ALFREDSON YORK
ASSOCIATES

Land at Erlas Park
Wrexham
Education Impact Assessment
for Harworth Estates Investment Ltd.

28th January 2025

Report **v4-2** prepared by **John Powell**
for
Alfredson York Associates Ltd
The Henley Building
Newtown Road
Henley-on-Thames
Oxfordshire
RG9 1HG

Tel: 01491 525200
This document and its content are copyright of Alfredson York Associates Ltd – © Alfredson York Associates Ltd 2020.
All rights reserved.
Any redistribution or reproduction of part or all of the contents in any form is prohibited.
You may not, except with our express written permission, distribute or commercially exploit the content.

1. Introduction

1.1. Report Purpose & Scope

1.1.1. I have been asked to consider the proposed development for its likely impact on social infrastructure in the local area.

1.1.2. The purpose of this report is to act as a principal point of reference for future discussions with the relevant local authority to assist in the negotiation of potential Section 106 agreements pertaining to this site. This initial report includes an analysis of the request for contributions pertaining to local school places against the prescribed tests for such contributions.

1.1.3. It is acknowledged that if the impacts of the proposed development legitimately call for a S106 contribution due to capacity problems, which meet the requirements of the Community Infrastructure Levy (CIL) regulations, then it is accepted that a contribution should be offered.

1.2. Intended Audience

1.2.1. The intended audience is the Client, as well as, potentially, the relevant local Councils.

1.3. Research Sources

1.3.1. The contents of this initial report are based on publicly available information, including relevant data from central government and the local authority and on information obtained through requests under the Freedom of Information Act**. Research for this report was conducted in December 2023**, although information from FOI requests remains outstanding.

1.3.2. This report has been amended in January 2025 to reflect the latest red line site boundary, and the removed need for a primary school as part of the site (cf paragraph 4.4.1)

1.4. Community Infrastructure Levy Regulations

1.4.1. The Community Infrastructure Levy ("the levy") Regulations came into force in April 2010. The levy is intended to provide infrastructure to support the development of an area rather than to make individual planning applications acceptable in planning terms. As a result, there may still be some site-specific impact mitigation requirements without which a development should not be granted planning permission.

1.4.2. The levy is not a devolved matter and these regulations apply equally to local authorities, and development sites, in Wales.

1.4.3. However, in order to ensure that planning obligations and the levy can operate in a complementary way and the purposes of the two regimes are clarified, the regulations scale back the way planning obligations operate. Limitations are placed on the use of planning obligations in three respects.

1.4.4. The first of these, which is the relevant consideration in this matter, is putting the Government's policy tests on the use of planning obligations set out in Circular 13/97 Planning Obligations on a statutory basis for developments which are capable of being charged the levy.

1.4.5. The regulations place into law for the first time the Government's policy tests on the use of planning obligations. The statutory tests are intended to clarify the purpose of planning obligations in light of the levy and provide a stronger basis to dispute planning obligations policies, or practice, which breach these criteria. This seeks to reinforce the purpose of planning obligations in seeking only essential contributions to allow the granting of planning permission, rather than more general contributions which are better suited to use of the levy.

1.4.6. From 6 April 2010 it has been unlawful for a planning obligation to be required as a material consideration in order for a planning authority to lawfully grant permission when determining a planning application for a development, or any part of a development, that is capable of being charged the levy, whether there is a local levy in operation or not, if the obligation does not meet all of the following tests:

(a) Necessary to make the development acceptable in planning terms;

(b) Directly related to the development; and

(c) Fairly and reasonably related in scale and kind to the development.

1.4.7. From 1st September 2019, revised regulations came into force. Amongst other things this introduces a requirement on CIL charging authorities to produce an annual statement regarding sums received both through CIL and planning obligations.

1.4.8. These regulations also remove the limit of pooling no more than 5 planning obligations towards one item of infrastructure, which has been a particular issue with regards to the provision of education infrastructure.

1.5. Department for Education Guidance on Planning Obligations

1.5.1. In April 2019, the Department for Education (DfE) published "Securing developer contributions for education", non-statutory guidance for local authorities regarding seeking planning obligations towards education provision from residential development. This guidance, which covers England and Wales, is attached at Appendix AYA01.

1.5.2. Whilst this is non-statutory, it is important to consider elements of this guidance, as they would carry some weight in a planning context, although this clearly does not supersede or outweigh the CIL regulations as outlined above. This guidance is for all local education authorities which have a statutory duty to provide school places under the Education Act 1996, and is therefore applicable in Wales.

1.5.3. The purpose of the guidance is underpinned by four principles, as set out below:

- Housing development should mitigate its impact on community infrastructure, including schools;
- Pupil yield factors should be based on up-to-date evidence from recent housing developments;
- Developer contributions towards new school places should provide both funding for construction and land where applicable, subject to viability assessment when strategic plans are prepared and using up-to-date cost information;
- The early delivery of new schools within strategic developments should be supported where it would not undermine the viability of the school, or of existing schools in the area.

1.5.4. The first and third of these principles are of particular relevance to this report.

1.5.5. The guidance also sets out the following:

3. It is important that the impacts of development are adequately mitigated, requiring an understanding of:

- The education needs arising from development, based on an up-to-date pupil yield factor;
- The capacity of existing schools that will serve development, taking account of pupil migration across planning areas and local authority boundaries;
- Available sources of funding to increase capacity where required; and
- The extent to which developer contributions are required and the degree of certainty that these will be secured at the appropriate time.

1.5.6. However, it should be noted that nothing within this non-statutory guidance supersedes the tests set out at paragraph 1.4.5 above.

1.6. School Organisation Code 2018

1.6.1. The School Standards and Organisation (Wales) Act 2013 requires that the Welsh Ministers issue a School Organisation Code.

1.6.2. The Code imposes requirements in accordance with which relevant bodies (the Welsh Ministers, local authorities, governing bodies and other promoters) must act.

1.6.3. It also includes practical guidance to which relevant bodies must have due regard and sets out the policy context, general principles and factors that should be taken into account by those bringing forward proposals to reconfigure school provision and by those responsible for determining proposals.

1.6.4. There are two main elements of the Code that are relevant to Erlas Park, namely sections 1.4 the need for places and 1.5 resourcing of places.

1.6.5. The relevant text of these sections is set out below:

Where a new school, increase in capacity or age range expansion is proposed;

- that there is evidence of current or future need/demand in the area for additional places, with reference to the school or proposed school's language category, designated religious character, and the gender intake (i.e. co-educational/single sex);

  *The demand for additional provision of any type in an area **should** be assessed and evidenced. (In the case of Welsh medium provision this would include an assessment of the demand for Welsh Medium education conducted in accordance with any regulations made under section 86 of the 2013 Act).*

1.5 Resourcing of education and other financial implications

It is important that funding for education is cost effective. Relevant bodies **should** take into account the following factors in relation to the resourcing of education:

- What effect proposals will have on surplus places in the area;

Some spare places are necessary to enable schools to cope with fluctuations in numbers of pupils, but excessive numbers of unused places that could be removed mean that resources are tied up unproductively.

1.6.6. The relevance of these sections is explored in detail later in this report.

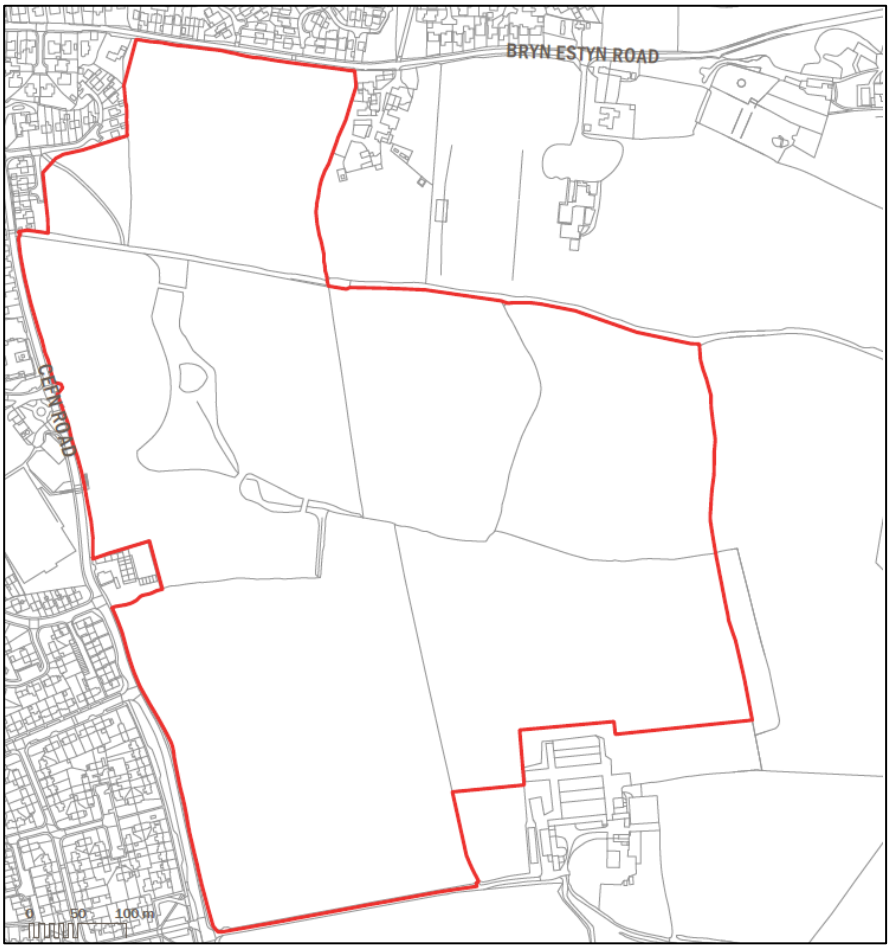
2. The Proposed Development

2.1. <u>The Site</u>

2.1.1. The proposed development site is at Erlas Park, Wrexham. The site lies within the planning remit of Wrexham County Borough Council (WCBC).

2.1.2. The site lies within the primary and secondary catchment areas of schools for which the local education authority Is Wrexham County Borough Council (WCBC).

2.1.3. The location of the site is as indicated below:



Map 1: [*source:* Illustrative Masterplan, attached at Appendix AYA02]

2.1.4. This site forms part of the overall allocation identified as KSS2. KSS2 has been split into two parts, KSS2 North and KSS2 South, and this report is for the majority of the KSS2 South area.

2.2. Proposed Mix

2.2.1. The total number of units shown on the illustrative masterplan is 900 dwellings.

2.2.2. The indicative mix is set out below:

Mix						
Type	**1 bed**	**2 bed apt**	**2 bed**	**3 bed**	**4 bed**	**Total**
Market Housing	0	0	228	354	141	723
Affordable Housing	8	0	95	74	0	177
Totals	**8**	**0**	**323**	**428**	**141**	**900**

Table 2: Indicative mix

2.2.3. For the purposed of this report, distances to local Schools are measured from the existing playing fields at Cefn Road.

2.2.4. This masterplan covers KSS2 South.

2.3. Site History

2.3.1. Land east of Cefn Road is part of the land allocated within the adopted Wrexham Local Development Plan 2013 – 2028. The overall allocation is to deliver a residential led mixed use scheme with a minimum of 1,680 new homes, of which 1,580 will be delivered within the plan period under Policy SP4: KSS2: Land east of Cefn Road, Wrexham.

2.3.2. The allocation in the Local Plan, Policy SP4, is as follows:

Policy SP4: KSS2: Land East of Cefn Road, Wrexham

Land is allocated east of Cefn Road, Wrexham as shown on the proposals map to deliver a residential led mixed use scheme with a minimum of 1680 new homes, 1580 of which will be delivered within the plan period. Development will include an element of affordable housing and associated community uses, along with necessary infrastructure which will be delivered in a phased manner with specific details tied into planning consents:

Necessary Infrastructure:

- Highway improvements to address known infrastructure capacity constraints at the Greyhound roundabout;
- Ensuring connectivity between the land north and south of Bryn Estyn Road;
- Education: on site provision of a 420 place primary school, contributions towards secondary provision in the vicinity of the site and the retention of existing (65,393 m²) of playing fields for Ysgol Morgan Llwyd;
- Public open space;
- Community and leisure facilities, including the retention of the Erlas Victorian Walled Garden;
- Active Travel; and
- Public transport.

Affordable Housing:

- The starting point for negotiation will be the delivery of 20% affordable housing.
- Affordable housing will be expected to be delivered on site in the first instance and only in exceptional circumstances will off site or commuted sum contributions be accepted in lieu of on-site provision.

3. The Local Position

3.1. Wrexham County Borough Council's Duty to Secure Sufficient School Places

3.1.1. The site lies within the area for which the responsible local education authority is Wrexham County Borough Council (WCBC).

3.1.2. The Education Act 1996 (as amended) provides in section 14(1):

> *"A local education authority shall secure that sufficient schools for providing – (a) primary education and (b) secondary education ... are available for their area".*

3.1.3. The Education Act does *not* state it is the duty of a local education authority to ensure that there are sufficient school places at the catchment or pseudo-catchment area school for all children residing within that particular school's catchment or pseudo-catchment area.

3.1.4. The Education Act simply states that the education authority must provide school education appropriate to the requirements of pupils for their area. In the case of WCBC that is the area defined as the authority of Wrexham County.

3.1.5. This duty applies in relation to all the children in the local education authority area, whether they have lived there all their lives or have just moved into a new development.

3.1.6. The residential component of the proposed development will include family housing. Family housing often includes school age children who will seek to enrol in local schools. Those schools may or may not be sufficient to accommodate these children without the need for additional capacity to be provided.

3.2. School Forms of Entry & Admissions Number

3.2.1. School capacity is often measured in terms of forms of entry ('FE'). A single class can typically accommodate up to 30 children. The Number on Roll ('NOR') is the number of children at a school.

3.2.2. Reception is the year of entry to primary school and is often referred to as "Year R". The subsequent year groups are often referred to as "Year 1" to "Year 6" respectively.

3.2.3. As primary schools have seven year-groups, a 2FE primary school would have capacity for 420 children [*calculation:* 30 x 7 x 2 = 420]; with 1FE of primary education provision equating to 210 primary school places.

3.2.4. Similarly, as secondary schools have five year-groups (starting with entry into Year 7), a 6FE secondary school would have capacity for 900 pupils aged 11-16 [*calculation:* 30 x 5 x 6 = 900]; with 1FE of secondary education provision equating to 150 secondary school places. Sixth form consists of two year-groups after secondary school.

3.2.5. All schools have a Published Admissions Number (PAN) which indicates the number of pupils the school can take in each year group. If this number is then multiplied by the number of year groups at the school, this gives an indicative capacity of the numbers that the school can theoretically accept.

3.3. Patterns of Pupil Migration

3.3.1. As there is likely to be movement of children between these respective schools' catchment areas, pseudo-catchment areas (based on furthest distances of places offered), designated areas, or priority areas, our analyses include schools within a reasonable distance of the proposed development.

3.3.2. This movement of children due to parental preference and other factors is often referred to as "inflow" and "outflow".

3.4. Local School Catchment Areas

3.4.1. Two miles is considered the maximum reasonable statutory walking distance to school for children aged 8 and under, and three miles for those over 8 years of age, as indicated by the DfE in its document "Home to school travel and transport guidance" [source: Appendix AYA03].

