised at how both Council and BAE generated documents were taken at face value and not challenged by the Project Board or project teams.

The Project Board should have sought internal support or external advice and referred concerns to CMT. It did not do so. This is a sign of a weak corporate organisation, with officers focussing simply on their own problems. Having a Project Board is of limited value if officers on it are not prepared to both support and, when necessary, challenge each other and when not satisfied escalate issues.

This will have been a contributory factor in the failure of the Council.

There were periodic reports to CMT but they provided limited detail. For example, it would not have been apparent that BAE was closing its risk and that all the risks were with the Council.

A surprising aspect of my review is that I have found virtually no information from stakeholders going to top management raising concerns. Nor did those I spoke to escalate their concerns up the officer line of the Council. Where concerns were expressed to Members, Members generally approached education, not top management. They had a respect and regard for a number of the key education officers involved and their concerns assuaged by the confidence expressed by them. Matters were taken no further.

However, I am surprised and disappointed that some planning officers, more familiar with the issues, were so easily swayed by education and did not escalate matters, particularly given the sums involved.

ToR 4 Whether opportunities to identify underestimation of capacity were missed

Section 9 in particular will make difficult reading for the Council. There were numerous opportunities to have identified problems with the 2009 Agreement and ensure that they were not repeated. However, the 2018 Agreement was even worse.

There are instances of conflicting data which were simply ignored, data which was available in education and to a more limited extent the wider Council. There are also numerous instances of failing to listen to the community as set out in Section 12.

A particular feature of my review is that the Council had numerous opportunities to test data, by use of quick and simple calculations, for reasonableness. It failed to do so time and time again.

Simple common sense was lacking:

- Why should Dargavel have the same pupil yields as Bishopton, as used in the first Section 75 Agreement? One is a mature area with declining rolls and the other is a brand new development likely to attract young families.
- If a school of 340 pupils is supposedly enough for 2500 houses, why would you only need an increase of 30% for school places when the number of houses will increase by almost 60%?
- Would you really expect the school roll to fall when less than 40% of the houses have been built?

ToR 5 Engagement with the community in relation to capacity planning and handling their concerns

From documents there was engagement with the community throughout on a wide range of matters associated with the Dargavel development. There are differing views on how effective that consultation was and whether the original vision for the development has been achieved. However, the community should rightly expect the Council to properly scope education demand from the outset. When they failed to do so the Council compounded the problem by not taking concerns expressed by the community seriously. I have been genuinely surprised at the number of complaints, many of them well articulated, which were simply dismissed, without any examination whatsoever.

Education's approach was one of 'the complainants are wrong, the Council is right'; this view was expressed with such confidence and assertiveness that complainants doubted themselves and trusted the 'experts'. The level of confidence by education was such that complainants rarely took their concerns further. The fact that not a single complaint was examined properly is likely to have a lasting impact on the Council's reputation, not just for education, but more widely.

ToR 6 The extent to which the Council was adequately preparing for the new school and further opportunities to identify the issues

The actual formal commissioning of the new school from all accounts was relatively successful, particularly given the additional problems caused by COVID; there were however concerns about communication during this period and the delay in the opening date. Whilst officers were challenged by an unexpectedly early increase in numbers at Bishopton, treating it as a 'spike', their focus was on those short-term issues not the cause; that they had seriously underestimated demand.

During the commissioning phase there were other opportunities to identify the problem which were missed.

ToR 7 Other aspects deemed relevant by the reviewer

- **The management of planning applications had allowed the development to potentially increase in size to 4291 units.** The size of the development has in large part been determined by three large applications for a maximum of 3850 houses. However, a number of smaller applications had been treated as additional and potentially increased the size of the development to 4291 residential units. These applications were not covered by Section 75 Agreements and so if deemed not to be part of the 3850 residential units, would increase pressure on education without equivalent funding. Not all parts of the Council were working on the same data and nor was BAE. Again, this is a sign of poor corporate working. One arm of the Council was approving more and more residential units, simply notifying other parts of a range of numbers, but without ensuring that the import of their decisions had been fully appreciated by other parts of the Council or subjecting them to Section 75 Agreements to secure contributions. I understand the Council has now clarified issues and is planning on 3982 residential units.
- **Member involvement.** Member involvement in planning matters needs to be carefully managed to avoid allegations about pre-determination and inappropriate involvement. However, there are some matters where I would have expected

greater member involvement. From the outset officers did not plan on using the surplus capacity at Bishopton of around 220 primary places. In such circumstances one would have expected most developers to refuse to pay for 220 places at the new Dargavel Primary School, on the basis that this was the Council's decision not to use that capacity. I have not seen a document which shows that this risk was ever appreciated or assessed and discussed with members. In addition, the original Section 75 Agreement included reasonably substantial community facilities. Eventually it was decided, by officers, not to proceed with those facilities on the basis of the extent of facilities elsewhere in the area. The plan was to provide some capacity at Dargavel school for community use, but I understand that the final specification for the school provides limited opportunity for such use. I have not seen evidence of detailed member involvement in discussion of key issues such as this.

