

North Lanarkshire Council Report

Planning Committee

Does this report require to be approved? Yes No

Ref **Date** 27/02/25

Supplementary Planning Guidance: Education Contributions.

From Pamela Humphries, Chief Officer (Place)

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Executive Summary

The purpose of this report is to update the Planning Committee on the outcome of the public consultation on the Supplementary Guidance: Education Contributions. The report outlines a summary of the representations received in relation to the draft Supplementary Guidance and our assessment and response to the points raised by contributors (detailed responses included within Appendix 1) and our recommendations in relation to changes to the finalised Supplementary Planning Guidance. The report seeks Committee approval for the amendment to the Pupil Product Ratio (PPR) for secondary schools from 0.24 to 0.18 and amendments to the associated figures within the guidance, further clarity on the indexation period confirming that it covers the period from the grant of planning permission up until such time as the contract and associated costs for the required education infrastructure are finalised and 'locked in'. In addition, further guidance is included on the content of a Development Viability report within appendix 4. If Committee agree the amendments the Supplementary Planning Guidance (SPG) on Education Contributions the SPG will thereafter be adopted as Supplementary Planning Guidance by the Council.

Recommendations

It is recommended that the Committee:

- 1) Agree the finalised Supplementary Planning Guidance on Education Contributions, attached at Appendix 2, for adoption as council Supplementary Planning Guidance.

The Plan for North Lanarkshire

Priority Improve economic opportunities and outcomes
Ambition statement (1) Ensure a housing mix that supports social inclusion and economic growth
Programme of Work Transforming Places

1. Background

- 1.1 The North Lanarkshire Local Development Plan (NLLDP) was Adopted in July 2022. As recommended by the Examination Reporter, this Supplementary Planning Guidance (SPG) relates to Policy CI 1 Category Education Contributions set out on page 71 of the NLLDP Policy Document.
- 1.2 The main purpose of this guidance is to provide guidance for developers and landowners on the circumstances in which residential development proposals are required to be assessed in terms of their impact on the capacity of the education estate and the ability to accommodate the pupils generated by the development in the local schools.
- 1.3 For all qualifying residential developments of 5 or more units the council will seek to secure contributions towards education infrastructure in Primary and Secondary catchment areas where required. These will be requested where capacity issues are identified through the cumulative impact of all emerging housing developments identified through the Housing Land Audit and Local Development Plan.
- 1.4 The developer contributions will be required to contribute towards providing additional capacity through the provision of a new build school, permanent additional classrooms (extensions or modular accommodation) and adaptations to existing schools.
- 1.5 The Supplementary Planning Guidance is intended to secure best value for the Council and ensure that the required education facilities and infrastructure are provided where necessary. The guidance promotes good practice on pupil yield evidence and engagement with developers to deliver any necessary expansion or new build schools as a direct result of the impact on the school estate from new housing developments.

Public Consultation

- 1.6 A six-week public consultation was undertaken between the w/c 16th October and w/c 20th November 2023 on the Supplementary Guidance: Education Contributions. The Supplementary Guidance document was available to view at the Civic Centre and all public libraries within North Lanarkshire, the consultation was advertised in all the local newspapers, publicised on the Council's social media platforms and response surveys were accessible via the Council's live consultations page via the Council website.

2. Report

Public Consultation Representations

- 2.1 A total of 10 parties submitted representations in relation to the proposed Education Contributions Supplementary Guidance and a full copy of the detailed comments raised and council responses are contained within Annex 1 of this report. A summary of the key matters raised in the public consultation and the Council responses are outlined as follows:
- 2.2 **Cumulative vs. Cohort Progression:** Some of the commentators argue that the council's "cumulative approach" to assessing the impact of new housing on school capacity overestimates the need for contributions. They advocate for a "cohort progression method," which considers the gradual influx of pupils from new housing over time, as used by councils like East Lothian and West Lothian.

Response: While the draft guidance does not explicitly mention using a "cohort progression method," we confirm that we have adopted this model for our roll projections. This means that the council does consider the phased entry of pupils over time, allowing for the reuse of spaces by subsequent cohorts of students. The council effectively identifies developments that will impact educational infrastructure and is necessary for ensuring development acceptability. The council emphasises that the guidance is a signpost for developers and that the actual impact will be calculated at the time of planning application submission.

- 2.3 **Accuracy of Pupil Product Ratios (PPRs):** Concerns are raised about the evidence supporting the council's chosen PPRs, particularly for secondary schooling. It is argued that the proposed PPRs are too high, especially for flats compared to houses.

Response: We acknowledge that the PPR for secondary schools needs updating and have revised it from 0.24 to 0.18 in the finalised SPG. The council commits to further analysis over a 3-5 year period to ensure this rate's accuracy.

- 2.4 **Use of 90% Capacity Threshold:** The council's use of a 90% school capacity threshold as a trigger for developer contributions is deemed arbitrary. Commentors argue that schools can effectively operate above this threshold and that the actual school roll, rather than an artificially reduced figure, should be used in impact assessments.

Response: We consider that the 90% capacity threshold is reasonable, citing operational challenges experienced in schools exceeding 80% capacity. The council emphasises that using a 90% benchmark ensures adequate provision in most years, acknowledging that pupil numbers don't always align perfectly with stage capacities.

- 2.5 **Lack of Defined Mitigation Solutions:** The guidance is criticised for failing to define specific mitigation solutions for each school facing capacity pressures. This lack of clarity raises concerns about the proportionality and reasonableness of the proposed contributions, as developers are left uncertain about what the funds will be used for.

Response: We have clarified that the SPG aims to inform developers about areas likely requiring contributions, rather than outlining every specific scenario. It is noted that the specific solution and its associated costs will be determined through discussions with planning and education services during the planning application process.

- 2.6 **Use of "Real-Life" Build Costs vs. SFT Metrics:** The commentors advocate for using standardised cost data from the Scottish Futures Trust (SFT) given the lack of transparency and verification possibilities with the council's method.

Response: The council considers that our approach of utilising the "real-life" build costs from previous projects to calculate developer contributions and based on dividing past project costs by pupil capacities is more reflective of the actual costs incurred by the council in delivering solutions. The council considers the Scottish Futures Trust (SFT) metric unsuitable as it does not accurately reflect our actual build costs.

- 2.7 **Proportionality and Transparency of Charges:** The commentors call for greater transparency in how contributions are calculated, including providing a breakdown of costs, identifying the number of contributing sites, and demonstrating that contributions are proportionate to the impact of individual developments.

Response: It is made clear that the contributions requested are directly related to the anticipated pupil yield from a specific development and the associated costs of

providing spaces for those pupils. The council also states that it does not pass on costs related to smaller developments (fewer than five units) or exempt developments to larger developments. Furthermore, it is acknowledged that the initial guidance is a starting point and commits to enhancing transparency by potentially adding more information, such as details on how contributions are spent, in future iterations.

- 2.8 **Application of Indexation:** Concerns are raised about the proposed application of indexation to contributions, arguing that it should only apply until the actual cost of the mitigation is determined and not to generic charging rates.

Response: It is agreed that indexation should only apply until the contract and final costs for a mitigation solution are known. The council commits to revising the guidance wording to better reflect this practice.

- 2.9 **Exemptions and Viability:** While the principle of exemptions based on viability is welcomed, concerns exist regarding the transparency of the process and the potential for costs to be passed on to other developments. It is argued that the council should bear the responsibility for funding shortfalls resulting from exemptions.

Response: It is noted that any reductions in contributions due to viability assessments will not impact other developments or agreements. The council reiterates that contributions are only sought in direct relation to a specific development's impact.

- 2.10 **Publication of School Roll Projections and Methodologies:** Some commentators call for the council to publish its latest school roll projections and the methodologies used to calculate them. This increased transparency would allow developers to better understand the basis for contributions and ensure compliance with planning policies.

Response: While acknowledging the value of publishing school roll projections, the council highlights the dynamic nature of these projections and the challenges of keeping published information up to date. The council is open to evaluating the benefits and risks of including such information in future publications, considering the practices of other local authorities.

- 2.11 **Provision of More Detailed Information:** The sources suggest that the guidance should provide more detailed information, such as the percentage of school capacity currently used, the breakdown of denominational and non-denominational school splits, and examples of how contributions have been spent on school infrastructure.

Response: We acknowledge the suggestions to provide more detailed information in the guidance. For instance, the council will consider including existing pupil capacity figures in future iterations, though it notes that this information is already publicly available through Scottish Government reports.

- 2.12 **Impact of Small and Windfall Developments:** Concerns are raised about the exemption of developments with fewer than five homes from contributions and the potential for larger developments to bear a disproportionate share of the costs. The guidance is also urged to account for the impact of windfall development on school capacity.

Response: We acknowledge the difficulty in tracking and evidencing the impact of small developments, which is why developments with fewer than five units are currently exempt from contributions. The council believes these developments are less likely to significantly impact the school estate, as they represent a small percentage of the total

sites in the current housing land audit. Regarding windfall sites, it is clarified that they are incorporated into the housing land audit and subsequent school roll projections.

- 2.13 **Compliance with Circular 2/2012 and NPF4 Policy 18:** Commentors argue that the draft Supplementary Planning Guidance lacks the necessary detail to demonstrate a clear link between proposed contributions and specific mitigation solutions.

Response: The various responses provided outline why the guidance is considered to comply with the requirements of the Circular and NPF Policy 18 and that the draft guidance serves as an initial signpost for developers, highlighting areas likely to require contributions. The specific mitigation solution and associated costs will be determined during the planning application process.

- 2.14 The guidance has been amended to include the following changes:

- The example PPR for secondary schools has been updated from 0.24 to 0.18
- The indexation period has been clarified that it covers the period from the grant of planning permission up until such time as the contract and associated costs for the required education infrastructure are finalised and 'locked in'.
- The figures and costs contained within Appendix 1 have been updated to reflect the new example PPR of 0.18 for secondary schools.
- The addition of Appendix 4 with additional guidance on the content of a Development Viability Report.

- 2.15 The council seeks to encourage and promote the development of brownfield sites and sites that are designated for residential development within the LDP. This supports the NPF4 policy objectives on climate change and mitigation, local living, sustainable transport and improving health outcomes. However, it is recognised that the financial viability of the development of some sites can be affected by challenging site conditions related to, or as a result of, historic uses. Without the ability to consider viability it is possible that there will be more applications for un-allocated greenbelt developments as developers will claim that the sites we currently have allocated for housing are unviable (partly due to requirement for education contributions). In order to address these concerns the option of a viability assessment is included within the proposed Supplementary Planning Guidance, which offers the potential for the council to waive an education contribution.

- 2.16 In considering development viability the council will not waive education contributions on unallocated sites outwith the urban area and in the greenbelt or countryside as defined in the LDP. This is to recognise that some unallocated sites within the urban area (windfall sites) which the council considers are appropriate for development may also have challenging site conditions related to or as a result of historic uses and to differentiate between these types of sites may not be practical. In recognition of the timescales involved in fully developing some larger sites and that financial circumstances may change within this period any exemption from making a contribution will be time limited to a maximum of five years from the granting of consent at which point an updated viability assessment would need to be submitted and considered by the council.

- 2.18 Each case will be determined by the Council on its own merits. The outcome of the Viability Assessment independent review will not be binding on the Council. If the exercise establishes there are viability issues with the development as a result of the Education contribution requirement, the council will then have to determine if the

shortfall in the education requirements can be borne by the Council and planned for accordingly.

- 2.19 If approved by the Planning Committee the SPG will thereafter be adopted as Supplementary Planning Guidance by the Council.

3. Measures of success

3.1 The measures of success would include:

- Clearer guidelines for developers/applicants/landowners to help ensure that the requirement for education contributions is appropriately considered at an early stage.
- Encourage and support development on brownfield sites that are allocated in the LDP.
- Will help developers/applicants/landowners determine development viability and allow them to factor in the likely cost of education contributions if required.
- Aligns with Government Policy on contributions to infrastructure which is an important consideration under NPF4.
- It offers the Council a more robust framework to support the Council's decisions in relation to any appeals referencing education contribution requirements.
- Can help to increase the efficiency of processing planning applications in terms of setting the terms for associated legal agreements early that require to be signed prior to planning consent being issued.

4. Supporting documentation

Appendix 1 Detailed Consultation Comments and Responses

Appendix 2 - Supplementary Planning Guidance Note – Education Contributions (November 2024)



Pamela Humphries
Chief Officer (Place)

5. Impacts

<p>5.1</p>	<p>Public Sector Equality Duty and Fairer Scotland Duty Does the report contain information that has an impact as a result of the Public Sector Equality Duty and/or Fairer Scotland Duty? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p> <p>If Yes, has an assessment been carried out and published on the council's website? https://www.northlanarkshire.gov.uk/your-community/equalities/equality-and-fairer-scotland-duty-impact-assessments Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p>5.2</p>	<p>Financial impact Does the report contain any financial impacts? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Yes, have all relevant financial impacts been discussed and agreed with Finance? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p> <p>The proposals in the report set out the proposed future arrangements for securing developer contributions towards the cost of making changes/ additions to the education estate due to the impact of residential development. It also proposes that there may be circumstances where the education contribution may be waived in order to support the development of a particular site. In these circumstances the cost of any impact on the school estate would have to be met by the council, although this would need to be considered against the other positive economic and regeneration benefits of the new development, including increased council tax revenue.</p>
<p>5.3</p>	<p>HR policy impact Does the report contain any HR policy or procedure impacts? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If Yes, have all relevant HR impacts been discussed and agreed with People Resources? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p>
<p>5.4</p>	<p>Legal impact Does the report contain any legal impacts (such as general legal matters, statutory considerations (including employment law considerations), or new legislation)? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If Yes, have all relevant legal impacts been discussed and agreed with Legal and Democratic? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p>
<p>5.5</p>	<p>Data protection impact Does the report / project / practice contain or involve the processing of personal data? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If Yes, is the processing of this personal data likely to result in a high risk to the data subject? Yes <input type="checkbox"/> No <input type="checkbox"/></p>

If Yes, has a Data Protection Impact Assessment (DPIA) been carried out and e-mailed to dataprotection@northlan.gov.uk

Yes No

5.6 Technology / Digital impact

Does the report contain information that has an impact on either technology, digital transformation, service redesign / business change processes, data management, or connectivity / broadband / Wi-Fi?

Yes No

If Yes, please provide a brief summary of the impact?

Where the impact identifies a requirement for significant technology change, has an assessment been carried out (or is scheduled to be carried out) by the Enterprise Architecture Governance Group (EAGG)?

Yes No

5.7 Environmental / Carbon impact

Does the report / project / practice contain information that has an impact on any environmental or carbon matters?

Yes No

If Yes, please provide a brief summary of the impact?

