

## **ANNEX 3: EDUCATION FACILITIES**

Education infrastructure is an integral part of achieving and maintaining sustainable communities. The need for the provision of high-quality education facilities is recognised in the 'Well-being Plan for Torfaen' (2018) and the 'Torfaen Corporate Plan and Corporate Recovery Plan' (2021) with the three priorities being:

- Ensure a clean and green county borough
- Support children and young people's wellbeing and raise educational attainment
- Support for Torfaen's most vulnerable residents.

In seeking to improve standards and provide schools which are fit for purpose, the Council is fully engaged in the Welsh Government's 21<sup>st</sup> Century Schools and Colleges programme which provides for long term investment into educational facilities. All new residential developments which are likely to house school aged children create additional demand for places at existing schools and place pressure upon educational services. To address this, the Council will, where appropriate, seek planning obligations to mitigate this impact and provide for the additional pupils.

### **3.1 Policy and Guidance**

The following policies and guidance are specifically relevant. The Torfaen Local Development Plan policies are set out in full in Part One of this SPG.

- Future Wales: The National Plan 2040 (February 2021) Policy 2 Strategic Placemaking requires local facilities to be within walking distance of homes.
- Planning Policy Wales 11<sup>th</sup> Edition (February 2021) paragraphs 4.4.1 - 4.4.2.
- Welsh Office Circular 13/97 Planning Obligations: paragraphs B2, B7 and B10.
- Welsh Government Circular 016/2014 The Use of Planning Conditions for Development Management: paragraphs 3.10 and 4.21 - 22.
- The Community Infrastructure Levy Regulations 2010 (as amended): Regulations 122 & 123.
- Torfaen Local Development Plan (2013): Policies: S2 (Sustainable Development); S4 (Place Making / Good Design); S5 (Planning Obligations); SAA4 (Mamhilad); SAA6 (South Sebastopol); CF2 (Primary School Safeguarding); and CF3 (Community Facilities).

### **3.2 Circumstances in which Obligations will be Sought**

A planning obligation in relation to educational facilities will be required where a proposed development is likely to result in the generation of additional pupil numbers in excess of that which local schools can accommodate. School capacity will be calculated in accordance with Welsh Government Circular 021/2011: *Measuring the Capacity of Schools in Wales*. It will comprise a snapshot assessment at the time of the planning application and will take into account existing numbers of pupils and any planned increase or decrease in capacity as part of the 21<sup>st</sup> Century Schools and Colleges programme based upon the needs of the catchment area and not trends in parental preference.

The Education (School Premises) Regulations 1999 provide minimum quality standards for schools in Wales which, along with current guidance such as Building Bulletins, set out the requirements for educational environments and accompanying facilities. Any areas of existing schools which do not meet the standards will be discounted for the purposes of capacity assessment relating to planning obligations. Contributions will therefore be sought where:-

- (a) the pupils potentially arising from the development will cause the surplus capacity of local schools within the catchment area to be exceeded; or
- (b) existing surplus capacity exists to accommodate some or all of the pupils potentially arising from the development but refurbishment is required to make those places 'fit for use'.

It is also necessary to retain some spare places to enable schools to cope with fluctuations in numbers of pupils throughout the school year. Correspondence between Welsh Government and TCBC dating from 2012 relates to the strategic reduction in excess surplus pupil spaces and confirms the Welsh Government advice of raising the TCBC intended surplus capacity from 5% but requiring no more than 10% capacity across the county borough. Accordingly, when assessing pupil capacity, the Council will consider the individual circumstances of the school, and by using the Welsh Government guidance, apply the Admission Number arising from that capacity calculation in line with the council's School Admission policy at the time.

The likely requirement for school places arising from permitted or allocated development both within and immediately adjacent to the relevant catchment area will be taken into account and assessed on a site-by-site basis. Obligations relating to educational facilities may apply to new residential development comprising 10 or more dwellings, including applications for renewal of consents. Based upon the pupil yield factors applied by the Council, such a development would be likely to generate a requirement for three additional school places: two at primary school and one at secondary school with lesser requirements for nursery and sixth form places.

