

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 3' (2016). In seeking to improve standards and provide schools which are fit for purpose, the Council is fully taking part in the Welsh Government's 21st Century Schools 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. Torfaen Local Development Plan policies are generally set out in full in Part One to 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 11th 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, 4.21 and 4.22.
- 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*. Assessment of capacity 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 based upon the needs of the catchment area and not trends in parental preference. Circular 021/2011 identifies that demountable accommodation is usually considered as being unsuitable permanent development and such accommodation is therefore excluded from capacity calculations for the purposes of planning obligations.

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. 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.

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.

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 and taking into account the Strategic Outline 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.

A longer-term review of education provision in the County Borough will also address the statutory requirement for provision of Welsh medium education. It may be appropriate in the future to provide part of a financial contribution specifically towards the provision of Welsh medium education.

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. From September 2020,

Torfaen now operates a Secondary School (aged 11-16) / 6th Form (aged 17-18) education system. Therefore, the latest 2021 pupil yield from new residential development is split as follows: -

- State Nursery: 3 pupils per 100 dwellings (0.03 pupils per dwelling);
- Primary: 23 pupils per 100 dwellings (0.23 pupils per dwelling);
- Secondary: 10 pupils per 100 dwellings (0.1 pupils per dwelling); and
- 6th Form: 2 pupils per 100 dwellings (0.02 pupils per dwelling).

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) which provides guidelines for the following maximum net building area required per pupil: -

- State Nursery School area / pupil: 3.1 m² (BB103, Annex A)
- Primary School area / pupil: 3.1 m² (BB103, Annex A)
- Secondary School area / pupil: 4.9m² (BB103, Annex A)
- 6th Form area / pupil: 5.4 m² (BB103, Annex A)

The cost of works is derived from the latest experience of building in Torfaen, currently (2nd Quarter data 2021) set at £4,000 / m² for new build works and from between £1,000 / m² to £1,700 / m² for refurbishments dependent upon the scale of works required. In the future, any change in requirements published by the Government and the latest Torfaen costs will be taken into account. The appropriate formulae for the Education Facilities Payment are therefore as follows: -

Education Facilities Payment = Nursery / Primary School + Secondary School + 6th Form
Contributions Contribution Contribution

Where: -

- Nursery School Contribution = (No. of relevant dwellings x 0.03) x (3.1 x 4,000 (latest cost/m²))
- Primary School Contribution = (No. of relevant dwellings x 0.23) x (3.1 x 4,000 (latest cost/m²))
- Secondary School Contribution = (No. of relevant dwellings x 0.1) x (4.9 x 4,000 (latest cost/m²))
- 6th Form Contribution = (No. of relevant dwellings x 0.02) x (5.4 x 4,000 (latest cost/m²))

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.