



**DEVELOPMENT AND TRANSPORT POLICY DEVELOPMENT AND SCRUTINY PANEL**

**SUPPLEMENTARY PLANNING GUIDANCE - DEVELOPER CONTRIBUTIONS FOR DENOMINATIONAL PRIMARY SCHOOL INFRASTRUCTURE IN BROXBURN**

**REPORT BY HEAD OF PLANNING AND ECONOMIC DEVELOPMENT**

**A. PURPOSE OF REPORT**

The purpose of this report is to advise the panel of draft supplementary planning guidance (SPG) for developer contributions towards denominational primary school infrastructure within the catchment area of St Nicholas Primary School, Broxburn, which is needed to support the development plan strategy.

**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, together with any revisions proposed to the SPG as a result of 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; making best use of our resources; and 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) will require 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 a similar provision.

Policy IMP 3 of the WLLP requires developer contributions to help overcome education constraints and this is mirrored in Policy 9 of the SDP.

Policy IMP 17 of the WLLP indicates that planning agreements (now planning obligations) will be entered into where appropriate and that developer contributions will be sought in accordance with circular 12/1996 - Planning Agreements (this circular has been replaced by circular 3/2012).

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.

- |                                                               |                                                                                                                                                                                                                                                                                                                                          |
|---------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>III Implications for Scheme of Delegations to Officers</b> | None.                                                                                                                                                                                                                                                                                                                                    |
| <b>IV Impact on performance and performance Indicators</b>    | None.                                                                                                                                                                                                                                                                                                                                    |
| <b>V Relevance to Single Outcome Agreement</b>                | <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> |
| <b>VI Resources - (Financial, Staffing and Property)</b>      | <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>                                                                                                                                                       |
| <b>VII Consideration at PDSP</b>                              | <p>Developer Contributions towards the provisions of primary school capacity for the denominational sector in Broxburn, East Calder and Winchburgh, June 2006.</p> <p>This SPG on St Paul's will replace the East Calder component of the 2006 SPG.</p>                                                                                  |
| <b>VIII Other consultations</b>                               | <p>Internal: Education, Finance, Estates and Legal.</p> <p>External: 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**

### **D1 Background**

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 WLLP anticipates that the equivalent of two new streams of primary school infrastructure and an extension to St Nicholas Primary School will be required to support the CDA allocations in Broxburn. (i.e. capacity for a further 537 pupils). This would enable the capacity of St Nicholas Primary School to be increased by 75 places, taking it up to 462 and potentially allowing for 800 new houses to be provided within the catchment area of the school in the short to medium term.

In June 2006 the council's Policy Partnership and Resources Committee approved SPG for developer contributions towards the provision of additional primary school capacity for the denominational sector in Broxburn, East Calder and Winchburgh to support the WLLP development strategy. The draft guidance now presented to the panel would replace this guidance in relation to denominational primary school provision in the Broxburn area.

The works to St Nicholas Primary School are needed to support the development plan strategy. The current indicative cost is £1,760,000 (to be funded through the requirements of this SPG). Based on these indicative costs, an average developer contribution rate of £2,442 per residential unit has been established for denominational primary school provision. Actual payments will be index linked to the changes indicated in the RICS Building Cost Information Service Tender Price Index using the first quarter 2013 as the base date.

In August 2012, Council Executive agreed not to introduce denominational secondary school contribution rates based on the number of habitable rooms. It also agreed, on an interim basis that residential units containing less than three habitable rooms would be exempt from contribution. This SPG complies with this decision.

This SPG would replace the June 2006 denominational primary school SPG as relates to St Paul's, East Calder. The draft SPG is attached as Appendix A.

## **E. CONCLUSION**

The draft SPG for developer contributions for new denominational primary school infrastructure in Broxburn will support housing growth in West Lothian. Consultation will be carried out before being considered by Council Executive.

The proposed developer contribution rate should help to improve the financial viability of the housing developments planned within the catchment area of St Nicholas 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  
Appendix 1 - Draft SPG

Contact Person: Steve Lovell, Planning Officer, 01506 282430  
E-mail: [steve.lovell@westlothian.gov.uk](mailto:steve.lovell@westlothian.gov.uk)

Craig McCorriston  
**Head of Planning and Economic Development**

15 May 2014

## **Appendix A**

### **SUPPLEMENTARY PLANNING GUIDANCE - DEVELOPER CONTRIBUTIONS FOR DENOMINATIONAL PRIMARY SCHOOL INFRASTRUCTURE IN THE CATCHMENT AREA OF ST NICHOLAS PRIMARY SCHOOL, BROXBURN**

