



Our Ref: SPP/JM/W/22/00201/OUT
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Dear Guy,

Thank you for your email dated 29th of November 2022 which contained two main queries, first regarding the contribution towards the middle phase of education within the Droitwich Education Planning Area (EPA), and the second regarding the pupil product ratio and the legal ramifications with altering/inserting a new policy for securing developer contributions. It is believed that the responses below are adequate to answer your questions in relation to these matters.

Query One

It appears that we are agreed that there is sufficient capacity in Witton and Westacre Middle Schools to accommodate some of the pupils arising should they wish to transfer to either of these schools in Year 5. Accordingly, it will not be necessary to make a contribution sufficient to secure a 0.05 places per dwelling in years 5 and 6 as these places already exist. I hope that you are able to provide some information on the proportion of pupils that transfer to middle schools and that we can agree a proportionate reduction on this basis.

Local Authority response:

Please see the revised Section 106 Obligations – Justification Paper for Education Contributions for the development W/22/00201/OUT.

Query Two

I note that the Council now relies upon a pupil product ratio of 0.05 primary school pupils per year group per dwelling and 0.04 secondary school pupils per year group per dwelling rather than the 0.028 pupils per year group per dwelling relied upon by the Development Plan and set out in the latest Supplementary Planning Document. I don't know if you are aware but the introduction of such a new formulaic approach outside of the plan-making process is contrary to the explicit wording of the PPG 23b-004-20190901. Furthermore:

- It would not be consistent with the Development Plan as required by paragraph 14 of Securing Developer Contributions for Education,
- If it was to be applied it would mean that the Development Plan does not set out the levels of educational infrastructure required such that the Development Plan would not accord with paragraph 34 of the NPPF,
- It has not been tested at examination as required by the PPG 23b-004-20190901 and PPG 23b-013-20190315,
- Its viability has not been tested alongside the other policies of the Development Plan as required by the PPG 23b-004-20190901, PPG 23b-005-20190315, PPG 23b-011-20190315 and paragraph 14 of Securing Developer Contributions for Education.

Indeed, the consequences of the introduction of such a new formulaic approach outside of the plan-led system would not only be explicitly contrary to national planning policy, national planning guidance and national educational guidance it would have significant consequences for the operation of the Development Plan which would also need to be taken into account in this appeal. For example, if the number of pupils arising was to be calculated using this new approach, it would place a significantly greater financial burden on development proposals which is likely to undermine the deliverability of numerous sites and potentially the Development Plan as a whole contrary to the PPG 23b-003-20190901, PPG 23b-005-20190315 and PPG 23b-037-20190901. Similarly, the new approach assumes that a significantly greater number of children will be resident in each new home than assumed by the Development Plan, such that there will be a greater need for larger homes.

For all of these reasons, national policy and guidance are clear that should newly arising evidence demonstrate that a significantly different pupil product ratio is appropriate this should trigger a review of the Development Plan which allows the resultant need for housing and viability of policies to be considered in a holistic way, rather than being unilaterally introduced without the corresponding effects also being taken into account.

I therefore trust that as required by national policy and guidance the pupil product ratios relied upon by the Development Plan will continue to be applied, or that if the LEA seek to introduce a new formulaic approach, then agreement will be reached that the Development Plan is inconsistent with national policy and out-of-date for yet another reason.

Local Authority Response:

The new Worcestershire Education Planning Obligation Document has been in place since 1st August 2019. It was consulted on widely and adopted at cabinet. The PPG states up-to-date evidence should be used to determine the number of education places which are required and likely to arise from the development. Furthermore, the DfE Securing Developer Contributions Guidance sets out that 'the Pupil yield factors should be based on up-to-date evidence from recent housing developments', and the DfE is clear within documentation that developers should meet the costs of education places which are the result of developments. In addition, the Worcestershire Education Planning Obligation Document is not for testing at examination. It has been consulted on and is subject to adoption by the County Council. The district councils and the DfE had no objections to update the policy alongside the existing development plans.

With regards to the revised pupil yield, the most up to date data we have is reflected in our approach to this application, which uses higher pupil product ratio of 0.05 (primary phase) and 0.04 (secondary phase) than we used prior to 1st August 2019, inception of the policy. The reason for the uplift is that further research identified that are yields previously were insufficient to reflect the number so pupils arising from development. However, as can be seen from the calculations for this site, this is then reviewed based on each individual site to identify the specifics of places available, out of area children and other matters which directly impact on the contributions being requested.

We have been using this policy, along with the updated pupil yields, without challenge since its inception. All the districts agreed that it is a more up to date evidence base as required by the NPPF and the PPG, which therefore updates the existing information and evidence in the SWDP which was adopted in 2016. This pupil product ratio has been used at other appeals and has not been challenged including Mitton (Wychavon - W20/00008/OUT) and Perryfields (Bromsgrove - 16/0335).

The guidance also sets out '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.

As shown, the approach to identifying contributions towards education is not solely a formulaic approach as WCF use the approach set out as a guide and then apply it to the individual circumstances of each application. Hence contributions are only requested where the need can be evidenced as has been shown in our approach to land North of Droitwich Spa.

Yours sincerely,



James Middleton

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