

## **Cabinet – 28 February 2007**

### **Supplementary Planning Document for Education**

**Portfolio:** Councillor Adrian Andrew – Regeneration and Enterprise  
Council Zahid Ali – Children’s Services

**Service:** Strategic Regeneration  
Education Walsall

**Wards:** All

**Key decisions:** Yes

**Forward plan:** Yes

#### **Summary of report**

The Cabinet is recommended to adopt a [Supplementary Planning Document](#) (SPD) for Education.

UDP policies GP3 and 8.8 enable developer contributions to meet Education needs arising from new residential developments. The Council and Education Walsall have been negotiating with developers for contributions based on these policies for approximately two years.

The SPD formalises this process. It sets out the cost of providing primary and secondary education places, and apportions that cost to the developers of residential sites. The SPD was prepared by Education Walsall working closely with Strategic Regeneration and Development Control. The Council will enter into Section 106 Agreements with developers and the money received will be used towards the provision and improvement of education facilities at schools near to the development, i.e. a 2 mile radius for primary schools and a 3 mile radius for secondary schools. The assessment of the capacity of schools in the vicinity of the proposed development determines whether a contribution will be requested. The amount sought is related to the mix of dwellings in the development.

The SPD is accompanied by a [Statement on Consultation](#), which summarises the main issues raised during public consultation.

The SPD is also accompanied by a [Sustainability Appraisal](#), which was also available for public consultation. English Heritage agreed that a Strategic Environmental Assessment (SEA) would not be necessary and no other comments were received on either of these documents from the other SEA consultation bodies. It is therefore concluded that a SEA is not required for this SPD.

#### **Recommendations**

- (1) That the Cabinet agrees the responses to objections as set out in the Statement on Consultation (paragraph 1.7).
- (2) That the Cabinet adopts the SPD for Education.

### **Resource and legal considerations**

Production of the adopted SPD is allowed for within the budget for preparing the Local Development Framework. No additional resources are required.

Walsall Council has already entered into a number of Section 106 Agreements with house builders. The SPD will strengthen the position of the Council in negotiations to secure developer contributions. The scale of contributions is based on a formula that estimates the likely pupil generation from new developments; examples are given in the SPD. Developments of 10 dwellings or more are required to contribute where less than 10% of places in nearby primary and/or secondary schools are unfilled. 10% is a reasonable balance between having enough flexibility to cope with changing needs and having too many unfilled places, which would be wasteful. The money will be used to make sure schools have adequate capacity to accommodate pupils who occupy new homes in the area, i.e. a 2 mile radius for primary schools and a 3 mile radius for secondary schools.

Section 106 Agreements can only be used to address the needs arising from new developments; they cannot be used to deal with existing deficiencies.

The latest analysis of contributions for education was for the period ending 30 October 2006. In the two years previous, in round terms, a total of £3.6 million had been requested from developers, comprising £0.27 million for primary and £3.33 million for secondary schools. Of this £0.65 million had been received. Clearly, there is a lag between calculation of the s106 requirement, the subsequent granting of planning permission and the development reaching the stage at which payment is triggered, so at October 2006, approximately 90% of the receipts outstanding were not yet due. It is difficult to forecast an annual return, especially as construction rates will fluctuate with the market, but based on recent experience a reasonable estimate would be in the region of £1.2 – 1.5 million per year, once the receipt becomes due.

It should be noted that where the developer demonstrates he cannot afford the full range of Section 106 Agreements for affordable housing, open space, education and healthcare, the Council and Education Walsall will negotiate an appropriate alternative solution in line with Government Circular 05/2005. The above estimate allows for this.

The SPD conforms to the policies in the Unitary Development Plan (UDP), specifically policies GP3 and 8.8. The SPD will be used in determining planning applications and in negotiating Section 106 Agreements related to planning permissions for new residential developments.

### **Citizen impact**

The SPD will help to ensure that primary and secondary school places are conveniently available to everyone who needs them. This will make it easier for school age children

to attend local schools. It should also prevent new development from putting excessive pressure on nearby schools.

### **Community safety**

The SPD will have no significant effect on community safety.

### **Environmental impact**

The SPD may lead to some new development or extension to existing school facilities. However, these should be sensitively designed and in locations that are highly accessible to pupils and staff in line with other policies in the UDP. Larger scale developments would be subject to separate Environmental Impact Assessment.

### **Performance and risk management issues**

#### Adopting the SPD as recommended:

This will provide a robust and statutory basis for negotiating Section 106 Agreements. There is a risk that applicants will not accept the Council's response to their objections and may challenge the use of the SPD when making planning applications; this could lead to appeals against conditions attached to planning permissions. However, adopting the SPD will provide developers with up front information to build into their financial appraisals, will assist in processing planning applications, and will minimise that risk. Experience over the last two years indicates this risk is relatively low.

