

# REVISIONS TO THE PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT FOR EDUCATIONAL FACILITIES

<b>Cabinet Members</b>	Councillor Keith Burrows Councillor David Simmonds
<b>Cabinet Portfolios</b>	Planning and Transportation Education and Children's Services
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<b>Papers with report</b>	Appendix 1: Draft Revised Planning Obligations Supplementary Planning Document for Educational Facilities

## HEADLINE INFORMATION

<b>Purpose of report</b>	This report seeks approval for the publication of draft revisions to the Planning Obligations Supplementary Planning Document (SPD) for Educational Facilities to support the process of seeking planning obligations from new residential developments.
<b>Contribution to our plans and strategies</b>	<ul style="list-style-type: none"> <li>- Sustainable Community Strategy</li> <li>- Council Plan</li> <li>- Development and improvement of education in our schools</li> </ul>
<b>Financial Cost</b>	The consultation process will be contained within existing planning budgets. However this draft revision of the SPD on planning obligations for Educational Facilities does propose a change in the Child Yield formulae that on the weighted average would result in an increase of 7% on a planning obligation in the area south of the A40 and a decrease of 4% from developments in the area north of the A40. The current trend in development for the Borough would indicate that new developments are more likely in the south and this change would therefore lead to a probable net increase in the value of the planning obligations available for the provision of educational facilities for the Authority.
<b>Relevant Policy Overview Committee</b>	Residents and Environmental Services Education & Children's Services
<b>Ward(s) affected</b>	All

## **RECOMMENDATIONS**

### **That Cabinet:**

- 1. approves draft revisions to the council's Supplementary Planning Document for Education Facilities as a basis for public consultation and interim guidance in respect of development management, in order to support the process of seeking planning obligations from new residential developments;**
- 2. instructs officers to undertake a 6 week consultation exercise with interested groups, residents and statutory bodies, and requests the Corporate Directors of Planning and Community Services and Education and Children's Services to report back on the responses to the consultation to a future meeting of the Cabinet.**
- 3. grants delegated authority to the Corporate Directors of Planning and Community Services and Education and Children's Services, in consultation with the Cabinet Members for Planning and Transportation and Education and Children's Services, to make any further draft revisions to the council's Supplementary Planning Document for Education Facilities, if required as a result of any relevant revisions to GLA or Hillingdon population projections affecting child yields; or any other corrections of a factual or minor nature before it is placed on public consultation;**

## **INFORMATION**

### **Reasons for recommendation**

The current Planning Obligations Supplementary Planning Document (SPD) for Education Facilities (July 2008) contains child-yield statistics based on 2001 Census data. It is now apparent that, with increased fertility rates and a significant upturn in births, there are more children on average in each dwelling than there were in 2001. The draft revisions to the SPD takes account of this increase in child yields, to ensure that the scale of contributions sought from planning obligations for educational facilities from new development is appropriate.

### **Alternative options considered / risk management**

The alternative options to be considered are:

- 1. To make any revisions to the draft SPD.**
- 2. Reject the recommended changes and retain the current Education Facilities SPD. This however, risks underestimating the number of children likely to be generated by new housing developments, thus underestimating the future impact on educational facilities.**

### **Comments of Policy Overview Committee(s)**

None at this stage.

## **Supporting Information**

1. The current child-yields contained in the Education Facilities SPD used 2001 Census data to estimate the average number of children contained in various property types, sizes and tenures. At the time of adoption this data analysis represented the most up to date and comprehensive estimate of its kind.
2. However since 2001, and particularly since 2007, fertility rates and births have been increasing across London including Hillingdon. The number of children born in Hillingdon has increased by over 27% since 2001, whilst the housing stock has increased by only 4%. This suggests that, on average, the number of children per unit of housing has increased, with the consequence that new dwellings are likely to have a greater impact on educational facilities than previously indicated.
3. A more detailed analysis using a population estimate derived from official GLA and ONS sources, and estimates of local housing stock from the Local Authority's planning records show that the overwhelming majority of increased child-yield is south of the A40, where the majority of new housing and increased births have occurred. South of the A40, estimated child yields for 0-2 year olds have increased by 26.4% in the period 2001 to 2010. At the same time, the estimated child yields for 0-2 year olds north of the A40 remained more or less the same (+0.8%).
4. This significant demographic shift has not yet affected age groups older than ages 0-2, but the average child yield rates for older age groups will increase over the coming years as cohorts grow older, and this can be statistically demonstrated.
5. Paragraph 4.19 of the current SPD allows the council to use population projections 10 years ahead, in order to fully assess the impact of housing developments upon the council's education services. In undertaking such a projection, it can be demonstrated that the child-yields for all age groups affecting school services (nursery, primary, secondary, and post-16) will change, with child-yields south of the A40 increasing disproportionately to the expected growth in housing stock.
6. In formulating population projections to 2020, the council has used official population estimates and birth statistics from the GLA and ONS, together with the council's records on approved and anticipated housing development. The analysis shows that by 2020, there will be a small drop in average child-yields for the north of the borough, compared with a large increase for estimated child-yields in the south of the borough.