5.8 Communications impact

Does the report contain any information that has an impact on the council's communications activities?

Yes No

If Yes, please provide a brief summary of the impact?

5.9 Risk impact

Is there a risk impact?

Yes No

If Yes, please provide a brief summary of the key risks and potential impacts, highlighting where the risk(s) are assessed and recorded (e.g. Corporate or Service or Project Risk Registers), and how they are managed?

The development of the Supplementary Planning Guidance for Education Contributions which will be subject to consultation and submitted to Scottish Government for approval will clearly set out how education contributions will be calculated and will provide greater certainty to developers to assist with their forward planning and negotiations with land owners. This should minimise the risk of legal challenge/ Appeals from developers against the council's proposed S75 contributions, and/or minimise risk of such challenge being successful.

5.10 Armed Forces Covenant Duty

Does the report require to take due regard of the Armed Forces Covenant Duty (i.e. does it relate to healthcare, housing, or education services for in-Service or ex-Service personnel, or their families, or widow(er)s)?

Yes No

If Yes, please provide a brief summary of the provision which has been made to ensure there has been appropriate consideration of the particular needs of the Armed Forces community to make sure that they do not face disadvantage compared to other citizens in the provision of public services.

5.11 Children's rights and wellbeing impact

Does the report contain any information regarding any council activity, service delivery, policy, or plan that has an impact on children and young people up to the age of 18, or on a specific group of these?

Yes No

If Yes, please provide a brief summary of the impact and the provision that has been made to ensure there has been appropriate consideration of the relevant Articles from the United Nations Convention on the Rights of the Child (UNCRC).

The proposals seek to enable the Council to provide the resources needed to ensure that the children of NLC have the best educational resource available to them. As such it is considered that the guidance is compliant with the overall aims of the UNCRC and in particular Articles:

Article 3 Best interests of the Child to be a top priority at all times.

Article 28 Right to Education ensuring Primary education is free.

Article 29 Goals of Education to develop every child's personality, talents and abilities to their fullest potential.

If Yes, has a Children's Rights and Wellbeing Impact Assessment (CRWIA) been carried out?

Yes No

However based on the CRWIA questions below we have carried out a brief screening of the guidance proposals

1. Brief summary of policy/measure?

The guidance seeks to secure best value for the Council and ensure that the required education facilities and infrastructure are provided where necessary. The guidance promotes good practice on pupil yield evidence and engagement with developers to deliver any necessary expansion or new build schools as a direct result of the impact on the school estate from new housing developments.

2. What aspects of the policy/measure will affect children and young people up to age 18?

The Guidance seeks to ensure all primary and secondary age children have the required educational infrastructure to ensure that they receive the best education possible within the NLC area.

3. What likely impact, direct or indirect, will the policy/measure have on children and young people?

It is envisaged that the guidance will have a positive impact on children both directly and indirectly given that it seeks to secure best value for the Council and ensure that the required education facilities and infrastructure are provided where necessary. The guidance promotes good practice on pupil yield evidence and engagement with developers to deliver any necessary expansion or new build schools as a direct result of the impact on the school estate from new housing developments.

4. Which groups of children and young people will be affected?

The groups affected by this guidance are 5 to 18 year olds.

Appendix 1 – Detailed Consultation Comments and Responses

Ryden on behalf of Ravenscraig Ltd

- NPF4 recognises the importance of Ravenscraig. Despite the fact that Ravenscraig was identified as a national development in the original National Planning Framework and, more recently, in NPF3, it is no longer identified as such within NPF4. However, Ravenscraig does appear within Annex C ‘Spatial Planning Priorities’ as a key project in delivering the renewed emphasis on the productive reuse of brownfield land, describing the project as, ‘...a longstanding post-industrial site where new development, including improved transport connectivity, can bring new models of low carbon living at scale’. As such, Ravenscraig is a legacy project of NPF3 (as well as the original National Planning Framework) and has support as an exemplar brownfield redevelopment project in Annex C of NPF4

It is apparent that there is both a need and desire to regenerate the Ravenscraig Site, however due to economic changes and other site constraints the nature and type of development has evolved over time. This has heightened the extensive costs associated with infrastructure delivery and the challenging ground conditions.

Against this background, Ravenscraig Ltd asserts that there is justification for a bespoke approach to the project with regard to taking developer contributions. It is noted that there is a process set out within the SG to review a site’s viability and ultimately its ability to carry additional costs. However, Ravenscraig (and other nationally significant brownfield/regeneration projects) should be considered for exemption from education contributions due to the high cost of infrastructure and ground remediation associated with this particular project. This is critical to assist in the ongoing and successful regeneration of Ravenscraig.

Response: The creation of school spaces, whether through new build, extensions, or internal adaptations to provide additional spaces for pupils has financial implications for the council. The majority of these costs are shouldered by the council and where required; a contribution is requested from a developer – which is the focus of this draft SG. In essence, if not for the development(s) impacting on the school which serves the catchment area within which the houses are being built, there would be no need for additional infrastructure.

Where it is argued that the developer should not provide a contribution, the consequence is that the council would require to pick up these costs. There is no budget within the council’s current strategic capital investment programme to cover such proposals. Such a consideration would also require a mechanism to record and monitor where such a transaction has occurred, and this would require to be presented to council to ensure transparency over the use of council funds.

Each case would require to be agreed and budgeted for within the council before any such approach could be considered.

The guidance reflects the current situation (no local or national budget to fund such bespoke approaches). The default position, as outlined within the draft SG is that a developer is expected to contribute a proportion of costs (incurred by the council to create the spaces), to mitigate the impact of the development on the learning and teaching estate.

- The Draft SG must satisfy the tests of NPF4 Policy 18 - Infrastructure first as highlighted in Planning Circular 3/2012 Planning Obligations and Good Neighbour Agreements (revised November 2020). Those five tests which all planning obligations are:
 - Necessary to make the proposed development acceptable in planning terms;
 - Serve a planning purpose and, where it is possible to identify provision requirements in advance, should relate to development plans;
 - Relate to the development, either as a direct consequence of the development or arising from the cumulative impact of the development in the area;
 - Fairly and reasonable relate in scale and kind to the proposed development; and
 - Be Reasonable in all other aspects.

Specifically, in terms of the 'proposed development test', both NPF4 and the Circular emphasise the need to establish a clear link between the development and any mitigation required. That should be related to the direct impacts arising from the proposal or the cumulative impact of development within the area, defined as the school's catchment area. Moreover, the obligation should specify clearly, the purpose for which any contribution is required, including the infrastructure to be provided.

In order to demonstrate compliance with Circular 3/2012 and NPF4 an impact assessment should be carried out to assess the impact of the approved LDP development strategy on the capacity of the available education infrastructure to determine expected impacts of pupils from planned housing development. This should take into account cumulative development within the defined area, usually the school catchments areas.

The methodology adopted by the Council to assess impacts simply calculates the number of pupils by multiplying the number of homes expected in the school's catchment area by its PPRs. It has regard for 90% of the available capacity in the catchment schools and if the pupils from new housing development is greater than 90% of the school's capacity, then mitigation is required. There is no direct relationship between the financial contribution derived by this method and a development's impact on the catchment school. Accordingly, it is deemed to fail the relationship to proposed development test and also the scale and kind test.

In essence, this calculation is not an impact assessment as the Council has not identified the mitigation required at each school based on its approved LDP development strategy and without this mitigation being identified, it has not defined its planning obligation and assessed a reasonable budget cost.

Response: The council does not agree with the premise outlined in the statement put forward.

The Guidance sets out the circumstances where there is the potential for additional education infrastructure requirements detailed in Appendix 2. It is also made clear that the calculation on the potential solution is only carried out at the time of submission of a planning application. This allows the Council to agree a solution if required that relates to the proposed development either as a direct consequence of the development arising or from the cumulative impact of the development within the catchment area.

The guidance sets out that contributions are proportionate to the proposed development in terms of the education infrastructure requirements generated. The

costs are based on previous projects and previous costs and as such reflect the real-life costs incurred by North Lanarkshire Council to deliver the solution. If a new build is the required solution, the associated 'real-life build costs' of the previous contracts are divided by the capacities of the schools, thus presenting a cost per pupil. With regard to extensions, the information is translated into cost per square metre, again based on real-life costs the council has incurred in previous projects. A cost per sqm is a familiar metric for these types of projects. These costs illustrate the real-life financial costs on which the developer contribution is based. Furthermore in cases where there are concerns in relation to development viability the Council has included the ability of developers to explore the potential for the waiving of part or all of the contribution in exceptional circumstances as set out in Appendix 3 of the guidance.

The assessment of each school is based on current and forecasted demand for spaces against available spaces. Only where the demand is anticipated to reach or exceed 90% at any given school, are education contributions required.

As such, each school is being assessed individually – linking the financial requirements to the increased infrastructure required at a specific school. The contribution a developer will pay, will be directly related to the proposed solution (new build, extension, internal adaptation). Costs are associated with each option and applied to the unique solution to the unique school. Whilst any given unique solution is not outlined in the draft SG, it does not follow that it will not occur.

- In terms of roll projections across North Lanarkshire information taken from Pupil Projections for Scotland and Local Authorities 2022-2027 as produced by Scottish Government, primary pupil numbers are expected to fall across this period with secondary pupil numbers increasing in the short-term and then falling away in the latter years of this assessment period.

New housing is undoubtedly attractive to families with young children, but it is not necessarily the case that all children moving into new homes represent a net addition to a school roll. This is partly as a result of an ageing population, declining household sizes and a desire for additional rooms to provide work or guest space. This has become particularly prevalent post-Covid with home working becoming the norm for most.

More significantly it is important to note that the Motherwell housing market has a high degree of self-containment. According to the Glasgow and Clyde Valley Housing Need and Demand Assessment (HNDA) 2015, circa 70% of home buyers within the Motherwell Housing Market Area (HMA) originated from within that market area. This is evidenced in Table 8.1 2007-2012 House Sales Data - All Sales (new and second hand) by HMA. Essentially, the majority of home buyers already live in the council area with a further minority living within the catchment area of the school related to their prospective new home.

In essence, it is crucial that the nature of the housing market and school rolls/projects are fully understood and clarified within the context of this draft guidance. Of particular relevance is the high proportion of moves within the authority and individual catchment areas.

The Council proposes PPRs of 0.3 for primary schooling and 0.24 for secondary schooling. No evidence has been provided to validate these assumptions. It is also noted that the

Council does not provide PPRs to model flats as well as houses. There is a significant difference in PPRs for flats compared to houses which should be considered by the Council.

Notwithstanding the above issue, it is essential for absolute clarity and transparency that the PPRs which are to be applied in practice are actually included within the consultation document.

Moreover and against the background of our earlier summary regarding the self-contained nature of the Motherwell HMA and the current market dynamic of buyers purchasing family housing to allow flexibility for home working, there is the potential for PPRs to overestimate the net impact on school rolls created by new development.

It would be appropriate for the Council to consider this issue further and at the very least provide the background calculations associated with the production of the PPRs, which it proposes will be used to determine the extent of education contributions.

Response: Background calculations are conducted to substantiate the PPR. However, it is not appropriate for the council to disclose information that reveals where pupils are presenting from, as this is what the background calculations identify. Consideration will be given to how this information can be presented in a way that explains how the background calculations for the PPRs are developed, allowing for the inclusion of such calculations in future versions of the guidance, without releasing sensitive information.

- It is important to understand the cumulative number of homes that cause an impact in order to define proportionate payments due from respective developments within a school's catchment area. The Draft SG does not provide this information to help define proportionality of payments to be applied. Indeed, the Council's approach to financial contributions is simply a charging mechanism which is not underpinned by an impact assessment to guide the assessment of planning obligations.

The costings provided by the Council are not possible to verify as no breakdown of the associated rates has been provided. There is an alternative (and more commonly used) source of cost data on new schools from Scottish Futures Trust (SFT) which can be used to guide budget costs for school extensions as well. This SFT data set is consistently applied across Scotland and is periodically updated by SFT to reflect updates to technical specifications. Importantly, it has been prepared to encourage acceptable benchmarking for standards and size of schools across Scotland and their budget costs. This is recommended as an alternative cost system for the Council to adopt.

Response: North Lanarkshire Council does not consider the SFT metric to be an accurate reflection of costs the council incurs and therefore considers it an unsatisfactory metric to use. In our view, SFT data is a metric used by councils to benchmark high level costs for schools and understand potential funding from Scottish Government for the school estate through the Learning Estate Investment Programme (LEIP). It is not an accurate reflection of costs North Lanarkshire Council incur in relation to new build schools.

Within North Lanarkshire, and as presented within the draft SG, a developer is being asked to pay a contribution which is in direct relation to the potential cost. As outlined within the draft SG, the presented cost does not fully cover all abnormal

costs and other full costs, which are borne by the council. As such, the SFT metric is not an appropriate calculation on which costs could be evaluated.

The council uses the costs of previous builds and looks to index these to current costs. This provides a clearer picture of the costs to build the solution, which the pupils from the proposed development will benefit from.

Even with this approach, evaluation shows that the sums/contributions being requested are consistently behind the sum/costs incurred. Construction costs have been rising, not falling. It is assessed that at no time is a developer paying the full cost of the impact their development has on the school estate – it is always a contribution.

- In accordance with NPF4 and Circular 3/2012, the Draft SG is required to define the infrastructure mitigation required to calculate an associated budget cost. These mitigation measures are the planning obligations which can then be included in a legal agreement. This cost can then be attributed to all committed housing development within the catchment area of a school to determine a development's proportionate share to the delivery of this mitigation solution. This can provide the basis for the proposed rates of financial contributions in this Draft SG.

The Draft SG does not define any mitigation solutions required to address existing or projected capacity pressures at any of the schools within the Council area. Appendix 2 – Developer Contribution List (as at September 2023) simply lists all schools within the authority area, with a column identifying whether or not a contribution will be requested towards each school. This should be supported by an impact assessment for each school.

A planning obligation should specify clearly the purpose for which any contribution is required, including the infrastructure to be provided. In failing to demonstrate what mitigation the financial contributions are used to fund, the Draft SG is not compliant with NPF4 and Circular 3/2012 as it fails the scale and kind test and the reasonableness test. The reasonableness test confirms:

“In the case of financial payments, will these contribute to the cost of providing the necessary facilities required as a consequence of or in connection with the development in the near future.”

Response: The draft SG aims to inform developers, at an early stage, whether or not a developer contribution is likely to be required, based on the cumulative impact of known developments within a school catchment area. It is not intended at this stage to provide a detailed explanation of every scenario associated with each development within each catchment area.

There would be further discussion, with planning and education services within North Lanarkshire Council to determine the planning obligation sum. North Lanarkshire Council will continue to look to develop the draft SG where possible to give more details within future versions of the guidance, where it can be automated and reported in each set of updates published.