I **RECOMMEND** that the Council:

1 Builds a more robust model of primary school need for Dargavel.

The Council has retained Edge Analytics to assist in preparing more robust forecasts of demand at Dargavel and Park Mains. The model now in use should be updated and refined. The Council now has a considerable volume of data on need arising from the first phases of development, along with access to health visitor data. It should provide this information to Edge Analytics to refine the model of pupil numbers and the potential range of demand. It should also review the mix of housing approvals. If, as claimed, there is a larger proportion of 4 and 5 bed properties than in the 'average' catchment area, that too should be provided for and reflected in the model. The Council should extend the time period of the forecasts for primary to assess whether there is likely to be a peak in demand or just a plateau then a decline. This will help in planning on how to meet demand.

For timescale for the secondary education forecasts should be extended substantially to ensure the full impact of the Dargavel development is assessed.

2 Reconsider catchment areas

The earlier decision on catchment areas was made on the assumption the developer would be meeting all of the costs of primary education, without needing to use the surplus capacity at Bishopton. That is no longer the case.

In its future plans the Council should reconsider how surplus capacity at Bishopton can be used effectively.

3 Produce robust supplementary guidance on developer contributions

The Council can have little confidence that the educational aspects of planning applications over the past 10 years have been handled correctly. Some applications where it has been deemed there is no educational implication, may well have had implications; those where it was deemed that there was an educational implication, the implications may have been under assessed.

As the Council progresses its plans to issue supplementary guidance on developer contributions for education it should seek to learn from other Councils in Scotland. A development the size of Dargavel is exceptional and would need its own modelling

techniques. However, for smaller developments the Council should create an evidence base to calculate specific yield factors, for different types of property, derived from recent developments in Renfrewshire. Such robust data will ease future negotiations.

The Council should be clear about who has responsibility for this area of work and ensure they have the appropriate skills available to them, either internally or externally. The Council should review how data flows between planning and education and that they both understand its import.

4 Seek to work co-operatively with BAE

The Council may be on weak ground in legal terms to re-open negotiations with BAE. BAE state that they did not do their own modelling or utilise consultants; instead, they relied on education.

The Councils 'ask' for education in the 2009 Agreement was below the level anticipated in BAE's 2002 study.

BAE will be more financially astute and commercial aware than those they dealt with at the Council. When they came forward with plans for an additional 1350 houses the proposition may have been the subject of an internal business case which should have included an assessment of an increased education contribution, even if only pro rata to the 340 pupils in the 2009 Agreement. Whilst their suggestion in their PowerPoint presentation to the Council of a 3 form entry school and their notes for a workshop with the same proposal, may have been 'to prompt discussion' I find it difficult to believe that the Council's ask for only 100 extra primary school places in 2018 was not regarded by them as an underestimate.

The Councils calculations were grossly and obviously wrong. The Community Council and many others could see that the plan for a school for only 440 children was inadequate and BAE were the recipient of some of the correspondence and will have been aware of community concerns before the 2018 agreement was signed.

BAE state that they have worked in good faith with the Council on the basis that the Council was fulfilling its duties as an education authority.

Whilst the ultimate responsibility sits with the Council, if BAE were so aware of the under-provision then, by their acts of omission, they may have a degree of culpability.

BAE will have made a very substantial return from the increase in housing approved in 2018 and yet for this final phase have made contributions to education which are even more grossly inadequate than provided for in the first Section 75 Agreement.

When seeking agreement to the additional housing BAE did so on grounds of viability and called for the continuation of 'collaboration' and stakeholders needed to be 'open and flexible' in order to preserve the developments 'viability and success'. Even though the Council has shown gross incompetence it should engage with senior management in BAE. BAE have a commitment to 'ethical and responsible behaviour in all aspects of what we do' and should be encouraged to see what steps they can now take to ensure the 'viability and success' of their Dargavel development.

I have been advised by the Council that, to date, BAE have adopted a position of wishing to protect the delivery of their commercial metrics which have been forecast from the Dargavel

development. Unless the Council and BAE can work together to resolve the current problems, BAE may face accusations, whether founded or not and regardless of Council incompetence, that it has financially benefitted at the expense of Council taxpayers.

5 Corporate working and organisational culture

Although I understand that the Council has sought to improve and strengthen corporate working in recent years, the evidence would suggest there is a long way to go; simply establishing corporate working groups is insufficient if staff are in a mindset of 'not my problem'.

I would have expected a development of such scale as Dargavel to have been approached as a collective responsibility by senior management to ensure every aspect of the development was successful. However, when conflicting evidence of demand for education was presented to the Project Board, along with proposals for only 100 additional primary places in Dargavel for 1350 houses there was no challenge, and yet the Council was in the middle of commercial negotiation for the expansion of housing in Dargavel village upon which substantial contributions to public infrastructure would be sought. The failure of colleagues to robustly challenge education and/or escalate the matter will have had a significant cost, financial, reputational and most importantly upon parents and their children.

The evidence would suggest that at the time within education, there was style of working which did not utilise the full talents of the education team. There was limited reporting to their management team. Had the projections and estimates been considered in detail in such a setting, the errors in 2018 may well have been identified. Important assessments of significant financial value were simply given to staff unfamiliar with the issue, with no support or supervision and no critiquing of the results. Just cursory examination would have shown they were deeply flawed.