3.4.2. WCDC operates a policy of non-defined catchments so that parents can apply for places anywhere in the County Borough. This approach maximises the choice of schools for parents, but may be counter to sustainable travel patterns.

3.4.3. In order to assess the likely impact of the proposed development regarding primary school place provision we have considered the impact on schools within a two-mile walking distance of the proposed development site.

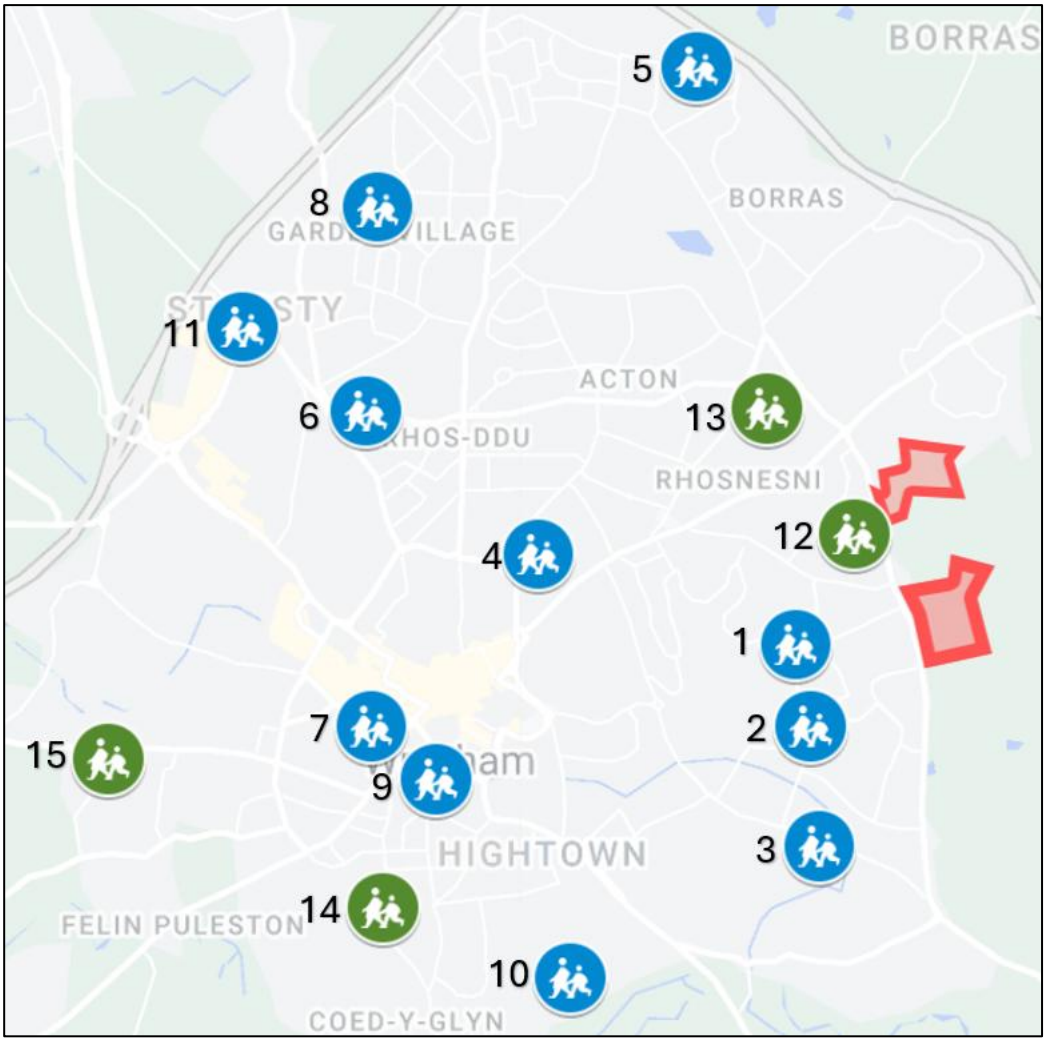
3.4.4. In order to assess the likely impact of the proposed development regarding secondary school place provision we have considered the impact on schools within a three-mile walking distance of the proposed development site.

3.4.5. The proposed development is located nearest the English medium schools of Gwenfro Primary School and Rhosnesni High School respectively, for both of which schools the responsible local education authority is WCBC.

3.4.6. It is also important to note that there is local demand for Welsh language education, and the local area schools for this provision are Ysgol Bodhyfryd for primary and Ysgol Morgan Llwyd for secondary, both of which are also within the WCBC area.

3.5. Local Schools Relevant to the Proposed Site

3.5.1. The map below shows the schools referred to in the following sections in relation to the proposed development site:



Map 3: Location of site and relevant local primary and secondary schools

3.5. Local Primary Schools – Current Baseline

3.5.1. There are eleven primary schools within two miles of the proposed development.

3.5.2. According to the latest data available in the public domain in October 2023 the position at local primary schools (including infant and junior schools) is as shown below:

Map Ref	Primary School	Language	Walking Distance (miles)	Net Capacity (PAN)	Number on Roll (NOR)	Surplus Places
1	Hafod y Wern Community Primary School	English	0.5	315 (45)	263	52
2	St Anne's RC Primary School	English	0.7	168 (24)	254	0
3	Gwenfro Community Primary School	English	1.1	315 (45)	278	37
4	Alexandra CP School	English	1.2	315 (45)	340	0
5	Barker's Lane Community Primary School	English	1.3	315 (45)	215	100
6	Rhosddu County Primary	English	1.5	301 (43)	258	43
7	St Mary's Catholic Primary	English	1.6	287 (41)	320	0
8	Wat's Dyke Community Primary School	English	1.7	315 (45)	272	43
9	St Giles' Controlled Primary School	English	1.7	420 (60)	342	78
10	Ysgol Bodhyfryd	Welsh	1.9	313 (60)	281	32
11	Ysgol Plas Coch	Welsh	1.9	315 (45)	262	53
	TOTAL			**3,379 (498)**		**438**

Table 4: Primary School pupil places within two miles of the proposed development

[*Source:* Number on Roll from School census data, October 2023, and Capacity from Wrexham Council Parents Guide to Education].

3.5.3. The above table uses the Audit Commission definition of Surplus Places, in line with best practice in this matter, which treats schools with a negative surplus as though they had a zero surplus. Since the number of pupils which a school must admit in any year is directly related to its capacity, any school that chooses to admit numbers beyond that level must necessarily be deemed to be capable of accommodating those numbers.

3.5.4. On the above evidence it is clear that in October 2023 there were **438** surplus primary school places within two miles of the proposed development.

3.5.5. The total surplus of places as a percentage of primary school capacity was **12.96%** [*calculation*: 438 / 3,379].

3.5.6. There were 498 Reception places available in the relevant schools, and in October 2023, 362 of these places were taken up. This leaves **27.30%** places available [*calculation: (*498 – 362)/498].

3.6. Secondary Schools – Current Baseline

3.6.1. According to the latest data available in the public domain, in October 2023, the position at local secondary schools within three miles of the development (including sixth form / Post 16 education) is shown below:

Map Ref	Secondary School	Language	Distance (miles)	Net Capacity (PAN)	Number on Roll (NOR)	Surplus Places
12	Ysgol Morgan Llwyd	Welsh	0.1	965 (193)	870	95
13	Ysgol Rhosnesni	English	0.5	1,200 (240)	1032	168
14	St Joseph's Catholic and Anglican Secondary School	English	2.0	685 (137)	721	0
15	Ysgol Clywedog	English	2.3	888 (178)	830	58
	Total			**3,738 (748)**		**321**

Table 5: Secondary School pupil places within three miles of the proposed development

[*Source:* Number on Roll from Census data, October 2023, and Capacity from Wrexham Council Parents Guide to Education].

3.6.2. The above table uses the Audit Commission definition of Surplus Places, in line with best practice in this matter, which treats schools with a negative surplus as though they had a zero surplus. Since the number of pupils that a school must admit in any year is directly related to its capacity, any school that chooses to admit numbers beyond that level must necessarily be deemed to be capable of accommodating those numbers.

3.6.3. On the above evidence it is clear that in October 2023 there were **321** surplus secondary school places within three miles of the proposed development site.

3.6.4. The total of surplus places as a percentage of secondary school capacity was **8.59%** [*calculation:* 321 /3,738).

3.6.5. There were 748 places available in Year 7, and in October 2023 737 of these places were taken up. There were therefore **1.47%** places available. [*calculation:* (748-737)/748].

4. Impact & Mitigation of the Development

4.1. Local Planning Guidance Note 27

4.1.1. As part of Local Planning Guidance Note 27 (Attached at APPENDIX AYA04), adopted by Wrexham Council in March 2004, revised in November 2010 and updated in December 2018, the Council sets out the number of pupils generated per dwelling. This data is based on the most recently available census data from 2011.

4.1.2. LPG27 supported the former adopted UDP, which no longer exists. Presently there is no replacement SPD; however, LPG27 is still being used by WCBC to correlate pupil yield and contributions.

4.1.3. According to the data, pupil yields across Wrexham are calculated by phase of education and number of bedrooms, as follows:

Phase	Property Type	Yield	Cost per Place
Primary	Apartments with 2 or more bedrooms	0.07	£12,257
	2 bedrooms	0.12	
	3 bedrooms	0.23	
	4+ bedrooms	0.31	
Secondary	Apartments with 2 or more bedrooms	0.04	£18,469
	2 bedrooms	0.07	
	3 bedrooms	0.20	
	4+ bedrooms	0.31	
Post 16	Apartments with 2 or more bedrooms	0.01	£12,000
	All other dwellings	0.06	

Table 6: WCBC child yield figures

4.1.4. Using the indicative mix at paragraph 2.2.2, with the table from Wrexham's Guidance on Developer Contributions to Schools above, gives the following yield for the proposed development site:

Site Specific PPRs						
	1 Bed	**2 bed apt**	**2 Bed**	**3 Bed**	**4 Bed**	**Total Pupil Yield**
Pupil Yield (Primary)	0	0	38.76	98.44	43.71	**180.91**
Pupil Yield (Secondary	0	0	22.61	85.6	43.71	**151.92**
Post 16	0	0	19.38	25.68	8.46	**53.52**

Table 7: Indicative pupil yield for KSS2 South

4.1.5. Using the Wrexham's Guidance a contribution can be calculated (although indexation back to 2018 would need to be factored in), assuming that all pupils generated by the proposed development require a new school place to be built:

Contribution			
	Total Pupil Yield	**Cost Multiplier**	**Contribution**
Primary	180.91	£12,257.00	£2,217,413.87
Secondary	151.92	£18,469.00	£2,805,810.48
Sixth Form	53.52	£12,000.00	£642,240.00
			£5,665,464.35

Table 8: Indicative contributions for KSS2 South

4.1.6. This assessment shows that, if there is a demonstrable need for all of the places generated, a contribution of £5.67m would be a reasonable level of contribution to ensure sufficient places, either by extension or new build, at primary, secondary, and sixth form settings.

4.2. The Trend in Annual Local Birth Numbers

4.2.1. The Office for National Statistics (ONS) birth rate figures show the total annual births within Wales are currently at its lowest level since a peak in 2013. Specifically, births within Wrexham have fallen to their lowest level in the past eight years.

4.2.2. This is best illustrated by the table below:

Area	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**
Wales	33,747	33,541	33,279	33,936	32,176	31,274	29,704	28,638	28,781
Wrexham	1,615	1,603	1,499	1,491	1,579	1,441	1,395	1,305	1,266
Current / Future School Year	2025 Year 7						2031 Year 7		

Table 9: Most recent birth data for Wales and Wrexham

4.2.3. Those children born in 2013 would now be in Year 6 and the 2019 births will be due to start primary school in September 2024.

4.2.4. Birth rates have declined in Wrexham by almost 12FE from the peak in 2013 to 2021 and currently the trend remains downwards, leading to a reducing pressure on school places.

4.2.5. To put this into context, Table 8 shows that, across Wales primary school rolls will fall by **13.9%** from 2023 to 2039, and secondary schools rolls by **18.1%** across the same period.

4.2.6. Births in Wales have fallen by **15.2%** from 2013 to 2021 and births in Wrexham have fallen by **21.6%** across the same period.

4.3. Forecast Status of Pupil Places

4.3.1. Despite numerous requests and FOI submissions, WCBC has yet to respond and set out the likely future requirement for school places for the schools identified in section 3.5 and 3.6.

4.3.2. The Welsh Government publishes the likely future requirement for school places across the whole of Wales, by education sector:

Pupil projections, 2023 to 2039, number of full-time equivalent pupils (thousands) [Note 1]																	
This worksheet contains one table. Notes can be found on the notes worksheet.																	
Sector	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039
Maintained nursery	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Maintained primary [Note 2] - aged under 5	51.2	49.1	47.9	48.5	48.7	49.0	49.1	49.1	49.0	49.0	49.0	48.9	48.9	48.9	48.9	48.8	48.9
Maintained primary [Note 2] - aged 5 and over	206.2	202.4	197.8	191.9	186.5	182.2	178.8	176.9	176.4	177.2	177.6	177.9	177.9	177.8	177.7	177.6	177.5
Maintained secondary [Note 3] - under school leaving age	172.4	171.8	171.0	169.4	167.2	164.7	162.4	159.2	154.9	149.5	145.3	142.0	140.2	139.8	140.6	140.9	141.2
Maintained secondary [Note 3] - over school leaving age	21.0	21.6	21.8	21.9	22.3	22.3	21.8	21.3	21.1	21.1	20.8	20.3	19.6	18.8	18.0	17.7	17.9
Maintained nursery, primary, middle and secondary - all ages	451.1	445.1	438.7	431.9	424.9	418.4	412.3	406.8	401.8	397.0	393.0	389.4	386.9	385.5	385.4	385.4	385.7
Maintained special - all ages	5.7	5.6	5.6	5.5	5.5	5.4	5.3	5.2	5.1	5.1	5.0	4.9	4.9	4.8	4.8	4.8	4.8
Independent - all ages	9.8	9.8	9.8	9.7	9.6	9.5	9.3	9.2	9.0	8.9	8.7	8.6	8.5	8.3	8.3	8.2	8.3
All schools - aged under 5	52.1	50.0	48.8	49.4	49.6	49.9	50.0	50.0	49.9	49.9	49.9	49.8	49.8	49.8	49.7	49.7	49.8
All schools - compulsory school age	390.0	385.5	379.9	372.2	364.5	357.4	351.6	346.4	341.3	336.5	332.6	329.4	327.6	327.0	327.7	328.0	328.2
All schools - over school leaving age	24.4	25.1	25.3	25.5	25.9	25.9	25.4	24.9	24.6	24.6	24.2	23.6	22.9	22.0	21.0	20.7	20.8
All ages	466.5	460.5	454.0	447.1	440.0	433.2	427.0	421.2	415.9	411.0	406.7	402.9	400.3	398.7	398.5	398.4	398.8

Table 10: Forecast School places by year across Wales

[*Source:* Welsh school Forecast Data, appended at APPENDIX AYA05].

4.3.3. Across the country as a whole primary and secondary school rolls are projected to fall consistently across the forecast period by 30,000 pupils in each sector.