This policy guidance applies to residential units only and exemptions comprise one-bedroom dwellings and studio flats, sheltered / elderly person housing, care homes, rest homes and nursing homes, hostels and student accommodation on the basis that such developments are unlikely to house children of school age. Each residential development exceeding the above thresholds will be assessed to determine how many children and young people are likely to be generated from that development and its potential demand and impact on local schools and education facilities.

Where large scale development generates sufficient pupil numbers to justify a new primary or secondary school, there will be a requirement on developers to provide this within the development. If not physically possible to accommodate the facility on site, the developer will be required to make an equivalent financial contribution (e.g. land value and building costs) towards its off-site provision. Any need for new schools as a result of allocated sites will be addressed through the Local Development Plan.

### **3.3 Nature of Obligation**

Obligations will most likely form a financial sum (Education Facilities Payment) to be paid to the Council at an agreed stage in the development. The Payment would be utilised by the Local Educational Authority to provide the required works at a specified school. This could comprise additional places or bringing existing floorspace up to a satisfactory standard.

In appropriate circumstances, it may be preferable for the obligation to comprise the transfer of land or works by the developer in lieu of part or all of a financial payment. In such circumstances, the Council's expectation is that the works should be delivered directly by the developer in accordance with details and specification to be agreed with the Council. The developer would be required to fund the development of the detailed scheme and carry out the works to the appropriate standard.

Any transfer of land or works should be accompanied by a commuted sum to enable the Council to undertake the maintenance of the land / facility for a period of 20 years.

### **3.4 Use of Education Facilities Payment**

An Education Facilities Payment towards the upgrading and / or extension of existing educational facilities will be sought if the implementation of the development will result in a need for additional capacity. Schools within Torfaen County Borough are grouped in clusters based upon catchment areas and location. Where a site is within a particular school catchment area, contributions may not be most appropriately spent at that school where there is an alternative school which may have better accessibility or may be more suitable for providing the level of capacity required. Within each cluster therefore, the most appropriate project will be pursued.

Education Facilities Payments may be utilised to provide for the additional pupils by:

- Provision of new school
- Provision of new / refurbished classrooms
- Replacement of existing demountable facilities with permanent facilities
- Improvements and refurbishments to make facilities fit for purpose
- Provision of additional facilities necessitated by the additional demand.

The use of the Payment will be determined by the Local Education Authority in conjunction with the Local Planning Authority according to the individual circumstances of the development, taking into account the 21<sup>st</sup> Century Schools and Colleges Programme for investment and the school estates survey data.

Projects to be funded by a planning obligation will be set out within the legal agreement along with details of the delivery / timing of payment(s) and the timing of spend. Where a Payment is agreed for a scheme to provide additional capacity and the school in question is then subject to strategic reorganisation so that the scheme would no longer be appropriate, the Payment may be transferable to the next closest relevant school at the time of construction where additional capacity is still required to mitigate the impacts of development. This principle would also apply where a school is closed down on the grounds of poor / substandard accommodation.

Welsh medium education is provided throughout the county borough with Welsh Government targets for places being addressed through the Torfaen Welsh in Education Strategic Plan (2022 – 32). Planning obligations specifically relating to Welsh medium education will be considered on a site by site basis.

### 3.5 Methodology for Calculating Education Facilities Payment

The methodology for calculating the Payment is based upon the anticipated yield of the development multiplied by costs per pupil for the provision of the additional facilities. Starting September 2020, Torfaen now operates a Secondary School (aged 11-16) with separate 6<sup>th</sup> Form (aged 17-18) education system. Therefore, the latest 2021 pupil yield from new residential development is split as follows:

Age Group	Number of Children Generated per 100 Applicable Dwellings	Yield Multiplier per Applicable Dwelling
Maintained Nursery (age 3-4)	3 pupils	0.03
Primary (age 4-11)	23 pupils	0.23
Secondary (age 11-16)	10 pupils	0.10
6 <sup>th</sup> Form (age 16-18)	2 pupils	0.02

The pupil yield numbers above are calculated from the actual take up of school places from completed new build housing development in the county borough 2016-2021 and will be reviewed on a regular basis going forward. The number of pupils generated by a proposed development will be rounded up to the nearest whole pupil for the purposes of ensuring all forthcoming need is addressed.