The failure of management oversight, if symptomatic of the Council as a whole, would be deeply disturbing.

The Council needs to consider a significant change programme, not just on the of issue of corporate working and personal responsibility, but also its organisational culture and values. It needs plans to build a stronger organisation where constructive challenge is welcomed and there is a clarity of what is expected of all of those in a leadership role.

6 Risk management

From documents I have seen the Council was seeking to manage risks around the planning aspects of the Dargavel development and key deliverables. However, it was unaware of the scale of risk it was taking on the calculation of pupil numbers. It is impossible to project accurately 20 years ahead, even more so when the outline applications do not pre-determine basic issues such as the housing mix. The identified risk in Council documents related to delivering the school on time, not that the size of the school may prove to be inadequate. The failure to identify that risk has had two consequences; first the Council has been slow to react to the increase in pupil numbers and second the Council did not negotiate with BAE, with that risk in mind.

The Council needs to review how it both identifies risk and manages it.

7 Role of members

All Councils have strong protocols to protect members from allegations of inappropriate involvement in planning matters. However, there are issues in the case of Dargavel where I would have expected some member involvement. It may be that inadequate corporate oversight meant that the most senior officers of the Council were unsighted and matters which may have warranted members input were missed.

Whilst protecting the integrity of the planning process, the Council needs to ensure the appropriate involvement of members in such developments.

8 Public confidence

These recent events and the matters described in this report will dent public confidence in the Council. The Council should work in an open and transparent manner in the resolution of these issues and particularly with the residents of Dargavel, who have legitimate concerns about the implications for their children, during both their primary and secondary education.

ANNEX 1

TIMELINE OF KEY EVENTS RELATING TO PLANNING DECISIONS AND ENTERING INTO SECTION 75 AGREEMENTS

In this Annex I set out a broad timeline of key events relating to planning consents and the various Section 75 agreements entered into by the Council.

1 Initial discussion of the application - March 2005

Given the scale and significance of the Dargavel application a report was submitted to the meeting of the Planning and Policy Development Board in March 2005. No decisions were sought at this meeting. The report was intended to update members on the national discussions which had taken place and local public consultations. The Board were advised that a planning application was imminent.

The report to the Panel gives a very useful overview:

The Royal Ordnance Factory, Bishopton is the largest brownfield site in Scotland..... The site has for the past century and to different levels of intensity been used for the production of munitions. Consequently parts of the site are affected by the risk of contamination.

BAE Systems, the owners of the Royal Ordnance Factory (ROF) announced their intention to cease manufacturing at the plant in December 1999. The Scottish Executive subsequently set up a Working Group to investigate the feasibility of the remediation and redevelopment of the site. Firm proposals are now emerging from this process.

The initial proposals brought forward through this additional study, published in December 2002, envisaged the potential for an urban expansion of the village to the west. The proposals included new residential, commercial, business, community and recreational uses, with the majority of the site retained as undeveloped land with public access. It was intended that the development components of the proposal would cross subsidise the remediation of the residual areas for uses compatible with a rural area and public access.

The report stated that there were significant access issues relating to the M8 which were being addressed by an application by BAE to the Scottish Executive and until these were resolved no progress could be made.

The report provided an overview of likely development:

The proposals are based on an urban expansion of the village based on a 15 year timescale. The proposals include the development of 2,300 homes, a business park, commercial units, a public transport hub and improved education and community facilities..... The majority of the site is to remain undeveloped open land although BAE Systems also wish to retain a small part of the site for operational uses.

The proposals envisaged by BAE Systems provide an opportunity for the remediation of a significant area of brownfield land and can assist in addressing the land supply requirements of the Structure Plan in a sustainable and controlled manner.

This is the first document I have been able to identify where the Council formally discussed a potential application for the site from BAE.

At that time it was expected that BAE would submit an outline planning application in December 2005 which would need to be considered in tandem with the Scottish Ministers review of the Structure Plan.

It is clear from the report this was to be a substantial development, not just in local terms but also of national significance. As I understand the position it was the most significant and most complex planning application Renfrewshire Council had ever received and the brownfield site was the largest in Scotland.

2 Consideration of Outline Planning Application - December 2008.

Although the planning application was submitted in June 2006, it was not until December 2008 that the Planning and Economic Development Policy Board considered an outline application from BAE for the development of the site. The Board had an extensive report from officers of almost 60 pages, dealing with a wide range of complex planning issues.

The application included seeking consent for a mixed development comprising some 2500 houses (200 more than the previous report), 150,000 sqm of commercial/employment related floor space within a business park, a Community Woodland Park, recreation and open space areas community facilities local services and retail and education provision, along with highway infrastructure works.

It was anticipated that the development would take circa 15 years to complete.

There were objections from a range of organisations based on the lack of detail including that related to education. The Panel were advised that this would be resolved through a Section 75 Agreement.

The Director of Education and Leisure Services advised that if the development were to take place the new housing provision would lead to a demand for educational places and for community/leisure facilities. In relation to education:

Based on the number of houses proposed there would be a requirement to provide education for children at all statutory ages and to provide facilities for the community at large. The requirements to be addressed include increasing the availability of pre school places as existing capacity would not be sufficient, a new non denominational primary school would be required and anticipated role projections for the denominational sector indicate that a school within Bishopton would not be viable and that places would be made available within the existing capacity of schools out with but near to Bishopton.