4.3.4. According to Table 10 above, across Wales rolls are forecast to fall by **13.9%** at primary level and by **18.1%** at secondary level between 2023 and 2039

4.3.5. This is in line with the declining birth rates exhibited in Wrexham, and indicates that school rolls in Wrexham will also fall.

4.3.6. Table 9 above shows that births in Wales fell between 2013 and 2021 by **15.2%** and, over the same period, by **21.6%** in Wrexham.

4.3.7. Commentary on the relevance of this position with regards to the education mitigation strategy is set out later in this Report.

4.4. AYA Analysis of the case for mitigation

4.4.1. The local primary schools within two miles have a significant level of surplus places, at 438 places currently. Given the falling birth rates across Wrexham, it is highly likely that there will remain sufficient surplus to accommodate the yield from the whole of the KSS2 allocation.

4.4.2. At secondary level, the most recent round of admissions was the largest year group, on birth rates. From now, the intake across Wrexham is due to fall by around 360 places over the next 8 years.

4.4.3. **Given the falling birth rates school intakes within the area will see significant decline**.

4.4.4. Even with housing growth anticipated, the number of new dwellings required to address the 12FE fall in births would be approximately 12,000.

4.4.5. In the absence of any supporting evidence from WCBC it is clear that there does not appear to be any need for new school places as a result of the development of **the whole of KSS2, namely 1,580 units**.

4.4.6. In terms of Policy SP4 the aim is that KSS2 delivers on site provision for a new 2FE Primary School. **The applicant has identified that a 2.0 ha site is reserved for this purpose on its illustrative masterplan to accommodate such provision** in a location where there is good co-located connectivity with the Morgan Llwyd SS, existing playing pitches and also being central within the allocated KSS2 site to maximise sustainable access (sic. safe routes to school).

4.4.7. The LEA are invited to engage with the applicant on this basis of this report's findings.

4.4.8. It is accepted that it might be desirable, on sustainable access grounds, to locate a new primary school within the KSS2 site, but **this must be considered against the impact such provision might have upon existing primary schools elsewhere with a view that harm to other established schools does not result and with a view to avoiding over-provision in the face of current surplus spaces and a falling birth rate**.

4.4.9. This is in line with the School Organisation Code 2018 as set out in section 1.6 above, in particular the sections highlighted in paragraph 1.6.4.

4.4.10. The applicant is aware of that, like Health, there are policy and sustainability requirements for the site, including the desirability of locating new education provision within the site area (or relocating and re-providing existing centres on site) that needs to be considered; these could be considered in the event of there being a demonstrable need but clearly this must be seen in the context of avoiding over-provision or indeed at the cost of existing services that could suffer and close as a consequence.

4.4.11. As WBC now intends to provide a new primary school on its own land at the Bryn Estyn site, local to KSS2, we would question the need given the extant supply elsewhere. However, if the Council do indeed intend on developing a primary school on its own site then we would consider making a contribution that is apportioned based upon number of units and that this can be addressed in any s106 legal agreement.

5. Summary & Conclusions

5.1. Commentary & Conclusion on Education Mitigation

5.1.1. As part of the policy requirements for the development of KSS2, a site for a primary school has been identified and will form part of the planning application. This site can be retained for a number of years to enable WCBC to determine whether there is a need for a school on this site, and how it might be funded.

5.1.2. On the basis of the guidance published by WCBC and summarised at 4.1 above, and the subsequent analysis of this, it is not clear that any request for education contributions arising from the proposed development of this site would meet the tests set out in the CIL regulations.

5.1.3. There are number of areas that would benefit from further discussion with WCBC and these are set out below:

- At primary school level, the local schools will continue to have significant, and growing, levels of surplus places, given the falling birth rates in recent years.

- At secondary school level, the local schools currently have an acceptable level of surplus places. Although the most recent intake year had very few places available, this was the largest year group in primary schools, and intakes will now consistently fall for the next 8 years.

- Given the significant decline in births across Wrexham, it is not clear that even the anticipated housing growth contained within the Local Plan would be sufficient to fill the surplus places likely to arise at both primary and secondary education.

5.1.4. A dialogue with WCBC at the earliest opportunity would be beneficial in exploring these issues further as both parties wish to ensure that the development at Erlas Park is acceptable in terms of education infrastructure.

6. Appendices

6.1. The following Appendices accompany this document:

- APPENDIX AYA01 – DfE Guidance on Securing Developer Contributions, November 2019
- APPENDIX AYA02 – Site location plan
- APPENDIX AYA03 – DfE Guidance on Home to School Transport
- APPENDIX AYA04 – WCBC Local Planning Guide 27 (Education)
- APPENDIX AYA05 - Welsh Government pupil population forecasts

APPENDIX AYA01

Department for Education

Securing developer contributions for education

April 2019

Contents

Summary 3

Expiry or review date 3

Who is this publication for? 3

Introduction 4

Purpose 4

Mechanisms for securing developer contributions 5

Evidence of pupil yields from housing development 7

Costs of provision 9

Identifying education projects 10

Safeguarding land for schools 10

Strategic developments and new settlements 11

Annex 15

Developer delivery of new schools 15

State Aid 16

Public works contracts (OJEU procurement) 17

Summary

This publication provides non-statutory guidance from the Department for Education (DfE). It has been produced to help local authorities secure developer contributions for education so that housing developers contribute to the cost of providing the new school places required due to housing growth. The guidance promotes good practice on pupil yield evidence, engagement with local planning authorities and the delivery of expanded or new schools with funding from housing development.

Expiry or review date

This guidance will be reviewed as necessary (for example, in response to changes in legislation or government policy).

Who is this publication for?

This guidance is for local authorities with a responsibility for providing sufficient school places under the Education Act 1996. It may also be a source of information for local planning authorities and other stakeholders involved in the delivery of schools.

Introduction

Government is committed to ensuring that there are enough good new school places to meet local needs, while also driving forward an ambitious housing agenda to increase housing delivery, home ownership and the creation of new garden communities. The timely provision of infrastructure with new housing is essential in meeting these objectives to secure high quality school places where and when they are needed.

DfE expects local authorities to seek developer contributions towards school places that are created to meet the need arising from housing development. You should consider the recommendations in this guidance alongside National Planning Practice Guidance on the evidence, policies and developer contributions required to support school provision.

This guidance is for local authorities with a responsibility to provide sufficient school places under the Education Act 1996. The guidance does not:

- Advise the construction/development industry on its duties or responsibilities in paying for infrastructure;
- Replace or override any aspects of other DfE publications such as guidance on SCAP and the Admissions Code, or policy/guidance produced by other government departments;
- Make recommendations for individual schools or academy trusts on managing their capacity or published admission numbers;
- Propose new DfE policy on setting up new schools (central or presumption route), parental preference or the academy system.

Purpose

As a local authority with education responsibilities, you already provide evidence of education need and demand for use by planning authorities in plan- and decision-making. This guidance draws on existing good practice and is intended to help you establish a robust and consistent evidence base, underpinned by the following principles:

- Housing development should mitigate its impact on community infrastructure, including schools;
- Pupil yield factors should be based on up-to-date evidence from recent housing developments;
- Developer contributions towards new school places should provide both funding for construction and land where applicable, subject to viability assessment when strategic plans are prepared and using up-to-date cost information;
- The early delivery of new schools within strategic developments should be supported where it would not undermine the viability of the school, or of existing schools in the area.

There is great value in detailed local methodologies and guidance that explain to all stakeholders the process and reasons for the collection of developer contributions for

education in that area. This guidance is not intended to replace local approaches, which often provide detail on:

- The approach to seeking contributions for education from affordable housing.
- Types/sizes of homes that will be excluded from calculations of developer contributions.
- Education projects developer contributions may fund.
- The minimum viable size of new schools.
- Assumptions about the schools children from a development will attend, when assessing available capacity in affected schools.
- Minimum surplus capacity to allow for fluctuations in demand and parental choice, not counted as available when calculating developer contributions.
- Contibutions 'in kind' (land and/or construction).
- Requirements on size and suitability of school sites, including checklists, exemplar layouts and facility specifications.
- Standard planning obligation clauses.

As local approaches to securing developer contributions for education are reviewed, they should take account of updated National Planning Practice Guidance, this guidance, and the Department's emerging national methodology for the calculation of pupil yields from housing development.

Mechanisms for securing developer contributions

1. Developer contributions for education are secured by means of conditions attached to planning permission, a planning obligation under Section 106 of The Town and Country Planning Act 1990, or the Community Infrastructure Levy (CIL). CIL revenues are intended to help fund the supporting infrastructure needed to address the cumulative impact of development across a local authority area. CIL can be used to fund the provision, improvement, replacement, operation or maintenance of a wide range of infrastructure, including education. Alternatively, a Section 106 planning obligation secures a contribution directly payable to the local authority for education (or direct provision of a school 'in kind'), though a planning obligation must comply with the following tests set out in the CIL Regulations[1], requiring it to be:

- Necessary to make the development acceptable in planning terms
- Directly related to the development
- Fairly and reasonably related in scale and kind to the development

2. Government intends to revise the CIL Regulations, including the removal of the 'pooling restriction' on the use of planning obligations to fund the same type of infrastructure or infrastructure project. We advise you to work with local planning

[1] Regulation 122 of The Community Infrastructure Levy Regulations 2010.

authorities in devising their approaches to securing developer contributions, to consider the most appropriate mechanism (Section 106 planning obligations and/or CIL) to secure contributions from developers towards education alongside other infrastructure funding priorities.

3. It is important that the impacts of development are adequately mitigated, requiring an understanding of:

- The education needs arising from development, based on an up-to-date pupil yield factor;
- The capacity of existing schools that will serve development, taking account of pupil migration across planning areas and local authority boundaries;
- Available sources of funding to increase capacity where required; and
- The extent to which developer contributions are required and the degree of certainty that these will be secured at the appropriate time.

4. The local authority providing children's services is not always the charging authority for the purposes of collecting and distributing CIL. In two-tier areas where education and planning responsibilities are not held within the same local authority, planning obligations may be the most effective mechanism for securing developer contributions for education, subject to the tests outlined in paragraph 1. The use of planning obligations where there is a demonstrable link between the development and its education requirements can provide certainty over the amount and timing of the funding you need to deliver sufficient school places. We recommend that planning obligations allow enough time for developer contributions to be spent (often this is 10 years, or no time limit is specified).

5. Central government basic need grant, the DfE free schools programme and other capital funding do not negate housing developers' responsibility to mitigate the impact of their development on education. When the DfE free schools programme is delivering a new school for a development, we expect the developer to make an appropriate contribution to the cost of the project, allowing DfE to secure the school site on a peppercorn basis and make use of developer contributions towards construction. National Planning Practice Guidance explains how local planning authorities should account for development viability when planning for the provision of infrastructure.[2] There should be an initial assumption that both land and funding for construction will be provided for new schools planned within housing developments.

6. While basic need funding can be used for new school places that are required due to housing development, we would expect this to be the minimum amount necessary to maintain development viability, having taken into account all infrastructure requirements.

[2] National Planning Practice Guidance. Construction costs include ICT and furniture and equipment required for the delivery of the school.

Where you have a reasonable expectation of developer funding being received for certain school places,[3] and you have declared this in your SCAP return (or plan to do so), then basic need funding should not be considered available for those school places other than as forward funding to be reimbursed by developer contributions later.

7. There are other options besides basic need grant for forward-funding school places, including the use of local authority borrowing powers where necessary. Where developer contributions have been secured through a planning obligation, you can recoup the borrowing costs from developer contributions later, provided these costs have been incurred as a result of housing growth. Local authorities can bid for funding under government grant programmes such as the Housing Infrastructure Fund (HIF) as they become available, while developers delivering schools directly as an 'in kind' contribution may be eligible for loan funding from DfE or Homes England, allowing a new school to be delivered at an earlier stage in the development than would have been possible otherwise.[4]

Evidence of pupil yields from housing development

8. Pupil yield factors should be based on up-to-date evidence from recent local housing developments, so you can forecast the education needs for each phase and type of education provision arising from new development. As well as being useful for pupil place planning across your area, pupil yield factors allow you to estimate the number of early years, school and post-16 places required as a direct result of development, underpinning the contributions agreed in planning obligations. We are working on a detailed methodology for calculating pupil yields from housing development, to be published in due course.

9. While many early years settings fall within the private, voluntary and independent (PVI) sector, local authorities have a duty to ensure early years childcare provision within the terms set out in the Childcare Acts 2006 and 2016. DfE has scaled up state-funded early years places since 2010, including the introduction of funding for eligible 2 year olds and the 30 hours funded childcare offer for 3-4 year olds. The take-up has been high, increasing demand for early years provision. All new primary schools are now expected to include a nursery. Developer contributions have a role to play in helping to fund additional nursery places required as a result of housing growth, however they may be provided, in particular where these are proposed as part of school expansions or new schools.

[3] In accordance with a local plan's viability assessment, policies and/or an infrastructure funding statement.

[4] Guidance on the Home Building Fund.

10. You are also responsible for ensuring sufficient schools for pupils receiving primary and secondary education up to the age of 19. Furthermore, you must secure sufficient education and training provision for young people with an Education, Health and Care (EHC) plan, up to the age of 25.[5] Pupil yield data should identify the number of students living in recent housing developments, aged 16-19 (without an EHC plan) and up to the age of 25 (with an EHC plan). We advise you to seek developer contributions for expansions required to sixth form and special educational needs and disabilities (SEN) provision, commensurate with the need arising from the development.

11. To determine the need for SEN provision, pupil yield data should identify the number of pupils/learners within recent local housing developments who attend special schools, pupil referral units or alternative provision, SEN units and resourced provision within mainstream schools. It is reasonable and fair to seek developer contributions for SEN provision in direct proportion to the needs arising from planned housing development, applying the same principle to SEN provision as to mainstream. There is no standard capacity assessment applicable to special schools and other types of non-mainstream education, as their ability to accommodate pupils depends on the specific needs of each child. However, an increase in housing will lead to an increase in SEN, and we advise you to seek developer contributions for all special school/SEN places generated by a development, where there is a need for additional SEN provision. Greater travel distances to special schools and alternative provision should not affect your consideration of whether a planning obligation meets the legal tests outlined in paragraph 1.

12. We advise you to identify a range of SEN or other non-mainstream projects and ensure that planning obligations allow you the flexibility to direct funds appropriately within a 10 year period. Non-mainstream provision does not conform to standard class sizes, these being determined according to need. While it may be appropriate to pool contributions towards a new classroom in a special school or SEN unit at a mainstream school, it is equally valid to seek contributions for school building alterations that increase a school's capacity to cater for children with SEN, such as additional space for sensory rooms, facilities to teach independent living skills or practical teaching space.

13. It is not necessary to disaggregate the SEN pupil yield factor according to different complex needs. All education contributions are based on an assessment of probability and averages, recognising that the precise mix of age groups and school choices cannot be known before a development is built. Site-specific factors will always need to be taken into account, but a robust local authority-wide pupil yield factor based on evidence of

[5] Participation of young people: education, employment and training.

recent developments will often be sufficient to demonstrate that this need is reasonably related in scale and kind to the development.

Costs of provision

14. The amount of money that you seek to secure through developer contributions for education provision should reflect the current cost of providing school places, linked to the policy requirements in an up-to-date emerging or adopted plan that has been informed by viability assessment.

