



DEVELOPMENT AND TRANSPORT POLICY DEVELOPMENT & SCRUTINY PANEL

SUPPLEMENTARY PLANNING GUIDANCE: DEVELOPER CONTRIBUTIONS FOR EXTENSION TO ST JOHN OGILVIE PRIMARY SCHOOL, LIVINGSTON

REPORT BY HEAD OF PLANNING AND ECONOMIC DEVELOPMENT

A. PURPOSE OF REPORT

The purpose of this report is to advise members of draft supplementary planning guidance (SPG) for developer contributions for an extension to St John Ogilvie Primary School, Livingston to provide an additional 47 school places. The extension is needed to support the approved development plan strategy in relation to the West Lothian Local Plan.

B. RECOMMENDATION

It is recommended that the panel:

1. notes the key principles to be included in the SPG and agrees to consultation being carried out; and
2. agrees that the outcome of the consultation should be reported to the Council Executive for decision.

C. SUMMARY OF IMPLICATIONS

I Council Values

Focusing on our customers' needs

Being honest, open and accountable

Providing equality of opportunities

Making best use of our resources

Working in partnership

II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)

The implementation of the West Lothian Local Plan (WLLP) requires substantial funding for education infrastructure and substantial developer contributions. It is a key requirement of the WLLP that development should not proceed beyond existing infrastructure capacity and that planning permission should not be granted until relevant infrastructure is provided or committed. Policy 9 of the approved Strategic Development Plan (SDP) for Edinburgh and South East Scotland identifies similar provision.

Policy IMP3 of the WLLP indicates that legal agreements will be required to secure the provision of school extensions.

Policy IMP17 of the WLLP indicates that planning agreements (section 75s) will be entered into where appropriate and that developer contributions will be sought in accordance with circular 12/1996 – Planning Agreements (this circular has recently been replaced by circular 1/2010).

Developer contributions may also be obtained through section 69 agreements under the Local Government (Scotland) Act 1973. There are no SEA, equality, health or risk assessment issues.

III Implications for Scheme of Delegations to Officers	None.
IV Impact on performance and performance indicators	None.
V Relevance to Single Outcome Agreement	<p>Outcome 1 - Our children have the best start in life and are ready to succeed.</p> <p>Outcome 2 – We are better educated and have access to increased and better quality learning and employment opportunities.</p> <p>Outcome 3 – Our economy is diverse and dynamic and West Lothian is an attractive place for doing business.</p>
VI Resources - (Financial, Staffing and Property)	<p>Residential developers will be required to make payments in accordance with the SPG.</p> <p>The SPG will apply to council owned sites that are to be developed for housing.</p>
VII Consideration at PDSP	The D&T PDSP has not previously considered this SPG.
VIII Other Consultations	<p>Internal: Education, Finance, Estates and Legal.</p> <p>External:</p> <p>Community councils, developers, landowners and Homes for Scotland will be consulted on the draft SPG.</p> <p>The draft SPG will also be published on the council’s website during the consultation period.</p>

D. TERMS OF REPORT

West Lothian Council adopted the West Lothian Local Plan (WLLP) on 13 January 2009. The plan proposes major housing growth and, as a consequence, a number of new schools and school extensions are required to support the local plan strategy. The Main Issues Report to the West Lothian Local Development Plan, which was approved for consultation by the council on 19 June, proposes a continuation of this strategy.

St John Ogilvie Primary School currently has a listed capacity for 415 pupils in 14 classes, 7 of which are limited to 30 pupils maximum. General Purpose provision is provided through 3 open areas and one small enclosed music room. In practice, class size legislation means that a maximum sustained intake of 56 pupils can be accommodated P1-P7, in 14 classes, giving a total roll of 392 pupils. Extension to the school could provide a listed capacity increase of 47 pupils to achieve a maximum 462 capacity if 2 full size classrooms were provided together with appropriate hall provision. In simple terms, this capacity increase would support around 500 new houses within the catchment area of the school in the medium term (on the basis of the 2012 child per house ratio).

The school is currently a 14 class organisation with a 35/35 nursery. In order to extend the school facility the following is proposed:

- New extension west side breaking through from existing assembly/dining hall, with the removal of the current school reception, head teacher, staff and visiting services accommodation.
- The new extension will provide an appropriately sized internal gym hall with changing accommodation, improved hall storage, 2 full size classrooms, school reception head teacher, staff and visiting services accommodation.
- An extension to the nursery would provide 60/60 capacity, appropriate for a 2 stream primary school.