#### **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 infrastructure projects for the denominational sector in the Broxburn area which are required to support further housing development and the implementation of the WLLP. The SPG also sets developer contribution rates which will apply to all proposed housing developments within the catchment area of St Nicholas Primary School.
- 1.3 Separate guidance has been produced for the non-denominational sector.
- 1.4 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 upon additional denominational primary school capacity being provided.
- 1.5 The current catchment area of St Nicholas Primary School, which presently has capacity for 387 pupils and an actual school roll of 375 pupils (at start of academic year 2013/14), embraces the whole of the East Broxburn CDA, Broxburn, Uphall and Dechmont. Full catchment area details can be viewed on the council's website at: <http://www.westlothian.gov.uk/education/schools/>
- 1.6 On 28 June 2011, the Education Executive of West Lothian Council decided that the boundary for denominational schools in West Lothian should be amended to exclude areas within the administrative area of the City of Edinburgh Council. On 30 June 2011, the City of Edinburgh Council supported the proposed change. As a consequence of these decisions, developer contributions for denominational school infrastructure in West Lothian should no longer be required from any housing developments proposed within the administrative area of the City of Edinburgh Council. The catchment area of St Nicholas is now wholly within West Lothian.
- 1.7 In August 2012, Council Executive agreed not to introduce denominational secondary school contribution rates based on the number of habitable rooms. It also agreed, on an interim basis that residential units containing less than three habitable rooms would be exempt from contribution. This SPG complies with this decision.
- 1.8 The WLLP anticipates that an extension to St Nicholas Primary School will be required to support the CDA allocations in Broxburn and other developments within the catchment. This will enable the capacity of the school to be increased by 75 places, taking it up to 462 and potentially allowing for 800 new houses to be provided within the catchment area of the school in the short to medium term.
- 1.9 The scale of infrastructure being planned must also have regard to non-CDA housing allocations within the catchment area of St Nicholas Primary School and make some allowance for the scale of windfall development that might be supported.

- 1.10 At this stage, the council wishes to ensure that there is some flexibility in how the primary school infrastructure projects within the Broxburn area are taken forward. This is necessary because of the current uncertainty about future house completion rates and the timing of developer contribution payments to fund school infrastructure projects. There is also uncertainty about proposed catchment area changes. It should be noted that the scale of requirements for new build primary schools will be reviewed at various stages as housing developments progress.
- 1.11 This SPG will be taken into account in the determination of all planning applications for housing which lie within the catchment area of St Nicholas 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 Nicholas Primary School.
- 1.12 At the time of writing (April 2014), the rate of house building in West Lothian has fallen as a consequence of the recession, although there is latterly some evidence that completions are beginning to increase again. The general housing downturn has, nevertheless, 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.
- 1.13 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.
- 1.14 Given the current financial constraints, it is essential that the council only brings forward additional capacity when it is needed. This will help developers to manage their cashflow and help the council to manage its revenue budget.
- 1.15 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. It 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 Nicholas Primary School is shown below:

2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
365	375	380	384	376	386	402	405	411	419	435

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. This 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 Nicholas RC Primary School together with the relevant capacity.

Table 1

<u>Year</u>	<u>St Nicholas Primary</u>	<u>Capacity</u>
13/14	375	387
14/15	380	387
15/16	384	462
16/17	376	462
17/18	386	462
18/19	402	462
19/20	405	462
20/21	411	462
21/22	419	462
22/23	435	462
23/24	456	462

### Assumptions

Child per house ratio for denominational primary school, 0.0927 (rounded)

Stage migration factor for St Nicholas Primary School, 0.9840 (rounded)

Number of units in Start of Session Roll forecast for St Nicholas Primary School, 1,153

Number of units programmed beyond the forecast period, 1,976

Forecasts are based on the current pattern of attendance. This is likely to change when new schools are provided.

- 3.4 On the basis of the above assumptions, present school capacity is forecast to be fully utilised from school sessions 2014/15 onwards, depending on the actual class organisation that is possible. In this case the council has forward funded the school extension, expected to be available for school session 2015/2016, to facilitate reduce the start-up costs for residential development in the current school catchment area. The council will therefore seek to recover the full cost of this extension through developer contributions. 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.
- 3.5 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).
- 3.6 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 cost of the extension to St Nicholas Primary School will be entirely funded and recovered 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.

- 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 Nicholas Primary School.
- 4.3 The precise cost of the new education infrastructure 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 2013 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.
- 4.5 Based on these indicative costs, an average developer contribution rate of £2,442 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 2013 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 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.
- 4.10 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 new build school designs 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 anticipated denominational primary school project in Broxburn has been prepared by the council. Based on this Statement of Need, accommodation schedules have already been prepared. The budget cost plans produced by the council's Construction Services unit have been based on the Statement of Need which has been prepared.
- 7.3 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.
- 7.4 The council will decide the appropriate procurement route for all education infrastructure projects.

## **8.0 FURTHER INFORMATION**

- 8.1 For further information or advice please contact:

For planning enquiries -

Steve Lovell  
Planning Officer  
West Lothian Council  
Tel: 01506 282430  
Email: [steve.lovell@westlothian.gov.uk](mailto:steve.lovell@westlothian.gov.uk)

For education planning enquiries -  
David McKinney  
Planning and Information Manager  
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 primary school capacity in the catchment area of St Nicholas Primary School, Broxburn

Year	Project	Increased Capacity
2015/16	Extension to St Nicholas Primary School	462

Assumptions:

- 1) Forecast assumptions are sustained
- 2) build rate is as per the DPHM
- 3) developer contributions are paid at appropriate stages
- 4) satisfactory progress is made on school consultation

## Appendix 2

### Methodology for calculating developer contribution rate

At this stage, only indicative costs are available. The current indicative costs, based on first quarter 2013 prices are as follows:

#### Estimated denominational primary school costs

	£1,785,000
New build extension comprising two classrooms, a gym hall, changing facilities, a new access and turning area	1,760,000
Commissioning costs	25,000
Total to be funded by developers	1,785,000

This scale of infrastructure will support 800 residential units (excluding exempt residential units) within the current catchment area of St Nicholas Primary School.

It is assumed that 8.63% of the residential units will be exempt (one and two habitable rooms), so for the purposes of this SPG the total cost (£1,785,000) is divided by 731 (the total number of units likely to be contributing) to give an average developer contribution rate of £2,442 per residential unit based on first quarter 2013 prices.

Actual payments will be linked to the Building Tender Price Index using first quarter 2013 as the base date.