

# SPG

supplementary planning guidance

## Denominational secondary education infrastructure



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## Supplementary planning guidance

### DEVELOPER CONTRIBUTIONS FOR DENOMINATIONAL SECONDARY SCHOOL INFRASTRUCTURE

#### 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 projects for the denominational sector which are required to support the implementation of the plan.

1.3 This SPG for denominational secondary school infrastructure replaces the SPG introduced in May 2005 for developer contributions towards the provision of a new denominational secondary school.

1.4 West Lothian currently has two denominational secondary schools: St. Kentigern's Academy (Blackburn) and St. Margaret's Academy (Livingston).

1.5 An extension to St. Kentigern's Academy was completed in 2009. As a consequence, the capacity of the school has been increased from 1,100 to 1,430 pupils. These works were required to support committed development, were fully funded by the council and no developer contributions were required.

1.6 In May 2005, West Lothian Council approved supplementary planning guidance (SPG) for developer contributions for a new build denominational secondary school at Winchburgh. In June 2008, the council decided that there was a need to extend St. Margaret's Academy in advance of a new build denominational secondary school being constructed. This decision was taken as limited progress had been made in securing developer contributions for a new build school and capacity at St. Margaret's was forecast to run out before a new denominational secondary school could be built. The extra capacity created by extending St. Margaret's Academy also provides an opportunity for the council to support a greater amount of windfall development than would otherwise be the case.



1.7 To support the implementation of the WLLP, the following denominational secondary school projects are therefore currently proposed:

- Extend St. Margaret's Academy up to 1320 capacity (largely forward funded by WLC, extra capacity to be provided in phases and WLC to recover the whole costs through developer contributions).
- New denominational secondary school at Winchburgh with capacity of around 990 to 1210 ( funded by developer contributions with school built in phases).

1.8 The first extension at St. Margaret's is due for completion in August 2011. This will increase the capacity of the school from 990 to 1,100. The timing and need for later phases will depend on the rate of house building.

1.9 Based on current forecasts, it is estimated that the second phase, increasing the capacity to 1,210, will require to be completed by 2016 and the third phase, increasing the capacity to 1,320, will require to be completed by 2018. The 330 extra pupil spaces being provided will support around 5790 residential units. Further residential development in West Lothian will be significantly constrained post 2019 without a new denominational secondary school start.

1.10 The construction of the first phase of a new build denominational secondary school at Winchburgh will cost around £25m (at first quarter 2010 prices). Education Services advise that the first phase should provide capacity for 660 pupils to ensure that a wide curriculum can be provided. It will be difficult to secure the level of funding for the new build school through up front developer contributions. In view of this, once the first phase extension at St. Margaret's Academy has been completed, the council will carry out a review to establish if it should divert funding from the St. Margaret's project to help deliver a new build denominational secondary at Winchburgh. If a new build school can be delivered, a significant obstacle to the successful implementation of the WLLP strategy will have been overcome. Extensions at St. Margaret's and at the new build denominational secondary at Winchburgh could proceed later, when further capacity is needed.



1.11 It is proposed that the new denominational secondary at Winchburgh will be co-located with a new non-denominational secondary school although this has yet to be formally agreed.

1.12 This SPG will be taken into account in the determination of all planning applications for housing from the 29 June 2010 when it was approved by the Council Executive. The policy will be revised as circumstances require. Factors which could lead to the policy being reviewed include:

- updates in 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;
- the approval of the *Strategic Development Plan*; and
- any other significant matter that impacts on denominational secondary education provision in West Lothian.

1.13 At the time of writing, 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 further adjust school roll forecasts as and when required to reflect changes in the housing market.

1.14 With the credit crunch resulting in a severe slowdown of the private sector housing market and creating difficulty for developers to raise finance to forward fund major infrastructure, the council will need to keep its education strategy under review and where possible, be flexible.

1.15 Given the current financial constraints, it is essential that the council:

- seeks to maximise the use of spare capacity in existing schools; and
- only brings on stream additional capacity when it is needed.

1.16 Appendix 1 sets out three possible scenarios for the provision of denominational secondary school infrastructure over the next 10 years. This will be kept under review as the timing of projects will largely depend on developers' timescales for commencing developments, their ability to make payments for education infrastructure and on the rate of house building.

1.17 A catchment area review for denominational secondary school provision will be necessary to ensure that the WLLP can be implemented in full. It is anticipated that this catchment area review could commence in 2011.