15. We advise that you base the assumed cost of mainstream school places on national average costs published annually in the DfE school place scorecards.[6] This allows you to differentiate between the average per pupil costs of a new school, permanent expansion or temporary expansion, ensuring developer contributions are fairly and reasonably related in scale and kind to the development. You should adjust the national average to reflect the costs in your region, using BCIS location factors.[7] We recommend the use of index linking in planning obligations so that contributions are adjusted for inflation at the point they are due.

16. Developer contributions for early years provision will usually be used to fund places at existing or new school sites, incorporated within primary or all-through schools. Therefore, we recommend that the per pupil cost of early years provision is assumed to be the same as for a primary school. Similarly, further education places provided within secondary school sixth forms will cost broadly the same as a secondary school place.

17. Special schools require more space per pupil than mainstream schools, and this should be reflected in the assumed costs of provision. We recommend that developer contributions for special or alternative school places are set at four times the cost of mainstream places, consistent with the space standards in Building Bulletin 104.[8] You can also refer to the National School Delivery Cost Benchmarking report for the costs of delivering SEN school places.[9]

18. Where there is local evidence of higher costs for a particular project, such as a bespoke feasibility study or known site abnormals, these can be used in preference to the adjusted national average.

---

[6] School places scorecards.

[7] Further guidance on doing this will be available with the school place scorecards for 2018 onwards.

[8] Primary and secondary school design guidance.

[9] National School Delivery Cost Benchmarking: Primary, Secondary and SEN Schools, February 2018

Identifying education projects

19. Local plans and other planning policy documents should set out the expectations for contributions from development towards infrastructure, including education of all phases (age 0-19) and special educational needs.[10] We advise local authorities with education responsibilities to work jointly with relevant local planning authorities as plans are prepared and planning applications determined, to ensure that all education needs are properly addressed, including both temporary and permanent education needs where relevant, such as school transport costs and temporary school provision before a permanent new school opens within a development site. This does not mean double funding the same school places, but allows development to be acceptable in planning terms when it is not possible to open a permanent new school at the point of need. When a permanent new school is delivered (or the relevant financial contribution is received), no further contributions to temporary provision should be required.

20. Government intends to lift the pooling restriction on planning obligations, subject to amended legislation. Following this and where applicable, we recommend that you identify a preferred and 'contingency' school expansion project in a planning obligation, as long as both would comply with the Section 106 tests. This will help you respond to changing circumstances and new information, such as detailed feasibility work leading you to abandon a preferred expansion project.

21. We advise you to consider the realistic potential for schools in your area to expand or increase capacity through other alterations, in discussion with academy trusts, and identify site options for any new schools (within proposed housing developments or on standalone sites). Including suitable projects in the local planning authority's infrastructure funding statement will ensure that developer contributions are clearly identified as the funding source where new schools, expansions or alterations are required due to housing growth. This background work will also minimise the risk of a specified school project in a planning obligation proving undeliverable.

Safeguarding land for schools

22. National Planning Practice Guidance advises on how local planning authorities should prepare plans and take account of education requirements. We advise you to work with local planning authorities and developers to ensure your long-term pupil place planning objectives are reflected in the development plan (and masterplans where these

[10] National Planning Practice Guidance

do not form part of the development plan, such as supplementary planning documents).[11] Precise policies can aid decision-making later, setting out the total amount of land required for education, and the approach to securing equitable developer contributions when one developer provides the land for a new school, though the need for the school is generated by more than one development or phase.

23. You may wish to safeguard additional land when new schools within development sites are being planned, to allow for anticipated future expansion or the reconfiguration of schools to create a single site. 'Future-proofing' can sometimes be achieved informally through a site layout that places open space adjacent to a school site. Where justified by forecast need for school places, additional land can be designated specifically for education use and made available for purchase by the local authority within an agreed timescale, after which the land may be developed for other uses.

24. While developers can only be expected to provide free land to meet the education need from their development, the allocation of additional land should also preclude alternative uses, enabling you to acquire the site at an appropriate cost. Land equalisation approaches can be used in multi-phase developments to ensure the development 'hosting' a new school (and any additional safeguarded land) is not disadvantaged. Nevertheless, the market price for the land will depend on its permissible uses. Land allocated for educational use in a local plan would usually have no prospect of achieving planning permission for any other uses. Independent land valuation may be required to establish an acquisition cost. National Planning Practice Guidance provides advice on land valuation for the purposes of viability assessment.

25. The use of compulsory purchase powers may be considered a last resort, but in these situations the allocation for educational use would be an important consideration in determining any compensation that would be payable to landowners.

26. Where new schools are planned within housing developments, we advise you to consider whether direct delivery by the developer would represent the best value for money, subject to an appropriate specification and pre-application support from the local planning authority. Advice on complying with state aid and public procurement legislation is provided in the Annex.

Strategic developments and new settlements

27. Garden communities are an increasingly popular way of planning for housing growth at the scale required to meet the country's housing needs. The government is

[11] The development plan is defined in Section 38 of the Planning and Compulsory Purchase Act 2004, and comprises the spatial development strategy, development plan documents and neighbourhood development plans.

supporting a number of garden communities under the Garden Communities Programme. We have published guidance on education provision in garden communities, to assist local planning authorities and Homes England in delivering schools as part of garden communities.[12] We advise you to consider this in conjunction with this guidance on securing developer contributions for education.

28. Strategic planning of urban extensions and new settlements often includes place-making objectives about the early provision of infrastructure, to establish a sense of community and make the place attractive to residents. Early delivery of a school can be problematic if it precedes new housing and draws pupils from existing schools, threatening their viability and resulting in unsustainable travel-to-school patterns. We advise local authorities with education responsibilities to work jointly with local planning authorities and other partners to agree the timing of new school provision, striking an appropriate balance between place-making objectives, education needs and parental preference.

29. Schools can be delivered in single or multiple phases; the best approach will depend on local circumstances and characteristics of the development. Where appropriate, for instance in the early stages of development while the need for school places is growing, developer contributions can be secured for temporary expansions to existing schools if these are required, and transport costs for pupils travelling further than the statutory walking distance.[13] This will allow a permanent new school to be provided in a single construction phase once the development has generated sufficient pupil numbers, rather than phased construction over a longer period. While the existing pupil cohort may not switch schools initially, children living in the development will usually have priority for admission to the new school and will take up these school places over time.

30. As far as possible (and often in relation to primary schools only), new settlements should be expected to meet their full education requirement. Where an onsite school is required, it should be large enough to meet the need generated by the development. While there may be exceptions justified by local circumstances, as a general rule, existing school capacity in the wider area does not need to be taken into account when calculating developer contributions for permanent onsite schools in new settlements, which should be within the statutory walking distance for the pupils living there. This promotes sustainable and healthy travel patterns for young people.

31. When a permanent new school is proposed to be built early in the development of an urban extension or new settlement, you will naturally consider the effect this might have on parental demand and the viability of existing schools. To minimise detrimental

[12] Education Provision in Garden Communities

[13] The statutory walking distances are set out in the Home to School Transport guidance

impacts on existing schools while supporting local planning authorities to plan new communities, you should work with school providers and the relevant Regional Schools Commissioner to promote Admission Arrangements and opening strategies that will maintain equilibrium in school populations across your area. This can include phased delivery, with the initial phase future-proofed for future expansion (such as an oversized assembly hall and dining area) and land safeguarded for the school's expansion when need builds up over a long period, though it is important to secure commitment to the delivery of later phases.

32. You should also work with local planning authorities to ensure that local plans, masterplans and planning obligations require a suitable school site to be made available at the appropriate time. If early school delivery is required, the school site must be identified and agreed at an early stage, giving consideration to its accessibility and condition at the point of transfer.

33. If a new school opens in a single phase below its full capacity while it awaits pupils moving to the development, this does not represent an available surplus for other developments assessing their own impact and mitigation, unless the development delivering the new school will not be completed or generate enough pupils to fill the school. Complementary uses that share the school site can be considered for a temporary period while a new school fills. In practice, you may prefer to deliver the school in phases using modular construction methods, linking capacity more closely to emerging need, though the initial phase must still provide a viable sized school.

34. New housing tends to attract more young families than older housing, yielding higher numbers of pupils particularly in the pre-school and primary age groups, though this stabilises over time until the development resembles the mature housing stock.[14] We advise you to respond to initial peaks in demand, such as planning for modular or temporary classrooms, securing a large enough site to meet the maximum need generated by the development. Where new settlements are planned, you may wish to carry out demographic modelling to understand education requirements in more detail, taking account of similar developments and different scenarios such as an accelerated build rate.

35. Where a requirement for both primary and secondary schools has been identified, we recommend you consider if there would be cost efficiency, space saving and educational benefits in providing an all-through school.

36. There may also be sustainability, efficiency and educational benefits in relocating an existing school, for example where a development is large enough to require a new

[14] This phenomenon is widely reported in local authority evidence, such as for Central Bedfordshire and North Essex Garden Communities.

secondary school but it would be too close to an existing secondary school, both of which would be relatively small. Such reorganisation of the school estate, relocating and expanding an existing school on a development site, may be necessary to make the development acceptable in planning terms, if the alternative distribution, size or condition of schools would be unsustainable. Proposed changes are subject to following the relevant process, depending on the category of the school.[15] We advise that you work collaboratively with local planning authorities to ensure your objectives for the school estate are reflected in planning policies and decisions.

37. There is often a degree of uncertainty around the delivery of urban extensions and new settlements, in view of the long timescales involved, multiple developers and changeable market conditions. The build rate of development may be slower than anticipated, while land provided for a school may need to be returned to a developer if it is not used within an agreed period. Therefore, it is important to consider carefully the clauses within planning obligations if they impose any time restriction on the use of transferred education land, and the potential for the overall phasing of developer contributions to cause delays. Where land has to be returned to a developer, this should be on the same terms as it was given; land provided by free transfer should be returned as such.

38. We also advise you to consider any potential uplift in the value of a development following the grant of planning permission and before all housing units are sold or let. It may be possible to secure the full education contribution, where this had previously been reduced on viability grounds, using planning obligation review mechanisms. National Planning Practice Guidance advises further on how viability should be assessed during the lifetime of a project. We recommend that you work with local planning authorities to set out in plans the circumstances where review mechanisms in planning obligations may be appropriate, allowing you to maintain policy compliance on education contributions when circumstances have changed.

39. To support the delivery of strategic development at pace, you may need to forward-fund school provision within an urban extension or new settlement, using basic need funding or local authority borrowing if necessary and recouping these costs later through developer contributions secured by a planning obligation. While we recognise there are some inherent risks to this, our position on the use of basic need funding and other forward-funding options is set out in paragraphs 5-7 above.

[15] School organisation guidance and transparency data.

Annex

Developer delivery of new schools

1. Direct delivery of new schools by housing developers may represent good value for money. This model of delivery should not contravene state aid or public procurement rules. While we advise you to seek your own project-specific legal advice when necessary, this annex sets out the department's view on the legal position at the time of publication. Local authorities should keep abreast of emerging case law that may have a bearing on this advice, and any legislative changes following the UK's exit from the European Union.[16]

2. While the department supports developer delivery of schools in principle, the local authority's control over the design specification and timescale for opening will be reduced, so we recognise it will not always be the preferred option. Nevertheless, high quality design and performance should still be achieved through the planning and building control process, and compliance with national standards such as the DfE building bulletins, output specification and other design standards and guidance.[17]

3. When developer delivery is proposed, it is a good idea to include a clause within a planning obligation requiring design disputes to be referred to an independent expert or design panel, so the local authority is not the ultimate decision-maker on the design specification. This does not preclude a partnership approach between the local authority, academy trust (where relevant) and developer to negotiate a brief and design specification; such collaboration is good practice and helps to avoid disputes.

4. Furthermore, we recommend that planning obligations allow local authorities to step in and deliver the school if developer delivery falls through but the school is still required. Longstop clauses should ensure that the land for the school is transferred early enough for the local authority to intervene and provide the school at the right time. In these situations, the planning obligation should also require financial contributions to be made in lieu of the 'in kind' provision of the school by the developer, making use of review mechanisms where necessary to respond to changing circumstances.

[16] At the time of publication, current rules are expected to be preserved in domestic law. See The State Aid (EU Exit) Regulations 2019 (draft) and EU Exit guidance on public-sector procurement.

[17] School design and construction guidance.

State Aid

5. In some cases, all relevant parties will support developer delivery of a new school, but the local authority accepts that the developer cannot fully fund the new school and its delivery would need a degree of public subsidy. It is important this this does not constitute unlawful state aid to the developer.[18]

6. The question is whether a contribution by a local authority to the cost of the school (otherwise being funded by the developer under a planning obligation) is a grant of incompatible state aid to that developer. The answer depends on the circumstances that give rise to the local authority's contribution. There are two principal questions. Has the public contribution arisen:

(a) Because planning law/policy only requires the developer to make a partial contribution; or
(b) Because the local authority has otherwise volunteered to make this contribution?

Planning law/policy only requires the developer to make a partial contribution

7. This is unlikely to give rise to incompatible state aid (unlawful). If planning law/policy only requires the developer to make a partial contribution then no incompatible state aid should arise merely because the local authority (or another public sector body) funds the balance of those costs. This is subject to the relevant public sector body satisfying itself (through benchmarking and/or a cost consultant's report) that the developer's costs of building the school are not more than market costs. This would apply even if the initial application of planning policy dictated that the developer makes a full contribution but after applying planning viability principles (taking account of the total infrastructure burden on the development) the developer's contribution was reduced.

8. National Planning Practice Guidance says that for the purpose of plan making, an assumption of 15-20% of gross development value may be considered a suitable return to developers, in order to establish the viability of plan policies. A local authority’s contribution to school delivery which supports a higher profit margin for a particular developer may be considered a voluntary contribution (see below) and a selective benefit to one developer, which may amount to unlawful state aid.

9. The rationale for this assessment is that the key state aid test to be applied to the developer is whether it has selectively benefitted from the local authority's contribution. For example, if under planning law/policy it (or any other developer) would have only been required to fund 60% of the school's costs then it has not selectivity benefitted as another developer (in identical circumstances) would also only be required to make the

[18] Guidance relating to state aid and CIL, and The State Aid (EU Exit) Regulations 2019 (draft).

same 60% contribution. The extent of the local authority's contribution (if required) will usually be determined through viability assessment.

The local authority has otherwise volunteered to make this contribution

10. A voluntary contribution by the local authority would raise an issue that its funding may grant a selective benefit to the developer and could amount to incompatible state aid (unlawful).

11. The local authority may require a larger school than the development must provide, such as an increase to two forms of entry (2FE) when the development generates a need for a 1.5FE school. This may constitute a voluntary contribution but would not provide a selective benefit to the developer, provided any other developer in identical circumstances would receive the same contribution for additional school places, so in such circumstances the risk that this would amount to incompatible state aid is considered low.