In respect of secondary school requirements education and leisure are aware of the local pressure to construct a new non denominational secondary school in Bishopton. However falling school rolls means that there would be sufficient capacity for non denominational pupils at Park Mains High School in Erskine.

After debate the Panel agreed the application and were advised that the approval:

Shall comprise a maximum of 2500 residential units

The Panel also resolved that prior to a decision notice that a Section 75 Agreement be entered into. Given the scale and complexity of the application the Section 75 Agreement was to be extensive covering matters such as phasing, healthcare facilities, transport, park and ride requirements, rolling bank of employment land, affordable homes, energy strategy, and

'the funding and delivery of pre-school and primary school facilities'.

There was no mention of secondary education provision.

The resolution, as worded, did not require officers to report back to the Panel on the proposed terms of the Section 75 Agreement, prior to entering into the agreement and issuing the planning consent.

3 First Section 75 Agreement (August 2009) and subsequent variations

The first Section 75 agreement was entered into on 7th August 2009.

This agreement required the developer to provide an Education Community Facilities Building in accordance with an Education and Community Facilities Specification which formed an Annex to the agreement.

Specific requirements included the following:

At the time of the first reserved matters application for the Village Core the Landowner will submit details of the precise location and boundaries of the Education and Community Facilities Land to the Council for approval;

Prior to the occupation of the 100th residential unit the Landowner will prepare and submit an education and community facilities development brief for approval of the Council

Which would cover:

community facility space with a gross floor space between 585sqm and 715 sqm in the form of IT and/or library and/or meeting rooms and a larger space for multifunction use;

a school capable of accommodating 340 pupils in the pre school and primary school age together with the all weather synthetic turf playing field suitable for use by pupils of primary school age of no less than 60 by 40 metres with associated ball stop fencing and floodlighting;

Subject to certain caveats the community facilities space of was to be completed before the 411th residential unit was occupied and the primary school and playing field component before the 1714th unit was occupied.

Clause 5.6 required that the brief be reviewed every 5 years and in the event of agreement between the parties the Landowner (BAE) will prepare a fresh brief. That clause however specifies that:

for the avoidance of doubt the gross floor space restriction on the community facilities and.... total number of pupils to be accommodated shall not be subject to review.

The more detailed specification, in an Annex to the agreement, dealt with the extent of the building project to be delivered by BAE requiring them to include matters such as cabling for IT, car parking, secure fencing etc.

The agreement provided for the community and education facilities to be transferred to the ownership of the Council for nil consideration.

There were no obligations with regard to secondary education.

In November 2012 the Section 75 Agreement was formally varied by agreement due to technicalities with road junctions. There were other relatively minor changes dealing with a small increase in social rented housing and a corresponding reduction in shared ownership housing and slight revisions in areas of remediation, sport and community facilities and the timing of payments. The timing of the community facilities brief was changed from being provided by the occupation of the 411th residential unit to the 600th.

There were no changes to the provision for education.

The substitute agreement was reported to the Planning and Property Policy Board on 29th January 2013. The Panel agreed the discharge of the former 2009 agreement so that the new agreement could come into force. In error, clauses in the 2009 agreement relating to a recreation ground were omitted and this was corrected by an amendment to the 2012 agreement in February 2014.

In May 2014 the Planning and Property Policy Board were informed of BAE's intention to appoint a development partner and that the S75 Agreement would be binding on any new owners.

In March 2017 the Planning and Property Policy Board considered a further application to change conditions relating to access works. These were approved and, as with the earlier application, the remaining original conditions, including the limits on housing were stated.

4 Subsequent housing applications prior to the 2018 Section 75 agreement.

Various reports were considered by the Council relating to retail development, park and ride, extractions of soils, highway issues, gift of land for footpaths and the formation of the Community Development Trust etc. A number of reports considered had housing implications:

- **Village Core:** In August 2013 the Planning, Property and Policy Board considered an application in principle for the village centre comprising a mixed use of retail, commercial and community uses. It also provided for 40 residential units. The application was described as '*consistent with the general masterplan principles*' and that '*residential development within the core centre had been established*'. One of

the conditions of approval was that there should be a '*maximum of 40 residential units*'.

- **Persimmons Homes 'gateway application'**. In August 2014 the Planning and Policy Board considered an application from Persimmon Homes to erect 102 houses and 30 flats on part of the site. The report referred to the application not being strictly in accordance with the Masterplan. The history of the site, including the application approved in 2009 with a restriction of up to 2500 units is referred to within the report.

.....land parcel E4 was originally identified as a site for the delivery of employment land. Since the commencement of development within the Community Growth Area, BAE and their development partners have recognised the wider benefits of broadening the range of housing types, particularly in the form of single storey properties and accommodation which would be attractive to an aging population. There are also acknowledged opportunities to address the streetscape and the urban form of the principal access or 'gateway' into the Community Growth Area. The current proposal therefore seeks to amend the land classification of this plot to residential use in order to bring forward development of this nature, whilst retaining the majority of the land within the remaining agreed land parcels for business and employment land.