Costs and Consultation:

The current indicative cost of the extension proposal is £1,758,413 (base March 2014) and there would be an additional requirement for £25,000 commissioning costs. Based on these indicative costs, a developer contribution rate of £3,902 per residential unit has been established.

The timing of developer contribution payments to fund school infrastructure projects is critical if the council is to avoid escalation in forward funding requirements that it may not be able to support on an ongoing basis.

The draft SPG will require consultation with landowners, developers and with other relevant stakeholders. The draft SPG is attached as Appendix A.

The outcome of the consultation will be reported to Council Executive in due course.

E. CONCLUSION

The draft SPG for developer contributions for extension to St John Ogilvie Primary School will support housing growth in West Lothian. Consultation will be carried out before being considered by Council Executive.

The proposed developer contribution rates should help to improve the financial viability of the housing developments planned within the catchment area of St John Ogilvie Primary School.

F. BACKGROUND REFERENCES

West Lothian Local Plan.

Strategic Development Plan for Edinburgh and South East Scotland (SESplan)

SG Circular 3/2012 – Planning Obligations and Good Neighbour Agreements.

Report to Education Executive on 16 June 2008 - Education Strategy to support the West Lothian Local Plan including pre-adoption modifications

Report to Education Executive on 18 March 2014 - 2012 Base School Forecasts

Appendices/Attachments: One – Draft SPG

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Date: 30 October 2014

Appendix A

SUPPLEMENTARY PLANNING GUIDANCE - DEVELOPER CONTRIBUTIONS FOR EXTENSION TO ST JOHN OGILVIE PRIMARY SCHOOL, LIVINGSTON

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. The Main Issues Report to the West Lothian Local Development Plan, which was approved for consultation by the council on 19 June, proposes a continuation of this strategy.
- 1.2 The purpose of this supplementary planning guidance (SPG) is to set out details of primary school infrastructure works at St John Ogilvie Primary in Livingston necessary to support further housing development in the catchment area. The SPG sets out developer contribution rates which will apply to all proposed housing developments within the catchment area of St John Ogilvie Primary School.
- 1.3 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 upon additional non-denominational primary school capacity being provided.
- 1.4 The catchment area of St John Ogilvie Primary School, which presently has capacity for 415 pupils and an actual school roll of 377 pupils (at start of academic year 2013/2014), embraces a catchment area within north/central Livingston.
- 1.5 The WLLP anticipates that an extension to St John Ogilvie Primary School will be required to support existing housing allocations within the catchment, as well as the re-development of Deans South and potential housing allocations emerging through the Local Development Plan. This will enable the listed capacity of the school to be increased by 47 places, taking it up to 462 places and potentially allowing for 500 new houses to be provided within the catchment area of the school in the medium term.
- 1.6 The scale of infrastructure being planned must also have regard to some allowance for the scale of windfall development that might be supported.
- 1.7 The timing of developer contribution payments to fund school infrastructure projects is critical if the council is to avoid escalation in forward funding requirements that it may not be able to support on an ongoing basis.

- 1.8 This SPG will be taken into account in the determination of all planning applications for housing which lie within the catchment area of St John Ogilvie Primary School from the date the policy is approved. The policy will be revised as circumstances require. Factors which could lead to the SPG 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;
 - changes in the pattern of attendance at schools;
 - changes in the type of residential units that are to be exempt from contributions;
 - updated school roll forecasts;
 - changes in catchment areas;
 - changes to the Strategic Development Plan;
 - approval of the Local Development Plan; and
 - any other significant matter that impacts on denominational primary school provision in the catchment area of St John Ogilvie RC Primary School.
- 1.9 It is noted that the rate of house building in West Lothian has fallen significantly as a consequence of the recession, although there is evidence that completions are increasing again. 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.
- 1.10 With the recession 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.
- 1.11 Given the current financial constraints, 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 manage its revenue budget.
- 1.12 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 obligations, to overcome obstacles to the granting of planning permission.

2.2 Scottish Government Circular 3/2012 (Planning Obligations and Good neighbour Agreements) sets out current policy on planning obligations. This indicates that planning obligations 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.
- Be reasonable in all other respects.