## **Applying the changes**

7. The available data demonstrates that by 2020 Hillingdon dwellings in the south of the borough will, on average, contain more children than they did at the time of the 2001 Census. It can also be demonstrated that average child-yields per dwelling have already increased for the 0-2 age band. This significant demographic shift will undoubtedly affect child-yields for the 3-4 (nursery), 5-11 (primary), 12-16 (secondary) and 17-19 (post-16) age bands, incrementally. These results form the basis of the revisions to the child-yields contained set out in the SPD.
  8. The available data, however, does not demonstrate that the population increase can be wholly attributed to new housing only. Nor does it allow any presumption that any particular
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size of dwelling, or tenure type, is more responsible for the population increase than another type. The available data only demonstrates that there is, and will continue to be, changes to the average child-yields, and that these vary distinctly between the north and south of the borough.

9. Taking into consideration the fundamental principles that planning obligations must be fair and reasonable, it would be appropriate to take the position that the demographic changes should be attributable to all sizes of dwelling and types of tenure. The subsequent changes to be applied to the current SPD child-yields will therefore be as specified in the table below:

Proposed changes to child-yield formulae	Changes to be applied to developments North of A40	Changes to be applied to developments South of A40
Ages 0-2 (not sought)	n/a	n/a
Ages 3-4 Nursery sector	-3.8%	+12.6%
Ages 5-11 Primary school sector	+2.6%	+11.1%
Ages 12-16 Secondary school sector	-4.7%	+0.7%
Ages 17-19 Post-16 sector	-15.1%	+6.2%

10. The changes required to the existing Planning Obligations SPD for Educational Facilities as a result of the new child yield figures are set out below. It should be noted that the principles and methodology for calculating these contributions remain as before. The revised draft SPD incorporating these changes is included as Appendix 1.

- para 4.26 is amended to refer to the 2010 data
- para 4.29 is amended to refer to the new tables 4.2a and 4.2b , which replace previous Table 4.2.
- Tables 4.2a (child occupancy rates by tenure for south of the A40) and 4.2b (child occupancy rates by tenure for north of the A40) are included to replace previous Table 4.2
- Para 4.37 is amended to include build costs for 2009/10
- Table 4.3 is amended to include new build costs for 2009/10
- Tables 4.4a (child yield by school sector and dwelling type for south of the A40) and 4.4b (child yield by school sector and dwelling type for north of the A40) are included to replace previous Table 4.4
- The worked examples in paras 4.42-4.46 are amended to reflect the new child yield figures.

11. The implications for housing developers making planning applications are that there will be changes to the amounts sought as planning obligations for education facilities. Whilst several other factors are considered at the time such assessments are made (such as surplus school capacity), the current circumstances indicate that the proposed changes will have the following overall effect on planning obligations sought from housing developers:

- Developments south of the A40: +7% increase in maximum S106 amounts sought
- Developments north of the A40: -4% decrease in maximum S106 amounts sought

12. Para 4.19 in Hillingdon's existing Planning Obligations SPD for Educational Facilities (July 2008) acknowledges that the need for additional school facilities will be determined by the council, with reference to the most recent pupil forecasts looking forward over a 10 year period, plus consideration of the likely impact of all local housing developments. The

proposed revisions to the SPD merely set out the changes to the formula, given the new 2010 forecasts. There are no changes being proposed with regard to the principles or methodology to be used. Nevertheless, the SPD is a statutory document, and must be produced in accordance with the Town and Country Planning (Local Development) (England) Regulations 2004. These Regulations require that the draft SPD is published and open to consultation and that the consultation responses and representations are considered by the local planning authority prior to adoption by the local planning authority.

13. The GLA are likely to publish revised population projections in the coming months. These figures, which were due out in 2009, may have further implications on the changes to Hillingdon's Planning Obligations SPD. If so, it is these further changes will be incorporated into the draft SPD as appropriate, and agreed under delegated powers following consultation with the Directors of Planning and Community Services and Education and Children's Services, in consultation with the Cabinet Members for Planning and Transportation and Education and Children's Services.

### **Financial Implications**

The consultation process will be contained within existing planning budgets. However there will be financial implications for the amounts generated for the council through planning obligations for education facilities resulting from new development.

Whilst several factors are considered at the time S106 assessments are made, the present revisions to the Child yield formulae as outlined in the table above when applied would on a weighted average basis generate 7% more from developments south of the A40, and 4% less from developments north of the A40 (although the amounts sought for the primary school phase will actually increase).