One of the objections was reported as stating:

As the application site was previously zoned for employment space, it is imperative that a housing site within the overall development site be re-assigned as employment space to maintain the original balance.

It was noted in the report that sufficient other land could be identified to ensure that the original 140,000sqm of employment related land would be maintained but did not deal with the specifics of the objection which implied that there should be no increase in the consented maximum 2500 residential units.

The application was approved subject to conditions.

- **BAE North Park:** In November 2017 the Communities, Housing and Planning Policy Board considered an in principle application for approximately 350 houses on an area which had been zoned as semi natural space. By this stage it was also clear that BAE would be submitting a further application for a substantial increase in housing provision. The report stated:

Under the terms of the original masterplanthe site ...referred to as 'North Park', would form a buffer between residential development plots and the open countryside to the north and west of the ROF site. The masterplan states that this area incorporates significant woodland blocks, surface water attenuation features and open grassland, and the ambition was to establish semi-natural open space at this key interface with the community woodland park.

The proposal is for the majority of this area to be re designated for residential development..... providing an opportunity for approximately 350 dwellings (an indicative density of 25 dwellings per hectare across each plot).

The report also said that:

Consideration thereafter must be given to associated supporting facilities and services which are required to support an additional 350 residential properties within the CGA. It is noted that the original 2006 application was approved subject to a Section 75 agreement which covers developer obligations in respect of affordable housing, education and community facilities, roads infrastructure, public transport, health provision, place of worship, employment land, sports, recreation and play facilities, and the community woodland park. Some of these obligations have already been met. However it is clear that certain aspects of the agreement will need to be revised to take into consideration the additional residential properties proposed within the expansion land. It is therefore recommended that the application is approved subject to the preparation of a revised Section 75 agreement.

There was an objection which included that the applicant *had not met the terms of the legal agreement with regard to the primary school, health centre.... These aspects should be delivered before additional housing is approved.*

After a site visit the application was approved at the Board meeting in January 2018, subject to the applicant entering into a Section 75 agreement.

5 Former employment land - substantial increase in housing development 2017-8

At the same meeting in November 2017 as the North Park application was considered the Communities, Housing and Planning Policy Board held a pre-determination meeting to consider a significant change to the proposals for development at Dargavel, brought forward by BAE. The reason for the application had been stated to be due to concerns about the viability of the whole scheme.

Section 38A requires that the applicants for, and any party making representations on, proposals for developments falling within the category of 'major' and which are considered to be significantly contrary to the Development Plan, are to be given the opportunity to appearing at a pre-determination hearing. The purpose of the hearing is to gather information.

BAE were seeking planning permission in principle for the redevelopment of land (previously identified for industrial purposes) for housing. The site area extended to 37 hectares of development land with an '*indicative capacity for some 1000 housing units*' (and a further 6 hectares of strategic landscape corridors).

The Panel were advised of the views of Bishopton Community Council:

'No objection. It was commented that the increase in the overall number of houses should be addressed in a new Section 75 Agreement which should ensure that school provision is increased proportionally, as should the community/resource centre facility. The Community Council comment that all original Section 75 Agreement items should be increased proportionally including development trust payments; and that the health centre provision/contribution should be brought forward and increased.'

Objectors representing Bishopton Community Council and Dargavel Residents Association attended the meeting and made representations. Their concerns were wide ranging and according to the minutes of the meeting included '*the capacity of the new build school*'.

At a Council meeting on the 2nd March 2018 the planning application by BAE for this substantial increase in the housing component of the development at Bishopton was considered. The proposal was that the 37 hectare site previously identified for industrial purposes be allocated to housing with an indicative capacity of 1000 housing units. Council were advised:

With regard to education provision the applicants have agreed to the enhancement of the primary school provision as well as reviewing all other educational requirements the details of which will require to be negotiated and enshrined within a new section 75 agreement

The Council were also advised that the school would be sited in a central location. The application was agreed in principle, subject to a Section 75 agreement, to be approved at a future meeting of the Communities Housing and Planning Policy Board.

6 Final Section 75 Agreement – October 2018

In May 2018 the Communities Housing and Planning Policy Board considered a report on the Section 75 agreement. It was noted at this time that 855 units had been occupied with detailed consent in place for a further 1430. The report to the Board also indicated that the new consent:

provides for approximately 1000 units increasing the anticipated number of homes to approximately 4000 over the site as a whole.

The original application was for 2500 residential units, North Park was for 350 units and the former employment land 1000 units, making a total of 3850 units. It is not clear to me why there is a reference to 4000 units. The report to the Board also stated:

Education and Community Facilities

5.10 The terms provide for construction of a new two stream primary school capable of accommodating 440 pupils with associated synthetic playing field, to be completed by June 2021. The scale of required provision and timescale for delivery reflects extensive discussions with the Director of Children Services and has been informed by a detailed review of roll projections associated with the development. Delivery of the primary school is now approximately 5 years earlier than previously anticipated.

