

**TELFORD & WREKIN COUNCIL**

**CABINET - 15 MAY 2014**

**SCRUTINY REVIEW OF LOCAL ARRANGEMENTS FOR THE PLANNING AND PROVISION OF PRIMARY SCHOOL PLACES**

**JOINT REPORT OF JIM COLLINS, ASSISTANT DIRECTOR: EDUCATION & CORPORATE PARENTING and  
KATE CALLIS, ASSISTANT DIRECTOR: DEVELOPMENT, BUSINESS & EMPLOYMENT**

**LEAD CABINET MEMBERS – CLLR PAUL WATLING and CLLR CHARLES SMITH**

**PART A – SUMMARY REPORT**

**1. SUMMARY OF MAIN PROPOSALS MADE BY THE CHILDREN AND YOUNG PEOPLE SCRUTINY COMMITTEE**

That the council implements a number of recommendations to provide clarity and further accountability in respect of the local arrangements for the planning and provision of primary school places and in particular regarding:

- a) The way in which primary school attendance areas are reviewed and consulted upon
- b) The publication of an annual report on Section 106 agreements made with developers
- c) The development of a Section 106 policy and protocol overseen by the Housing, Economy & Infrastructure Scrutiny Committee
- d) The conduct of admission appeal hearings and whether head teachers should be invited to attend them
- e) The development of an “Academies Protocol” to set out the council’s relationship with Academies in monitoring the standard of education that they provide
- f) The population profile developed by the council and how it could be made available annually to head teachers

**2. RECOMMENDATIONS**

- 2.1 That recommendations made by the Children and Young People Scrutiny Committee are adopted in respect of paragraphs 1, 2 and 6 of Section 4 of this report and Appendix 1 attached**
- 2.2 That recommendations made by the Children and Young People Scrutiny Committee detailed at paragraphs 3-5 of Section 4 of this report and Appendix 1 are noted and considered further**

### 3. SUMMARY IMPACT ASSESSMENT

<b>COMMUNITY IMPACT</b>	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	<ul style="list-style-type: none"> <li>• Putting our children and young people first</li> <li>• Improving local people's prospects through education and skills training</li> </ul>
	Will the proposals impact on specific groups of people?	
	Yes	Children and families throughout the borough
<b>TARGET COMPLETION/ DELIVERY DATE</b>	As this is a policy revision the effects will be ongoing over several years	
<b>FINANCIAL/ VALUE FOR MONEY IMPACT</b>	Yes	Any financial implementation of adopting the recommendations as detailed within this report and Appendix 1 will be contained within existing service budgets and resources. JAC 150414
<b>LEGAL ISSUES</b>	Yes/No	The tests to be applied when requesting financial contributions is set out in the Community Infrastructure Regulations 2010. Any contribution has to meet those tests and policy can provide a framework within which to apply those tests. It is important that the distinctions between Executive and Non Executive functions are retained and planning policy is a non Executive function. The education appeal process must be fair, transparent and impartial. Any proposed head teacher role needs to be clearly defined and the head teacher should be available for every appeal hearing for his or her school.
<b>OTHER IMPACTS, RISKS &amp; OPPORTUNITIES</b>	No	
<b>IMPACT ON SPECIFIC WARDS</b>	Yes	Borough-wide impact

### PART B – ADDITIONAL INFORMATION

#### 4. INFORMATION

##### Proposal a) The way in which primary school attendance areas are reviewed and consulted upon

4.1 Primary school attendance (catchment) areas are reviewed as necessary to take into account any new development within them. In each case a proposal is prepared by the local authority after extensive research and forecasting of future pupil numbers. The aim is to ensure that each school can accommodate all

children living within its area if they wish to attend. This is to provide a level of security for both families and schools. Any proposal is open to consultation for a period of 6 weeks during school term time and consultation events are held at schools within the affected area. All schools concerned are formally consulted. The local authority tries hard to accommodate the views expressed during consultation, whilst not losing sight of the original objective, and arrive at a workable solution which is acceptable to as many parties as possible.

**Proposal b) The publication of an annual report on section 106 agreements made with developers and presented to the to Budget & Finance Scrutiny Committee**

**4.2** Whilst it is felt that the s106 process is transparent, well documented and available for public review it is acknowledged that the cumulative effect of these negotiations is not currently held in a central location. Development Management do currently submit to external audit an annual report showing income and expenditure on each individual s106 including how much has been spent and on what. It is proposed that Development Management will investigate how a simplified report could be prepared to cover the information requested within the scrutiny report without duplicating existing work.