2.3 The approved Strategic Development Plan for Edinburgh and South East Scotland (SDP) requires sufficient infrastructure to be available, or its provision to be committed, before development can proceed. The plan also supports the delivery of infrastructure through developer contributions, funding from infrastructure providers or other appropriate means, including the promotion of alternative delivery mechanisms

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 denominational primary school capacity being provided. In accordance with Policy IMP3 of the WLLP, legal agreements will be required to secure the provision of new schools or extensions and associated community facilities from developers where this is directly attributable to serving their proposed housing development. Policy IMP17 of the WLLP also requires legal agreements to be in place to secure key infrastructure.

3.0 FORECASTS

3.1 The approved 2012 base school roll forecast for St John Ogilvie Primary School is shown below:

2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
368	377	379	382	377	387	391	393	392	387	385	388

2012 & 2013 are actual start of school session census rolls

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 2012. The forecast housing programme will also include more current decisions of Development Management Committee and housing sites less than 5 units. The forecast housing schedule (and the DPHM) acknowledges the fact that much of the proposed housing within local plan allocations will take place in the latter period of the current development plan.

- 3.3 Table 1 below shows the projected start of session school roll for St John Ogilvie Primary School together with the relevant capacity.

Table 1

Year	St John Ogilvie Primary School	Capacity
12/13	368	415
13/14	377	415
14/15	379	415
15/16	382	415
16/17	377	465
17/18	387	465
18/19	391	465
19/20	393	465
20/21	392	465
21/22	387	465
22/23	385	465
23/24	388	465

* It is proposed that additional accommodation is always planned to be available 1 year in advance of forecast need and that the additional accommodation caters for 3-4 years of school roll growth which, is necessary to avoid unnecessary disruption for pupils.

Assumptions

Child per house ratio: 0.0927 (rounded)

Stage migration factor: 0.9901 (rounded)

Number of units in Start of Session Roll forecast: 278

Number of units programmed beyond the forecast period: 0

Forecasts are based on the current pattern of attendance.

- 3.4 St John Ogilvie Primary School currently has a listed capacity for 415 pupils in 14 classes, 7 of which are limited to 30 pupils maximum. General Purpose provision is provided through 3 open areas and one small enclosed music room. In practice, class size legislation means that a maximum sustained intake of 56 pupils can be accommodated P1-P7, in 14 classes, giving a total roll of 392 pupils. The school is currently organised in 14 classes and thus there is no scope within the school for the creation of additional classes that could support new residential development.
- 3.5 On the basis of the above assumptions, present school capacity is forecast to be fully utilised from school session **2018/19** onwards, depending on the actual class organisation that is possible. The council will therefore aim to secure developer contributions and/or identify funding which ensures that additional capacity is in place for the start of this session. It should be noted that spare capacity can be taken up by placing requests; likewise, housing completions could occur sooner than expected so it is possible that capacity could run out sooner than predicted. There may also be alternative or intermediate short term capacity options noting that budget, pupil safety and school detriment would require very careful consideration.
- 3.6 The council uses well established and robust methods for estimating the number of children resulting from new developments, including household survey as well as cross matching of its pupil placement information (as set out in the *SPG Planning for Education*).

- 3.7 Education forecasting entails making assumptions about the rate of house 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.

4.0 FUNDING THE PROVISION OF THE ADDITIONAL CAPACITY

- 4.1 It is expected that the extension to St John Ogilvie Primary School 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 additional capacity is needed to support further housing in the catchment from existing housing allocations in the adopted West Lothian Local Plan, the re-development of Deans South housing estate and potential emerging allocations in the West Lothian Local Development Plan.
- 4.2 Taking into account the principles in SG Circular 3/2012 *Planning Obligations and Good Neighbour Agreements* 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 St John Ogilvie Primary School, Livingston.
- 4.3 The precise cost of the school extensions, in terms of both options, 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 Construction Services unit has provided indicative costs based on first quarter 2011 prices for the projects. These should be used at this stage for determining the level of developer contributions and are set out in Appendix 2. The indicative costs include school commissioning costs.
- 4.5 Based on these indicative costs, a developer contribution rate of £3,902 for a residential unit has been established. The methodology for establishing the level of contributions is set out in Appendix 2. The indicative costs include school commissioning costs.
- 4.6 Actual payments will be index linked to the changes indicated in the RICS Building Cost Information Service Tender Price Index using the first quarter 2011 as the base date.
- 4.7 The levels of contribution will be reviewed regularly to take account of changed circumstances.
- 4.8 Developers should be aware that places at particular schools cannot be guaranteed.
- 4.9 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.