5.11 Design of the new primary school is well advanced and has been informed by extensive consultation with the Director of Children's Services. The school has been designed to ensure that spaces are flexible and this provides the opportunity for the building to be used for community purposes out of school hours.

5.12 Designs in respect of the school will be finalised in late summer 2018, with a formal planning application anticipated to be submitted by BAE Systems in autumn 2018.

5.13 The Director of Children's Services has advised that the development will necessitate an extension to Park Mains High School for approximately 300 pupils and will be required by 2028/9.

5.14 The details for provision of the secondary infrastructure as well as requirements that will emerge in relation to the implementation of Renfrewshire's Early Years Expansion Plan will be incorporated within the finalised s75 Agreement, in discussion with the Director of Children's Services.

The report referred to there being two phases of housing. The first phase being 2500 which would include 625 affordable units and the second phase of 1500 which would include 415 affordable units.

The report states that the revised Section 75 agreement reflects the scale of obligations previously secured. However under the original agreement there was a trigger point of the occupation of the 600th house for the '*community facilities component*' in the form of *IT and/or library and/or meeting rooms and a larger space for multi-function use*' to be provided. I understand that as a result of reviews by officers it was considered that there was already sufficient community facilities in the area and that further capacity may undermine the viability of what was already there.

The report to members did not draw attention to this change or the reasons. The school space was being described as being designed in a flexible manner for community use out of hours. I understand that, at the instigation of education, the final design limited the attractiveness of the school for community use.

The Board agreed the outline terms and authorised the Director of Development and Housing Services in consultation with the Head of Corporate Governance to conclude the agreement.

I note that the report to members referred to an extension of Park Mains School for approximately 300 pupils. The Section 75 Agreement itself however is capped at 200 pupils.

The new Section 75 Agreement was entered into in October 2018. It was agreed as a substitute for the previous Section 75 agreement. The agreement itself is silent as to the total number of houses but refers to the 3 planning applications submitted by BAE which total 3850 residential units.

The key parts of the Agreement actually entered into relating to education include the following:

- **Primary education**

The Education and Community Facilities Building to be provided by BAE was defined as a building and grounds suitable to accommodate:

A 2 stream primary school with necessary landscaping, access and parking, and

all weather synthetic turf playing field suitable for use by pupils of primary school age and no less than 60 by 40 metres with associated ball stop fencing and floodlighting

The agreement provides a mechanism by which various matter are agreed and subject to meeting those timescales, BAE was to complete the school no later than 1st June 2021. The agreement was silent with regard to pupil numbers.

- **Secondary education**

The Secondary Schools Strategy was defined as:

The strategy prepared by the Landowner following consultation with the Council's Director of Children's Services which will propose a fair and reasonable financial contribution for the provision of secondary school facilities necessary to accommodate the additional pupils that will require secondary education directly as a result of and within the catchment of the development

The Secondary School Contribution was defined as:

The financial contribution for the provision of secondary school education due to the anticipated impact resulting from the Development, such sum and payment schedule forming part of the secondary school strategy agreed and approved under ... this Agreement

The more detailed agreement however refers to the Council providing:

Robust and credible evidence in respect of the anticipated shortfall in secondary school places in the catchment of the Development

A robust and credible methodology for the calculation of the pupil yield arising from the development (subject to a maximum pupil yield from the development of 200) and confirmation that this methodology is applied across the catchment of the Development.

There is provision for repayment of part of the secondary contribution if not committed within certain timescales.

- **Early years**

With regard to early years the agreement stated:

The Councils early years provision duty is acknowledged by the Landowner. The parties hereby agree to meet at least once per annum to discuss the provision of early years education in the Bishopton area with a view to assisting the Council to comply with its early years provision duty declaring that in such discussions the party shall act reasonably and in good faith and that the Council should not be entitled to ask the landowner to make a financial contribution.

ANNEX 2

BAE Systems Bishopton
S75 Obligations – Comparison (2012/2018) & Delivery

Based on the Minute of Agreement between The Renfrewshire Council and BAE Systems (Property Investments) Limited dated November 2012.

And

The Minute of Agreement between The Renfrewshire Council and BAE Systems (Property Investments) Limited dated October 2018.

Last Updated: April 2023

Element	S.75 – (2012) previous Requirement	S.75 – (2018) Current Requirement	Comments
Affordable Housing			
-	<p style="text-align: center;">Affordable Housing Development Brief</p> <p style="text-align: center;">Over lifetime of development:-</p> <p style="text-align: center;">200 Social Rented Units 200 Shared Ownership/Equity or Self Build Plots 235 Lower Market Sector Units</p>	<p style="text-align: center;">Stage 1 (2500 units)</p> <p style="text-align: center;">625 Affordable Housing Units</p> <p style="text-align: center;">200 Social Rented Units 20 Intermediate Units No fewer than 405 units of Lower Market Sector Units (Gross Internal Floor Area of less than 95m2)</p> <p style="text-align: center;">Stage 2 (beyond 2500 units)</p> <p style="text-align: center;">425 Affordable Housing Units</p> <p style="text-align: center;">Affordable Housing Development Brief (reviewed on three year cycle) to define timing, delivery, location, tenures</p>	<p style="text-align: center;">Stage 1</p> <p style="text-align: center;">1187 affordable units constructed, under construction or planned.</p> <p style="text-align: center;">200 units social rented, comprising</p> <ul style="list-style-type: none"> • 80 RC Units complete (land provided by BAE Systems) • 58 Units by Robertson Homes under construction (BAE Contract) • 62 Units by Stewart Milne Homes under construction (BAE Contract) <p style="text-align: center;">15 intermediate units</p> <p style="text-align: center;">972 lower market sector units</p> <p style="text-align: center;">Stage 2</p> <p style="text-align: center;">Affordable Housing Brief approved (22/0191/V7). Provides for 425 affordable units, of which 136 units social rented (32%).</p>
Education and Community Facilities			
Primary School	<p style="text-align: center;">Education and Community Facilities Brief</p> <p style="text-align: center;">New primary school for 340 pupils with synthetic playing field</p>	<p style="text-align: center;">Education and Community Facilities Brief</p> <p style="text-align: center;">Two stream primary school with synthetic playing field</p>	<p style="text-align: center;">Brief approved and obligation discharged (19/0049/DS).</p>