1.18 Further information on the council's approach to developer contributions can be found in its *Planning for Education* SPG.

## 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 of 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 and be,
- 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 provision of a new denominational secondary school is identified in the E&LSP as being a key infrastructure requirement to support new housing throughout West Lothian and in the Newbridge/Kirkliston/Ratho Core Development Area (CDA), within the administrative area of the City of Edinburgh Council.

2.5 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 denominational secondary school capacity being provided. In accordance with Policy IMP 2 of the WLLP, all developers of housing sites will be required to contribute to the cost of providing additional education infrastructure in West Lothian for the denominational secondary sector.



## FORECASTS

3.1 The approved school roll forecasts (September 2009) for St. Kentigern's Academy and St. Margaret's Academy are shown below:

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>St. Kentigern's</b>	1147	1139	1134	1129	1099	1119	1128	1165	1197	1242	1282	1315
<b>St. Margaret's</b>	1038	996	1011	1009	1050	1120	1187	1260	1337	1411	1461	1508

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 2009).

3.3 Table 1 below shows the projected combined school roll for both denominational secondary schools and the combined capacity at both schools.

**Table 1**

Year	Projected combined school roll	Combined capacity
<b>08/09</b>	2185	2200
<b>09/10</b>	2135	2530
<b>10/11</b>	2145	2640
<b>11/12</b>	2138	2640
<b>12/13</b>	2149	2640
<b>13/14</b>	2239	2640
<b>14/15</b>	2315	2640
<b>15/16</b>	2425	2750
<b>16/17</b>	2534	2750
<b>17/18</b>	2743	2750
<b>18/19</b>	2823	2860

### Assumptions:

- Child per house ratio - 0.059.
- P7 to S1 transfer rate is 1.0.
- Stage migration factor for St. Kentigern's is 0.9737.
- Stage migration factor for St. Margaret's is 0.9814.
- Number of units in forecast is - 12,720
- Number of units programmed beyond the forecast period - 13,008
- There will also be potential for windfall development.

3.4 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.

3.5 The additional denominational secondary school infrastructure will provide additional capacity to support not only housing developments in West Lothian, but also support housing development taking place within those parts of rural west Edinburgh currently included within the catchment area for St Margaret's Academy.

3.6 Estimating the number of children produced from new developments is not an exact science. However, based on regular surveys of existing households, Education Services has derived robust child per house ratios which are used for planning purposes.

3.7 The child/house ratio used for denominational secondary schools is 0.053. Appendix 2 indicates that from the established land supply, 18,576 residential units have still to receive planning permission. For the purposes of this SPG, it is assumed that there is scope for 4,424 residential units to be approved as windfall development. This scale of windfall development has been informed in part by urban capacity work undertaken to support the strategic development plan for Edinburgh and South East Scotland. The 18,576 units in the established supply and the 4,424 potential windfall units gives a total of 23,000 units. This is the figure that has been used to calculate the developer contribution rate.

3.8 Developer contributions have already been made from some sites which have planning permission. Further contributions are expected from other sites which have been granted planning permission but the contribution has yet to be received as the consent has not yet been implemented or the trigger for payment has not yet been reached.

3.9 As forecasting over the longer term can be fraught with difficulty, the council will closely monitor the take up of places and will review forecasts at least annually.

3.10 Education forecasting entails making assumptions about the rate of build, stage migration factors, child per house ratios and transfer rates. The timing of education infrastructure projects could, therefore, vary from those indicated in Appendix 1 if trends differ significantly from those assumed.

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

4.1 Forward planning for the new build denominational school commenced in 2005 with the publication of the Finalised WLLP and supplementary planning guidance for developer contributions.

4.2 Since the 2005 SPG was produced, contributions totalling £1.5 million have been received. Legal agreements have also been concluded which will bring in further funding as planning permissions are implemented. It is not possible to predict with certainty when further funding will be forthcoming as the council has no control over when developers will implement planning permissions. It is also difficult to estimate how much funding will be available from some developments as, in many cases, permissions have only been granted in outline and, as a consequence, the number of units and housing mix has yet to be agreed.

4.3 Based on current information and projections, it is expected that the new school will be entirely funded through developer contributions.

4.4 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 denominational secondary schools in West Lothian.

4.5 To establish developer contribution rates for education infrastructure for the denominational secondary sector, it is necessary to consider the St. Margaret's Academy project and the new build school together as the additional capacity provided will support housing development across the entire district.