The amount of funding generated by the proposed changes will ultimately depend upon which new developments are actually proposed and built, but on historical evidence the future expectation is that there will be more development in the south of the borough, bringing a probable net gain to the council to help pay for necessary educational facilities.

### **EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES**

#### **What will be the effect of the recommendation?**

The recommendations will support the council in meeting its statutory duty of providing sufficient school places for children and young people, thus benefiting local residents and communities. Additionally, a potential increase in Section 106 revenues could provide increased value for money in providing additional school infrastructure to cope with the anticipated population increase over the next 10 years.

The recommendations also ensure continued public involvement in the planning process through the consultation stage, resulting in further refinement and improvements to the SPD as necessary. The adoption of the SPD will enhance the weight that can be attached to it as a material consideration in decision-making on any planning application.

#### **Consultation Carried Out or Required**

In accordance with Planning Policy Statement 12 and the Council's adopted Statement of

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Community Involvement, the draft SPD will be publicised and local groups, residents and other key stakeholders will be invited to comment. It is proposed that the consultation period will be for 6 weeks, and seek to ensure that local residents, groups, statutory bodies and all other interested parties are involved and listened to by the Council.

## **CORPORATE IMPLICATIONS**

### **Corporate Finance**

Corporate Finance is satisfied that the financial implications properly reflect the direct resource implications for the Planning and Community Services Group. However, the draft SPD will have financial implications for the Council in terms of the amounts generated through planning obligations for education facilities resulting from new developments. The draft revision to the SPD takes into account the increase in child yields. Although other factors are considered at the time that the S106 assessments are made, the present revisions could generate a 7% increase in the maximum S106 amounts sought from developments south of the A40 and 4% less from developments north of the A40. Although the amount of funding generated will depend on new developments actually built, any potential net gain will be available to the Council for the provision of necessary educational facilities.

### **Legal Comments**

#### The relationship between the Development Plan and Material Considerations

Local planning authorities must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise.

If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision. One such consideration will be whether the plan policies are relevant and up to date.

Subject to the exceptional circumstances explained below, planning applications should continue to be considered in the light of currently adopted development plan policies, and not draft policies. However, with the publication of draft revisions to an SPD, officers are able to introduce into the public domain the factual basis on which they are seeking increased education contributions and argue that these new facts need to be applied to the adopted SPD methodologies.

Of course, until embarking on a consultation process for the draft SPD, and moving towards adoption, it will be easier for planning applicants to dispute the source or appropriateness of the new data because it will not have been publicly commented upon or tested.

#### Supplementary Planning Documents (SPD) in the policy hierarchy

SPDs may expand policy or provide further detail to policies in a development plan document. In terms of policy hierarchy an SPD is not a Development Plan Document. It does not form part of the Development Plan. However, it does form part of a Local Development Framework only when it is adopted, and only at that time will it be given its greatest possible appropriate

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weight. Until an amendment to an SPD is adopted by the local planning authority, as a matter of law it does not form part of the SPD and is instead a proposed revision amounting to a material consideration.

### Issuing Draft Revisions to the SPD on Planning Obligations

There are two forms of local development documents: - supplementary planning documents and development plan documents. A SPD is a statutory document, and the legal requirements in relation to its preparation and adoption as a local development document are prescribed by the Town and Country Planning (Local Development) (England) Regulations 2004 (the 2004 Regulations). An SPD must be produced in accordance with the 2004 Regulations.

This report deals with the approval by the Cabinet to take the first step of the three main steps in the SPD procedure. The 2004 Regulations require that:

- a SPD (or revisions to an SPD) is published and open to consultation for a period of not less than 4 weeks and not more than 6 weeks (regulation 17);
- the consultation responses and representations are considered by the local planning authority (regulation 18);
- the SPD is adopted by the local planning authority (regulation 19).

The council's Constitution requires the Cabinet to collectively take key decisions to amend its policy framework, and the publication of proposed revisions to the SPD fall within this category.

Publications in draft form can be treated as a material consideration. The local planning authority officers are entitled to argue that since the underlying assumptions are unchanged by the proposed revisions in the draft SPD, the new factual data introduced in the revised document ought to be applied when considering the tables in the pre-existing adopted SPD.

### Exceptional Circumstances

Where relevant to a particular development proposal supplementary guidance will be taken into account as a material consideration in making decisions. The weight accorded to it will increase where it has been prepared following public consultation. Emerging policies, in the form of draft policy statements and guidance, can be regarded as material considerations, depending on the context. Their existence may indicate that a relevant policy is under review; and the circumstances which have led to that review may need to be taken into account. Ultimately, the weight to be given to any particular material consideration is a matter for the decision maker.

### **Corporate Property**

The Head of Corporate Property Services advises that there are no direct property implications arising from this report.

### **BACKGROUND PAPERS**

Hillingdon's Education Planning Obligations Supplementary Planning Document for Educational Facilities (July 2008)