

## **APPENDIX 2**

### **SUPPLEMENTARY PLANNING GUIDANCE - DEVELOPER CONTRIBUTIONS FOR WHITBURN ACADEMY**

#### **1.0 INTRODUCTION**

- 1.1 West Lothian Council adopted the West Lothian Local Plan (WLLP) in January 2009. The WLLP proposes major housing growth and, as a consequence, a number of new schools and school extensions are required to support the local plan strategy.
- 1.2 The purpose of this supplementary planning guidance (SPG) is to set out details of secondary school infrastructure works in Whitburn necessary to support further housing development. The SPG sets out developer contribution rates which will apply to all proposed housing developments within the catchment area of Whitburn Academy.
- 1.3 Whitburn Academy has capacity for 1,210 pupils and the school roll is currently well below that level. However, the spare capacity is required to serve committed development within the catchment area (ie. sites which already have planning permission). Much of that capacity will be taken up by the housing to be built at Heartlands (Whitburn).
- 1.4 If further development is to be supported in the catchment area, it will be necessary to secure developer contributions so that a fund can be built up which can be used to provide additional school capacity when it is required. A feasibility study has been carried out to establish how the school can be altered and adapted to provide a capacity of 1320 (an increase of 110 spaces). The indicative cost for this project is £1,058,750 based on first quarter 2010 prices.
- 1.5 A developer contribution rate of £1,721 will apply until such time as more detailed cost information is available (see Appendix 1 for an explanation as to how this level of contribution was established).
- 1.6 Actual payments will be index linked to the increases indicated in the RICS Building Cost Information Tender Price Index using first quarter 2010 as the base date.
- 1.7 In advance of this SPG being drafted, £27,000 has already been paid towards the project by developers who have obtained planning permission.
- 1.8 Based on current forecasts, it is estimated that the proposed works at Whitburn Academy will not be needed until the Heartlands development is well underway. The timing of the extension will be kept under review.
- 1.9 This SPG will be taken into account in the determination of all planning applications for housing within the existing catchment area of Whitburn Academy. For the avoidance of doubt, the SPG will apply to all planning applications submitted after 16 June 2008 when the council decided that developer contributions for Whitburn Academy would be necessary if further housing in the catchment area was to be supported. The policy will be revised as circumstances require. Factors which could lead to the policy being reviewed include:

- Updates to the Housing Land Audit;
  - higher or lower rates of house completion than that assumed in the Development Planning Housing Model;
  - availability of updated information on costs;
  - changes in assumptions about the child/house ratio as a result of the actual housing mix proposed;
  - demographic changes;
  - updated school roll forecasts;
  - changes in catchment areas;
  - changes in the pattern of attendance at schools;
  - approval of the Strategic Development Plan;
  - approval of the Local Development Plan; and
  - any other significant matter that impacts on secondary school provision in Whitburn.
- 1.10 At the time of writing (February 2011), the rate of house building in West Lothian has fallen greatly as a consequence of the global credit crunch. The housing downturn has been taken into account in the latest school roll forecasts. The council will continue to monitor the rate of house building and will adjust school roll forecasts further as and when required to reflect changes in the housing market.
- 1.11 With the credit crunch resulting in a severe slowdown of the private sector housing market and creating difficulty for developers in raising finance to forward fund major infrastructure, the council will keep its education strategy under review and, where possible, be flexible.
- 1.12 Given the current financial constraints affecting the private and public sectors, it is essential that the council only brings on stream additional capacity when it is needed. This will help developers to manage their cashflow and help the council to manage its revenue budget.
- 1.13 Further information on the council's approach to developer contributions can be found in its *Planning for Education SPG*.

## **2.0 LEGISLATIVE AND POLICY CONTEXT**

- 2.1 Section 75 of the Town and Country Planning (Scotland) Act 1997 allows planning authorities to secure developer contributions, through the use of planning agreements, to overcome obstacles to the granting of planning permission.
- 2.2 Scottish Government Circular 1/2010 sets out current policy on planning agreements. This indicates that planning agreements should only be sought where they meet all the following tests:
- Necessary to make the proposed development acceptable in planning terms.
  - Serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should be relevant to development plans.

- Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area.
- Fairly and reasonably relate in scale and kind to the proposed development.
- Reasonable in all other respects.

2.3 The Edinburgh and the Lothians Structure Plan 2015 (E&LSP) requires new infrastructure to be provided in phase with new housing. Policy HOU 5 of the structure plan states that planning permission should not be granted for housing development until all relevant infrastructure is provided or its funding committed.

2.4 The adopted West Lothian Local Plan (WLLP) sets out a development strategy for West Lothian. The success of the local plan development strategy is dependent on additional school capacity being provided. In accordance with Policy IMP 3 of the WLLP, legal agreements will be required to secure the provision of school extensions and associated community facilities from developers where this is directly attributable to serving their proposed housing development.