- The Draft SG sets out a methodology used to establish the cost per pupil and cost per home for the delivery of undefined mitigation solutions. This is not based on the impact of the proposal or a defined infrastructure action but unjustified build costs (set out in Appendix 1 Developer Contribution of the Draft SG) which are either for new build schools

or extensions of existing schools and applied these to provide an average of the pupil capacity of these schools.

This methodology is unrelated to an impact assessment to define mitigation and then the planning obligation sought and as such, cannot define the proportionate financial contributions that follow. It is, in effect, a generic charging mechanism not based on an infrastructure action, defined in terms of type, scale, timing and cost.

NPF4 and Circular 3/2012 are clear that seeking to extract excessive contributions towards the costs of infrastructure or to obtain extraneous benefits are unacceptable. By not defining what the financial contributions will be used to deliver, the Draft SG has not demonstrated that these costs relate (in scale and kind) to any future mitigation solution that will be delivered by the Council.

In addition, the Draft SG does not identify the number of contributing sites and their homes that will be used to fund the undefined mitigation. Circular 3/2012 is clear that a developer obligation must always be related and proportionate in scale and kind to the development in question.

By failing to define either a mitigation solution or associated budget cost, the Draft SG fails to demonstrate that a developer will only pay its proportionate share of mitigation costs in accord with NPF4 and Circular 3/2012.

Response: North Lanarkshire Council does not agree that the information in the draft SG is based on 'unjustified build costs'. The costs are based on previous projects and previous costs and as such reflect the real-life costs incurred by North Lanarkshire Council to deliver the solution.

If a new build is the required solution, the associated 'real-life build costs' of the previous contracts are divided by the capacities of the schools, thus presenting a cost per pupil.

With regard to extensions, the information is translated into cost per square metre, again based on real-life costs the council has incurred in previous projects. A cost per sqm is a familiar metric for these types of projects.

The proposed solution will be dependent on the known information at the time of the planning application – and this could include windfall and other developments which may not have been known at the time of publication of the draft guidance. Such additions (windfall developments), if significant, may have changed the required solution to offset the impact of the cumulative developments within the given catchment area.

As outlined in the draft SG, this would be discussed at time of the planning application. The draft SG is outlining the start of the process and indicating which schools are anticipated to experience demand pressures, based on known information at that time. As information changes, solutions to the issue may change – these would be part of the discussion during the planning application process.

- It is assumed that the proposed SG would be applied to pupils generated by affordable housing. Affordable housing is generally exempt from making contributions by most local authorities unless there is a critical (and demonstrable) capacity constraint. The

application of contribution rates to affordable provision impacts the viability of providing this type of housing placing a greater financial burden on market housing. Indeed, the provision of affordable housing is in itself a planning obligation.

Response: As outlined in our responses above, there is a cost associated with creating additional spaces within a school - irrespective of where the budget to offset the cost comes from. To remove the requirement for a contribution for affordable housing would require a policy and associated budget to mitigate the introduction and adoption of such a policy within North Lanarkshire. Until such time as this was agreed and approved by the council, exempting affordable housing developments is not a realistic expectation in relation to the current draft SG as outlined.

2.3 Persimmon Homes

- Page 5 of the Draft SG details categories of development that are exempt from contributions towards education infrastructure. These are appropriate in principle, however the Council should recognise that developments of less than 5 homes will also contribute to a cumulative infrastructure impact. Over a larger area (such as high school catchment area) the cumulative impact of small developments can add-up.

If the Council wishes to exempt smaller proposals from planning obligations, then the Council must also take responsibility for mitigating the direct and cumulative impact on infrastructure from these sites. The costs to mitigate the impact of these sites must not be passed on to larger scale developments. It should also be made clear in the draft guidance that the costs for developments of 5 units or more have not been over inflated to cover an allowance for developments of less than 5 units.

Therefore, the impact of the smaller, windfall sites still need to be identified and separated from the calculation of cumulative impacts in order to ensure that the tests in NPF4 Policy 18 and Circular 3/2012 Planning Obligations and Good Neighbour Agreements (Circular 3/2012) (updated November 2020) are met, in particular the relationship and scale and kind tests.

Response: The contributions requested for a specific development are directly related to the anticipated pupil yield from that development and the associated costs of providing spaces for those pupils. The draft SG does not present any evidence or suggest that a developer of a large-scale development would be required to offset costs related to other developments.

- The Scottish Futures Trust (SFT) Learning Estate Investment Programme also detailed the sqm per pupil based on varying school capacities. Developers require certainty when making development decisions and utilising an index linked contribution based on a sliding scale linked to the size of the school rather than a set figure that is revised annually is favourable.

The Draft SPG states that “Costs are based on previous NLC contracted work for new builds and extensions in North Lanarkshire schools.” To assist development viability and prevent the need for annual review the figures quoted in Appendix 1 should be based on The SFT Learning Estate Investment Programme from January 2021. This sets out a recognised index linked cost metric per sqm contribution depending on the school type. The cost per sqm in a primary school is 20% more expensive than in a secondary school. For consistency it is appropriate to apply this figure which can be varied annually based

on indexation rather than rely on variable 'build costs' from completed projects in North Lanarkshire. The latter may vary depending on when the contract was let, labour supply or site specific challenges. The SFT figures have been tested at appeal and having a recognised per sqm figure will give developers more confidence and also be less likely to be challenged reducing abortive costs and delays.

SFT Metrics do not provide indicative costs for reconfigurations. A reconfiguration cost will depend on the number of pupils requiring accommodation and the scale of work required to accommodate these pupils. The scale of work is highly dependent on the layout of the school and will be different in each instance. It is not therefore reasonable for the council to estimate in Appendix 1 a generic per-unit rate for a reconfiguration especially when the costs will also vary between owned buildings and those covered by public and private partnerships.

Applying a figure based on historic contracts is not in accord with the tests of NPF4 Policy 18 and Circular 3/2012. This approach fails to demonstrate the link between the financial contribution, the scale of impact and the mitigation required. This is not in accordance with the relationship and scale and kind tests. Ideally, costs should be derived from a feasibility study for the mitigation required.

Response: North Lanarkshire Council does not consider the SFT metric to be an accurate reflection of costs the council incurs and therefore considers it an unsatisfactory metric to use. SFT metric is used by councils to understand potential funding from Scottish Government for the school estate through the Learning Estate Investment Programme (LEIP). It is not an accurate reflection of costs North Lanarkshire Council incur in relation to new build schools.

The costs are based on previous projects and previous costs and as such reflect the real-life costs incurred by North Lanarkshire Council to deliver the solution.

If a new build is the required solution, the associated 'real-life build costs' of the previous contracts are divided by the capacities of the schools, thus presenting a cost per pupil.

With regard to extensions, the information is translated into cost per square metre, again based on real-life costs the council has incurred in previous projects. A cost per sqm is a familiar metric for these types of projects.

These costs illustrate the real-life financial costs on which the developer contribution is based, and as such are considered to meet the tests outlined within Policy 18 and Circular 3/2012.

- Appendix 2 – Developer Contribution School List and Denominational/Non-Denominational split will be updated annually. It is suggested that the table in Appendix 2 also includes the percentage of school capacity taken up by existing pupils to create greater transparency and allow developers to understand where contributions may be required in the future. A table detailing Non-Denominational schools and the Denominational/Non-Denominational split for their catchment should also be publishing annually. Greater transparency by publishing school roll forecasts, the methodology and the underpinning assumptions will demonstrate that financial contributions sought are in accordance with NPF4 Policy 18 and Circular 3/2012.

Response: The capacity taken up by existing pupils in any given year is reported to and published by Scottish Government. As such it is already in the public domain

and available for the developer should they wish to review this information. The council will consider inclusion of this information within future iterations of this guidance. However, as it is already within the public domain and available to all developers and general public, there is no anticipated urgency to include the figures within the current SG.

2.4 Homes for Scotland

- An important consideration in finalising and approving this Supplementary Guidance is that unlike the Council's previous supplementary guidance, this requires to accord with the approved development plan which now includes the tests in NPF4 Policy 18 – Infrastructure first which are the tests referred to in Circular 3/2012. Compliance with these tests is now a policy matter and not a material consideration. The content of this Draft SG requires to demonstrate how it fully complies with these five tests to accord with the approved development plan.

It should be noted that the impact assessment methodology proposed by the Council within the Draft SG is known as the cumulative approach. The City of Edinburgh Council is another council which adopts the cumulative approach. Scottish Ministers directed in January 2020 that the City of Edinburgh Council should not adopt its Supplementary Guidance on Developer Contributions as statutory supplementary guidance as it did not meet the following tests of Circular 3/2012:

- it has not (on the evidence presented) been demonstrated that the contributions sought through the Supplementary Guidance, in particular levels of education and road transport contributions:
 - fairly and reasonably relate in scale and kind to the proposed development.]=
 - reflect the actual impacts of, and be proportionate to, the proposed development.

Unfortunately, this Council has embedded the same and significant issues in its Draft SG for it to comply with the approved development plan.

Policy 18 of NPF4 and Planning Circular 3/2012 establishes five tests which all planning obligations are required to meet. These are:

- Necessary to make the proposed development acceptable in planning terms;
- Serve a planning purpose and, where it is possible to identify provision requirements in advance, should relate to development plans;
- Relate to the development, either as a direct consequence of the development or arising from the cumulative impact of the development in the area;
- Fairly and reasonable relate in scale and kind to the proposed development; and
- Be Reasonable in all other aspects.

Specifically, in terms of the relationship to proposed development test, both NPF4 and the Circular emphasise the need to establish a clear link between the development and any mitigation required. The mitigation needs to be related to the direct impacts arising from the proposal or the cumulative impact of development within the area, defined as the school's catchment area.

The Circular explains that a planning obligation should specify ...clearly the purpose for which any contribution is required, including the infrastructure to be provided.

In order to demonstrate compliance with Circular 3/2012 and NPF4, the following steps should have been carried out by the Council when preparing the Draft SG to determine financial contributions for education:

1. An impact assessment should be carried out to assess the impact of its approved LDP development strategy on the capacity of the available education infrastructure to determine expected impacts of pupils from planned housing development. This should take into account cumulative development within the defined area, usually the school catchments areas. To replicate this type of impact, an impact assessment is more accurately undertaken by adopting a cohort progression method with assumptions on the number of pupils expected from new homes or flats. It is noted that the Council adopts Pupil Product Ratios (PPRs) of 0.30 for primary schooling and 0.24 for secondary schooling. This needs to be justified (especially for secondary schooling) by reference to a Council database and calculation. These PPRs are to be split between non-denominational and denominational sectors to allow the impact on all schools to be assessed which is reasonable.
2. Based on the outcome of this impact assessment, the Council needs to define the infrastructure mitigation required for the schools to alleviate accommodation pressures (e.g. an extension to existing school or a requirement to build new school). This then derives the proposed mitigation necessary to enable the approved development strategy to be delivered on a school by school basis.
3. The next step is to define these identified mitigation measures as planning obligations which will then form part of the LDP Action Programme. This normally includes budget costs for each obligation (normally calculated using Scottish Futures Trust metrics) and the timing when this mitigation is required to be delivered, taking into account future house building rates within each school catchment area (normally provided through the housing land audit process).
4. The final step is to assess the means by which financial contributions are to be calculated based on the budget cost of identified mitigation solutions and the total number of completions from cumulative development giving rise to the mitigation.
5. The Council needs to follow these steps to assess the impact of development and identify the proposed mitigation to define a proportionate share of the budget cost of this mitigation solution (i.e. financial contribution) from all development allocated in the adopted LDP.

East Lothian Council and West Lothian Council follow this approach and both adopt the cohort progression method of impact assessment across all of its school estate.

Response: The council considers that the SPG is compliant with the requirements of NPF4 Policy 18 Infrastructure First and Circular 3/2012 tests in relation to planning obligations.

Necessity

The guidance sets out the basis of identifying developments that will have an impact on the education infrastructure of the Council and thus be necessary to make the proposed development acceptable in terms of its impact in planning terms.

Planning Purpose

The guidance sets out clearly the thresholds for a contribution with the cumulative impact assessment of any emerging housing and identifies those schools where it is anticipated that the pupils generated by housing allocations (programmed up by the current Housing Land Audit and Local Development Plan), will increase school capacity beyond 90%. It is also made clear that the guidance is just a signpost for developers and that only when an application is received will the impact of the development be calculated utilising the Pupil Product Ratio against the number of houses planned within the catchment area of each school. Therefore, identifying the potential for infrastructure provision requirements in advance and relating to the requirements of the development plan policy CI Contributions to Infrastructure.

Relationship to proposed Development

The Guidance sets out the circumstances where there is the potential for additional education infrastructure requirements detailed in Appendix 2. It is also made clear that the calculation on the potential solution is only carried out at the time of submission of a planning application. This allows the Council to agree a solution if required that relates to the proposed development either as a direct consequence of the development arising or from the cumulative impact of the development within the catchment area.

Scale and Kind

The guidance sets out that contributions are proportionate to the proposed development in terms of the education infrastructure requirements generated. The costs are based on previous projects and previous costs and as such reflect the real-life costs incurred by North Lanarkshire Council to deliver the solution. If a new build is the required solution, the associated 'real-life build costs' of the previous contracts are divided by the capacities of the schools, thus presenting a cost per pupil. With regard to extensions, the information is translated into cost per square metre, again based on real-life costs the council has incurred in previous projects. A cost per sqm is a familiar metric for these types of projects. These costs illustrate the real-life financial costs on which the developer contribution is based. Furthermore in cases where there are concerns in relation to development viability the Council has included the ability of developers to explore the potential for the waiving of part or all of the contribution in exceptional circumstances as set out in Annex 3 of the guidance.

Reasonableness

The guidance sets out the requirements for contributions towards mitigating the impact on the education infrastructure and the Council is only seeking to recover costs associated with the actual costs and associated impact of development. Furthermore the Council does not include any abnormal costs, land purchase or design fees within its calculations further reducing the burden on developers.

Impact Assessment

The council already use the above process and provide detail of the mitigation once the planning application is received. The cohort model has been adopted in NLC for our roll projections. This allows for the spaces to be reused by pupils from additional housing scheduled after the 7 years school cycle. The house building rates are set in the Housing Land Audit by the developers and the roll projections

are calculated on this basis to determine the required mitigation. The costs are calculated based on the average costs of the last 5 projects for the required mitigation which provide an average of real life costs to the council.

- The methodology adopted by the Council to assess impacts is known as the cumulative approach.

It simply calculates the number of pupils by multiplying the number of homes expected in the school's catchment area by its PPRs. It has regard for 90% of the available capacity in the catchment schools and if the pupils from new housing development is greater than 90% of the school's capacity, then mitigation is required. The cost rate to apply is assessed by reference to Appendix 1. There is no direct relationship between the financial contribution derived by this method and a development's impact on the catchment school. Accordingly, it fails the relationship to proposed development test and the scale and kind test.