Public works contracts (OJEU procurement)

12. It is possible to place a Section 106 planning obligation on a developer to provide a school without triggering a 'public works contract' which would require the local authority to undertake procurement under the Official Journal of the European Union (OJEU) or the equivalent following the UK's exit from the EU. However, it is important that a number of principles contained in relevant case law[19] are complied with:

a) there is no positive works obligation on the developer to build the school in any event (meaning could the planning authority force the developer to build the school even if that developer never implemented its planning permission); and/or
b) The public body has no 'decisive influence' on the design of the school. (The public authority is entitled to contribute to discussions about, be consulted on and set parameters about the building (e.g. compliance with national standards) but not have the ultimate decision about the works specification).

13. Most planning obligations requiring the delivery of new schools include trigger points that link the provision of infrastructure to the occupation of homes. Section 106 planning obligations that are only triggered when planning permission is substantially implemented may be considered conditional rather than constituting a positive works obligation. The developer would not be legally obligated to perform the works and could walk away from them at any time, until the development commenced.

[19] The Queen (on the application of Midlands Co-operative Society Limited) and Birmingham City Council [2012] EWHC 620 (admin); Helmutt Muller GmbH v Bundesanstalt fur Immobilienaufgaben (C-451/08); R (Faraday Development Ltd.) v. West Berkshire Council & Anor [2016] EWHC 2166 (Admin)

14. The extent to which a contracting authority can become involved in the design of works before it is deemed to be "specifying" such works has been explored in case law and guidance.[20]

15. A contract would only be deemed a public works contract if the contracting authority took measures to define the type of work to be undertaken by the developer partner or at the very least had a "decisive influence" on its design. "Requirements specified by the contracting authority" has been taken to exclude the exercise of a public authority's urban planning powers in examining building plans presented to it, or the decision to apply its planning powers in relation to a particular project.

16. The former Office of Government Commerce (OGC) provided further interpretation of the land exemption. In particular they were of the view that:

(a) national or local land-use planning policies, requirements or restrictions for a site would not in themselves comprise a requirement specified by the contracting authority;
(b) a broad invitation that a site should be developed in accordance with applicable or national local land-use planning policies but with the developer free to put forward its own intentions, proposals and specifications within these parameters is unlikely to trigger a requirement specified by the contracting authority.

17. Although the OGC no longer exists as a distinct government department, their guidance note has been referenced by the domestic Courts and it is still considered useful guidance in the UK. However, reliance on OGC views may need to be reviewed if their position is overruled by the European Courts or the Commission, or by domestic Courts following the UK's exit from the EU.

[20] Helmutt Muller GmbH v Bundesanstalt fur Immobilienaufgaben (C-451/08) and Office of Government Commerce (OGC) Information Note 12/10 (30 June 2010).

Department for Education

© Crown copyright 2019

This publication (not including logos) is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/3

email psi@nationalarchives.gsi.gov.uk

write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication:

enquiries www.education.gov.uk/contactus

download www.gov.uk/government/publications

Reference: [DfE-00077-2019]



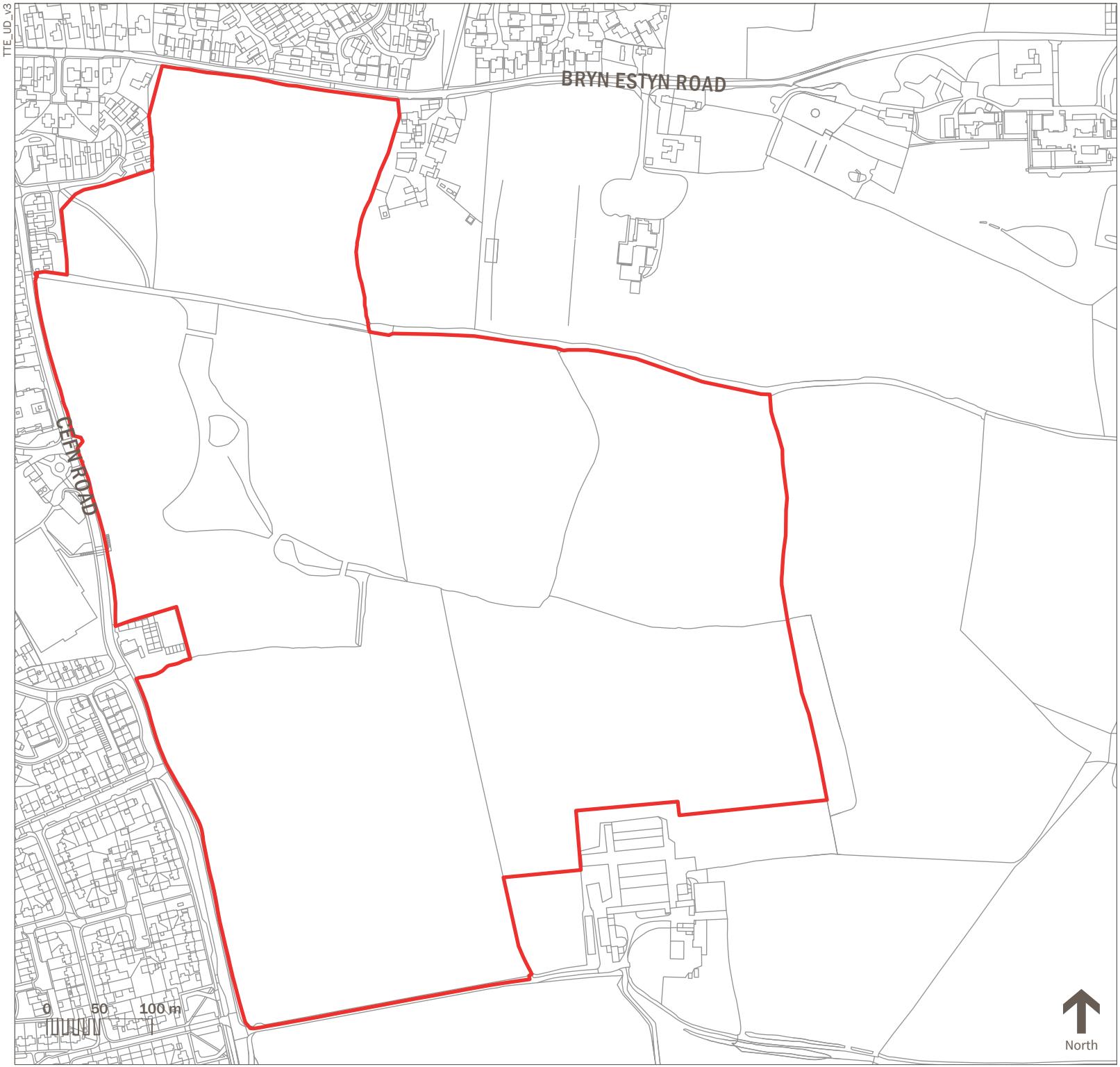
Follow us on Twitter: @educationgovuk



Like us on Facebook: facebook.com/educationgovuk

APPENDIX AYA02

TTE_UD_v3



TETRA TECH

tetratecheurope.com

Key

Site boundary (40.27 ha)

PRELIMINARY ISSUE

Document control

Rev	Description	Date	Dwn	Chk	App

Cefn Park Wrexham
Harworth Group

SITE BOUNDARY

TTE Proj No	Drwn / date	Ch'ked / date	Appr'd / date	Scale @ A4	Suitability
784-B024030	EI / Nov' 24	AC / Nov' 24	AC / Nov' 24	1:7,500	-

Client Proj No	Origin	Vol/System	Level/Loc	Type/Code	Role	Drwg no	Rev
-	TTE	00	XX	DR	UD	-	-

Issuing office

Tetra Tech Manchester
2nd Floor, 11 York St,
Manchester M2 2AW
Tel: +44 (0)161 872 3223

© **Tetra Tech Limited**. Registered in England number: 01959704

APPENDIX AYA03

Department for Education

Home to school travel and transport guidance

Statutory guidance for local authorities

July 2014

Contents

Summary 4

Review date 4

What legislation (including statutory instruments) does this guidance refer to? 4

Who is this guidance for? 4

Main points 5

Local authorities' statutory duties 5

Part 1 - Statutory duties 6

1.1 Sustainable school travel 6

1.2 Provision of travel arrangements 9

1.3 Provision of travel arrangements: Eligible children 9

Part 2 - Discretionary Arrangements 15

Travel arrangements for other children 15

Religion or belief 15

Part 3 - Transport Considerations 17

Safeguarding requirements 17

Training and Equalities 17

Bus safety considerations 17

Poor behaviour on school buses/other modes of transport 18

Partnership 18

Part 4 – Policy Changes 19

Publication of general arrangements and policies 19

Policy Changes 19

Part 5 - Appeals process 20

Further information 21

Post-16 transport 21

Sustainable transport 21

DBS (formerly CRB) employee suitability checks 21

Definitions 23

Key term Glossary 24

Annex 1: Case Studies 25
Sustainable travel 25
Darlington Borough Council case study 25
Stoke-on-Trent case study 27
Home to school travel assistance for pupils with SEN or disabilities 28
Coventry City Council case study 28
Capacity building with schools and transport operators 30
Hertfordshire County Council case study 30
Demand responsive service in rural areas 32
Staffordshire County Council case study 32
Annex 2: Recommended Review/Appeals Process 34
Stage one: Review by a senior officer 34
Stage two: Review by an independent appeal panel 35
Home to school travel and transport: flowchart of the review/appeals process 36

Summary

This is statutory guidance from the Department for Education. This means local authorities are under a duty to have regard to it when carrying out their duties in relation to home to school travel and transport, and sustainable travel.

This guidance is issued under duties placed on the Secretary of State by sections 508A and 508D of the Education Act 1996 (the Act). It deals with sections 508A, 508B, 508C, 509AD, and Schedule 35B of the Act which were inserted by Part 6 of the Education and Inspections Act 2006 (the EIA 2006).

This guidance replaces Home to School Travel and Transport Guidance Ref: 00373-2007BKT-EN.

Review date

This guidance will next be reviewed in 2015.

What legislation (including statutory instruments) does this guidance refer to?

This guidance refers to the following legislation (including statutory instruments):

- Sections 444, 508A, 508B, 508C, 508D, 509AD and Schedule 35B of the Education Act 1996 (the Act), as inserted by Part 6 of the Education and Inspections Act 2006 (the EIA 2006)
- Regulation 5 and Part 2 of Schedule 2 to The School Information (England) Regulations 2002, as amended
- Equality Act 2010
- School Admissions Code
- European Convention on Human Rights
- The School Travel (Pupils with Dual Registration)(England) Regulations 2007
- Public Service Vehicles (Carrying Capacity) Regulations 1984
- Section 48 of the School Standards and Framework Act 1998

Who is this guidance for?

This guidance is for:

- Local authorities
- Leaders of maintained schools, academies and free schools
- Parents
- Other interested parties, e.g. Transport Providers

Main points

- There has been no change to school transport legislation and the associated duties continue to rest with local authorities.
- With the widening of the academies programme, the introduction of the free schools programme, and all schools now having the power to decide their session times, there will be an increasing need for local stakeholders to work together in partnership to agree and deliver transport policies that meet the particular needs of their area[1].
- The guidance on appeals has changed and is intended to ensure greater consistency in approach and to be clearer and more transparent for both parents and local authorities.
- The policy for post 16 transport is different from that for compulsory school aged children (5-16). The link to the department's guidance on post 16 transport is provided in the 'Further information' section of this guidance.
- Local authorities should review travel policies, arrangements and contracts regularly to ensure best value for money is achieved.

Local authorities' statutory duties

In order to comply with their home to school transport duties local authorities must:

- Promote the use of sustainable travel and transport (Part 1.1).
- Make transport arrangements for all eligible children (Part 1.2).

[1] See Hertfordshire County Council's approach to capacity building in the case study at Annex 1.

Part 1 - Statutory duties

1.1 Sustainable school travel

1. Section 508A of the Act places a general duty on local authorities to promote the use of sustainable travel and transport[2]. The duty applies to children and young people of compulsory school age who travel to receive education or training in a local authority's area[3]. The duty relates to journeys to and from institutions where education or training is delivered.

2. There are five main elements to the duty which local authorities must undertake:

- an assessment of the travel and transport needs of children, and young people within the authority's area;
- an audit of the sustainable travel and transport infrastructure within the authority's area that may be used when travelling to and from, or between schools/institutions;
- a strategy to develop the sustainable travel and transport infrastructure within the authority so that the travel and transport needs of children and young people are best catered for;
- the promotion of sustainable travel and transport modes on the journey to, from, and between schools and other institutions; and
- the publication of Sustainable Modes of Travel Strategy.

3. The Act defines sustainable modes of travel as those that the local authority considers may improve the physical well-being of those who use them, the environmental well-being of all or part of the local authority's area, or a combination of the two.

Assessing the travel and transport needs of children and young people

4. Local authorities should, in large part, base their assessment of children and young people's travel and transport needs on the data provided by schools or colleges, often contained within school travel plans. Effective school travel plans, updated as necessary, put forward a package of measures to improve safety and reduce car use, backed by a partnership involving the school, education, health and transport officers from the local authority, and the police. These seek to secure benefits for both the school and the children by improving their health through active travel and reducing congestion

[2] See Darlington Borough Council's approach to sustainable travel in the case study at Annex 1.

[3] 'Child', 'compulsory school age' and 'sixth-form age' are defined respectively in sections 579(1), 8 and 509 AC of the Act.

caused by school runs, which in turn helps improve local air quality. Many travel plans are produced as a result of planning conditions placed on new developments by local authority planning departments. This highlights the need for all relevant departments (e.g. highways departments, planning departments, transport departments, children's services, environment departments, and public health) to be fully engaged when addressing this duty.

Audit of infrastructure to support sustainable school travel

5. Local authorities already collect much of the information required for the audit of the infrastructure supporting sustainable school travel. Local authorities should audit infrastructure in accordance with any relevant guidance and the requirements of any infrastructure implemented. Specific school routes audits are considered good practice. The specifics of the audit and how often it should be reviewed are for a local authority to decide on as appropriate. However, the audit should include a mapping exercise showing how schools are served by:

- bus and other public transport routes (including school transport provided by the local authority);
- footpaths, cycle ways, roads and associated features (including crossing points and patrols, traffic calming measures, speed limits, 20mph zones); and
- any other arrangements made to support sustainable school transport that may be in operation (including the provision of cycle training, road safety training, and independent travel training; the provision of walking promotion and barrier removal schemes, car sharing schemes, park and stride/ride schemes, cycle parking).

6. The audit should also consider data relating to personal safety and security, and other factors that influence travel choices, such as poor behaviour on school buses and/or the incidence of bullying on the journey to school. School travel plans will help local authorities understand any specific local issues, including perceptions of pupils and parents.

7. The arrangements or requirements for children with special education needs (SEN) or disabilities should also be considered and whether, for example, some might benefit from independent travel training which can result in a skill for life[4].

[4] See Coventry City Council's approach to independent travel training in the case study at Annex 1.

Strategy to develop infrastructure to support travel needs of pupils

8. Following the assessment of pupil needs, and audit of the sustainable transport infrastructure that supports travel to school, local authorities must establish a strategy for developing that infrastructure so that it better meets the needs of children and young people in their area. These improvements should address a range of objectives, including environmental improvements, health benefits and enhanced child safety and security. The strategy should be a statement of the authority's overall vision, objectives and work programme for improving accessibility to schools and will be an important source of information to parents on the travel options available to them when expressing their preferences for particular schools in the admissions round.

