

Committee: **Education and Learning Scrutiny Committee**
 Date of meeting: **19th October 2021**
 Report Subject: **Education Planning Obligations - Overview Report**
 Portfolio Holder: **Cllr Joanne Collins, Executive Member Education**
 Report Submitted by: **Lynn Phillips, Corporate Director of Education**
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Reporting Pathway								
Directorate Management Team	Corporate Leadership Team	Portfolio Holder / Chair	Audit Committee	Democratic Services Committee	Scrutiny Committee	Executive Committee	Council	Other (please state)
29.09.21	30.09.21	07.10.21			19.10.21			

1. Purpose of the Report

- 1.1 The purpose of the report is to provide Education and Learning Scrutiny Committee with an overview Education Planning Obligations and associated processes.

2. Scope and Background

2.1 Background and Context

- 2.2 This report has been produced in conjunction with colleagues in the Planning team to respond to a specific request from Scrutiny Members relating to understanding the implications of Section 106 agreements within the context of the school estate. Education infrastructure is an integral part of achieving and maintaining sustainable communities. The Council's future approach to education delivery is guided by the 21st Century Schools Programme (as set out in the 21st Century Schools Strategic Outline Plan), along with Blaenau Gwent's School Organisation Policy (2021).

- 2.3 New residential developments that are likely to accommodate children (Nursery to Year 11), will create additional demand for places at existing schools, and potentially places pressure upon the delivery of education associated provision. Where a new development generates additional pupil numbers in excess of the existing and/or planned capacity at local schools, the Council will, where appropriate, seek financial support from a developer via planning obligations, in order to mitigate the impact upon the school estate and provide additional capacity in order to create suitable learning environments for additional pupils.

- 2.4 Planning obligations, also known as Section 106 agreements (in line with section 106 of the 1990 Town and Country Planning Act), are private agreements between local authorities and developers. The obligations form part of the planning permission, to make an otherwise unacceptable development, acceptable. It is the land which is bound by the Section 106 agreement, rather than the person or organisation who develop it.

- 2.5 A planning obligation for educational facilities **will be sought from new residential development comprising of 10 or more dwellings**, but will only be required where the development is likely to result in the generation of additional pupil numbers in excess of the existing and/or planned capacity at local schools.
- 2.6 The recipient school will usually be the catchment school serving the development. However, there may be circumstances where an alternative school is deemed a more appropriate recipient. For example, it may be more accessible to the development or may better provide the capacity required. The use of the payment will, therefore, be determined on a case by case basis
- 2.7 The methodology for calculating the payment is based upon the anticipated pupil yield of the development, multiplied by the costs per pupil for the provision of the education facility. The Council's yield data is categorised into 'primary' provision (including nursery facilities up to age 11) and 'secondary' provision.
- 2.8 Based upon the 2001 census data, local surveys and school pupil roll data for the County Borough, the pupil yield factors utilised by the Council are:
- 0.30 primary school places per relevant residential unit
 - 0.20 secondary school places per relevant residential unit
- 2.9 The cost of providing additional primary and secondary school places is derived from the Department for Education (DfE) Education Projects Cost and Performance Data.
- 2.10 Obligations for education provision will not be sought for one bedroom residential units, studio flats, sheltered/elderly person housing, care homes, rest homes, nursing homes and student accommodation, on the basis that such developments are unlikely to house school age children. **Affordable Housing development, either as part of a site or forming the whole of the development site, will not be exempt from the requirement.**
- 2.11 School capacity is calculated in accordance with the National Assembly for Wales Circular 09/2006: *Measuring the Capacity of Schools in Wales* and Welsh Government '*Measuring the Capacity of Schools in Wales Guidance*' (2011). School capacities are determined on an annual basis in the autumn-term. The capacity calculations for each school determine their admission number. Pupil projections are then carried out twice annually at the start of each new year (January), and again at the start of each new academic year (September). These calculations then inform the planning and provision of pupil places, for example, highlighting where schools have surplus places and where they have sufficiency issues.
- 2.12 Residential Land Availability Schedules are provided to the Education Transformation team on an annual basis at the commencement of each academic year. A standard pupil projection forecast is completed along with

a 'planning' projection forecast, the latter of which, details the impact of planning applications that have been granted for housing developments, upon the provision of school places. Projections are carried out to detail pupil place information for each school in Blaenau Gwent over a 5-year period. Where sufficiency issues are identified within the school estate due to housing developments, a Section 106 calculation of education facilities contribution form will be completed, detailing the requirement for the planning obligation i.e. the developer's financial contribution.