This calculation is not an impact assessment as the Council has not identified the mitigation required at each school based on its approved LDP development strategy and without this mitigation being identified, it has not defined its planning obligation and assessed a reasonable budget cost.

This approach creates a significant overestimate of impacts as it assumes that all pupils from new housing require to be accommodated in a school at the beginning of the development period being assessed. This does not model the reality of how pupils from new housing impact on school rolls (on a year by year basis) and fundamentally, this is why it fails the tests of relationship to proposed development test and the scale and kind test.

Fundamentally, the modelling approach does not model the reality of how the impacts arise and its outcomes are inaccurate. It is not fit for purpose.

Pupils only need to be accommodated in schools once new homes are occupied and the future impact is wholly influenced by the annual rate of cumulative housebuilding within the school's catchment area. For example, if more homes are built per annum, then this will result in higher impacts.

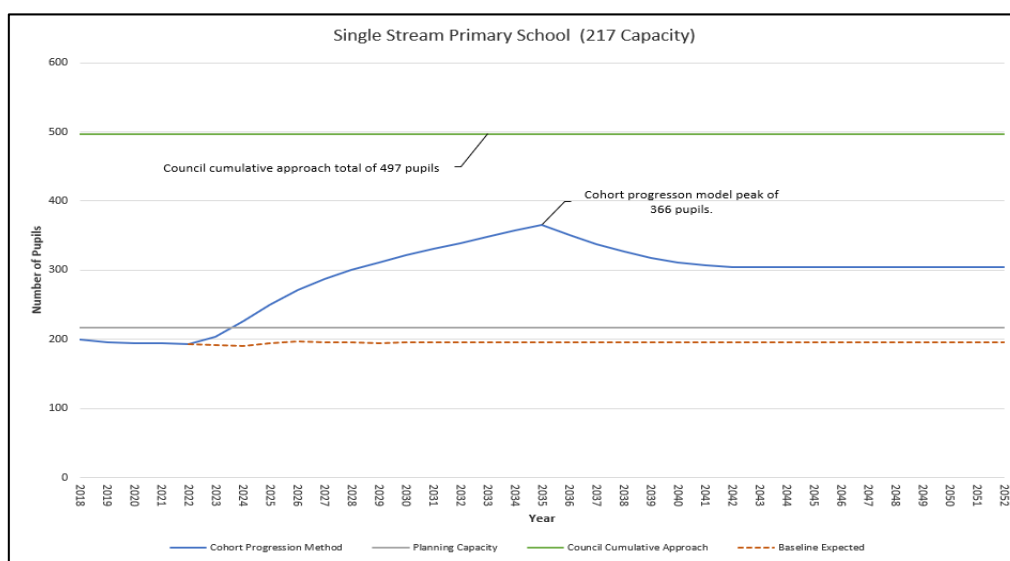
Relating annual house building build rates in school impact assessments is typically measured by a modelling approach known as the cohort progression. This adds the number of pupils expected to enter a school from new housing by each year group (cohort) such as P1 to P7 or S1 to S6 and then using other assumptions, progresses all pupils through the school year by year. It predicts the peak school roll from cumulative development which sets the mitigation required. This peak is explained by the fact that the PPR for new homes is typically twice that expected from existing housing and as families mature in their new homes, the number of pupils requiring accommodation in school will decline over time.

In order to demonstrate the issues with the Council's reliance on the cumulative method, HfS has carried out a simple exercise which compares the difference between the impacts predicted by the cumulative and cohort progression methods.

This exercise applies the two methods to the development of 1,000 new homes within a primary school's catchment area, based on a build out rate of 80 homes per annum over a 13 year period, adopting the Council's PPR of 0.3. This assumes a total of 300 pupils will be generated from the 1,000 new homes.

For the purposes of this exercise, it is also assumed that the baseline school roll (i.e. if no new housebuilding were to occur) is 197 pupils for a single stream school (7 classes) with a planning capacity of 217 pupils. This is equivalent to around 90% occupancy.

The Council's approach would suggest that 300 pupils will originate from 1,000 new homes and will need accommodation in a primary school with 197 pupils and only capacity for 20 pupils. However, as shown in the flowing diagram, the Council assumes that all 497 pupils (300 plus 197pupils) require accommodation at the beginning of the development period. This shown by the green line.



This compares with the cohort progression model which projects a peak school roll of only 366 pupils, before falling to around 300 pupils as the new housing stock matures. This difference equates to 131 pupils at the peak compared to the Council's 497 pupils. The mitigation should be based on the peak roll of 366 pupils. If the rate of housing was higher annually then the peak roll would increase marginally.

This modelling comparison exercise demonstrates that the cumulative approach adopted by the Council significantly overestimates the projected peak impact of new housing development on a school roll by a difference of 131 pupils. This is an overestimate of around 35% (497 pupils / 366 pupils = 135%).

The appropriateness of the use of either the cumulative or cohort progression approaches was considered by Reporter Craggs in the determination of an Appeal (Appeal Ref: PPA-150-2010) for a 1,000 home development in Sauchie, Clackmannanshire. In reaching her decision, Reporter Craggs noted that the cumulative approach adopted by Clackmannanshire assumed that ...almost all of the pupils generated from the development would still be at the primary school in 2031. Reporter Craggs concluded that this ...cannot be the case, those who started at primary school between 2021-2024 would have transitioned to secondary school by 2031.

The conclusion reached is that the Council's method is not appropriate for its purpose for modelling impacts and accordingly fails the relationship to proposed development test and scale and kind test.

HfS is also aware of other councils adopt the use of the cohort progression model to ensure that projected impacts on future school rolls are as accurate as possible. This includes both West Lothian and East Lothian councils who follow the same methodology promoted by HfS in this Representation.

Response: The methodology of the cohort progression model has been adopted in NLC to our roll projections. Pupils are phased to drop off the school rolls after P7. This allows for the spaces to be reused by pupils from additional housing scheduled after the 7 years school cycle.

- The Council is proposing PPRs of 0.3 for primary schooling and 0.24 for secondary schooling. No evidence has been provided to validate these assumptions. Evidence for this PPR for secondary schooling is required and is known to be exceptionally high and 0.18 is more generally expected.

Response: The PPR rate for secondary is updating to 0.18. The figure shown in the SPG was an example figure for calculation purposes. We will carry out further analysis over a 3/5 year period to determine if this is an outlier or if the staying on rates have reduced. The figures within the draft SPG have been updated to reflect this change.

- It is also noted that the Council does not provide PPRs to model flats as well as houses. There is a significant difference in PPRs for flats compared to houses which should be considered by the Council. In addition, most councils now discount 1 bed flats from an impact assessment as not accommodating children.

The Draft SG also does not provide a split between its PPRs for non-denominational and denominational schooling. The Draft SG states that this is calculated as follows: *“Using the existing primary school population over the last five years, the education authority calculates the Non-Denominational / Denominational solute which is used to determine the percentage of pupils from new housing who are anticipated to attend either school.”*

HfS does not consider this approach to be in accord with the tests in Circular 3/2012 or the approach adopted by other councils which publish separate PPRs for both non-denominational and denominational schooling. HfS considers that the Draft SG should be amended to provide separate PGRs, but these PGRs should not be updated on an annual basis based on the methodology proposed in the draft SG to provide consistency of approach throughout the duration of the finalised Supplementary Guidance.

Response: The “Implementation” section on page 7 of the draft SG outlines that 1 bed dwellings are excluded from any developer contribution assessment – this would include 1 bed flats.

The assessment of pupils at catchment area for split between non-denominational and denominational schooling is calculated as described in the statement above. This is argued to be more accurate and “in scale and kind” than publishing separate PPRs for both non-denominational and denominational sectors.

In some catchment areas within North Lanarkshire, over 90% of pupils have been shown to attend one school serving the area. As such, the assessment at

catchment level reflects the behaviours of the historic population (over the last five years) within the catchment areas.

This approach better models where the pupils from the new housing in this area are likely to seek schooling, within this local area. This is therefore representative of the ND/D split within specific catchment areas, rather than a generic split at a council level which may not accurately reflect or represent the impact of a development on any of the schools it may impact on.

- The application of the 90% capacity threshold as a trigger for a school's occupancy requiring mitigation is unnecessary. It is understood that in the 2021/22 School Year, around 33 schools in North Lanarkshire were operating at over 90% occupancy. A further 11 schools were also operating between 85% - 90% occupancy in the same school year. This suggests that schools can operate above this arbitrary 90% capacity threshold adopted by the Council within the draft SG.

The actual school roll should be used in an impact assessment and not an artificially reduced roll by 90%. In addition, Scottish Government has published guidance on assessing the capacity of primary schools in 2014 (Determining Primary School Capacity). This advocates the use of planning capacity and not working capacity in impact assessments. The Council's approach of applying 90% to the available capacity is akin to apply working capacity instead of planning capacity.

There is no equivalent guidance for secondary schools.

The Draft SG simply states that, in determining the impact of future development on its school estate, the number of pupils expected to be generated from all housing development has been ...added to the current number of children in each school to calculate the overall percentage capacity. The Draft SG states that if this exercise identifies that a school may be at over 90% capacity (assuming all housing development comes forward at the beginning of the development period), then the Council will seek a financial contribution from a development.

Response: Bearing in mind that pupils do not present for schooling in numbers which match stage capacities perfectly (i.e. 25 at P1, 30 at P2 and P3, 33 at P4-P7), experience shows that in any given year a school can have operational issues making class sets where a school is over 80% capacity. As such a benchmark of 90% is deemed reasonable.

It is not accepted that because a school is over 90%, and has managed to operate, that it will be able to do so in any given year. Compromises may need to be made – such as to use rooms, which are not designated for class teaching, for a specific year.

The purpose of forward planning for school admissions is to ensure there is suitable, adequate provision for the school, in the majority of years, and experience has shown that 90% is a suitable benchmark on which planning capacity can be assessed and ensure that in the majority of years there is adequate provision.

It is reiterated that pupils will not present in numbers which perfectly match stages, and as such it cannot be expected that all spaces in all stages will be used in each given year, which is the number that the 'capacity of a school' is recording.

- It is important that the cumulative number of homes causing the impact is known as this is essential to define the proportionate payments due from respective developments within a school's catchment area. The Draft SG does not provide this essential information to help define proportionality and therefore determine the financial contributions to be applied.

Response: This is the first draft of the guidance. It is fully expected that information within the guidance will be added to over time. The schools highlighted within the draft guidance, are those that, due to the cumulative impact of developments in the area, are being outlined to prospective developers to provide initial information on potential developer contribution for a development brought forward within that catchment area.

- The Council's approach to financial contributions is simply a charging mechanism which is not rooted in an impact assessment to guide the assessment of planning obligations.

Response: This statement is not accepted by the council. The draft guidance outlines the costs which have been incurred, and the schools which may require a contribution. Each school has been assessed, to understand the impact of developments within its catchment area, the anticipated number of pupils expected to impact on the school population, and the outcome of this impact assessment is outlined within the table at Appendix 2.

- The costings provided by the Council are not possible to verify as no breakdown has been provided to help verify the rates adopted. It is noted that these cost rates will change on an annual basis. This means that there is no certainty about the costs required in the future which is a major consideration in preparing Draft SG.

As the Council is aware, there is an alternative source of cost data on new schools from Scottish Futures Trust (SFT) which can be used to guide budget costs for school extensions as well.

SFT has set up a comprehensive set of metrics on the accommodation requirements per pupil (split by primary and secondary), depending on the size of school and the cost rate to apply (split by primary and secondary). This SFT data set is consistently applied across Scotland and is periodically updated by SFT to reflect updates to technical specifications. Importantly, it has been prepared to encourage acceptable benchmarking for standards and size of schools across Scotland and their budget costs. This is recommended as an alternative cost system for the Council to adopt and to prevent the need for the figures quoted in Appendix 1 to be reviewed annually.

Overall, the Council's methodology for carrying out its impact assessment fails to comply with the relationship to proposed development test and scale and kind test. It is therefore not in accord with NPF 4 Policy 18 – Infrastructure first and is contrary to the approved development plan.

Response: North Lanarkshire Council does not consider the SFT metric to be an accurate reflection of costs the council incurs and therefore considers it an unsatisfactory metric to use. SFT metric is used by councils to understand potential funding from Scottish Government for the school estate through the Learning

Estate Investment Programme (LEIP). It is not an accurate reflection of costs North Lanarkshire Council incur in relation to new build schools.

The costs are based on previous projects and previous costs and as such reflect the real-life costs incurred by North Lanarkshire Council to deliver the solution.

If a new build is the required solution, the associated 'real-life build costs' of the previous contracts are divided by the capacities of the schools, thus presenting a cost per pupil.

With regard to extensions, the information is translated into cost per square metre, again based on real-life costs the council has incurred in previous projects. A cost per sqm is a familiar metric for these types of projects.

These costs illustrate the real-life financial costs on which the developer contribution is based, and as such meet the tests outlined within Policy 18 and Circular 3/2012.

- Overall, the Council's methodology for carrying out its impact assessment fails to comply with the relationship to proposed development test and scale and kind test. It is therefore not in accord with NPF 4 Policy 18 – Infrastructure first and is contrary to the approved development plan.

Paragraph 21 of the Circular is clear that ...Where the need to improve, upgrade or replace that infrastructure does not arise directly from the proposed development then planning authorities should not seek to address this through a planning obligation.

In order to demonstrate compliance with the tests in Policy 18 of NPF4 and Circular 3/2012, the Council must revise the Draft SG to include an impact assessment which clearly demonstrates that it has fully considered the impact of future housing development from its approved development strategy on its existing school estate. This should correlate with its future school roll projections / forecasts for each school to demonstrate the impact of future housing development on the existing school estate. Only in this way can the Council demonstrate that its methodology complies with the approved development plan.

Response: The guidance sets out that contributions are proportionate to the proposed development in terms of the education infrastructure requirements generated. The costs are based on previous projects and previous costs and as such reflect the real-life costs incurred by North Lanarkshire Council to deliver the solution. If a new build is the required solution, the associated 'real-life build costs' of the previous contracts are divided by the capacities of the schools, thus presenting a cost per pupil. With regard to extensions, the information is translated into cost per square metre, again based on real-life costs the council has incurred in previous projects. A cost per sqm is a familiar metric for these types of projects. These costs illustrate the real-life financial costs on which the developer contribution is based. Furthermore in cases where there are concerns in relation to development viability the Council has included the ability of developers to explore the potential for the waiving of part or all of the contribution in exceptional circumstances as set out in Annex 3 of the guidance.