The adoption of the SPD assists the Council in achieving the Audit Commission's objectives on improving performance on S.106 Agreements and as set out in its Guidance: "Securing Community Benefits through the Planning Process".

#### Not adopting the SPD:

This would not prevent the negotiation of Section 106 Agreements; indeed, such agreements have historically been made. However, the Council and Education Walsall would not have the backing of an SPD that would improve their ability to negotiate agreements to the required level.

Performance against the Local Development Scheme (LDS) is a factor in the Council-wide Performance Assessment (CPA) and in setting the level of Planning Delivery Grant (PDG) that the Council receives. The LDS programmes adoption of the Education SPD for March 2007. Not adopting the SPD by then, or adopting it later, may lead to a reduction in PDG and a poorer CPA score.

#### Managing the money properly

The amount of money to be paid by the developer is subject to legal agreement, which specifies how and by when the money is to be spent. It may only be used for the agreed purpose, i.e. providing school places, within a specified timescale. The money is paid into a dedicated bank account for easy auditing, and access to this account

could be controlled by the Director of Children's Services. The Planning Service has recently taken on a Monitoring Officer to keep track of all Section 106 Agreements, including how much money is due, when it is due, how much has been received and how it has been spent.

### **Equality implications**

The aim is to make sure school places are available for everyone that needs them. The SPD will help to deliver this.

In some circumstances it is appropriate to carry out an Equality Impact Assessment (EIA) of an SPD. However, in this case, as the Council does not directly deliver education, an EIA under Section 71 of the Race Relations (Amendment Act) 2000 would not be appropriate.

### **Consultation**

This report has been prepared in consultation with Strategic Regeneration, Development Control, and Education Walsall who have all contributed to the responses to comments summarised below. Legal Services have also been consulted.

The draft SPD was prepared by Education Walsall in partnership with the Council and in consultation with education providers. It has also been subject to public consultation in line with the Local Development Regulations and the Statement of Community Involvement. This is described in detail in the Statement on Consultation, which is required to accompany the SPD.

The SPD is also accompanied by a Sustainability Appraisal, including a Screening Statement, which was also available for public consultation. English Heritage agreed that a Strategic Environmental Assessment (SEA) would not be necessary. No comments were received on either of these documents from the other SEA consultation bodies. It is therefore concluded that a SEA is not required for this SPD.

The formal consultation period ran from 14 November to 12 December 2006. Representations were received from 6 organisations or individuals, including 2 house builders. In general house builders accept the principle that they should contribute to social infrastructure arising from their developments, so most of the comments were about details of costs and the assumptions behind the calculations set out in the SPD.

Comments and responses are summarised in the Statement on Consultation.

### **Vision 2008**

The SPD will contribute in a number of ways towards the Council's Vision 2008. The most direct links are to:

- Make our schools great;
- Encourage everyone to feel proud of Walsall;
- Listen to what local people want.

It will also contribute to an improving Planning Service by adding clarity to the process of determining relevant planning applications and concluding Section 106 Agreements.

## Background papers

Walsall Unitary Development Plan  
Supplementary Planning Document for Education  
Supplementary Planning Document for Education: Sustainability Appraisal.  
Supplementary Planning Document for Education: Statement on Consultation.  
Circular 05/2005: Planning Obligations.

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20 February 2007



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20 February 2007



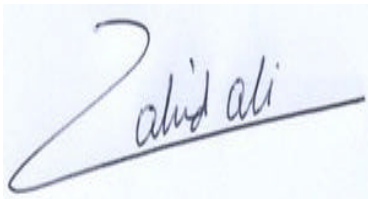
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20 February 2007



**Walsall Council**

**and**

**Education Walsall**

**Supplementary Planning Document  
to the Walsall Unitary Development Plan**

**Education**

**Sustainability Appraisal and Screening  
Statement**

**Final Draft**

**February 2007**

## Supplementary Planning Document (SPD) Matters

Title of SPD	Supplementary Planning Document for Education
Subject	This SPD expands on 'saved' policies GP3 and 8.8 in the Walsall UDP regarding provision of education facilities in the borough of Walsall.
Consultation	Comments could be made on the draft SPD and the Sustainability Appraisal between 14 November and 12 December 2006.
Address	Further information may be obtained from:  Planning, Admissions and Transport Team Education Walsall Pelsall Lane Rushall Walsall WS4 1NG  Telephone: 01922 686354  Fax: 01922 686374  Email: <a href="mailto:peter.speers@we.serco.com">peter.speers@we.serco.com</a>  Relevant documents can be inspected on the Council's website ( <a href="http://www.walsall.gov.uk/index/environment/planning/local_development_framework.htm">http://www.walsall.gov.uk/index/environment/planning/local_development_framework.htm</a> ), at the First Stop Shop reception at Walsall Civic Centre, and at public libraries in the borough of Walsall.
Adoption	Anyone could ask to be notified of the adoption of this SPD at a specified address.
Evidence	The evidence base for the SPD will be assessments of the availability of school places in the relevant area.