	To be constructed by BAE Systems	To be procured and constructed by BAE Systems Delivery by 1 June 2021	School constructed in accordance with approved brief. Obligation discharged (22/0303/V7).
Community Centre	New community centre of between 585 and 715 square metres with library/IT/meeting room facilities	Not included.	Approved design for Dargavel Primary provides for flexible community space.
Clerk of Works and Project Manager Contribution	-	Contribution to CoW and Project Manager requirement for new Primary School (£75,000)	Contribution received.
Secondary School Contribution	-	<p>Prior to occupation of 2000th unit, Council to provide:-</p> <ol style="list-style-type: none"> 1. Evidence of shortfall in secondary school places in catchment of development and associated costs 2. Methodology for pupil yield arising from development (maximum of 200) 3. Evidence of costs 4. Evidence of percentage share to be attributed by the development <p>Secondary School Strategy (BAE Systems) (Prior to occupation of 2350th unit)</p> <p>Secondary School Contribution as defined by agreed strategy, to be provided by 3400th unit</p>	Children's Services provided information to BAE Systems in spring 2022.
Early Years Provision	-	Agreement to meet at least once per annum to discuss the provision of early years education with a view to assisting the Council to comply with Early Years Provision	Serviced land provided by BAE to Council at nil value on which construct new Early Years Centre has been constructed.
CCTV Contribution	-	Contribution of £100k to support provision of CCTV at Village Square and Bishopton Rail Station (contribution to be received by January 2022).	Contribution received.

			Timescale for spend of contribution 2027.
Roads Infrastructure			
Motorway Improvements	Improvements to M8 capacity, including motorway junction £1.2M Contribution in four instalments (411, 902, 1097, 1714 units)	Improvements to M8 capacity, including motorway junction £1.2M Contribution in four instalments (2200, 2500, 3500, 3700)	Ties into 17/0025/PP which amends trigger for motorway junction and J29 improvements. First contribution received.
Station Road	Improvements to existing carriageway and pedestrian surfaces with landscaping	-	Works complete and obligation discharged.
Newton Road	Improvements to carriageway and footway surfaces	-	Works complete and obligation discharged.
Rossland Crescent	Improvements to carriageway and footway surfaces	-	Works complete and obligation discharged.
Kingston Road/Greenock Road/Old Greenock Road	Junction and traffic calming improvements	-	Works complete and obligation discharged.
Extraordinary Expenses	Agreements under S96 of Roads (Scotland) Act in relation to maintenance of road network required by use of construction traffic	-	Legal agreement between BAE and Renfrewshire Council supported survey and repair of construction routes to the site (A726 and B790) prior to creation of Slateford Road and Barrangary Road.
Sustainable Urban Drainage Systems	Design Schedule and Maintenance Manual	Design Schedule and Maintenance Manual SUDS Contribution of £250k by 2026; on payment Council to adopt, manage and maintain SUDS identified in manual.	Obligation discharged, forms appendices to S75 Agreement Contribution due by 2026.
Public Transport			
Bus Services	Bus Service Delivery Strategy and Contribution (£714k)	Bus Service Delivery Strategy and Contribution (£350k)	Contribution based on analysis of support required to delivery a 'peak' bus service to connect

			<p>Dargavel with wider village and Bishopton Rail Station</p> <p>Public Transport Strategy approved and obligation discharged (19/054/DS).</p> <p>Contribution and commencement of service anticipated autumn 2023, approach being finalised in discussion with SPT.</p>
Park and Ride	Improvements and extension to existing park and ride facility (total of 300 spaces) in two phases at 400 and 1000 units.	Second phase park and ride facility (150 spaces) at 2200th unit.	<p>Phase one complete (16/0010/PP).</p> <p>Site for second phase open for use with temporary surface, subject to monitoring in view of changing travel patterns.</p>
Health Provision			
Health Centre	<p>Provision of healthcare facility by either:-</p> <p>a) transferring serviced site to Council at nil value and £1M contribution</p> <p>b) construction and lease back with health care provider</p> <p>c) £1M contribution to Council to provide health services to serve the development</p> <p>Facility to be delivered 8 years after first completion</p>	<p>Provision of healthcare facility on identified site via the following options, with preference in this order:-</p> <p>1. Construction of facility and 25 year lease with appropriate Health Board by December 2022</p> <p>2. Construction and lease with health care provider by December 2023</p> <p>3. Payment of Primary Healthcare Contribution (£1M) by December 2028</p> <p>Site may be used for alternative use as appropriate if no agreement reached.</p>	<p>Modification of S75 anticipated which reflects current delivery mechanism proposed by Health Board. This will allow the procurement and construction of a health facility directly by NHSGGC.</p> <p>Modification is anticipated to reflect an enhanced contribution as follows:-</p> <ul style="list-style-type: none"> • BAE to convey serviced land to NHSGGC at nil value • BAE to provide a contribution of £1M to support delivery of new facility
Place of Worship			