The guidance sets out the requirements for contributions towards mitigating the impact on the education infrastructure and the Council is only seeking to recover

costs associated with the actual costs and associated impact of development. Furthermore the Council does not include any abnormal costs, land purchase or design fees within its calculations further reducing the burden on developers.

The council already use the above process and provide detail of the mitigation once the planning application is received. The cohort model has been adopted in NLC for our roll projections. This allows for the spaces to be reused by pupils from additional housing scheduled after the 7 years school cycle. The house building rates are set in the Housing Land Audit by the developers and the roll projections are calculated on this basis to determine the required mitigation. The costs are calculated based on the average costs of the last 5 projects for the required mitigation which provide an average of real life costs to the council.

- HfS considers that the Draft SG should be revised to include the Council's latest projections / school roll forecasts for each of the schools within the Council area. These projections / forecasts should be updated on an annual basis and published by the Council. This is in accord with the best practice approach adopted by many other councils including The Highland Council, Aberdeen City Council, West Lothian Council and City of Edinburgh Council.

Circular 3/2012 is clear that ...Planning obligations should not be used to resolve existing deficiencies in infrastructure provision. Any projections / forecasts published by the Council should therefore identify the projected school rolls with and without the impact of committed housing development.

By publishing its latest school roll forecasts / projections, this Council will be able to demonstrate (in accord with the Relationship to proposed development test of Circular 3/2012) that a development will *"create a direct need for particular facilities... or ...place additional requirements on infrastructure"*.

Response: The draft SG is the first iteration of the document, to provide developers with an initial overview of the anticipated impact developments will have on the school estate in the coming years. It is expected that the document will evolve over time.

The school roll projections use various information sources, which are produced and provided at different points in the year, and in each instance, the information is updated. As such the school roll projections are dynamic and change within the year.

The council will consider the statement presented and discuss with counterparts in other authorities how they include this information, and how they mitigate the risks of the information changing between publications, with a view to evaluating the benefits and risks of including this information within a future North Lanarkshire publication.

- In accord with NPF 4 and Circular 3/2012, the Draft SG is required to define the infrastructure mitigation required to calculate an associated budget cost. These mitigation measures are the planning obligations which can then be included in a legal agreement. This budget cost can then be attributed to all committed housing development within the catchment area of a school to determine a development's proportionate share to the delivery of this mitigation solution. This can provide the basis for the proposed rates of financial contributions in this Draft SG.

The Draft SG does not define any mitigation solutions required to address existing or projected capacity pressures at any of the schools within the Council area. Appendix 2 – Developer Contribution List (as at September 2023) simply lists all schools within the authority area, with a column identifying whether or not a contribution will be requested towards each school. This should be supported by an impact assessment for each school.

Response: Each school has been assessed, to understand the impact of developments within its catchment area, the anticipated number of pupils expected to impact on the school population, and the outcome of this impact assessment is outlined within the table at Appendix 2. Further discussions would be held with the applicant before any legal agreement is drafted. The information provided within Appendix 2 at this stage, is to make potential developers aware that this discussion will likely take place, and it is at this point the proposed solution and evidence to support said solution and associated costs would also be discussed.

- Appendix 1 of the Draft SG sets out different costs per home that will be sought from developers towards either new build schools or extensions to existing schools. In the case of contributions to primary education, these generic costs range from £3,238.60 per home for an extension to an existing primary school to £10,500 per home towards a new build primary school. This is a significant difference in cost of around £7,000 per home.

Response: There is a significant difference in the cost to add an extension to a school or to create a purpose built new school. Hence the significant cost difference.

- Circular 3/2012 is clear that developers should be ...aware when undertaking development appraisals and in designing their proposals of ...the ...likely financial requirements of that planning obligation. In failing to identify the actual mitigation solution required at each school, the Draft SG fails to accord with the Planning Purpose test of Circular 3/2012.

The Draft SG is also based on an assumption that any mitigation solutions will relate to either the delivery of a new school or an extension to an existing school. The Draft SG fails to consider whether it is possible to provide additional capacity at an existing school via an internal reconfiguration or through the use of temporary classrooms.

Other councils set out a hierarchy of approaches to resolving any education infrastructure constraint and the following priorities generally apply:

- A. Consider whether the mitigation required is only temporary and an interim solution over a short period (3 to 5 years) is possible.
- B. Consider whether an extension to the existing catchment schools is feasible.
- C. Consider whether it is possible to undertake a catchment review to realise available capacity in a nearby school subject to statutory consultation on this procedure.
- D. Only if these steps are not achievable then consideration will be given to mitigation through a new school.

It is the view of HfS that provision of temporary classrooms should be the first consideration for this Council followed by the next option as the internal reconfiguration of an existing school or a school catchment review. The costs for the delivery of such

mitigation would be calculated on a case-by-case basis once the actual level of mitigation is defined. This is in accord with the tests of Circular 3/2012.

With regards to the relationship to proposed development test, NPF 4 Policy 18 through further explanation in Circular 3/2012 is clear that a planning obligation ...should demonstrate that this test is met by specifying clearly the purpose for which any contribution is required, including the infrastructure to be provided. This obligation can be incorporated into subsequent legal agreements.

In failing to demonstrate what mitigation the financial contributions are used to fund, the Draft SG is not compliant with NPF 4 and Circular 3/2012 as it fails the scale and kind test and the reasonableness test. The reasonableness test confirms:

- In the case of financial payments, will these contribute to the cost of providing the necessary facilities required as a consequence of or in connection with the development in the near future.

Appendix 2 of the Draft SG therefore requires to be amended to define whether contributions sought towards each school will be towards either:

- The provision of temporary classroom(s);
- An internal reconfiguration of an existing school;
- An extension to an existing school;
- Potential to utilise capacity at a nearby school through a school catchment area review, or
- A contribution towards the delivery of a new build school.

Response: The statement reads from a position that the final financial contribution will be known once the contents of the draft SG are read. This is not the case. The draft SG, at this point, is the first stage in the process, simply informing developers in which areas it is expected that a developer contribution discussion will take place – and it is through this process that the solution, the rationale behind the solution, and the associated costs – in line with the costs and calculations outlined in the draft SG will be advised.

To reiterate, each school has been assessed, to understand the impact of developments within its catchment area, the anticipated number of pupils expected to impact on the school population, and the outcome of this impact assessment is outlined within the table at Appendix 2. Further discussions would be held with the applicant before any legal agreement is constructed. The information provided within Appendix 2 at this stage, is to make potential developers aware that this discussion will likely take place, and it is at this point the proposed solution and evidence to support said solution and associated costs would also be discussed.

- The Draft SG sets the Council's methodology used to establish the cost per pupil and cost per home for the delivery of undefined mitigation solutions.

The Council's methodology is not based on the impact of this proposal or a defined infrastructure action. Rather, the Council's methodology has used unjustified build costs (set out in Appendix 1 Developer Contribution of the Draft SG) which are either for new build schools or extensions of existing schools and applied these to provide an average of the pupil capacity of these schools. The outcome of this exercise has then been used to establish the cost per pupil and cost per home to be sought by the Council.

This is simply a charging mechanism which cannot comply with NPF4 and Circular 3/2012. Paragraph 33 of Circular 3/2012 is clear that ...Where standard charges and formulae are applied to individual developments, they should reflect the actual impacts of, and be proportionate to, the development and should comply with the general tests set out in this circular.

The Council's methodology is unrelated to an impact assessment to define mitigation and then the planning obligation sought, and then cannot define the proportionate financial contributions that follow. The Council's methodology is simply a generic charging mechanism, which is not based on an infrastructure action, defined in terms of type, scale, timing and cost.

The approach adopted within the Draft SG by the Council was criticised by Reporter Shiel in the determination of a Section 75B Appeal (Appeal Ref: POA-320-2003) for a housing development of around 330 homes in Newmains, North Lanarkshire. The fundamental issue in the determination of this Appeal was the appropriateness of the financial contributions set out in the existing Section 75 Agreement towards undefined primary education infrastructure. This was based on charges set out in the Council's SG.

It was the view of the Council that a contribution of £7,800 per home (indexed linked) was required based on the similar methodology set out in this Draft SG. The Council's justification for this contribution included reference to unjustified build costs from new build schools which had then been used to establish the cost per pupil and cost per home, as now set out in the Council's Draft SG.

It was the Appellant's position, however, that any financial contribution must be calculated (in accord with the tests of NPF 4 and Circular 3/2012) based on a defined mitigation solution. The Appellant therefore presented Reporter Shiel with an impact assessment which identified mitigation which was a designed and costed solution that would provide sufficient capacity to mitigate the cumulative impact of all committed housing development (based on the latest available Housing Land Audit) within the catchment area of the relevant schools. This position presented by the Appellant was based on the use of a cohort progression model to undertake the impact assessment.

In reaching his decision, Reporter Shiel supported the arguments presented by the Appellant for its impact assessment and concluded that the Council's methodology is in effect a ...tariff... which ...does not seem to relate to the specific impact of any individual development on the educational infrastructure of the area in which it is situated. Reporter Shiel therefore concluded that the Council's approach was not in accord with the tests of Circular 3/2012 (and now NPF 4)

Despite the conclusions of Reporter Shiel, the Council is continuing to promote the use of a tariff based approach within its Draft SG. HfS welcomes clarification from the Council on why it has chosen to ignore the conclusions of two Scottish Government reporter's by continuing to adopt both the cumulative approach and use of tariff based financial contributions.

NPF4 and Circular 3/2012 is clear that ...Attempts to extract excessive contributions towards the costs of infrastructure or to obtain extraneous benefits are unacceptable. By not defining what the financial contributions will be used to deliver, the Draft SG has not

demonstrated that these costs relate (in scale and kind) to any future mitigation solution that will be delivered by the Council.

In addition to failing to set out the budget cost for mitigation solutions, the Draft SG also fails to identify the number of contributing sites and their homes that will be used to fund the undefined mitigation. Circular 3/2012 is clear that a developer obligation ...must always be related and proportionate in scale and kind to the development in question.

By failing to define either a mitigation solution or associated budget cost, the Draft SG fails to demonstrate that a developer will only pay its proportionate share of mitigation costs in accord with NPF 4 and Circular 3/2012.

Response: The council consider that the decision by the reporter in the Newmains appeal case (POA-320-2003) is much more nuanced than expressed in the statement above. On reflection of that decision, the council has amended its approach and process to ensure that a similar situation arising in the future should be determined differently.

As outlined in response to a previous statement, the draft SG, at this point, is the first stage in the process, simply informing developers in which areas it is expected that a developer contribution discussion will take place – and it is through this process that the solution, the rationale behind the solution, and the associated costs – in line with the costs and calculations outlined in the draft SG will be advised.

To reiterate, each school has been assessed, to understand the impact of developments within its catchment area, the anticipated number of pupils expected to impact on the school population, and the outcome of this impact assessment is outlined within the table at Appendix 2. Further discussions would be held with the applicant before any legal agreement is constructed. The information provided within Appendix 2 at this stage, is to make potential developers aware that this discussion will likely take place, and it is at this point the proposed solution and evidence to support said solution and associated costs would also be discussed.

- The Draft SG also advises that the proposed contributions sought...will be index linked to inflation from the point of the Council being minded to grant planning permission... and will then ...be used to evaluate and calculate costs for any given year up until the full contribution has been received.

HfS does not consider this to be an appropriate application of indexation. Indexation is only required to ensure the budget cost of a defined mitigation solution remains in line with inflation until it is built. Once the mitigation measure is built by the Council, then its fixed cost is known, with the Council only required to recover the fixed cost of its spend on infrastructure works. Indexation should not apply after the mitigation is built.

HfS also does not consider it to be appropriate for indexation to be applied to a generic charging rate (which itself is not based on a defined mitigation solution) until such time as a financial contribution has been assessed. The application of indexation in this instance (as set out in the Draft SG) is not justified by the Council and could result in landowners or developers making payments ...which are not directly related to the proposed development.

The Draft SG states that any Section75 Agreement will ...include the education authority retaining any payment for a period of 10 years or otherwise agreed with the Council. The Draft SG states that after this period or following the completion of the final dwelling within a development, any unspent or uncommitted payments (by the Council) will be returned to a developer following a written request.

HfS considers that the Draft SG should be amended to clearly state that any unspent developer contributions will be returned by the Council along with any interest accrued over the defined period.

Response: It is accepted that indexation should only be applied until such times as the contract and associated costs for the adaptation/extension/new build is known and 'locked in'. Indeed, this is how it works in practice. The council is only ever looking to recover costs associated with the actual costs and associated impact. The council will look to reword the draft SG guidance accordingly, to better reflect that this is the case.

- The Draft SG states that the Council may ...consider a reduction or give an exemption from the requirement for an education contribution. HfS welcomes the principle of this approach as it will assist in bringing sites forward which may have significant viability issues due to ground conditions or other matters.

However, in accord with Circular 3/2012, the Draft SG must be clear that, in determining any sites as being exempt from making a developer contribution, the associated costs are not passed on to other development sites. Circular 3/2012 is clear that ...Planning obligations must be related in scale and kind to the proposed development. In accord with Circular 3/2012 ...contributions should always be proportionate to the scale of the proposed development.

In accord with Circular 3/2012, the Draft SG must be clear that the Council will take on the responsibility of funding any shortfall in the cost of the delivery of mitigation, where it has allowed for exemptions from development. In accord with the Scale and kind test of Circular 3/2012, it cannot be the responsibility of other developments to fund any shortfall caused by the Council allowing a development to be exempt from making a financial contribution towards education infrastructure.

Response: All calculations are based on a specific development, and the number of pupils that the development is expected to generate. As such, contributions are only ever sought in direct relation to any given development. As such it is confirmed that any reduction in contribution as a result of the 'viability' assessment would have no impact on any other development or any other agreement.

- Appendix 3 – Development Viability sets out the information that the Council will require from a developer who is seeking either a reduction or exemption from a financial contribution towards education infrastructure.

HfS notes that some of the requested information assumes that a developer will have undertaken a detailed design exercise for a site, including market valuations of each proposed home, cost of construction and build specification. These costs will then be verified by the District Valuer prior to the Council agreeing to any exemptions or reduction in contributions. The Draft SG therefore appears to assume that all sites will be at detailed cost stage when submitting a planning application.

The Council will be aware that Section 75 Agreements are often agreed on applications for Planning Permission in Principle (PPP), where this level of detail remains unknown. For example, at PPP stage there is no requirement to provide information on site layouts, number of homes proposed or construction details. No allowance is made within the Draft SG for this. It is therefore unclear how the Council expects a developer to provide the level of information required to demonstrate that a reduction / exemption should be applied.

Clarity on how the Council will address this matter is therefore welcomed.