**Proposal c) The development of a Section 106 policy and protocol overseen by the Housing, Economy & Infrastructure Scrutiny Committee**

**4.3** It is accepted that the process of s106 negotiation can be complex and needs to respond to planning policy as well as the local needs arising out of any development. As such the planning case officer has a key role in negotiating planning obligations in accordance with the process below:

- Assess, with reference to policy and other material considerations (in particular off-site “harm”), whether obligations as well as conditions are required.
- Discuss in more detail with the beneficiary officers the need arising as a result of the development and establish the detail of the obligations to be inserted in the s106 agreement
- Present the package of required s106 obligations to the developer
- Consider any objections to the proposed contributions made by the Developer on planning grounds and discuss these with the beneficiary officers.
- Consider any objections to the proposed contributions made by the Developer on viability grounds. Consult with the Council’s Inward Investment & Housing Group Manager to review the validity of the viability argument. External advice, for example for the District Valuer, may be sought where required.
  - If the viability argument is invalid, the planning officer will ask for the full s106 package.
  - Where a viability assessment concludes that there is insufficient funding available to meet the s106 package requested by the respective beneficiary officers, it is the planning officer’s job to determine the greatest need in the context of the specific development in question (e.g. whether the Education need is greater

than the Affordable Housing need or the leisure need is greater than the highways need). In this scenario, and in the absence of specific planning guidance on this matter, there is a degree of planning judgement required to determine which contributions take precedent.

Whilst a policy basis for these decisions to determine which beneficiary officer has the greatest need and therefore how the available developer contributions are distributed could be considered, it must be acknowledged that an overly prescriptive framework may not be practical in real terms due to the contextual factors which shape decision making.

#### **Proposal d) The conduct of admission appeal hearings and whether head teachers should be invited to attend them**

**4.4** For the majority of primary schools within Telford & Wrekin the Local Authority (LA) is the admission authority. Admission appeals are against a decision taken by the admission authority and as such the LA has to provide a presenting officer to explain to the appeal panel how a particular decision was reached. The LA consults with schools and agrees the appeal statement to be presented to the hearing with them. It also invites head teachers to submit supplementary information about how the appeal would affect their school if it was allowed. If head teachers of controlled and community schools did attend appeal panels their role would be limited to answering direct questions from the panel or the parent.

Admission appeals are heard very frequently (every fortnight throughout school term times and every day for approximately 3 weeks during the summer term) it is thought that head teachers might find it hard to attend every hearing. If they were to attend some hearings and not others this might be seen as being discriminatory to some appellants. It might also present difficulties if a head teacher was involved in defending a case and the appeal was allowed by the panel. The subsequent relationship between the family and the head teacher might be strained.

Schools which are their own admission authority do send their own presenting officer to appeal hearings. This may be the head teachers but may be another representative such as a governor or the registrar who administers admissions for the school.

#### **Proposal e) The development of an “Academies Protocol” to set out the council’s relationship with Academies in monitoring the standard of education that they provide**

**4.5** Currently the council has a productive and reasonable relationship with the academies within its area. This co-operation is evident in the formation and operation of the Secondary Heads and principles group (SHAP), the Telford & Wrekin Learning Partnership (TWLP) and the Primary Heads Forum. The School Improvement Team will explore the development of a formal academies protocol.

**Proposal f) The population profile developed by the council and how it could be made available annually to head teachers**

**4.6** The Council's Delivery and Planning Team will create a Population Profile on an annual basis during the autumn term. This information will be made available to Head Teachers as part of the offer which schools subscribing to the School Improvement service are able to access

**5. PREVIOUS MINUTES**

None

**6. BACKGROUND PAPERS**

None

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David Fletcher, Service Delivery Manager: Development Management (Telephone: 01952 384133)**