4.6 The precise cost of constructing the new build school has yet to be established. This can only be established once a project brief has been finalised and the project has been subjected to a tendering process. The council's Surveying Manager advises that an indicative cost of £36 million (based on first quarter 2010 prices) should be used at this stage for determining the level of developer contributions.

4.7 The cost of extending St. Margaret's Academy to have a capacity of 1,320 is estimated at £10.5 million based on first quarter 2010 prices.



4.8 Based on these indicative costs, a developer contribution rate of £1,983 per residential unit has been established (the methodology for establishing the level of contributions is set out in Appendix 2).

4.9 Actual payments will be index linked to the changes indicated in the RICS Building Cost Information Service Tender Price Index using the first quarter 2010 as the base date.

4.10 The levels of contribution will be reviewed regularly to take account of changed circumstances.

4.11 Developers should be aware that places at particular schools cannot be guaranteed.

4.12 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.

4.13 The council recognises that securing enough funding through developer contributions for the first phase of the new denominational secondary school at Winchburgh will be a challenge, particularly given the current difficulties that landowners and developers have raising finance as a result of the global credit crunch. The council does not rule out delaying later phases at St. Margaret's Academy if switching council funding from the St. Margaret's project to the new denominational secondary school project at Winchburgh can assist in bringing about the early implementation of the first phase of the new denominational secondary school.

## 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.

## 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 For developments within Rural West Edinburgh, two options are available. Firstly, West Lothian Council can be signatories to any section 75 agreement entered into between the developer and the City of Edinburgh Council. Alternatively, the applicant/developer can choose to make payment directly to West Lothian Council and the council will issue a receipt confirming that payment has been made.

6.4 Phased payments will be accepted for larger developments.

## SCHOOL SPECIFICATION AND TIMESCALE



7.1 The new build school design will need to have regard to the Design Guidance for new schools approved by the council in October 2006.

7.2 A *Statement of Need* for the co-located secondary school campus at Winchburgh has been approved and made available to interested parties. Based on this *Statement of Need*, an accommodation schedule has been prepared. The budget cost plan produced by the council's Surveying Manager has been based on this *Statement of Need*.

7.3 Before detailed design work can progress on the new build school, a detailed project brief is required. It should be noted that the council will need to 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.

## FURTHER INFORMATION

8.1 For further information or advice please contact:

For planning enquiries:

[Colin Miller](#)

Development Planning Manager

West Lothian Council

County Buildings

Linlithgow

EH49 7EZ

*Tel:* 01506 775216

*Email:* [colin.miller@westlothian.gov.uk](mailto:colin.miller@westlothian.gov.uk)

For education enquiries -

[David McKinney](#)

Planning and Information Manager

Pupil Placement

*Tel:* 01506 281861

*Email:* [david.mckinney@westlothian.gov.uk](mailto:david.mckinney@westlothian.gov.uk)

## Appendix 1 - possible timing of projects which will provide additional denominational secondary school capacity

### Scenario 1

2011	St. Margaret's Academy extension to 1,100 capacity
2016	St. Margaret's Academy extension to 1,210 capacity
2018	St. Margaret's Academy extension to 1,320 capacity
Post 2019	First phase of new build denominational secondary at Winchburgh

### Scenario 2

2011	St. Margaret's Academy extension to 1,100 capacity
2016	First phase of new build denominational secondary at Winchburgh
Post 2019	Extensions at St. Margaret's Academy and new build secondary

### Scenario 3

2011	St. Margaret's Academy extension to 1,100 capacity
2016	St. Margaret's Academy extension to 1,210 capacity
2018	First phase of new build denominational secondary at Winchburgh
Post 2019	Extensions at St. Margaret's Academy and new build secondary

## Appendix 2

### Contribution rates for denominational secondary sector

Indicative cost of St. Margaret's Academy extension	£10.5M
Indicative cost of new RC secondary	£36.5M
<b>Total</b>	<b>£47.0M</b>
Deduct contributions already received at March 2010	-£1.5M
Deduct other potential contributions from sites with permission	-£1.6M
Amount outstanding	£43.9M

### Estimated number of residential units which could contribute towards both projects

Local plan sites without planning permission	18,576
Potential future windfall (WLC estimate)	4,424
<b>Total</b>	<b>23,000</b>

Dividing the total costs by the number of units to be served, establishes a developer contributions rate of £1,983 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.

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