Calculations for the provision of facilities are based upon an equivalent area measurement per pupil taken from the Department for Education ‘Area guidelines for mainstream schools’ Building Bulletin 103 (June 2014).

The gross internal floor area of the building(s) comprises the basic teaching areas, halls, dining and PE spaces, learning resource areas, staff and administration, and storage areas as well as supporting areas such as toilets and personal care, kitchen facilities, circulation, plant and internal walls. Building Bulletin 103, Annex A (2014) provides the following maximum gross building areas required per pupil:

Age Group	Gross Building Area Per Pupil
Maintained Nursery (age 3-4)	4.2 m <sup>2</sup>
Primary (age 4-11)	4.5 m <sup>2</sup>
Secondary (age 11-16)	7.1 m <sup>2</sup>
6 <sup>th</sup> Form (age 16-18)	7.85 m <sup>2</sup>

The costs applied to this provision account for the following elements:

- Standard construction costs;
- Professional design fees, planning / building regs and SAB etc;
- Furniture, fittings and equipment; and
- ICT.

The cost of works is derived from data held by the Council's Property Construction Group based upon the latest experience of building in Torfaen as follows:

Nature of Works	Cost per M <sup>2</sup>	Cost per Pupil Place (Cost / M <sup>2</sup> x Gross Building Area)	
New Build Capacity	£5,000 m <sup>2</sup>	Maintained Nursery (age 3-4)	£21,000
		Primary (age 4-11)	£22,500
		Secondary (age 11-16)	£35,500
		6th Form (age 16-18)	£39,250
Light Refurbishment <sup>1</sup> to Increase Capacity	£1,300 m <sup>2</sup>	Maintained Nursery (age 3-4)	£5,460
		Primary (age 4-11)	£5,850
		Secondary (age 11-16)	£9,230
		6th Form (age 16-18)	£10,205
Medium Refurbishment <sup>1</sup> to Increase Capacity	£2,030 m <sup>2</sup>	Maintained Nursery (age 3-4)	£8,526
		Primary (age 4-11)	£9,135
		Secondary (age 11-16)	£14,413
		6th Form (age 16-18)	£15,936
Heavy Refurbishment <sup>1</sup> to Increase Capacity	£2,620 m <sup>2</sup>	Maintained Nursery (age 3-4)	£11,004
		Primary (age 4-11)	£11,790
		Secondary (age 11-16)	£18,602
		6th Form (age 16-18)	£20,567

<sup>1</sup> Degrees of refurbishment are defined as follows in accordance with WG guidance used in the development of the 21<sup>st</sup> Century Schools and Colleges programme. Only refurbishment schemes that result in increased pupil capacity will be considered appropriate for funding by planning obligations.

**Light Refurbishment:** Investment focused on common areas and essential repairs only. Extension of economic life is approximately 5 years. Works include strip out of existing space, shell and core refurbishment including cosmetic upgrades. Assumes existing main plant, existing floors and ceilings are retained.

**Medium Refurbishment:** Investment involves full upgrade of the existing building services and finishes but stops short of major structural alterations. Extension of economic life is approximately 15 years. Works include strip out of existing space, shell and core refurbishment including cosmetic upgrades. No major structural or sub-structural alterations. Existing floors and ceilings are retained and minor repairs only to façade.

**Heavy Refurbishment:** Investment includes significant structural alterations and may also include the replacement of facades and roof finishes. The complete renewal of internal fittings, finishes, and MEP systems. The building is typically unoccupied. Extension of economic life is approximately 15 - 30 years. Works include strip out of existing space, shell and core refurbishment including cosmetic upgrades. Replacement to raised floors, ceilings and new services.