## 1. Introduction

- 1.1. The Local Development Scheme (LDS) for Walsall states that the Council will prepare a Supplementary Planning Document (SPD) for education.
- 1.2. The purpose of this SPD is to set out, with reference to the UDP, the contributions that developers will be required to make towards the provision and improvement of local education facilities.
- 1.3. This SPD is not intended to be site-specific and will not be used to determine the specific location of education facilities to be provided or improved. It will, however, define the zone within which contributions will be invested.
- 1.4. This SPD details the scale of contribution that developers will be required to make towards the provision of new, and the improvement of existing, education facilities.

### Accompanying documents

- 1.5. Every SPD must be accompanied by a Sustainability Appraisal, the purpose of which is to assess the likely environmental, social and economic impact of implementing the SPD. In summary, the Sustainability Appraisal concludes that the impacts in this case are likely to be modest but generally positive as there will be more resources for local education facilities.
- 1.6. It is also necessary to prepare a Screening Statement, which explains whether a Strategic Environmental Assessment (SEA) is required in terms of the SEA Directive<sup>1</sup>.
- 1.7. There is also a Statement on Consultation, which describes how people have been consulted on this SPD in accordance with Walsall Council's Statement of Community Involvement and how respondents' comments have been taken into account in preparing this SPD.

### Consultation

- 1.8. Comments could be made on the draft SPD and the Sustainability Appraisal between 14 November and 12 December.
- 1.9. The consultation was carried out in accordance with Walsall Council's Statement of Community Involvement (SCI) which was adopted in June 2006. Consultation included discussions with interested parties and other informal consultation prior to this formal stage.

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<sup>1</sup> European Directive 2001/42/EC, known as the "SEA Directive", as translated by the Environmental Assessment of Plans and Programmes Regulations 2004



## 2. Sustainability Appraisal

### Scoping

- 2.1. A Sustainability Appraisal is required to accompany all SPDs. The purpose of a Sustainability Appraisal is to address the environmental, economic and social impacts of the SPD. The Sustainability Appraisal is to be prepared in parallel with the SPD so that sustainability impacts can be taken into account in developing the policies in the SPD itself.
- 2.2. At the outset it is important to note that the SPD will not create new policy, and any policies in the SPD must remain within the parameters set by the UDP.
- 2.3. The SPD will not in itself result in the development of new or improved education facilities. It will instead guide the collection and use of developer contributions towards education provision and improvement.
- 2.4. The only influence that the SPD will have over what happens on the ground will be to increase the resources available to local education facilities relative to the timing of new residential developments in the area.
- 2.5. The scope of the Sustainability Appraisal will therefore be limited to the likely impacts of having more resources available for education.

### Approach to the sustainability appraisal

- 2.6. The approach to the sustainability appraisal in this report reflects the Government's sustainability agenda. The themes listed in Appendix A are based on five guiding principles and four priorities for actions described in *Securing the Future – Delivering the UK Sustainable Development Strategy*. They are:
  - Living within environmental limits;
  - Ensuring a strong, healthy and just society;
  - Achieving a sustainable economy;
  - Promoting good governance; and
  - Using sound science responsibly.

And:

- Sustainable consumption and production;
  - Climate change and energy;
  - Natural Resource Protection and Environmental Enhancement; and
  - Sustainable Communities
- 2.7. This sustainability appraisal translates these broad aims into a range of 20 factors against which policies and proposals may be tested for their contribution towards sustainable development. This has been placed in one of the following categories: benefit; neutral; detriment.

### Who prepared the Sustainability Appraisal?

- 2.8. This sustainability appraisal was prepared alongside the draft SPD. Education Walsall prepared it in consultation with Walsall Council.

### **Who has been consulted?**

- 2.9. Details of the consultation are given in the accompanying Statement of Consultation.

### **Purpose of the SPD**

- 2.10. Sustainable development embraces economic, environmental and social concerns and covers a range of issues from local to global. This appraisal considers the Supplementary Planning Document for Education in terms of its sustainability. It tests two options against a set of sustainability objectives to see whether it will contribute positively to delivering sustainable development in Walsall:

Option 1: An SPD is prepared and adopted to add value to the UDP policies by enabling the Council to negotiate an appropriate provision of educational facilities to meet the local needs of Walsall Borough.