9. The strategy should be evidence-based, including an assessment of the accessibility needs and problems of the local authority's area. Local authorities must monitor the implementation of their strategy and revise these as they feel necessary.

Promoting sustainable travel and transport to and from school

10. Local walking, cycling, and bus strategies should inform the local authority's duty to promote sustainable school travel. In line with the physical Olympic and Paralympic legacy, as set out in HM Government's document 'Moving More, Living More', promotion of walking and cycling to school can be an effective way to increase physical activity in children.

11. The sustainable school travel duty should have a broad impact, including providing health benefits for children, and their families, through active journeys, such as walking and cycling. It can also bring significant environmental improvements, through reduced levels of congestion and improvements in air quality to which children are particularly vulnerable.

Publication of Sustainable Modes of Travel Strategy

12. The Education (School Information) (England) Regulations 2002, as amended require local authorities to publish their Sustainable Modes of Travel Strategy on their website by 31 August each year[5].

[5] S.I. 2002/2897, amended by The Education (School Information) (England) (Amendment) Regulations 2007 (S.I. 2007/1365).

1.2 Provision of travel arrangements

13. Sections 508B and 508C of the Act make provision for local authorities to ensure that suitable travel arrangements are made, where necessary, to facilitate a child's attendance at school.

14. These provisions apply to home[6] to school travel arrangements, and vice versa[7]. They do not relate to travel between educational institutions during the school day[8].

15. Parents are responsible for ensuring that their children attend school regularly. However, section 444(3B) of the Act provides that a parent will have a defence in law against a prosecution by a local authority for their child's non-attendance at school where the local authority has a duty to make travel arrangements in relation to the child under section 508B and has failed to discharge that duty.

1.3 Provision of travel arrangements: Eligible children

16. Section 508B of the Act deals with the duty on local authorities to make such travel arrangements as they consider necessary to facilitate attendance at school for eligible children. Schedule 35B of the Act defines eligible children – those categories of children of compulsory school age (5-16) in an authority's area for whom free travel arrangements will be required local authorities are required to:

Statutory walking distances eligibility

- provide free transport for all pupils of compulsory school age (5-16) if their nearest suitable school[9] is:
    - beyond 2 miles (if below the age of 8); or
    - beyond 3 miles (if aged between 8 and 16)

Special educational needs, a disability or mobility problems eligibility

- make transport arrangements for all children who cannot reasonably be expected to walk to school because of their mobility problems or because of

[6] A child's 'home' is the place where he/she is habitually and normally resident.

[7] Including to boarding provision, where applicable.

[8] When a dual placement is outlined on an EHC Plan or statement, a local authority should use its discretion to decide on how best to cater for this child's individual circumstances.

[9] Taken to mean the nearest qualifying school with places available that provides education appropriate to the age, ability and aptitude of the child, and any SEN that the child may have.

associated health and safety issues related to their special educational needs (SEN) or disability[10]. Eligibility, for such children should be assessed on an individual basis to identify their particular transport requirements. Usual transport requirements (e.g. the statutory walking distances) should not be considered when assessing the transport needs of children eligible due to SEN and/or disability.

Unsafe route eligibility

- make transport arrangements for all children who cannot reasonably be expected to walk to nearest suitable school because the nature of the route is deemed unsafe to walk.[11].

Extended rights eligibility

- provide free transport where pupils are entitled to free school meals or their parents are in receipt of maximum Working Tax Credit [12] if:
    - the nearest suitable school is beyond 2 miles (for children over the age of 8 and under 11);
    - the school is between 2 and 6 miles (if aged 11-16 and there are not three or more suitable nearer schools);
    - the school is between 2 and 15 miles and is the nearest school preferred on the grounds of religion or belief (aged 11-16).

Accompaniment

17. In determining whether a child cannot reasonably be expected to walk for the purposes of 'special educational needs, a disability or mobility problems eligibility' or 'unsafe route eligibility', the local authority will need to consider whether the child could reasonably be expected to walk if accompanied and, if so, whether the child's parent can reasonably be expected to accompany the child. When considering whether a child's parent can reasonably be expected to accompany the child on the journey to school a range of factors may need to be taken into account, such as the age of the child and whether one would ordinarily expect a child of that age to be accompanied.

---

[10] As per Schedule 35 of The Act, disability is as defined in S.6 of EA 2010: a person has a disability if they have (a) a physical or mental impairment, and (b) that impairment has a substantial a long-term effect on the ability to carry out normal day-to-day activities. Therefore a chronic health condition may lead to eligibility under this definition.

[11] Paragraphs 4 and 5 of Schedule 35B.

[12] Paragraphs 9-14 of Schedule 35B.

18. The general expectation is that a child will be accompanied by a parent where necessary, unless there is a good reason why it is not reasonable to expect the parent to do so.

19. Local authorities should, however, promote and ensure equality of opportunity for disabled parents. For example, if a parent's disability prevents them from accompanying their child along a walking route that would otherwise be considered unsafe without adult supervision, a reasonable adjustment might be to provide free home to school transport for the child in question.

Assessing route safety

20. Creating safe walking, cycling and travel routes and encouraging more pupils to walk and cycle to school is one of the best ways to reduce the need for transport and associated costs. In assessing safety, local authorities should consider a range of risks, such as: canals, rivers, ditches, speed of traffic and fields of vision for the pedestrian or motorist. An authority should also consider whether it is reasonable to expect the child's parent to accompany the child along a route which would otherwise be classified as being unsafe.

21. Good practice shows that using local knowledge, coupled with modern IT tools, is essential when assessing existing walking routes and identifying potential new ones. Putting in place suitable new paths, pedestrian crossings and cycle lanes can improve safety, but minimal investment can also reap significant rewards. This might be something as simple as trimming overgrown hedges or preventing illegal parking. Making parents aware of safe walking routes and the time taken to assess them can help alleviate concerns and significantly increase the amount of pupils choosing to walk.

Measurement of routes

22. The measurement of the statutory walking distances is not necessarily the shortest distance by road. It is measured by the shortest route along which a child, accompanied as necessary, may walk safely. As such, the route measured may include footpaths, bridleways, and other pathways, as well as recognised roads.

23. The 2 mile limit for extended rights should be measured in the same way as the statutory walking distances. However, the 6 mile upper limit to a choice of schools, and the 15 mile upper limit to a school preferred on grounds of religion or belief are not walking routes, and should therefore be measured along routes that are passable using a suitable motorised vehicle. In short, the upper limits should be measured along road routes.

Timing of assessment of eligibility

24. At the point when transport eligibility is considered, the prospect of being able to secure a place in an alternative (usually nearer) school must be a real one. For most

cases this will be during the normal school admissions round when places are allocated. A smaller number of cases will need to be considered during the course of the school year e.g. as a result of families moving to a new area.

25. Where entitlement to extended travel rights has been established the department's opinion is that local authorities should consider the pupil to be eligible for the entirety of the school year for which the assessment has been made. If a pupil ceases to be eligible any change to provision made by the local authority must be considered in the context of the potential impact on the child. Disruption to a child's education should be avoided.

26. Where a pupil is registered at a school, but is attending a place other than that school as a result of temporary exclusion, eligibility for home to school travel will apply to the other place for the temporary period.

Qualifying school

27. The relevant educational establishment in relation to an eligible child will be either a qualifying school or the place, other than a school, where they are receiving education by virtue of arrangements made under section 19(1) of the Act[13].

28. Regulations[14] clarify the entitlement for eligible children, a small number of whom may be registered at more than one educational establishment, e.g. children of no fixed abode might be registered at more than one school, and other children may be registered at a hospital school and another school, etc.

29. Qualifying schools are:

- community, foundation or voluntary schools;
- community or foundation special schools;
- non-maintained special schools;
- pupil referral units;
- maintained nursery schools; or
- city technology colleges (CTC), city colleges for the technology of the arts (CCTA) or academies, including free schools and University Technical Colleges (UTC)[15].

[13] Section 508B(10) of the Act.

[14] The School Travel (Pupils with Dual Registration)(England) Regulations 2007 (S.I.2007/1367).

[15] Paragraph 15 of Schedule 35B.

30. For children with SEN, an independent school can also be a qualifying school where this is named on the child's Education, Health and Care Plan (EHC Plan) or statement, or it is the nearest of two or more schools named.

Travel arrangements made by the local authority or other bodies/persons

31. Examples of other bodies or persons making travel arrangements might include: a parent consenting to use their car in return for a mileage allowance; a school or group of schools reaching an agreement with a local authority to provide transport in minibuses owned by the school; or a transport authority providing free passes for all children on public transport. For example, in London, Transport for London provides free bus passes for all children under the age of 16. In many circumstances, London Boroughs may therefore not need to make any additional travel arrangements for children living in their area, particularly when eligibility would be through statutory walking distances or extended rights.

32. Subsection (4) of 508B and 508C of the Act list some of the travel and transport arrangements that may be made. These might include: provision of a seat on a bus or minibus provided by the local authority; provision of a seat in a taxi where more individualised arrangements are necessary; and provision of a pass for a public service bus, or other means of public transport.

33. On condition that the relevant parental consent has been obtained (annually or, if a child moves school, at that point too) by the local authority, a number of alternative arrangements might be considered to meet the local authority duty relating to travel arrangements. Examples include:

- a mileage allowance paid to a parent driving their eligible child to school in lieu of the local authority making arrangements for a taxi to transport the child;
- a cycling allowance paid by the local authority where the parent agreed for their child to cycle to and from school instead of catching a bus for, say a three mile journey; and
- local authority provision of a suitable escort to enable an eligible child with a disability to walk a short distance to school in safety, instead of making arrangements for a taxi to take them to and from school.

Suitability of arrangements

34. As a general guide, transport arrangements should not require a child to make several changes on public transport resulting in an unreasonably long journey time. Best practice suggests that the maximum each way length of journey for a child of primary school age to be 45 minutes and for secondary school age 75 minutes, but these should be regarded as the maximum. For children with SEN and/or disabilities, journeys may be

more complex and a shorter journey time, although desirable, may not always be possible.

35. Consideration should also be given to the walking distance required in order to access public transport. The maximum distances will depend on a range of circumstances, including the age of the child, their individual needs and the nature of the routes they are expected to walk to the pick up or set down points and should try to be combined with the transport time when considering the overall duration of a journey. With regards to pick up points, local authorities may at their discretion use appropriate pick up points when making travel arrangements. For arrangements to be suitable, they must also be safe and reasonably stress free, to enable the child to arrive at school ready for a day of study.

Part 2 - Discretionary Arrangements

Travel arrangements for other children

36. Section 508C of the Act provides local authorities with discretionary powers to go beyond their statutory duties and provide transport for children who are not entitled to free transport. Charges can be made, or, as stated in Subsection (5) of 508C local authorities may also pay all or part of the reasonable travel expenses of children who have not had travel arrangements made either under the statutory duty placed on local authorities, or under their discretionary powers to make travel arrangements. Where charges are imposed, good practice suggests that children from low income groups (those not eligible for extended rights, either due to being just outside financial eligibility or live outside of the distance criteria and therefore not in receipt of free travel) should be exempt.

37. It is very much for the individual local authority to decide whether and how to apply this discretion as they are best placed to determine local needs and circumstances. It is recognised that local authorities will need to balance the demands for a broad range of discretionary travel against their budget priorities. While the department offers guidance, the final decision on any discretionary travel arrangements must rest with the individual local authority who should engage with parents and clearly communicate what support they can expect from the local authority.

Religion or belief

38. Many parents will choose to send their children to a school as near as possible to their home. However, some parents choose to send their children to a school with a particular ethos because they adhere to a particular faith, or belief. Local authorities need to respect parents' religious and philosophical convictions as to the education to be provided for their children[16], give careful consideration to discrimination issues and seek legal opinion if they are unsure about the effect of their policies, before publishing them each year.

39. Under the European Convention on Human Rights (ECHR), parents do not enjoy a specific right to have their children educated at a school with a religious character or a secular school, or to have transport arrangements made by their local authority to and from any such school and the Equality Act 2010 (which places a duty on local authorities

[16] Article 2 of the First Protocol.

not to discriminate against a person on the grounds of their religion or belief), does not apply to the exercise of an authority's functions in relation to transport[17].

40. However, the Secretary of State continues to attach importance to the opportunity that many parents have to choose a school or college in accordance with their religious or philosophical beliefs, and believes that wherever possible, local authorities should ensure that transport arrangements support the religious or philosophical preference parents express. In many cases these schools may be more distant and therefore the provision of transport and/or training, and the avoidance of unreasonable expenditure on travel are encouraged. However, the department appreciates that this may be incompatible, for example, on grounds of excessive journey length, or where the journey may have a detrimental impact on the child's education.

41. The Act places a duty on local authorities to make arrangements for secondary pupils from low income backgrounds to attend the nearest school preferred on grounds of "religion or belief", where that school is between 2 and 15 miles from their home. Local authorities may wish to use their discretionary powers to extend transport arrangements beyond the extended rights duty and facilitate attendance at such schools. The Secretary of State expects local authorities to consider all possible options before they disturb well established arrangements, some of which have been associated with local agreements or understandings about the siting of such schools. Local authorities should pay particularly careful attention to the potential impact of any changes on low income families (those not eligible under extended rights) whose parents adhere to a particular faith or philosophy, and who have expressed a preference for a particular school because of their religious or philosophical beliefs.

42. Local authorities will need to be aware of their obligation not to discriminate under article 14 of ECHR. For example, where local authorities use their discretionary powers to make travel arrangements for children on the basis of their parents' religious beliefs to schools designated with a religious character, the equalities implications should be considered, to facilitate parents' who wish their children to be educated in accordance with their philosophical convictions.

[17] s31 of, and paragraph 11 of Schedule 3 to, the Equality Act 2010.

Part 3 - Transport Considerations

Safeguarding requirements

43. It is the responsibility of the individual local authority to ensure the suitability of its employees and any contractors or their employees by undertaking the required safeguarding checks on those whose work or other involvement will bring them into contact with children, or more widely, vulnerable adults. This should include bus drivers, taxi drivers and escorts, as necessary. The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) have merged to become the Disclosure and Barring Service (DBS). CRB checks are now called DBS checks. Please see Further information.

Training and Equalities

44. All local authorities should ensure that all drivers and escorts taking pupils to and from school and related services have undertaken appropriate training, and that this is kept up to date. It is also considered good practice for those responsible for planning and managing school transport to have undertaken appropriate equality training. This training could consist of (but is not restricted to):

- an awareness of different types of disability including hidden disabilities;
- an awareness of what constitutes discrimination;
- training in the necessary skills to recognise, support and manage pupils with different types of disabilities, including hidden disabilities and certain behaviour that may be associated with such disabilities;
- training in the skills necessary to communicate appropriately with pupils with all types of different disabilities, including the hidden disabilities; and
- training in the implementation of health care protocols to cover emergency procedures.

Bus safety considerations

45. Buses and coaches used to take pupils to and from school are public service vehicles and, as such, are subject to specific legislation on safety standards. All coaches and minibuses carrying groups of children of 3 to 15 years of age on organised trips are required to be equipped with seat belts. The legal requirement to fit seat belts does not apply to other types of bus, including those on public service. These tend to travel relatively slowly, over short distances, with frequent stops. Schools or local authorities making arrangements for home to school transport are free to specify within their contracts that they will only accept vehicles fitted with seatbelts.