Response: Whilst the concerns are noted it is envisaged that as with most PPP applications the developer will already have an indicative layout showing the proposed numbers for the site. Should there be concerns regarding the viability of the proposals it is for the developer to provide the required information for Development Viability as set out in Appendix 3. As specified within the SPG only in very exceptional circumstances where there are excessive, abnormal costs on sites that are designated for housing or within the urban area boundary in the North Lanarkshire local Development Plan 2022, it is likely that the Council will consider a reduction or give an exemption from the requirement for an education contribution. In such circumstances it is for the Developer/Applicant to make a case that development viability is compromised by the requirement for an education contribution. In order for the Council to be able to make a comprehensive assessment in such cases it is for the Developer/Applicant to source the information required to undertake a full viability appraisal at the outset of their development which considers all likely costs including any other developer obligations. Whilst it is acknowledged that this may be problematic for some PPP applications all submissions are required to provide the same level of information in order to ensure fairness in their assessment.

- The Draft SG states that developer contributions will towards education infrastructure will be sought from all dwellings unless it falls within one of the proposed exemptions. HfS firstly considers that the Draft SG should be amended to confirm that ...all dwellings... refers to both private and affordable homes (i.e. all housing tenures).

One of the stated exemptions from education contributions is developments of fewer than five homes. No evidence is provided within the Draft SG as to why the Council considers that developments of less than five homes should be exempt from making developer contributions.

All housing development (including those of less than five homes) that can be occupied by children of school age will be expected to have an impact on existing education infrastructure. In seeking to exclude proposals of less than five homes, the Council is expecting larger developments to bear an unfair share of the cost of the planning obligation. It therefore fails to consider the cumulative impact of all housing development in accord with Circular 3/2012.

If it is the Council's intention to exempt proposals of five homes or less from making financial contributions towards education infrastructure, then it must take responsibility for funding the mitigation of the direct and cumulative impact of these developments.

Response: The council agrees with the statement in principle. However, it is much harder to track and evidence the impact on small scale developments. As such the

council accepts that it would be very difficult to demonstrate impact on such developments. As outlined in a response to a previous statement, all calculations are based on a specific development, and the number of pupils that particular development is expected to generate. As such, contributions are only ever sought in direct relation to any given development.

In the current housing land audit – 8.9% of the total number of sites are for sites which are less than five units. As such, these types of development are much less likely to have a significant impact on the school estate.

- The Draft SG also makes no allowance for the impact of windfall sites on education infrastructure. HfS considers that the Draft SG should be revised to make an allowance for the impact of windfall development on future school rolls, taking the windfall allowance used in either in the Housing Land Audit or the Council's housing land This allowance would also apply to the Council's school roll projections.

Response: The current SG does take account of windfall sites as they are added to the Housing Land Audit (HLA) in the subsequent year and therefore included within the updated roll projections which include all HLA housing.

- HfS respectfully advises the Council to prepare a revised Draft SG which demonstrates that it is compliant with the tests in Policy 18 of NPF4 and Circular 3/2012. As highlighted above, the education impact assessment approach undertaken by either East Lothian or West Lothian Councils are good examples to follow and the Council is encouraged to liaise with these councils to prepare a comprehensive revision to its Draft SG.

Response: The council has outlined its position in the responses above and has outlined why it believes that the current guidance is compliant with the requirements of NPF Policy 18 and Circular 3/2012.

Additional Public Consultation Responses

- Calculations - part of the formula is that classroom occupancy is based on 25 pupils. There seems to be no provision within the formulas presented for ASN impact. If an extension or new build will make provision for ASN pupils e.g. classroom occupancy is 10 pupils not 25 pupils. ASN would require 2.5 classrooms.

Response: The draft SG only concentrates on contributions linked to mainstream primary and secondary education. Contributions linked to early years or ASN provision are not covered within this guidance document.

- Planning and policy - This supplementary guidance leaves NLC open to legal challenges. NPF4 has been challenged in court, developers want this guidance only to apply to LDPs passed after the guidance was adopted. Some of the policy is local policy and guidance. If a development site does not fit a developer's financial model due to the education contribution under this guidance, developers may choose to challenge, the formula, the overall guidance legally. This comment is based on developer's previous history in resorting to legal challenges both at local and national level.

Response: The comment is noted.

- I would like to refer to National Planning Framework 4 and to know more about the difference/improvements this will make to policy/guidance. I would also like to know more about Policy 18 Infrastructure First of NPF4 which most closely aligns with the requirements

of Policy CI Contributions to Infrastructure of the NLLDP 2022 and the difference/improvements this will make to policy/guidance.

Response: The comments are noted but do not directly relate to the comments sought on the draft SG being considered.

- I have compared NL Planning's Developer Contribution School List (as at September 2023) to that of West Lothian Council's Supplementary Guidance (Planning and Education). I would suggest that NL could provide much fuller information.

NLC's indicates only Cluster, PPP or Non PPP School, Contribution while West Lothian's Supplementary Guidance, Planning and Education Table 1 offers much more detail e.g. contribution table by catchment area e.g. sector, project description, indicative project cost, project contribution, contributing housing units, overall cost, what is being planned e.g. extensions, additions classrooms, new build.

Response: The comments and suggestions are noted. The proposed draft SG is the first iteration of this guidance document. It is expected that the guidance will be further developed over time, and where appropriate additional information added to the guidance document.

- Also absent from NL's document is an illustration of how the contributions/monies collected were spent directly on the schools impacted by housing developments.

Response: The document and draft SG presented is not intended to include this information.

- I don't believe that the housing industry can sustain more indirect taxation from local government. Housing building costs are rising as are consequentially house prices. It's time to reconsider this inequitable taxation.

Response: The comment is noted.

- Could you please advise if a mapping exercise has been carried out taking account of existing capacity from all providers, inc local PVI partners for 2-5yr old children.

Response: This draft SG only relates to Primary and Secondary mainstream schooling. Early years provision is not covered by the guidance presented.

- I think the 90% rate for having to make contributions should be considered. If the development is large, school roll could change quickly and perhaps in large developments 85% school roll should be considered. If we really want good education in NL then smaller class sizes have to be the aim. Also future governments might reduce the 30+ class sizes that SNP has allowed. If this is the case lots of current schools will not have capacity.

Response: North Lanarkshire Council can only base guidance on known information and policy. If a policy and/or legislation was introduced to reduce class sizes, impact of developments on the school estate would be reevaluated and adjusted accordingly.

- In our local area elderly accommodation is planned in the free land next to the school. It will not impact school capacity. However our school is at capacity, needs a new building, but there will be no space to build a new school. This will impact cost and options when time

comes for new school to be build. Any private development should be making contributions to the local community if they are taking away community land.

Response: This is outwith the scope of policy and therefore cannot be considered as part of the draft SG.

- The excessive costs clause should be written to ensure it is not an excuse for Ravenscraig builders to not pay. The excessive cost to fix the contaminated land is well know. But this also means excessive costs to build new schools. This areas development is huge, seems to be where the council wish all Motherwell facilities to be and is already impacting significantly on capacity of local school. As someone with a child in a class of 32, it is ridiculous that no Ravenscraig schools have been built yet.

Response: Any request submitted in relation to the excessive costs clause will be evaluated on a case by case basis.

- Contributions should be for facilities beyond schools. Hub schools don't allow facilities for people who can't be in busy areas, don't wish to be near children or are not allowed. Council has no consideration of this is school hub plans.

Response: This draft SG is specifically focused on the education estate, the impact of house building on the school estate, and how the council will work with developers to ensure a contribution towards the impact their development will have on the school estate.

- Can you please advise if a traffic assessment has, or will be carried out relating to the increased traffic at the junction of Johnston Road and Lochend Road as the increased traffic will have a safety impact on families entering and exiting Lochview Nursery car park.

Response: This is not within the scope of the information published in relation to the draft SG.

- Although I am glad that the new schools have been built and the plan is in place to extend the high school in Chryston. I am concerned that there is not enough care or thought for the elderly population of both Chryston and Muirhead. With an ever growing population and of course catchment area effects, we have come to a standstill with existing housing. Yes we have had numerous housing built over the past few years which has contributed to an ever diminishing green belt. However, there has never been an inclusion in any plans to accommodate elderly residents to downsize and move into smaller accommodation, in particular homes with a social hub. This in turn is not allowing existing homes to be freed up for younger families to move into. There is a dire need for NLC to look at the interests of its elderly generation who would still like to live in the village but in smaller more sociable accommodation. It's time to look after village residents who have contributed to village life for over 50 years. Perhaps take a note from East Dunbartonshire's council who support their elderly residents in a fantastic manner. I would also like to add that the accommodation would be best served as publicly available to purchase or rent and advertised as such. Too many times there are underhanded allocations of properties to the lucky few in the know. I hope this feedback is helpful and I also hope that someone listens because this situation needs to be rectified.

Response: This draft SG is specifically focused on the education estate, the impact of house building on the school estate, and how the council will work with developers to ensure a contribution towards the impact their development will have on the school estate.

Supplementary Planning Guidance

November 2024

Education Contributions



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1. Introduction

This publication provides statutory Supplementary Planning Guidance (SPG) from North Lanarkshire Council on developer contributions for education infrastructure. The guidance promotes good practice on pupil yield evidence and engagement with developers and planning authorities in order to deliver any necessary expansion or new build schools as a direct result of the impact on the school estate from new housing developments.

North Lanarkshire Council is committed to providing the highest quality of education within its establishments and developer contributions for education are required to help mitigate the impact of developments on the education estate. This will allow the correct infrastructure to be put in place to support the additional pupil product from new developments and their impact on the educational estate.

The introduction of any new development can have a significant impact on a wide variety of existing infrastructure, facilities, services and amenities and in such circumstances where it can be justified the Council will seek developer contributions to offset such impacts.

Residential housing developments can place additional requirements and result in capacity constraints on the education services of the Council. This guidance outlines the circumstances in which residential development proposals are required to be assessed in terms of their impact on the capacity of the education estate and the ability to accommodate the pupils generated by the development in the local schools. All qualifying residential developments of 5 or more units will be assessed with regards to their impact on the education estate.

2. Education Establishments

North Lanarkshire Council currently provides an education service across the authority through secondary schools, primary schools and pre-five establishments.

The council will seek to secure contributions for areas of education infrastructure in Primary and Secondary areas where required. These will be requested where capacity issues are identified through the cumulative impact of all emerging housing developments identified through the Housing Land Audit and Local Development Plan.

The developer contributions will be required to contribute towards providing additional capacity through the provision of a new build school, permanent additional classrooms (extensions or modular accommodation) and adaptations to existing schools.

3. What are Contributions

In order for developer contributions to be secured, North Lanarkshire Council require developers to enter into a contract to offset adverse impacts of their project.

In Scotland, they are most commonly (though not exclusively) made under Section 75 of the Town and Country Planning (Scotland) Act 1997. Section 75 agreements are used where conditions attached to the planning permission itself are not appropriate. While planning conditions control how a project is built and used, Section 75 agreements tend to provide for financial contributions and any requirements affecting land outside the area to which the planning permission relates, such as education infrastructure.

4. Planning Policy

This Supplementary Planning Guidance has been prepared within the context of the following:

- National Planning Framework 4 (NPF4);
- Circular 3/2012: Planning Obligations and Good Neighbour Agreements (Revised 2020); and
- North Lanarkshire Local Development Plan (NLLDP) 2022

National Planning Framework 4

NPF4 was adopted on the 13th February 2023 and forms part of the statutory Development Plan (alongside the Local Development Plan) and is required to be considered when determining planning applications. In the event of any incompatibility between NPF4 and the adopted NLLDP 2022, it should be noted that the NPF4 policy position will supersede the policies in the NLLDP.

Whilst there are several policy overlaps between NPF4 and the adopted NLLDP 2022, it is considered that Policy 18 Infrastructure First of NPF4 most closely aligns with the requirements of Policy CI Contributions to Infrastructure of the NLLDP 2022.

NPF4 **Policy 18 Infrastructure First** outlines that:

“a) Development proposals which provide (or contribute to) infrastructure in line with that identified as necessary in LDPs and their delivery programmes will be supported.

b) The impacts of development proposals on infrastructure should be mitigated. Development proposals will only be supported where it can be demonstrated that provision is made to address the impacts on infrastructure. Where planning conditions, planning obligations, or other legal agreements are to be used, the relevant tests will apply.

Where planning obligations are entered into, they should meet the following tests:

- *be necessary to make proposed development acceptable in planning terms*
- *serve a planning purpose*
- *relate to the impacts of the proposed development*
- *fairly and reasonably relate in scale and kind to the proposed development*
- *be reasonable in all other respects*


Planning conditions should only be imposed where they meet all of the following tests. They should be:

- *necessary*
- *relevant to planning*
- *relevant to the development permitted*
- *enforceable*
- *precise*
- *reasonable in all other respects”*

Circular 3/2012 Planning Obligations and Good Neighbour Agreements (Revised 2020)

Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements (Revised 2020) outlines that Local Authorities may use agreements under Section 75 of the Town & Country Planning (Scotland) Act 1997 to offset the impact of new development.


The use of an agreement under Section 75 of the Town & Country Planning (Scotland) Act 1997 (hereinafter referred to as the ‘Section 75 Agreement’) to help deliver necessary infrastructure and facilities is considered a legitimate planning objective by the Scottish Government. However, Section 75 Agreements should only be sought where they are required to make a proposal acceptable in land use planning terms and where the use of a planning condition, including a suspensive condition, is not appropriate. Conditions, including suspensive conditions, should be used wherever possible. Section 75 Agreements should only be sought where they meet the following tests:

- 
- Be necessary to make the proposed development acceptable in planning terms.
 - Shall serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans.
 - Shall relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in an area.
 - Shall fairly and reasonably relate in scale and kind to the proposed development.
 - Be reasonable in all other aspects.

It is acknowledged that Section 75 Agreements can at times, cause delays in the planning process and place an additional financial burden on developers. In order to minimise delays and any financial burden the requirement for planning obligations should be identified as soon as possible – ideally at the pre-application stage - and relevant parties brought together to ensure that the process flows as smoothly as possible. In addition, it is recommended that timescales for any legal agreement be included where possible within a planning processing agreement in order that the applicant has a reasonable expectation on the delivery timescales for their decision – provided they too adhere to the agreed timescales for provision of supporting information. The timescale for completion of a legal agreement will be no more than 6 months from the date of committee approval unless exceptional circumstances require additional time for its signing.

It should be noted that the requirement for and level of contribution (if necessary in terms of education infrastructure) can only be confirmed once a valid planning application has been submitted and a consultation response from NLC Education confirms the current position to the Planning Authority. However, guidance as to whether an Education contribution is likely to be required will be provided at the Pre Application stage.