- 2.13 Assessment of pupil capacity for each proposed residential development will take into account existing numbers of primary and secondary school pupils in the catchment schools serving the proposed development, together with the planned pupil capacity in those schools.
- 2.14 Surplus places do not necessarily equate to there being excess capacity at the school, as it is generally accepted that schools should not operate at 100% capacity. The Audit Commission reported in their 2002 report, Trading Places that:
- 2.15 *'it is unrealistic and probably undesirable to aim for a perfect match of pupils and places at each school. Some margin of capacity is necessary to allow parental choice ... Not all unfilled places are surplus'*.
- 2.16 Furthermore, excess capacity is required to ensure pupil places are available for inward migration into a school catchment area, and to accommodate fluctuations in birth rates.
- 2.17 Obligations will, in most cases, be in the form a financial sum (Education Facilities Payment) to be paid to the Council at an agreed stage or intervals during the development. The payment would be utilised by the Council to provide the required works to increase the capacity of a specified school, and/or address facilities issues that would enable the school to reconfigure provision in order to accommodate additional pupils.
- 2.18 In exceptional circumstances, it may be preferable for the obligation to comprise the transfer of land or works by the developer, in lieu of part or all of a financial payment. In these circumstances, the Council's expectation is that the works should be delivered directly by the developer in accordance with details and a specification agreed by the Council. The developer would be required to fund the development of the detailed scheme and carry out the works to the appropriate standard.
- 2.19 Any transfer of land or works should be accompanied by a commuted sum to enable the Council to undertake the maintenance of the land/facility for a minimum period of 20 years. Any commuted sum will be calculated on a case by case basis.
- 2.20 An Education Facilities Payment towards the upgrading/ extension of existing educational facilities will be sought, if implementation of the development will result in the generation of additional pupil numbers in excess of the existing

or planned capacity at a local school/schools. The use of the payment will, therefore, be determined on a case by case basis by the Council's Education Directorate in conjunction with the Local Planning Authority, with the objective of achieving optimum pupil capacity.

- 2.21 Education Facilities Payments may be used to increase school capacity by:
- Provision of new classrooms / learning environments
 - Replacement of existing demountable facilities with permanent facilities
 - Improvements and refurbishments to provide additional capacity
 - Provision of additional facilities necessitated by the additional demand
 - The creation of a new school building if warranted, based upon the size of the development
- 2.22 Where a payment is agreed to provide additional capacity and the school in question is then subject to strategic re-organisation, the payment may be transferable to the next closest or most relevant school at the time of construction. Where additional capacity is required and can be created to mitigate the impacts of the development. This principle would also apply where a school is closed down on the grounds of poor/substandard accommodation.

3. **Options for Recommendation**

- 3.1 **Option 1:** Education and Learning Scrutiny Committee considers and accepts the report.
- 3.2 **Option 2:** Education and Learning Scrutiny Committee considers the report and provides comments relating to implementation of the Education Planning Obligations.

4. **Evidence of how does this topic supports the achievement of the Corporate Plan / Statutory Responsibilities / Blaenau Gwent Well-being Plan**

- 4.1 Education planning obligations form part of the Council's Local Development Plan (LDP), which is vital to successful delivery of the BG Corporate Plan, along with the BG Wellbeing Plan.
- 4.2 The LDP seeks to ensure that growth is delivered in the right place at the right time, whilst also guiding development in line with the needs of our communities, and in consideration of the environment and ecology.

5. **Implications Against Each Option**

5.1 ***Impact on Budget (short and long term impact)***

There are no direct budget implications associated with this report.