- 4.10 Whilst it is understood that developers of large sites will not be in a position to make all their contributions up front, the council will need to have sufficient funds in place for each project before committing to a contract to build that project. Thus, whilst some phasing of payments is likely to be acceptable, some developers will need to make large payments at appropriate stages to ensure that constraints can be overcome. As a general principle, if one party makes overpayments to forward fund education infrastructure in order to overcome a constraint and other applicants later benefit from this, the council will seek to refund the overpayments to the party who made them once contributions are received from the other applicants who have benefited and it is clear that surplus funds are available.

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 a live planning permission and that permission has not expired unless it is proposed to increase the number of units or change in the housing mix. Where there is an increase in the number of units or change in the housing mix, 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. The existing and proposed demand for school places will be established by applying the child per house ratios set out in Appendix 1.

b) Sheltered housing, purpose built 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 no more than one of the resultant units has more than two habitable rooms. Where more than one of the resultant units has more than two habitable rooms, the first residential unit with more than two habitable rooms will be exempt but a full contribution will be payable for each of the other residential units with more than two habitable rooms.

d) Sites where it is proposed to (1) demolish existing occupied residential units or (2) demolish existing houses which have been vacant for less than two years at the time that a planning application is submitted to replace them or (3) replace houses which have been demolished but were previously occupied within the two years leading up to the submission of a planning application being submitted to replace them, provided in all cases there is no increase in the number of residential units. Where there is an increase in the number of units, additional contributions will be required based on the increase in the number of residential units with more than two habitable rooms.

e) Residential units that contain less than three habitable rooms.

Definition: For the purposes of this SPG, a habitable room shall be defined as any enclosed room intended for human occupation, excepting any room used solely as a kitchen, bathroom, toilet, washroom, utility room, shower room, hall and stair.

6.0 SECURING THE DEVELOPER CONTRIBUTIONS

- 6.1 Developer contributions may be secured by means of a Section 75 Obligation 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 Obligations and Section 69 Agreements and for the council to collect contributions through an exchange of letters prior to planning permission being granted.
- 6.3 Wherever possible, the council will allow developers to make phased payments. Planning conditions to phase housing developments may be necessary in some cases to ensure that infrastructure thresholds are not exceeded.

7.0 SCHOOL SPECIFICATION AND TIMESCALE

- 7.1 The council will decide the appropriate design, specification and procurement route for all education projects.

8.0 FURTHER INFORMATION

- 8.1 For further information or advice please contact:

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Appendix 1

Possible timing of project which will provide additional for St John Ogilvie Primary School, Livingston

Year	Project	Capacity Increase
2017/18	Extension	47 places

Assumptions:

1. forecast assumptions are sustained;
2. build rate is as per the DPHM;
3. developer contributions are paid at appropriate stages, and
4. satisfactory progress is made on school consultation.

Appendix 2

Methodology for calculating developer contribution rate

At this stage, only **indicative costs** are available. These are:

Estimated non-denominational primary school costs: **£1,758,413**
St John Ogilvie Primary School

The school is currently listed as 415 pupil capacity with a 14 class organisation and a nursery with 35 places morning and afternoon (35/35). The following works are proposed to extend the school:

- New extension west side breaking through from existing assembly/dining hall, with the removal of the current school reception, head teacher, staff and visiting services accommodation.
- The new extension will provide an appropriately sized internal gym hall with changing accommodation, improved hall storage, 2 full size classrooms, school reception head teacher, staff and visiting services accommodation, creating an appropriate mix of accommodation for 462 pupils in 16 classes.
- An extension to the nursery would provide 60/60 capacity, appropriate for a 2 stream primary school.

There would be commissioning costs of some £25,000 to support the nursery class and primary school increase in capacity.

Total to be funded by developers £1,783,413

Summary

This scale of infrastructure (47 additional places extending St John Ogilvie Primary School to 462 pupil capacity) will support 500 residential units (including exempt residential units) within the current catchment area of St John Ogilvie Primary School.

It is assumed that 8.63% of the residential units will be exempt, so for the purposes of this SPG the total cost (£1,783,413) is divided by 457 (the total number of units likely to be contributing) to give a developer contribution rate of £3,902 per residential unit.

Actual payments will be linked to the RICS Building Tender Price Index using first quarter 2011 as the base date.