In some circumstances it may be possible to expedite this process by use of an agreement under section 69 of the Local Government (Scotland) Act 1973 to achieve contributions towards provision of necessary infrastructure and facilities. Section 69 of the Local Government (Scotland) Act 1973 states that: ***‘(1)...a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.’***



This provision provides the Council with a general power to enter into an Agreement with developers to secure the above contributions prior to the release of the planning consent. This type of Agreement does not have to be limited in its purpose to the restriction or regulation of the development or use of the land subject to the planning application and could also include the payment of money.

North Lanarkshire Local Development Plan 2022

The NLLDP **CI Policy Contributions to Infrastructure** outlines that:

“North Lanarkshire Council will seek to secure developer contributions for new developments that, individually or cumulatively, generate a requirement for new or enhanced infrastructure or services, covering Affordable Housing in Cumbernauld Housing Sub-Market Area, and Education, Transport and Green Network Infrastructure, Amenity Space and Play across North Lanarkshire.

Where new development is proposed that, individually or cumulatively, generates a requirement for new or enhanced infrastructure or services in the categories listed, developers will be expected to contribute towards the provision of the required infrastructure, facilities and services. This will include any infrastructure to be provided in advance of development proposed in this Plan.

Developer contributions will be sought through a legal agreement or planning condition and in accordance with the five tests of Circular 3/2012 – “Planning Obligations and Good Neighbour Agreements”, as outlined by the Scottish Government and in accordance with this Guidance.

Any information provided to developers by the Council before the application stage is only indicative, including the Action Programme for the delivery of those housing sites identified in this Plan.”

Policy CI 1 Category Education

“For proposed residential developments the Council is seeking education infrastructure contributions, through Legal Agreements or planning conditions, based on adaptations and new builds within our Schools and Centres 21 Programme and the identified solutions to deal with the impact of all known future development within the catchment areas. This may include contribution(s) towards early years provision, due to the increase in provision by 2020 outlined in the Children and Young People Act 2014. It should be noted that any potential need identified is based on known future housing provision and could be affected if additional units come forward as a result of housing sites that have not been identified through the Plan process.

A contribution towards education infrastructure will be expected for all dwellings, with the exception of those with only one bedroom. Indicative conditions attached to any agreement will include the education authority retaining any payment for a period of 10 years or as otherwise agreed with the Council, following the completion of the final dwelling, after which time the payment would be returned to the applicant if not spent. Phased payments may be acceptable in most instances.

Full details of any infrastructure and contribution requirements will be identified by the Council as Education Authority on a case-by-case basis through the Development Management process.”

5. Implementation

When a planning application relating to development is submitted to the Council for consideration, it will be assessed to determine if there is a requirement for the prospective developer to make an appropriate developer contribution in accordance with the provisions of this Supplementary Planning Guidance.

Development contributions will be sought for a contribution towards education infrastructure for all dwellings, except for developments that are within one of the following categories which are exempt from education developer contributions:

- One bedroom Dwellings;
- Proposals of fewer than 5 Dwellings;
- Change of use, conversion or redevelopment whereby no additional residential units are constructed;

- Development that would not put capacity pressures on schools e.g. Student accommodation linked to college/universities, housing for the elderly or dwellings with occupancy restrictions that prohibit children of nursery or school age.
- Non-residential development.

Phased contributions will be acceptable in most instances and indicative conditions attached to any agreement to include the education authority retaining any payment for a period of 10 years or as otherwise agreed with the Council, following the completion of the final dwelling, after which time the payment would be returned to the applicant if not spent or committed in full by the Council within 28 days of receipt of a written request from the applicant.


For the avoidance of doubt all developer contributions will be index linked to inflation from the point of the Council being minded to grant planning permission up until such times as the contract and associated costs for the adaptation/extension/new build are finalised and 'locked in' ("Index meaning the All-in Tender Price Index as published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors on a quarterly basis;). For clarity the Council is only seeking to recover costs associated with the actual costs and associated impact.

6. Development Viability

North Lanarkshire Council acknowledges that unforeseen or abnormal development costs can affect development viability and may take this into account dependent on the specific circumstances. Only in circumstances where there are exceptional, abnormal costs on sites that are designated for housing or within the urban area boundary in the North Lanarkshire local Development Plan 2022, is it likely that the Council will consider a reduction or give an exemption from the requirement for an education contribution.

In considering development viability the council will not waive education contributions on unallocated sites outwith the urban area and in the greenbelt or countryside as defined in the LDP. This is to recognise that some unallocated sites within the urban area (windfall sites) which the council considers are appropriate for development may also have challenging site conditions related to or as a result of historic uses and to differentiate between these types of sites may not be practical.

In circumstances where a developer considers that development viability is compromised by the requirement for an education contribution there is a requirement for developers to



undertake and submit a full viability assessment which takes into account all relevant development costs and land value.

In recognition of the timescales involved in fully developing some larger sites and that financial circumstances may change within this period any initial exemption from making a contribution will be time limited to a maximum of five years from the granting of consent at which point an updated viability assessment would need to be submitted and considered by the council.

Standard development costs such as demolition works, retaining and standard ground works, landscaping, archaeological investigations, drainage works, site purchase, site servicing and flood prevention works will not normally be accepted as abnormal costs. It is expected, and will require to be demonstrated, that the cost of preparing and developing land, including reasonably known 'abnormal' costs have been reflected in the purchase price/valuation of the land.

The process to be followed where a developer is seeking an exemption from paying the required education contribution and further guidance on the content of the report are set out in Appendix 3 and 4 of this Supplementary Planning Guidance.

7. Contribution Trigger

The cumulative impact assessment of emerging housing identifies those schools where it is anticipated that the pupils generated by housing allocations (programmed up by the current Housing Land Audit and Local Development Plan), will increase school capacity beyond 90%. Developer contributions for Education will be sought for infrastructure within these school catchment areas towards the projected pupils generated above 90% of the school capacity. The cost of these pupils is shared across the residential units (programmed in line with the current Housing Land Audit and Local Development Plan) within the catchment area.

8. Calculations

The contribution is calculated using the Pupil Product Ratio against the number of houses planned within the catchment area of each school. The number of pupils generated is added to the current number of children in each school to calculate the overall percentage capacity. The number of spaces is proportionated against each school based on the Denominational/Non-Denominational split. This is calculated annually and based on a rolling

five-year average. If the occupancy is identified to exceed 90% then a developer contribution will be required. If it is below 90% then a contribution is unlikely. If a school already exceeds 90% then a contribution will be required.

The example of how the developer contributions are calculated appear in Appendix 1.

Pupil Product Ratio (PPR)

The PPR is the number which identifies the average number of pupils relative to new areas of housing. Contributions are based on the anticipated number of residential units to generate children of school age (the anticipated number is represented as a pupil product ratio per property). The PPR used in North Lanarkshire for each age range is as follows:

***The figures below are used for example purposes only and are intended to demonstrate the calculation. For the most up to date figures please refer to <https://www.northlanarkshire.gov.uk/planning-and-building/planning-applications/our-supplementary-planning-guidance>**

***Primary School: 0.3**

***Secondary School: 0.18**

*These numbers are used as examples for the calculations

In order to achieve the correct calculation for each school the number of units within a development is multiplied by the Pupil Product ratio to project the total number of pupils anticipated to present for both primary and secondary education. The total is then split by the 5-year average Non-Denominational/Denominational ratio. The five-year average ratio is calculated by looking at the pupils in geographical areas and analysing the percentage of the total pupils in the area who attended each sector.

When calculating the pupil product for each primary school the following calculation is used:
 $[Total\ no\ of\ units] \times [PPR] \times [ND/D\ Split\ Percentage] = Pupil\ yield\ for\ given\ school$

When calculating the pupil product for each high school the following calculation is used:
 $[Total\ no\ of\ units] \times [PPR] \times [ND/D\ Split\ Percentage] = Pupil\ yield\ for\ given\ school$

Calculations will be rounded down to the nearest whole number.

Non-Denominational/Denominational Ratio

Using the existing primary school population over the last five years, the education authority calculates the Non-Denominational/Denominational split which is used to determine the percentage of pupils from new housing who are anticipated to attend either school. Based on the analysis carried out against the latest school census.

Cost Per Pupil

Costs are based on previous NLC contracted work for new builds and extensions in North Lanarkshire schools. These figures are updated and adjusted following completion of the latest projects. The figures will be reviewed annually. An average of the latest completions is used for developer contribution calculations and are based on the following information:

New Build School calculation

$$\text{Contract Cost/School Capacity} = \text{Cost per pupil}$$

*These figures are used as examples for the calculations. Formal requests should be made to ef.forwardplanning@northlan.gov.uk

** It should be noted that these figures only relate to 'build costs'. It does not include any abnormal costs, land purchase or all design fees.

Developer Contribution Calculations are shown in Appendix 1


Developer Contribution School List is shown in Appendix 2

9. Useful Contacts

For further advice on this Supplementary Planning Guidance and its applications, please contact:

For queries relating to planning applications and development viability.

**Planning & Place
Civic Centre
Windmillhill Street**



Motherwell
ML1 1AB
Planningenquiry@northlan.gov.uk

For queries relating to pre-application enquiries.

[Pre-application advice | North Lanarkshire Council](#)

For queries relating to the developer contribution figures, calculations or school list.

Forward Planning (Education)
Civic Centre
Windmillhill Street
Motherwell
ML1 1AB
ef.forwardplanning@northlan.gov.uk

For general matters.

North Lanarkshire Council Website
<http://www.northlanarkshire.gov.uk>

Appendix 1 – Developer Contribution Calculations

New Builds

Reference Site	School Capacity	Contract Cost	Cost Per Pupil
A	1522	£36,511,169	£23,988.94
B	1161	£33,071,295	£28,485.18
C	1117	£27,011,646	£24,182.32
D	484	£19,954,327	£41,227.95
E	434	£24,821,452	£57,192.29
F	509	£18,577,215	£36,497.48
Average			£35,262.36

Contributions rounded down to £35,000 per pupil

Cost per Unit

£35,000 * 0.3 (PPR) = £10,500 per unit for Primary School Contribution

£35,000 * 0.18 (PPR) = £6,300 per unit for Secondary School Contribution

The calculation for Extensions/Additional Capacity to PPP and Non-PPP schools are based on the following information

Extensions/Additional Capacity - Non PPP School

Reference Site	GIFA	Contract Cost	Cost Per Sqm	Design Fees
A	235	£610,584	£2,598.23	14%
B	184	£774,000	£4,206.52	14%
C	93	£311,000	£3,344.09	14%
Average	171	£565,195	£3,382.95	

Cost per square metre = £3,382.95

Design Fee = 14%

Cost per square metre including design fees = £3,855.42

Square metres required for each class =

57sqm classroom + 3sqm cloaks + 10sqm toilets and circulation = 70sqm

Cost per classroom = £3,855.42 * 70 sqm = £269,883.60

Each classroom is anticipated to accommodate minimum 25 pupils

Cost per pupil = £269,883.60 / 25 = £10,795.34

Cost per unit = £10,795.34 * 0.3 (PPR) = £3238.60 per unit for Primary School Contribution

£10,795.34 * 0.18 (PPR) = £1943.16 Secondary per unit for School Contribution

Extensions / Additional Capacity - PPP School

North Lanarkshire has 25 PPP schools which are owned by external stakeholders. These schools are subject to additional costs when making adaptations to the buildings for ongoing revenue and life cycle costs. The total additional cost is £35,840 per classroom

Cost per classroom = £3,855.42 * 70 sqm = £269,883.60 + £35,840 = £305,723.60

Each classroom is anticipated to accommodate minimum 25 pupils

Cost per pupil = £305,723.60 / 25 = £12,228.94

Cost per unit = £12,228.94 * (0.3) = £3668.68 Primary School Contribution

£12,228.94 * (0.18) = £2,201.21 Secondary School Contribution

The table below provides the sum of the costs to developers based on all calculations.

Total Build Cost per pupil – As at March 2023*


Primary	New Build £35,000	Capacity Improvement PPP School £12,228.94	Capacity Improvement Non-PPP School £10,795.34
Secondary	New Build £35,000	Capacity Improvement PPP School £12,228.94	Capacity Improvement Non-PPP School £10,795.34

*these figures will be reviewed annually, and BCIS Index linked

Total Build Cost per unit – As at March 2023*

Primary	New Build £10,500	Capacity Improvement PPP School £3,668.68	Capacity Improvement Non-PPP School £3,238.60
Secondary	New Build £6,300	Capacity Improvement PPP School £2,201.21	Capacity Improvement Non-PPP School £1943.16

*these figures will be reviewed annually, and BCIS Index linked



It should be noted that these figures only relate to 'build costs'. It does not include any land purchase or all design fees. The BCIS All In Tender Price Index will be used to evaluate and calculate costs for any given year up until the full contribution has been received.

A full school list is provided in Appendix 2 which identifies if a developer contribution is required or not.