46. The Public Service Vehicles (Carrying Capacity) Regulations 1984 allow the option of three children under the age of 14 to occupy a bench seat designed for two adults on a

service bus. Modern bus designs and seat belt requirements are reducing the circumstances in which this practice can be adopted and in the opinion of the Secretary of State, local authorities making arrangements for home to school travel should only make use of this concession on an exceptional basis.

Poor behaviour on school buses/other modes of transport

47. The department expects each school to promote appropriate standards of behaviour by pupils on their journey to and from school through rewarding positive behaviour and using sanctions to address poor behaviour. The EIA 2006 empowers headteachers to take action to address unacceptable behaviour even when this takes place outside the school premises and when pupils are not under the legal control of the school, but when it is reasonable to do so. In the department's view, this would include behaviour on school buses, or otherwise on the route to and from school, whether or not the pupils are in school uniform.

48. A number of local authorities have adopted a policy of withdrawing transport, either for a temporary period, or permanently for more serious or repeated cases of misbehaviour. Equally, the behaviour of pupils outside school can be considered as grounds for exclusion. This will be a matter of judgment for the Headteacher[18]. Local authorities might also consider that escorts are necessary to ensure safety of pupils on buses and can stipulate the provision of suitable escorts in their tender documents.

Partnership

49. The department strongly supports local authorities in developing cross-cutting approaches to home to school travel and transport. Relevant considerations would include sustainability, delivering value money and finding school and parent friendly solutions. This could be through strong partnerships between local authorities and academies, the use of Department for Transport policies and practices, such as Local Transport Plans and Local Sustainable Transport fund (see Further information) and partnership with parents, for example to allow them to top up transport costs through the payment of fees in order to maintain the provision.

50. Partnerships are strongly encouraged, particularly in rural areas, where the generally more limited transport services could disadvantage children[19].

[18] https://www.gov.uk/government/publications/school-exclusion

[19] See Staffordshire County Council's approach to rural travel provision in case study at Annex 1.

Part 4 – Policy Changes

Publication of general arrangements and policies

51. Local authorities must publish general arrangements and policies in respect of home to school travel and transport for children of compulsory school age. This information should be clear, easy to understand and provide full information on the travel and transport arrangements. It should explain both statutory transport provision, and that provided on a discretionary basis. It should also set out clearly how parents can hold local authorities to account through their appeals processes. Local authorities should ideally integrate their Sustainable Modes of School Travel strategies into these policy statements, and publish them together.

Policy Changes

52. Local authorities should consult widely on any proposed changes to their local policies on school travel arrangements with all interested parties. Consultations should last for at least 28 working days during term time. This period should be extended to take account of any school holidays that may occur during the period of consultation.

53. Good practice suggests that the introduction of any such changes should be phased-in so that children who start under one set of transport arrangements continue to benefit from them until they either conclude their education at that school or choose to move to another school. Parents make school choices based on, amongst other things, the home to school transport arrangements for a particular school, and any changes might impact adversely on individual family budgets.

Part 5 - Appeals process

54. Local authorities should have in place both complaints and appeals procedures for parents to follow should they have cause for complaint about the service, or wish to appeal about the eligibility of their child for travel support. The procedure should be published alongside the local authority travel policy statement. If an appellant considers that there has been a failure to comply with the procedural rules or if there are any other irregularities in the way an appeal was handled they may have a right to refer the matter to the Local Government Ombudsman. If an appellant considers the decision of the independent appeals panel to be flawed on public law grounds, they may apply for a judicial review.

55. In the past we have left it to local authorities to determine how their appeals procedures should operate in practice. However, in the interests of consistency and to be both clearer and more transparent, for both parents and local authorities, we have now set out a recommended review/appeals process in Annex 2.

Further information

Post-16 transport

Guidance relating to post-16 transport is available on the department's website

Sustainable transport

British Cycling is the national governing body for cycling and can provide advice on cycling to school and cycle training. More information is available at www.britishcycling.org.uk

Department for Transport funding is available to Local Highway Authorities and Schools Games Organiser Host Schools for the provision of Bikeability cycle training for school children in England. This will teach children to cycle safely, confidently and competently on the roads. More information is available here: www.dft.gov.uk/bikeability/schools

The Department for Transport Local Sustainable Transport Fund was established to support authorities in delivering local economic growth whilst cutting carbon emissions from transport. Further information can be found at: https://www.gov.uk/government/collections/local-sustainable-transport-fund

Living Streets runs the national Walk to School campaign which reaches over 13 million people. The campaign successfully encourages and supports parents/carers and children to make walking to school part of their daily routine. More information is available on their website www.livingstreets.org.uk

Modeshift is the national sustainable travel organisation. Modeshift supports local authorities, schools, business and communities to increase levels of sustainable travel. More information is available on their website www.modeshift.org.uk

Moving More, Living More is a document produced by the Department of Health which builds on the work already under way to help realise the aim of having a more physically active nation as part of the legacy from the London 2012 Olympic and Paralympic Games: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279657/moving_living_more_inspired_2012.pdf

Sustrans is the leading sustainable transport charity that provides practical advice that can be passed onto parents to increase confidence in walking and cycling. More information is available on their website: www.sustrans.org.uk

DBS (formerly CRB) employee suitability checks

Further information about DBS checks (and who requires them or is eligible, for example bus drivers for designated home to school transport are eligible, whereas those driving

public services are not) can be obtained from: https://www.gov.uk/disclosure-barring-service-check

Definitions

- Section 444(5) of the Act defines the statutory walking distances.
- Schedule 35B of the Act defines:
  - ‘eligible children’ (paragraphs 2-7 and 9-13);
  - ‘qualifying school’ (paragraph 15);
  - ‘disabled child’ (paragraph 15(4));
  - ‘religion and belief’ (paragraph 15(6)) and 509AD of the Act;
  - ‘low income family’ (paragraphs 9-14).
- Section 579 of the Act defines ‘child’.
- Section 509AC of the Act defines ‘compulsory school age’.
- The Equality Act 2010 defines ‘religion or belief’ for the purposes of this Act.
- The Children’s and Families Act section 10 defines ‘SEN’

Key term Glossary

- Home: A child's 'home' is the place where he/she is habitually and normally resident.
- Nearest suitable school: Taken to mean the nearest qualifying school with places available that provides education appropriate to the age, ability and aptitude of the child, and any SEN that the child may have.
- Parent: Reference to parent in this document should be equated to mean parent/carer/legal guardian.
- Philosophical Belief: For a philosophical "belief" to be worthy of protection, it must attain a certain level of cogency, seriousness, cohesion and importance; be worthy of respect in a democratic society; and not be incompatible with human dignity or the fundamental rights of the child. Examples of beliefs are humanism and atheism.
- Road routes: Reference to road route should be taken to mean a route passable by a motor vehicle, and could include distance covered on additional transport, e.g. via ferry.

Annex 1: Case Studies

Sustainable travel

Effective sustainable travel plans have wider benefits for a local area than simply improving access to schools and education. Evidence shows that school travel plans can have benefits ranging from increased road safety, to healthier, more alert and engaged pupils, to increasing independent travel and associated life skills for pupils with SEN. Enabling the increased use of sustainable modes of travel such as walking, cycling and the use of public transport has environmental benefits in reducing levels of noise, congestion and poor air quality - the latter of which children are particularly at risk to.

Darlington Borough Council case study

Impact/benefits

The data from 2011-12 indicates that on average, 7% of secondary school pupils are choosing to cycle to school. Before the Local Motion initiative began, this figure stood at just 1%.

Details of the approach

Darlington Borough Council has encouraged a modal shift away from the car to more sustainable modes under the brand ‘Local Motion’. The Local Sustainable Transport Fund has provided funding for the continuation of this project since 2011. It ensures that schools, young people and their families receive relevant information, to enable them to choose sustainable travel options to get to and from school.

How was the change made?

The whole schools package is underpinned by the Modeshift STARS online accreditation scheme which recognises and rewards each school’s commitment to promoting sustainable travel. All Darlington schools must engage with Modeshift STARS in order to access other support and resources from the Local Motion project.

A new Year 6 Transition Programme has been introduced to help pupils and their parents make informed choices about sustainable travel options to the secondary school they will be attending.

All Darlington secondary schools have converted to academy status, but have continued to engage with the Local Motion programme and continue to support sustainable travel.

Advice for other LAs contemplating such an initiative

The Local Motion Transition encourages families to start thinking about how they are going to travel to secondary school long before they start at the school, to avoid relying on private cars.

For further information please email Louise Neale: louise.neale@darlington.gov.uk

Stoke-on-Trent case study

Impact/benefits

After just one year of Sustrans' engagement (2013/14) regular cycling amongst pupils (once or twice a week or more) increased from 8.5% to 12.7% and those regularly being driven (once or twice a week or more) decreased from 49.9% to 45.3%. This is helping to reduce the impact of congestion from education travel which is estimated to cost £2.6m per year.

Details of the approach

Stoke is one of eight partner local authorities in the Access to Education (A2E) programme, led by Devon County Council and coordinated by Sustrans. It is funded by the Local Sustainable Transport Fund.

Using locally-tailored packages Sustrans provide a real alternative to the car for trips to schools, colleges and universities, reducing congestion, improving journey reliability and boosting local economies.

How was the change made?

- Intensive engagement from two Sustrans officers working with 21 primary and seven secondary schools
- Provision of 'Access to Bikes School Hubs' – shipping containers that contain 15 bikes, helmets, hi-viz jackets, pumps, locks, lights and maintenance tools placed in nine schools
- Installation of cycle parking and scooter pods at schools
- A programme of highway safety improvements, including new crossings and off-road cycle access links from residential areas to schools

Advice for other LAs contemplating such an initiative

Schools need to have intensive support over an extended period of time which would include building the skills, knowledge and confidence of 'champions' to deliver the ongoing work. The Sustrans School Mark, an accreditation scheme which recognises and supports schools' excellence in active and sustainable travel, provides a framework to drive this forward.

For further information please email Allan Williams: allan.williams@sustrans.org.uk

Home to school travel assistance for pupils with SEN or disabilities

Research indicates that there can be significant short and long term benefits in the application of independent travel training for pupils with special educational needs or disabilities. The training given can result in savings to transport budgets in the short term, but can also provide longer term benefits to the individual in terms of a skill for life that might lead to greater social inclusion and employment prospects.

Coventry City Council case study

Impact/savings achieved

As a result of this initiative and tighter control and work to secure efficiencies in the operation of the home to school travel assistance programme the Council made £326k savings in 2011/12. The savings made in 2012/13 equated to £374k which includes the reductions in expenditure on home to school escorts. The total reduction over the 2 years is a 19% fall in expenditure.

Details of the new approach

Successful work has been undertaken to provide independent travel training for secondary aged pupils and the provision of personal transport budgets to the parents of pupils in special schools. This has enabled young people to become more independent and given them valuable skills for life, as well as securing a reduction in spending for the Council.

How was the change made?

Impower Consultancy was commissioned to identify potential efficiencies. Focus groups of parents of pupils with SEN or disabilities were formed to seek views and identify new ways of working. Two key work streams were then established to take forward the provision of Independent Travel Training and Personal Transport Budgets (PTBs).

Two travel trainers now focus their work on school aged pupils, to help them improve their independence skills. This also reduces the number of adults needing training in subsequent years.

The Council also developed a scheme to offer PTBs to parents. The funding was high enough to incentivise parents, while being low enough to deliver savings for the Council. This was piloted in one school initially and then rolled out across all the special schools.

Advice for other LAs implementing the change

Special school headteachers are fully involved in this initiative and they help identify suitable young people to undertake training.

Contacting parents by telephone was resource intensive, but very positive in terms of fully explaining the benefits and options. PTBs are voluntary, tailored and non-prescriptive. The attendance and punctuality of pupils with a PTB is monitored. Beyond this there is no prescription and parents are not asked to account for expenditure.

For further information please email Marian Simpson: marian.simpson@coventry.gov.uk

Capacity building with schools and transport operators

In a financial climate where spending is reduced and costs are increasing local authorities may well find that they have less funding available to support discretionary transport provision, but there may be alternative solutions.

Many academies, with support from their local communities, are taking full advantage of their academy freedoms and are collaborating with other stakeholders and providers to offer discretionary transport to their schools. Local authorities can greatly assist with these initiatives by sharing their experience, expertise and influence in the procurement of transport.

Hertfordshire County Council case study

Impact/savings achieved

£5-6 million will be saved each year as a result of schools and commercial operators providing discretionary travel on routes previously funded and delivered by the Council.

Details of the new approach

From September 2012 Hertfordshire County Council introduced a statutory only home-school transport policy. The Council was keen to attract third party providers to arrange transport on routes which it had previously organised and subsidised and that catered mainly for children without a statutory entitlement to home to school transport.

The Council has worked to build capacity locally to encourage and enable schools, community groups and commercial operators to provide school transport. From September 2013 a total of 130 routes to schools of preference operate without a financial subsidy from the Council. Thirty of these routes have been operating since April 2012.

How was the change made?

The Council supported schools and parents to help develop transport plans. The Council also secured the involvement of the commercial sector and promoted awareness of business opportunities to it.

Advice for other LAs implementing the change

Commercial operators require routes to be financially secure, and therefore are only likely to consider taking on routes where there is a predicted, fare paying commitment from parents. School transport only accounts for 192 days a year.

Local authorities should act as facilitators with the commercial sector, to help schools with contracts and to ensure competition law is followed. Models should rely on parents being able to fund their family's school transport, without any subsidy from the LA. In the

current financial climate, there has been more opportunity for commercial coach companies to participate in this market, rather than commercial bus companies.

For further information please email Sarah Vize: sarah.vize@hertfordshire.gov.uk

Demand responsive service in rural areas

Counties with a large number of small rural communities face the challenge of ensuring that children in these communities are transported to their local schools whilst also providing a cost efficient transport network to the wider community to avoid rural isolation. Rural transport is essential in sustaining local rural communities and connecting people with essential services.

Staffordshire County Council case study

Impacts/Benefits

As a result of replacing infrequent existing local service buses and incorporating home to school transport on to a demand responsive service, a sustainable service has been developed which transports children to school and enables the rural population to be connected with essential services and the wider community. Children that have been transported to school frequently go on to use the service when they move up to middle or high school, increasing their independence despite their rural location.

Details of the approach

Moorlands Connect, a Demand Responsive Service was launched in 2010. The service incorporates the home to school transport to two village schools within the operating area which covers approximately 125 square miles. Outside school transport times the vehicles can be booked as a door to door service to transport people to work, appointments or other essential journeys. Using smaller vehicles and a demand responsive approach that is not tied to a scheduled route has meant that remote areas now have access to a service.

How was the change made?

A rural transport review was commissioned in 2008 and recommended the implementation of a demand responsive service. Residents in the area were consulted and current services, including home to school transport, were reviewed to establish which services could be incorporated on to a new service to increase its sustainability. Funding was sourced from various external agencies for the purchase of two fully accessible vehicles that carry bicycles and the service was launched in September 2010. It continues to be well used by the local communities and also by visitors to the area who can get out and about in the Peak District using the service.