- 5.1.1 Developer contributions are sought in line with the potential for increased pupil numbers, which cannot be met within the existing school capacity.
- 5.1.2 Over the last 3 years, Education has secured 3 developer contributions for 3 primary schools across both the Ebbw Fawr and Tredegar/Sirhowy Valley areas, totalling £152,546. These contributions have and/or will be used to

increase the capacity of both internal and external teaching and learning environments, in order to facilitate increased pupil numbers aligned to each development.

- 5.1.3 Further submissions have been made in line potential developments, which are monitored on a monthly basis.

5.2 ***Risk including Mitigating Actions***

The primary risk from an Education planning obligation perspective, is threat to viability of housing sites. Developers may indicate that the required contribution makes the development site unviable when considering development costs against the required contribution. In cases such as this, the relevant departments come together to assess viability and associated options, seeking to secure the best outcome for all parties, with the community at the forefront of this process.

- 5.2.1 Regular engagement between both the Education and Planning services supports effective management and mitigation of such risks, as extensive work is undertaken in planning and managing impact. In addition, contributions are identified at an early stage and progressed accordingly, with consideration given to school organisation implications.

5.3 ***Legal***

The Council are required to prepare a Local Development Plan as part of their statutory obligations. The Supplementary Planning Guidance (SPG) supports effective implementation of the policy set out within the Local Development Plan. Section 38(6) of the Planning and Compulsory Purchase Act (2004), requires that all planning applications are to be determined in accordance with the LDP.

5.4 ***Human Resources***

There are no direct human resource implications associated with the report, as there are designated functions within the relevant Directorate's, along with officers who are responsible for managing and monitoring this process in accordance with the regulatory and policy framework.

- 5.4.1 The Corporate Directors of both Regeneration & Community Services, and Education, supported by Wider Corporate Leadership Team, will have a key role in ensuring the effective implementation and resourcing in line with effective implementation of the SPG and LDP.

6. **Supporting Evidence**

6.1 ***Performance Information and Data***

Section 106 developer contributions are recorded on an annual basis via a register which is made publically available. The LDP is currently under review, the process associated with which is likely to span a 2-year period. There is a delivery agreement in place with Welsh Government aligned to completion of this process.

- 6.2 ***Expected outcome for the public***
Effective management of development areas throughout Blaenau Gwent, whilst maximising opportunities for residents, local services and businesses. Affordable housing and Education are seen to be a priority in line with the delivery of the LDP.
- 6.3 ***Involvement (consultation, engagement, participation)***
Stakeholders and end-user needs and engagement are of paramount importance in line with both the development and implementations of the LDP. There are extensive consultation processes involved in the development phase of the LDP and SPG's, in line with Welsh Government's regulatory and policy framework.
- 6.4 ***Thinking for the Long term (forward planning)***
The purpose of the LDP is to secure long-term developments, whilst also take account of long-term implications, assessed via a sustainability appraisal process.
- 6.5 ***Preventative focus***
The LDP seeks to protect against loss of ecology and green spaces, and protect against inappropriate development. In addition, Education planning obligations seek to secure a sustainable education system within Blaenau Gwent, which is able to support growth and development within the local area.
- 6.6 ***Collaboration / partnership working***
Education, Planning and Housing teams work closely together to plan, monitor and review planning obligations on a monthly basis. Education are a key partner involved in reviewing the LDP.
- 6.7 ***Integration (across service areas)***
The LDP and associated planning obligations, impact upon Education, schools, Highways, Housing, Economic Development and Community Services, therefore, service area involvement is key to effective implementation and management of the LDP and associated planning obligations.
- 6.8 ***Decarbonisation and Reducing Carbon Emissions***
This is a key focus of both Education Facilities management and School Organisation functions and processes. Any physical works undertaken within a school setting are subject to a decarbonisation assessment. In addition, there is a Decarbonisation and Climate Change Policy within the preferred strategy of the replacement LDP
- 6.9a ***Socio Economic Duty Impact Assessment***
N/A
- 6.9b. ***Equality Impact Assessment***
N/A

7. **Monitoring Arrangements**

- 7.1 Education, Housing and Planning officers meet on a monthly basis in order to monitor the impact of developments upon schools and education delivery, whilst also ensuring that developments can progress to the benefit of the community.

Background Documents /Electronic Links

N/A