Appendix 2 – Developer Contribution School List (As at September 2023)

Cluster	PPP / Non PPP	School	Contribution Requested
Airdrie Academy	PPP	Airdrie Academy	No
	Non PPP	Chapelside PS	No
	Non PPP	Golfhill PS	No
	Non PPP	Greengairs PS	Yes
	Non PPP	New Monkland PS	No
	Non PPP	Rochsolloch PS	Yes
	Non PPP	Tollbrae PS	No
	Non PPP	Victoria PS	No
Bellshill Academy	Non PPP	Lawmuir PS	No
	Non PPP	Mossend SP	Yes
	Non PPP	Noble PS	No
	Non PPP	Bellshill Academy	No
Braidhurst HS	Non PPP	Braidhurst HS	No
	Non PPP	Logans PS	No
	Non PPP	Muir Street PS	No
Brannock HS	Non PPP	Brannock HS	Yes
	Non PPP	Holytown PS	Yes
	Non PPP	Keir Hardie Memorial PS	Yes
	PPP	New Stevenston PS	Yes
	Non PPP	Newarthill PS	No
Calderhead HS	Non PPP	Alexander Peden PS	Yes
	Non PPP	Allanton PS	No
	Non PPP	Calderhead HS	No
	Non PPP	Dykehead PS	No
	Non PPP	Kirk 'O' Shotts PS	No
	Non PPP	Stane PS	Yes

Cluster	PPP / Non PPP	School	Contribution Requested
Caldervale HS	Non PPP	Calderbank PS	No
	Non PPP	Caldervale HS	Yes
	PPP	Chapelhall PS	Yes
	PPP	Clarkston PS	Yes
	PPP	Glengowan PS	Yes
	Non PPP	Hilltop PS	No
	PPP	Plains PS	No
	Cardinal Newman HS	Non PPP	Cardinal Newman HS
Non PPP		Holy Family PS	No
Non PPP		Sacred Heart PS	No
Non PPP		St Gerard's PS	No
Non PPP		St John Paul II PS	No
Chryston HS	Non PPP	Chryston HS	Yes
	Non PPP	Chryston PS	Yes
	Non PPP	Gartcosh PS	Yes
	Non PPP	Glenmanor PS	Yes
	PPP	Stepps PS	Yes
Clyde Valley HS	Non PPP	Berryhill PS	Yes
	Non PPP	Clyde Valley HS	Yes
	Non PPP	Morningside PS	Yes
	Non PPP	Muirhouse PS	No
	Non PPP	Netherton PS	Yes
	Non PPP	Newmains PS	Yes
	Non PPP	Orchard PS	Yes
	Non PPP	Thornlie PS	No
PPP	Wishaw Academy PS	Yes	

Cluster	PPP / Non PPP	School	Contribution Requested
Coatbridge HS	PPP	Bargeddie PS	Yes
	Non PPP	Carnbroe PS	Yes
	PPP	Coatbridge HS	Yes
	PPP	Glenboig PS	Yes
	Non PPP	Greenhill PS	No
	Non PPP	Kirkshaws PS	No
	Non PPP	Langloan PS	No
	Non PPP	Old Monkland PS	No
	Non PPP	Shawhead PS	No
	Non PPP	Sikeside PS	No
	Non PPP	Townhead PS	No
Coltness HS	PPP	Calderbridge PS	No
	PPP	Cambusnethan PS	No
	Non PPP	Cleland PS	Yes
	Non PPP	Coltness HS	No
Cumbernauld Academy	Non PPP	Abronnhill PS	No
	Non PPP	Carbrain PS	No
	Non PPP	Cumbernauld Academy	Yes
	Non PPP	Cumbernauld PS	No
	Non PPP	Kildrum PS	No
	Non PPP	Whitelees PS	No
Dalziel HS	Non PPP	Dalziel HS	Yes
	Non PPP	Glencairn PS	Yes
	Non PPP	Knowetop PS	Yes
Greenfaulds HS	Non PPP	Baird Memorial PS	No
	Non PPP	Condorrat PS	No
	Non PPP	Eastfield PS	No
	Non PPP	Greenfaulds HS	No
	Non PPP	St Helen's PS	No
	Non PPP	Westfield PS	No

Cluster	PPP / Non PPP	School	Contribution Requested
	Non PPP	Woodlands PS	No
Kilsyth Academy	Non PPP	Balmalloch PS	No
	Non PPP	Banton PS	No
	Non PPP	Chapelgreen PS	No
	Non PPP	Kilsyth Academy	No
	Non PPP	Kilsyth PS	No
Lenzie Academy	Non PPP	Auchinloch PS	Yes
OLHS - Cumbernauld	Non PPP	OLHS Cumbernauld	Yes
	Non PPP	St Andrew's PS	No
	Non PPP	St Barbara's PS	Yes
	Non PPP	St Joseph's PS	Yes
	Non PPP	St Lucy's PS	Yes
	Non PPP	St Margaret of Scotland PS	No
	Non PPP	St Mary's PS Cumbernauld	No
OLHS - Motherwell	Non PPP	Cathedral PS	Yes
	Non PPP	OLHS Motherwell	No
	Non PPP	St Bernadette's PS	No
	Non PPP	St Brendan's PS	No
Split Catchment	Non PPP	Ladywell PS	Yes
Split Catchment	Non PPP	Ravenswood PS	No
St Aidan's HS	Non PPP	St Aidan's HS	No
	Non PPP	St Aidan's PS	No
	Non PPP	St Brigid's PS	No
	PPP	St Ignatius PS	No
	Non PPP	St Mary's PS Cleland	No
	Non PPP	St Patrick's PS Shotts	No
	Non PPP	St Thomas' PS	Yes
St Ambrose HS	Non PPP	St Ambrose HS	No
	Non PPP	St Augustine's PS	No
	Non PPP	St Bartholomew's PS	No
	PPP	St Kevin's PS	Yes

Cluster	PPP / Non PPP	School	Contribution Requested
St Andrew's HS	Non PPP	Corpus Christi PS	No
	PPP	OL & St Joseph's PS	Yes
	PPP	St Andrew's HS	No
	Non PPP	St Bernard's PS	No
	Non PPP	St Mary's PS Coatbridge	Yes
	Non PPP	St Monica's PS	No
	Non PPP	St Patrick's PS Coatbridge	Yes
	Non PPP	St Stephen's PS	Yes
	PPP	St Timothy's PS	No
St Margaret's HS	Non PPP	All Saint's PS	Yes
	PPP	St Aloysius PS	No
	Non PPP	St Andrew's PS	No
	PPP	St David's PS	Yes
	Non PPP	St Dominic's PS	No
	Non PPP	St Edward's PS	No
	Non PPP	St Margaret's HS	No
	PPP	St Mary's PS Caldercruix	No
Non PPP	St Serf's PS	No	
St Maurice's HS	Non PPP	Holy Cross PS	No
	Non PPP	St Maurice's HS	No
	Non PPP	St Michael's PS	Yes
	PPP	St Patrick's PS Kilsyth	No
Taylor HS	Non PPP	Christ the King PS	Yes
	Non PPP	OL & St Francis PS	No
	PPP	St Patrick's PS New Stevenston	Yes
	Non PPP	St Teresa's PS	Yes
	Non PPP	Taylor HS	Yes
Uddingston Grammar	Non PPP	Aitkenhead PS	No
	PPP	Tannochside PS	No

Appendix 3 – Development Viability

Development Viability Statement Requirements

Where a developer is seeking an exemption or reduction of the education contribution on the basis of economic viability then the following information will be required:

- An independent and verified Development Viability Statement undertaken by the DV or mutually agreed suitably qualified consultant. This allows a comparison of costs to be evaluated against projected house values and should also set out in detail why any abnormal development costs cannot be met from either a reduction in purchase price for the site and/or developer profit margins. This should include an explanation of financial assumptions and an explanatory note on all appraisal assumptions. The report should detail the financial implications of the additional costs and their implications for the viability of the development.
- A certified dated copy of the original viability appraisal setting out the allowances made for developer obligations and affordable housing policy (if applicable) and compatibility with prevailing policy requirements.
- From a RICS accredited firm a Quantity Surveyor's (QS) detailed cost budget on development costs e.g., externals, infrastructure, and abnormal costs which include a detailed breakdown, produced in accordance with relevant practice advise and guidance from RICS.
- Verified site valuation at the time of the application submission.
- Projected market valuations for each property within the development (with supporting evidence).
- An indication of the timescales within which each property would be marketed and sold and, where appropriate, development phasing information.
- Design and Access statement (if applicable and available).
- Build specification.

- Assumptions on all grant funding and (where appropriate) evidence of transactions/negotiations with RSL's or the council's New Supply team.


The confidential and sensitive nature of some financial information is acknowledged, and the content of the Assessment will remain confidential between the applicant and named officials within the Council, District Valuer or other third-party advisor as agreed and the relevant decision makers and committees.

As a public body, however, the Council will require to comply with the terms of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 in relation to any request for disclosure of such information. Any applicable exemptions or exceptions under the legislation will be appropriately applied. Any requests received for such disclosure of information shall be considered on a case by case basis.

Viability Assessment and Outcomes

Once an agreed Development Viability Statement and supporting information is received by the Council it will be considered. If the applicant submits their own independent Development Viability Statement that has not been agreed in advance with the Council as being carried out by a suitably independent source then it will be independently reviewed by the District Valuer Service (DVS) or an alternative third-party advisor agreed by, and acting on behalf of the Council. This will be carried out at the developers' expense with costs determined on an individual basis. The requirement for independent verification of Viability Assessments will only be removed where the time and cost associated with this process is disproportionate to the amount of developer contribution required.

Each case will be determined by the Council on its own merits. The outcome of the Viability Assessment independent review will not be binding on the Council but may inform any recommendation to the appropriate planning decision maker. If the exercise establishes there are viability issues with the development as a result of the Education contribution requirement, the council will then have to determine if the shortfall in the education requirements can be borne by the Council and/or its partners as ultimately the impact of the development will need to be mitigated and paid for. In event that the Council can support the viability, it will proceed with such a recommendation but ultimately if the infrastructure cannot be funded to offset the impact of development, then the site will be required to be deferred until such time as the site can become viable on its own merits.



For the avoidance of doubt the agreement to waive a contribution towards education provision would be for a timescale specified within the contribution waiver agreement (5 years maximum depending on the number of units to be constructed) and starting from the date of planning permission being granted. The Council would reserve the right to seek an updated Viability Assessment independent review at the end of the specified period and every 5 years for the duration of the planning permission or until site completion. Should the updated viability assessment show that the viability of the site had changed then the Council would reserve the right to withdraw a waiver on the remaining units still to be constructed and it would be expected that a contribution at the current established rate would be required for the remaining units.

Land Value

The price paid for land is not a justification for failing to accord with development plan policies. The Royal Institute of Chartered Surveyors (RICS) guidance on Financial Viability in Planning, Guidance Note (1st Edition- GN94/2012 - abbreviated to RICS FVIP) and now updated, at [para 1.2.4] of Assessing Viability confirms this, and the District Valuer (DV) or an alternative third-party advisor agreed by, and acting on behalf of the Council when instructed by the Council will adopt and use the RICS's guidance as the most appropriate. The use of the DV in this way is supported by paragraph 22 of PAN 2/2010 setting out this as recommended good practice.

It should be noted that financial viability can have regard to not just a single policy's impacts but the cumulative impact of policy requirements and developer contributions. In terms of viability however, all of these policy documents only recognise a departure from the policy requirements for provision of a developer obligation for education and to address viability and no other policy requirements.

Further information on the submission requirements of the Viability assessment can be found within Annex 4 below.

Appendix 4 – Development Viability Report Guidance

1. Proposed Scheme Details

- **Residential Unit Numbers and Tenures:**
 - Clearly outline the number of residential units, split between private and affordable tenures.
 - Show how the proposed mix affects your development's financial viability.
 - Demonstrate if the layout or design constraints impact viability.

2. Gross Development Value (GDV)

- **Existing Income:**
 - If applicable, provide evidence of any income the site generates (e.g., rental income) and how this will continue during development. This should reflect ongoing costs and limitations.
- **Residential Sales Values:**
 - Present the anticipated sales values for the private units, ground rents, and supporting market evidence, while explaining any deductions for incentives (such as discounts or shared ownership arrangements).
- **Rental Values for Affordable Housing:**
 - Supply anticipated rental values for any affordable units, alongside supporting data, and show how these affect the development's profitability.
- **Commercial Elements (if applicable):**
 - Provide estimated yields for any commercial elements within the scheme, with evidence supporting these projections.
 - Address any challenges with expected rent-free periods, voids, or other incentives that would negatively impact your GDV.
- **Affordable Housing Values:**
 - Present clear evidence of how the affordable housing units have been valued, taking into account the lower returns from affordable housing in comparison to private sales.

- **Deductions from GDV:**

- Set out any deductions necessary to arrive at the Net Development Value (NDV), including:
 - Land and Buildings Transaction Tax (LBTT)
 - Legal and agency fees
 - VAT and other sales costs.

3. Development Costs

- **Build Costs:**

- Provide a full, detailed Quantity Surveyor (QS) report outlining your expected build costs. These should be evidenced by market rates and include any costs specific to your project (e.g., bespoke designs or high-quality materials).
- Demonstrate if rising construction costs are impacting the viability of the scheme.

- **Site-Specific Costs:**

- Include any demolition, site preparation, and vacant possession costs. If any of these are higher than industry norms, explain why.
- Detail any planning-related costs, such as fees or specific obligations that may increase development costs.

- **Abnormal Costs:**

- Highlight any abnormal or unexpected costs that are adding financial pressure to the project, such as:
 - Remediation (e.g., contamination, flood risks)
 - Ground conditions (e.g., mining legacy, peatland)
 - Heritage constraints that increase development costs.

- **Finance Costs:**

- Provide evidence of the expected finance rates and borrowing costs for the development. If these are high due to market conditions or project-specific risks, this should be detailed clearly.

- **Professional Fees:**

- Break down professional fees (e.g., architects, structural engineers, planning consultants) and show how this affects the overall viability. Where fees are higher than usual, explain why they are impacting viability, using regional cost benchmarks.

4. Additional Phasing or Cost Challenges

- **Phased Development Considerations:**

- If your development is phased, outline the expected growth in sales and rental values across phases. Demonstrate how cost inflation or delays could create further financial strain.

- **Cost Inflation and Credit Rates:**

- If rising inflation or increasing interest rates are adding financial pressure, provide evidence of how these affect your ability to deliver the project as planned.

5. Development Programme and Timelines

- **Construction Timeline:**

- Detail the expected pre-build and construction periods. If delays or extended timelines are impacting viability, provide evidence to support this (e.g., labour shortages or supply chain issues).

- **Sales and Marketing:**

- Demonstrate anticipated sales rates (e.g., per month) and how these affect the cash flow of the development. If slower-than-expected sales are affecting viability, present evidence of market trends or comparable developments.

6. Benchmark Viability Proxies

- **Profitability Measures:**

- Provide calculations for:
 - Profit on cost
 - Profit on value
 - Development yield
 - Internal Rate of Return (IRR)
- If these measures fall below market expectations or industry norms, this helps justify a case for viability challenges. Explain why the expected profitability is lower than acceptable benchmarks.

7. Planning Application Details

- **Supporting Documentation:**

- Ensure that all relevant plans, sections, and elevations are included.
- Provide a Design and Access Statement that supports any constraints or features of the development impacting viability, such as specific planning requirements or design limitations.

8. Sensitivity and Risk Analysis

- **Sensitivity Analysis:**

- Conduct a two-way sensitivity analysis, demonstrating how changes in key variables (e.g., sales values or build costs) affect the scheme's viability.

- **Scenario and Simulation Analysis:**

- Include scenario or simulation analysis to show how different market conditions, interest rates, or unforeseen delays could further impact the viability of the project.

9. Accompanying Report: Structure

Ensure your report includes the following sections:

- **Executive Summary:** Summarise key viability issues.
- **Introduction and Background:** Provide an overview of the project and context.
- **Site Location and Description:** Explain any site-specific challenges that impact costs.
- **Planning Policy Context:** Highlight any specific planning obligations that are particularly challenging to meet.
- **Market Summary:** Provide market data showing that the anticipated sales or rental values are lower than expected.
- **Build Costs and Programme:** Detail your build costs and timelines, along with evidence of rising costs or delays.
- **Methodology and Approach:** Explain the financial model and methodology used in your viability assessment.
- **Outputs and Results:** Present your financial projections, GDV, and profit margins.
- **Sensitivity Analysis:** Include your sensitivity and scenario analysis results.
- **Concluding Statement:** Summarise why the current scheme is financially unviable.