Option 2: The existing UDP policies provide the main basis for decisions in Walsall

- 2.11. This appraisal focuses on the difference between continuing with the UDP alone and expanding it with this SPD. A chart setting out the net gain in sustainability terms is set out at Appendix A.

### **Summary of likely impacts**

- 2.12. 2.12 The aim is to allocate developer contributions towards new and improved local education facilities. The types of impact are summarised below:
1. Environmental. Appropriate provision provided locally should result in improved perceptions of neighbourhoods by children and parents
  2. Economic. Improved local facilities should help retain local families.
  3. Social. Improved local facilities should assist local identity and fulfilment.

### 3. Strategic Environmental Assessment

- 3.1. The Environmental Assessment of Plans and Programmes Regulations 2004 (“the Regs”) require Strategic Environmental Assessment (SEA) to be carried out for certain types of plans and programmes, including some supplementary planning documents (SPD). The Regs translate the European Directive 2001/42/EC, known as the “SEA Directive” into the context of the English planning system.
- 3.2. The Regs set out a series of tests as to whether SEA is required and are helpfully translated into a diagram in “A Practical Guide to the Strategic Environmental Assessment Directive”; Figure 2 on page 13 of the Guide, which is the basis of the assessment below.

Question	Response
Is the PP subject to preparation and /or adoption by a national, regional or local authority OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (Art. 2(a))	Yes. The SPD is prepared by a local authority for adoption through the Planning and Compulsory Purchase Act 2004 and associated regulations.
Is the PP required by a legislative, regulatory or administrative provision? (Art. 2(a))	Yes. See above.
Is the PP prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Art. 3.2(a))	No. The SPD is for town and country planning, but will not set a framework for future development consent of projects in Annex I or II.
Will the PP, in view of its likely effect on sites, require an assessment under Article 6 or 7 of the Habitats Directive? (Art.3.2(b))	No. The SPD will only influence the resource available to support education facilities in the borough.
Does the PP set the framework for future development consent of projects (not just projects in Annexes the EIA Directive? (Art. 3.4))	No. The SPD will only influence the contribution.

- 3.3. On this basis, the Education SPD does not require a SEA.

**Response from SEA Consultation Bodies**

Environment Agency	No reply.
English Heritage	Agree SEA not required.
Natural England	No comment.

3.4. The Council therefore concludes that the SPD for Education does not require a SEA.

## Annex A: Sustainability Impacts of Education SPD; net gain on UDP

	Sustainability Indicators																			
	Social Inequalities				Land allocations			Accessibility		Centres	Environment					Efficient land use			Need to travel	
Potential outcomes of SPD	Inclusive	Healthy	Safe	Crime free	Housing	Industry	Retail & Commercial	Jobs	Services	Supporting centres	Biodiversity	Pollution	Waste	Energy	Overall Quality	Higher density	Mixed use	Previously-developed land	Public transport	Reducing overall
ED1 Qualifying Development	✓	•	•	•	•	•	•	•	✓	•	•	•	•	•	•	•	•	•	•	✓
ED2 Planning Obligations	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
ED3 Scale of Contributions	✓	•	•	•	•	•	•	•	✓	•	•	•	•	•	•	•	•	•	•	•
ED4 Payment of Contributions	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
ED5 Use of Contributions	✓	•	•	•	✓	•	•	•	✓	•	•	•	•	•	✓	•	•	✓	•	✓

### Key

Major benefit	✓✓
Minor benefit	✓
Neutral	•
Minor detriment	x
Major detriment	xx



# Walsall Council

## SEA SCREENING

A Strategic Environmental Assessment (SEA) screening report is attached (included in the Sustainability Appraisal) for the following plan or programme:

**Walsall Supplementary Planning Document for Education February 2007**

The responsible authority is:

**Walsall Metropolitan Borough Council**

Screening is required because the plan or programme is subject to Regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004, which requires the responsible authority to determine whether a SEA is necessary.

### DETERMINATION

A SEA is required because the plan or programme is likely to have significant environmental effects.

Or

A SEA is not required because the plan or programme is unlikely to have significant environment effects.

The reasons are given in the attached Sustainability Appraisal prepared alongside the plan or programme.

Or

The plan or programme does not require a SEA under the Environmental Assessment of Plans and Programmes Regulations 2004. However, we wish to carry out a SEA voluntarily. We accept that, as this SEA is voluntary, the statutory timescale for views from the Consultation Bodies cannot be guaranteed.

This determination is delegated to:

**Martin Yardley**

**Assistant Director - Regeneration**

Signature .....

Date .....

Contact:

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