### 3.0 FORECASTS

3.1 The approved school roll forecast (November 2010) for Whitburn Academy is shown below:

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Whitburn Academy	922	886	857	843	832	846	865	908	944	987	1027	1052

3.2 The council produces a housing model called the *Development Planning Housing Model* (DPHM) which shows where and when new house building is expected to take place over the next 20 years. The above school roll forecasts are based on programmed completions as set out in the West Lothian DPHM (April 2010). This acknowledges the fact that much of the proposed housing within existing local plan allocations will take place beyond the current structure plan period (ie. post 2015).

Assumptions:

Child per house ratio : 0.179

Transfer rate : 0.962

Stage migration factor 0.9903

Number of units programmed beyond the forecast period : 1,644

Forecasts are based on the current pattern of attendance.

3.3 It should be noted that spare capacity can be taken up by placing requests so it is possible that capacity could run out sooner than predicted.

3.4 The council will monitor closely the take up of places and will review forecasts at least annually.

#### **4.0 FUNDING THE PROVISION OF THE ADDITIONAL CAPACITY**

- 4.1 It is expected that the new education infrastructure at Whitburn Academy will be entirely funded through developer contributions. This is because all committed development can be accommodated within the existing capacity of the school and the extension is needed to support further housing.
- 4.2 Taking into account the principles in SG Circular 1/2010 that developer contributions secured through planning agreements should be reasonable in all respects and should reflect the scale of development and the likely impacts it will generate, the approach which is adopted in this policy is that developer contributions should be based on the likely impact that each development will have on the demand for places at Whitburn Academy.
- 4.3 The precise cost of the extension has yet to be established. This can only be done once project briefs have been finalised and the projects have been subjected to a tendering process. The council's Surveying Manager has provided indicative costs based on first quarter 2010 prices.
- 4.4 The level of contribution will be reviewed regularly to take account of changed circumstances.
- 4.5 Developers should be aware that places at particular schools cannot be guaranteed.
- 4.6 In circumstances like this, where the need to provide new education infrastructure arises as a result of several proposed housing developments, there is a need for the council to establish an indicative budget cost for the works deemed necessary and to publish developer contribution rates. An appropriate contingency is built into the budget cost. This is necessary to safeguard the council's position as the council should not be expected to carry the financial burden of unexpected development costs. If surplus funds are left over once the projects have been completed, these will be repaid, on a pro-rata basis, to those parties who made the contributions towards the project. It may be necessary to adjust contribution rates as more details about the project become known.

#### **5.0 EXEMPTIONS**

- 5.1 The only circumstances where developers will be exempt from this policy will be:
  - a) Sites which already have the benefit of planning permission and that permission has not expired (unless it is proposed to increase the number of units in which case a contribution will be required based on the increase in the number of units). Where an existing planning permission expires, any new application will not be exempt from this policy.

- b) Sheltered housing, student housing and other types of housing designed or approved for special population groups which do not include children within the resident's household.
- c) Sub-division of existing residential units provided the new residential accommodation would not result in a greater demand for school places. Where the demand for school places would be greater, contributions will be assessed on a case by case basis and will be in proportion to the additional demand generated.
- d) Sites where it is proposed to demolish existing residential units and replace with new housing provided there is no increase in the number of residential units. Where there is an increase in the number of units, the need for contributions will be assessed on a case by case basis and any contributions sought will be in proportion to the additional demand for school places which is generated.
- e) Sites where residential units have recently been demolished (ie. within the last two years) and the number of replacement units does not exceed the number of units previously located on the site. Where there is an increase in the number of units, the need for contributions will be assessed on a case by case basis and any contributions sought will be in proportion to the additional demand for school places which is generated.

## **6.0 SECURING THE DEVELOPER CONTRIBUTIONS**

- 6.1 Developer contributions may be secured by means of a Section 75 Agreement concluded between the applicant and the council, prior to the issue of planning permission. In some cases, the use of a Section 69 Agreement under the Local Government (Scotland) Act 1973 may be more appropriate.
- 6.2 In some cases, where relatively small sums of money are involved, it may be possible to avoid formal Section 75 Agreements and Section 69 Agreements and for the council to collect contributions through an exchange of letters prior to planning permission being granted.
- 6.3 Phased payments will be accepted for larger developments.

## **7.0 SCHOOL SPECIFICATION AND TIMESCALE**

- 7.1 A Statement of Need for the school extension has been prepared by the council. Based on this Statement of Need, an accommodation schedule will be prepared. The budget cost plan produced by the council's Surveying Manager has been based on the Statement of Need.
- 7.2 The council will ensure that the school project meets the relevant building and education statutes, regulations and guidelines pertaining at the time and that the school has appropriate provision.
- 7.3 The council will decide the appropriate procurement route for the extension. It should be noted that Whitburn Academy is a PPP school.

## **8.0 FURTHER INFORMATION**

### **8.1 For further information or advice please contact:**

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**Appendix 1****Methodology for calculating developer contribution rate**

At this stage, only indicative costs are available. The current indicative cost, based on first quarter 2010 prices is as follows:

Indicative cost of increasing capacity to 1320	£1,058,750
Number of additional residential units to be served	615

Dividing the total cost by the number of units to be served, establishes a developer contributions rate of £1,721 per unit, based on first quarter 2010 prices.

Actual payments will be linked to the increases indicated in the Building Tender Price Index using first quarter 2010 as the base date.