The figures above have been tested against the costs of recently completed new school construction projects and will be regularly reviewed and updated to reflect changes in school building costs. The most up-to-date data will be used at the time of any application.

The appropriate formula for the Education Facilities Payment is therefore as follows: -

<p><b>Education Facilities Payment = Nursery / Primary School + Secondary School + 6<sup>th</sup> Form Contributions Contribution Contribution</b></p> <p>Where: -</p> <p><b>Nursery School Contribution</b> = (No. of applicable dwellings x 0.03) x Cost per Pupil Place for the Relevant Works</p> <p><b>Primary School Contribution</b> = (No. of applicable dwellings x 0.23) x Cost per Pupil Place for the Relevant Works</p> <p><b>Secondary School Contribution</b> = (No. of relevant dwellings x 0.10) x Cost per Pupil Place for the Relevant Works</p> <p><b>6<sup>th</sup> Form Contribution</b> = (No. of relevant dwellings x 0.02) x Cost per Pupil Place for the Relevant Works</p>
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### 3.6 Standard Heads of Terms

The following definitions and clauses are suggested for use as appropriate in Section 106 legal agreements and unilateral undertakings where an education obligation is required.

#### Definitions

**“Education Facilities”** means the works to be undertaken to provide for (..) no. of additional nursery places (..) no. of additional primary school places (..) no. of additional secondary school places and (..) no. of additional sixth form places

**“Education Facilities Obligations”** means a planning obligation to be determined at the time of the submission of full details of the Development (or any subsequent full application for planning permission) to be secured by the Council in accordance with the adopted Planning Obligations SPG current at the time the submission or application is made to provide for additional education facilities to meet the needs of the Development

**“Education Facilities Payment”** means the sum of £... pounds (£...) increased (but not decreased) by RPI from the date of the resolution to grant the Planning Permission to the date of payment to

provide (..) no. of additional nursery places (..) no. of additional primary school places (..) no. of additional secondary school places and (..) no. of additional sixth form places

**“Education Facilities Scheme”** means a detailed specification of the works to be undertaken to provide the Education Facilities

**“Education Land”** means the land hatched on Plan [ ] attached to this Agreement where the Education Facilities are to be provided

**“Fully Serviced”** means the proper connections within the Site so as to connect it to surface water drainage facilities and to mains foul drainage facilities water gas electricity and telecommunication and enjoys direct access to the public highway or a roadway constructed to adoptable standards (connecting to the public highway) which is the subject of an agreement under Section 38 of the Highways Act 1980

### Example Clauses

#### Financial Payment

1. Prior to the Commencement of Development, the Owner / Developer shall pay to the Council the Education Facilities Payment
2. The Council shall use the Education Facilities Payment to provide for (..) no. of additional nursery school places at [ ] (..) no. of additional primary school places at [ ] (..) no. of additional secondary school places at [..] (..) and no. of additional sixth form places at [ ]

#### Provision of Education Facilities

3. The Owner / Developer shall provide the Education Facilities
4. Prior to the Commencement of Development, the Owner / Developer shall submit to the Council for the Council’s approval the Education Facilities Scheme such approval not to be unreasonably withheld or delayed
5. The Owner / Developer shall provide the Education Facilities in accordance with the approved Education Facilities Scheme and shall Complete the Education Facilities prior to the Occupation of the (..th) Dwelling comprised within the Development
6. The Owner / Developer shall transfer the Education Facilities to the Council Fully Serviced and with all associated rights of access at no cost to the Council prior to the Occupation of the (..th) Dwelling comprised within the Development
7. The Council shall use the Education Facilities for the purposes of education and for no other purpose

#### Provision of Land for Education Facilities

8. Prior to the Commencement of Development, the Owner / Developer shall transfer to the Council the Education Land Fully Serviced with all associated rights of access at no cost to the Council
9. The Council shall use the Education Land for the provision of education facilities

#### Outline Application

10. The Owner / Developer shall enter into a further legal agreement to secure any required Education Facilities Obligation as appropriate when the full details of the proposal are submitted as reserved matters or a full planning application.