-	Provision of a 0.5ha site for place of worship or alternative community use Delivery by 900 th unit.	-	BAE Systems unable to secure interest in site for religious use. Dargavel Primary designed to provide flexible community space.
Employment Land			
Serviced Employment land	Employment Marketing Strategy	-	Revised masterplan and 17/0394/PP amend employment land for residential use.
Sports, Recreation and Play Facilities			
Leisure Services Strategy	Strategy for provision of play facilities, sports pitches, walking/cycling routes and formal/informal open spaces throughout site	Strategy for provision of play facilities, walking cycling routes, construction of Central Park, maintenance and management	Leisure Services Strategy approved and obligation discharged (19/0717/DS).
Bishopton Recreation Ground (Holmpark)	Drainage, turf, boundary and landscaping improvements. Transfer to CDT	-	Drainage and boundary treatments undertaken by BAE (£34,000) with further contribution of £116,000 to BCDT to support additional future works. Total contribution £150k on transfer of land to BCDT (18/0830/DS).
Newton Road Recreation Ground	Contribution to playing surface and pavilion improvements (£100,000) By 411 th unit	Contribution to playing surface and pavilion improvements (£100,000) By 2000 th unit	Contribution received. Discussions ongoing with OneRen and Bishopton FC on drainage enhancements for playing surface. Timescale for spend of contribution 2027.
Wester Rossland Woodland	Layout and enhancement of open space.	-	Works complete
Gladstone Hill	Layout and enhancement of open space. Contribution towards implementation by Council (£50,000)	-	Approved Leisure Services Strategy identifies landscaping and waymarking enhancements to be undertaken by BAE.

Central Park Phase 1	One full size turf playing surface (100 x 50m) One full size artificial turf playing field (106 x 65m) Floodlighting and two sets of changing rooms	Proposals set out in Leisure Services Strategy and associated landscaping consent	Landscaping works to form Central Park approved (20/0630/PP). Informal recreation space at Central Park reflects aspirations of the Community Development Trust for a Community Sports Hub at Holmpark.
Central Park Phase 2	One full size turf playing surface playing surface (100 x 50m).	Proposals set out in Leisure Services Strategy and associated landscaping consent	As above
North Park	Layout and enhancement of open space.	-	Revised masterplan and 17/0394/PP provide for residential use.
Community Woodland Park			
-	Management Plan and establishment of Community Woodland Park to include:- <ul style="list-style-type: none"> - Details of linked network of paths and cyclepaths; - Measures to minimise impact on flora/fauna; - Creation of new habitats - Completion of archaeological surveys; - Details of design approach, and range of uses; - Phased delivery; - Maintenance and management Implementation by occupation of 2000th unit	Woodland Management Plan to include:- <ul style="list-style-type: none"> - Aims and objectives - Detail of essential infrastructure to be delivered - Details of phased delivery - Outline of opportunities to engage with other parties in enhancement and long term management - Strategy for long term management - Details of new habitat creation - Details of archaeological constraints and opportunities - Details of woodland management including new woodland and selective felling 	Woodland Park Strategy approved and obligation discharged (20/0576/DS). First phase approved and implemented by BAE (18/0229/PP). Second phase approved (21/0009/PP).
Landscaping			

-	Landscape maintenance and specification schedule.	Landscape management and maintenance plan.	Obligation discharged, forms appendices to S75 Agreement
Remediation and Earthworks			
Monitoring and verification	Remediation Contribution (£625,000) towards verification of remediation works.	Remedial Contribution of £260,000 towards verification of remediation works.	Revised agreement reflected contribution to date at that stage.
Community Development Trust			
-	Fund of £300,000 to enable development of community projects through constituted Trust. Contributions at 100, 500, 900, 1300 and 1700 unit	Fund of £200,000 to enable development of community projects through constituted Trust. Contributions at 1060, 1500, 1940, 2160	Revised agreement reflected payments to date at that stage. Contribution now paid in full.
Social Work Contribution			
-	Contribution for adaption of affordable residential units (£100,000).	No provision identified	Affordable residential units constructed in accordance with SG 'Housing for Varying Needs' guidance.
Energy Efficiency and Sustainability			
Innovation Fund	Contribution of £100,000 towards measures which improve the energy efficiency of the development.	No provision identified	Affordable residential units constructed in accordance with SG Energy Efficiency Standard for Social Housing.