Advice for other LA's implementing the change

The process in setting up the service should include service demand evaluation, assessment of service options, the associated costs and, importantly, comprehensive consultation. Such service complements existing local bus services and provides

alternative choice for passengers. The latter ensures new and continuing public and political support for the scheme. Ticketing options need to be considered, including onward ticketing and potential integration with the local bus service(s). All funding options should be explored at a local and national level; this connect service received initial funding from Districts, Staffordshire Police and Fire services. Once the service is operational there is the need to monitor and evolve the service to meet ongoing needs and changing travel patterns.

For further information please email: kathryn.grattage@staffordshire.gov.uk

Annex 2: Recommended Review/Appeals Process

Previous guidance made clear that local authorities should have in place and publish their appeals procedures, but left it to the individual authority to determine how this should operate in practice. We are now recommending that local authorities adopt the appeals process set out below, appreciating that specifics, such as the identification of an appeal compared to a complaint, will need to be decided by local authorities. The intention is to ensure a consistent approach across all local authorities, and to provide a completely impartial second stage, for those cases that are not resolved at the first stage.

Local authorities should publish annually their appeals process on their website. This should set out a clear and transparent two stage process (with paper copies available on request) for parents who wish to challenge a decision about:

- the transport arrangements offered;
- their child's eligibility;
- the distance measurement in relation to statutory walking distances; and
- the safety of the route.

Stage one: Review by a senior officer

- A parent has 20 working days[20] from receipt of the local authority's home to school transport decision to make a written request asking for a review of the decision.
- The written request should detail why the parent believes the decision should be reviewed and give details of any personal and/or family circumstances the parent believes should be considered when the decision is reviewed.
- Within 20 working days of receipt of the parent's written request a senior officer reviews the original decision and sends the parent a detailed written notification of the outcome of their review, setting out:
- the nature of the decision reached;
- how the review was conducted (including the standard followed e.g. Road Safety GB[21]);
- information about other departments and/or agencies that were consulted as part of the process;
- what factors were considered;
    - the rationale for the decision reached; and

[20] As with the whole appeals process the timings are recommended and not compulsory. We envisage many appeals will be dealt with much sooner that these timings, particularly those which have a time pressure, whilst complex cases may take longer.

[21] Road Safety GB is the sole published standards known to the department, hence referenced.

- information about how the parent can escalate their case to stage two (if appropriate).

Stage two: Review by an independent appeal panel

A parent has 20 working days from receipt of the local authority's stage one written decision notification to make a written request to escalate the matter to stage two.

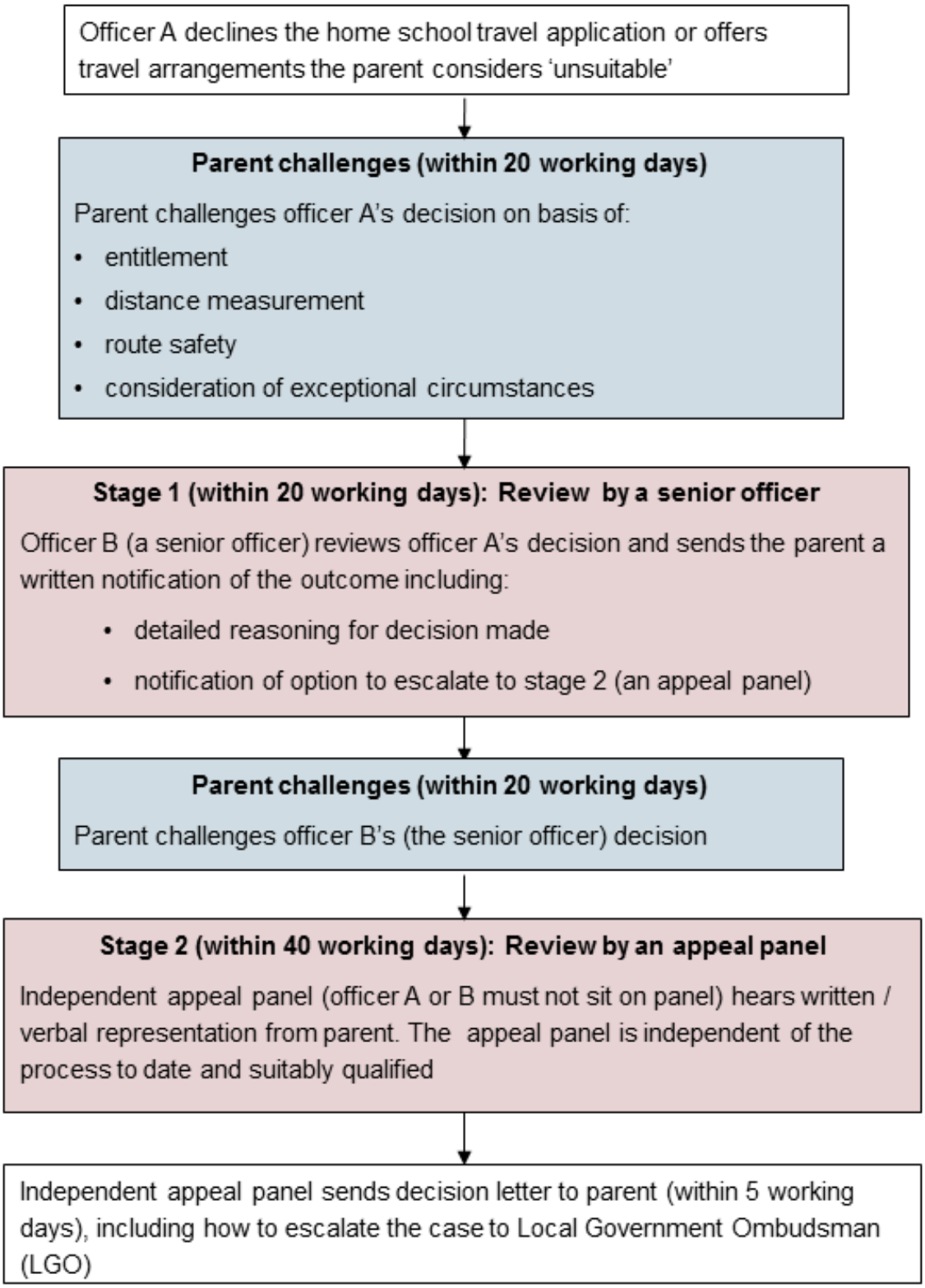
Within 40 working days of receipt of the parents request an independent appeal panel considers written and verbal representations from both the parent and officers involved in the case and gives a detailed written notification of the outcome (within 5 working days), setting out:

- the nature of the decision reached;
- how the review was conducted (including the standard followed e.g. Road Safety GB);
- information about other departments and/or agencies that were consulted as part of the process;
- what factors were considered;
- the rationale for the decision reached; and
- information about the parent's right to put the matter to the Local Government Ombudsman (see below).

The independent appeal panel members should be independent of the original decision making process (but are not required to be independent of the local authority) and suitably experienced (at the discretion of the local authority), to ensure a balance is achieved between meeting the needs of the parents and the local authority, and that road safety requirements are complied with and no child is placed at unnecessary risk.

Local Government Ombudsman – it is recommended that as part of this process, local authorities make it clear that there is a right of complaint to the Local Government Ombudsman, but only if complainants consider that there was a failure to comply with the procedural rules or if there are any other irregularities in the way the appeal has been handled. If the complainant considers the decision of the independent panel to be flawed on public law grounds, the complainant may also apply for judicial review.

Home to school travel and transport: flowchart of the review/appeals process



Department for Education

© Crown copyright 2015

You may re-use this document/publication (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence v2.0. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/2

email psi@nationalarchives.gsi.gov.uk

About this publication:

enquiries www.education.gov.uk/contactus

download www.gov.uk/government/publications

Reference: DFE-00501-2014



Follow us on Twitter: @educationgovuk



Like us on Facebook: facebook.com/educationgovuk

APPENDIX AYA04

This document is available in Welsh

local planning guidance

This is one of a series of guidance notes providing information to help you understand our procedures and improve design standards.



27. Developer Contributions to Schools

This is one of a series of local planning guidance notes designed to amplify policy GDP2 in the Wrexham Unitary Development Plan (UDP) and identifies the circumstances and locations in which developer contributions to the provision of education facilities, such as additional classrooms, will be necessary. The (UDP) was initially adopted by the Council in February 2005. This updated version was subject to consultation between 16 July and 13 August 2018 and 1 October and 26 October 2018 and was adopted by the Executive Board on 11 December 2018. This guidance note is a material consideration in the determination of all relevant planning policies.

Education Planning in Wrexham

For education planning purposes links between certain primary schools and secondary schools in groups throughout the County Borough are maintained. The Council's School Admissions Policy grants parental preference, unless to do so would prejudice the efficient and effective use of its resources. Over 98% of pupils are allocated places in accordance with their parents' first preference.

Background to this Guidance Note

Local authorities find themselves under increasing financial pressure to meet the educational needs arising from residential development. Cumulatively, even relatively small developments can have a significant financial impact on the provision of school places. Welsh Office Circular 13/97 'Planning Obligations' makes provision for developer contributions to offset the negative consequences of development provided there is guidance on this in the local development plan. The Wrexham UDP provides this guidance through Policy GDP2 on Capacity of Infrastructure & Community Facilities.



The rest of this note sets out further information on how this Policy will be applied.

Criteria

Any developer contribution will be based on the following considerations:

- It will only apply to proposed developments of four or more residential units, whether by new build, conversion or changes of use. Developments should not be deliberately sub-divided or phased in an attempt to avoid this threshold. Where the development has been split or phased, the resulting cumulative number of dwellings will be used to calculate the financial contribution.
- It will only apply to schools deemed to have a shortage of places taking into account other residential developments within the area and after addition of the extra pupils likely to be generated by the proposed development.
- The number, type and size of the proposed residential units. No contributions will be sought for apartments or dwellings that have only 1 bedroom. More detail is given in Table 1.
- The likely ratio of pupils per housing unit applicable to the appropriate school or schools at both primary and secondary level.
- The location of the development and likely impact on existing schools. This will be assessed using the same criteria as the Council's Schools Admissions Policy in relation to proximity.

If the potential pupils generated by the proposed development cannot be accommodated within existing schools then a commuted payment will be calculated by multiplying the additional places required by the pupil cost figure (see Table 1) to produce the commuted sum to be included in the planning obligation. Contributions by way of a release of land for a new school or direct construction may be considered as an alternative to payment of a commuted sum at the Council's discretion.

Timing of contributions

Any built educational provision will need to be completed to reflect the planned occupation of the homes. For larger developments phased payment will be considered to fit construction and occupation programmes.

Cost guidelines

The following guidelines are designed to give prospective developers an idea of the possible implications of their proposals:

- A development of 100 x 3 bedroom houses produces around 23 primary age pupils and around 20 secondary age pupils.
- For developments that generate 100 pupils and above consideration will be given to a new school on a new site dependent on location and future growth potential of the area and the applicant will be expected to contribute in proportion to the number of school places the development generates.
- The Council will specify the nature of the works or the area which the contribution will finance, which may include a completely new school.
- Where a contribution is required, a draft Section 106 Agreement should accompany the planning application. Wrexham County Borough Council's Section106 templates are available on request from the Planning Department.





TABLE 1: Cost Guidelines

School Type	No. of pupils generated per dwelling		Building Cost Multiplier £	Contribution £
Primary 4 - 11 years	Apartments with 2 or more bedrooms	0.07	12257	858
	2 bedrooms	0.12		1471
	3 bedrooms	0.23		2819
	4+ bedrooms	0.31		3800
Secondary 11 - 16 years	Apartments with 2 or more bedrooms	0.04	18469	739
	2 bedrooms	0.07		1293
	3 bedrooms	0.2		3694
	4+ bedrooms	0.31		5725
Post 16	Apartments with 2 or more bedrooms	0.02	12000	240
	All dwellings	0.06		720

Notes

- The number of pupils generated per dwelling figures set out in the Table 1 are derived from 2011 Census statistics.
- Building cost multipliers are based on Department for Education guidelines, pupil allocations and average building cost assessment.

TABLE 2: Worked Example			
Number of dwellings	**Primary**	**Secondary**	**Total**
10 x 2+ bedroom apartments	10 x 858 = £8580	10 x 739 = £7390	£15970
10 x 2 bedroom houses	10 x 1471 = £14710	10 x 1293 = £12930	£27640
10 x 3 bedroom houses	10 x 2819 = £28190	10 x 3694 = £36940	£65130
10 x 4 bedroom houses	10 x 3800 = £38000	10 x 5725 = £57250	£95250
Total	**£89480**	**£114510**	**£203990**

contact

Environment and Planning
16 Lord Street Wrexham. LL11 1LG

E-mail: planning@wrexham.gov.uk
website: www.wrexham.gov.uk/planning

Adopted March 2004, Revised November 2010
Updated December 2018

available in other formats on request

APPENDIX AYA05

Pupil projections, 2023 to 2039, number of full-time equivalent pupils (thousands) [Note 1]

This worksheet contains one table. Notes can be found on the notes worksheet.

Sector	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039
Maintained nursery	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Maintained primary [Note 2] - aged under 5	51.2	49.1	47.9	48.5	48.7	49.0	49.1	49.1	49.0	49.0	49.0	48.9	48.9	48.9	48.9	48.8	48.9
Maintained primary [Note 2] - aged 5 and over	206.2	202.4	197.8	191.9	186.5	182.2	178.8	176.9	176.4	177.2	177.6	177.9	177.9	177.8	177.7	177.6	177.5
Maintained secondary [Note 3] - under school leaving age	172.4	171.8	171.0	169.4	167.2	164.7	162.4	159.2	154.9	149.5	145.3	142.0	140.2	139.8	140.6	140.9	141.2
Maintained secondary [Note 3] - over school leaving age	21.0	21.6	21.8	21.9	22.3	22.3	21.8	21.3	21.1	21.1	20.8	20.3	19.6	18.8	18.0	17.7	17.9
Maintained nursery, primary, middle and secondary - all ages	451.1	445.1	438.7	431.9	424.9	418.4	412.3	406.8	401.8	397.0	393.0	389.4	386.9	385.5	385.4	385.4	385.7
Maintained special - all ages	5.7	5.6	5.6	5.5	5.5	5.4	5.3	5.2	5.1	5.1	5.0	4.9	4.9	4.8	4.8	4.8	4.8
Independent - all ages	9.8	9.8	9.8	9.7	9.6	9.5	9.3	9.2	9.0	8.9	8.7	8.6	8.5	8.3	8.3	8.2	8.3
All schools - aged under 5	52.1	50.0	48.8	49.4	49.6	49.9	50.0	50.0	49.9	49.9	49.9	49.8	49.8	49.8	49.7	49.7	49.8
All schools - compulsory school age	390.0	385.5	379.9	372.2	364.5	357.4	351.6	346.4	341.3	336.5	332.6	329.4	327.6	327.0	327.7	328.0	328.2
All schools - over school leaving age	24.4	25.1	25.3	25.5	25.9	25.9	25.4	24.9	24.6	24.6	24.2	23.6	22.9	22.0	21.0	20.7	20.8
All ages	466.5	460.5	454.0	447.1	440.0	433.2	427.0	421.2	415.9	411.0	406.7	402.9	400.3	398.7	398.5	398.4	398.8