## Appendix 1: Cabinet Response to Scrutiny Report

Scrutiny Committee: Children & Young People		Cabinet Member: Cllr. Paul Watling ,Cllr Charles Smith	
Report: Local Arrangements for the Planning and Provision of Primary School Places		Response prepared by: Jim Collins AD Education & Corporate Parenting and Kate Callis AD Development, Business & Employment	
Lead Scrutiny Member: Cllr. Mike Ion Lead Scrutiny Officer: Stephanie Jones		Date of Cabinet meeting:24 <sup>th</sup> April 2014	
Scrutiny Recommendation	Response and summary of action being taken to implement, or reason for rejection	Date by which action will be taken	Person responsible for action (name and title)
1. The findings of the review of primary catchment areas in the north of the borough should be published as soon as possible and the LA should give serious consideration to the views of local parents, head teachers and governing bodies.	<b>Accepted:</b> The review of primary catchment areas in north central Telford is now complete and a way forward has been agreed which takes into account the responses received during the consultation period. The revised areas will take effect from September 2015 and they will be published as part of the council's determined admission arrangements for primary schools for entry in 2015/2016.	30 <sup>th</sup> April 2014	K M Swallow Service Delivery Manager: School Organisation Services
2. The Council should publish a s106 Annual Report which sets out: <ul style="list-style-type: none"> <li>• How much funding has been agreed from s106 agreements in the period covered by the report and for what;</li> <li>• the total amount of S106 funds previously agreed but subsequently reduced or rescinded for reasons of non-viability and the potential</li> </ul>	<b>Accepted:</b> Development Management already submit to external audit an annual report in the form of an excel spreadsheet showing income and expenditure on each s106 including how much has been spent. It is proposed that that this is adapted to satisfy the first part of this recommendation. It will be capable of detailing historic as well as future income and expenditure.  Development Management will collate this information from FY2014/15 onwards, however collating information retrospectively will not be possible without revisiting each planning application and as such is not considered practical. The report will identify any s106 which have been negotiated on planning or viability grounds as well	1 <sup>st</sup> July 2014	D W Fletcher Service Delivery Manager: Development Management

<p>impact on loss of infrastructure in relation to schools;</p> <ul style="list-style-type: none"> <li>any unspent money paid back to developers or money at risk of repayment.</li> </ul> <p>The s106 Annual Report should be presented to the Budget &amp; Finance Scrutiny Committee</p>	<p>as those which have been renegotiated on viability grounds following approval from the planning committee. This will show the loss in income to the Council resulting from the renegotiation. Consideration will need to be given to commercial confidentiality of developer information.</p> <p>We will include this information if it does occur but to date this has only been on one occasion.</p> <p>The report will be presented annually to the Budget and Finance Scrutiny Committee for information.</p>		
<p>3. The Council should develop a S106 policy and protocols to ensure decision making aligned with priorities. This should be included in the work programme of the Housing, Economy &amp; Infrastructure Scrutiny Committee.</p>	<p><b>Partly Accepted:</b> Government advice within the Planning Practice Guidance (March 2014) states that “policies for seeking obligations should be set out in the development plan document to enable fair and open testing of the policy at examination. Supplementary documents should not be used to add unnecessarily to the financial burdens on development and should not be used to set rates or charges which have not been established through the development plan policy”.</p> <p>The Council’s existing developer contribution policy is contained within the Core Strategy and the saved policies of the Wrekin Local Plan. The Council is currently preparing the Shaping Places development plan which will ensure that any emerging policies are supported by an up-to-date framework for education contributions.</p> <p>The current process is considered to be robust and transparent with the planning officer managing the interface between the developer and the beneficiary officers with a recommendation then being made to and determined by Members of the Planning Committee.</p>		<p>D W Fletcher Service Delivery Manager: Development Management</p>
<p>4. That the Council adopts a more flexible approach to</p>	<p><b>Partially Accepted:</b> The school admissions team will discuss this further with local community and controlled school head teachers</p>	<p>By end of July 2014</p>	<p>K M Swallow Service</p>

allowing head teachers to attend appeals hearings.	and also with colleagues within the west midlands admission group to arrive at an agreed solution.		Delivery Manager: School Organisation Services
5. The Council should develop an 'Academies Protocol' to set out the Council's position on how it will fulfil its statutory duty on education performance to challenge and monitor the quality of education in academies and what it will do if it is found wanting. The Staffordshire Protocol should be considered as a model. The data in the Children & Families Population Profile should be developed to inform school place planning and children and family service delivery.	<b>Partially Accepted:</b> The School Improvement team will explore with head teachers the development of an academies protocol.	End of July 2014	Jim Collins, Assistant Director: Education & Corporate Parenting
6. The Population Profile should be shared on an annual basis with head teachers.	<b>Accepted:</b> The Delivery & Planning Team are about to commence the process of refreshing the Population Profile to create a 2014 version. We expect this to be completed in the autumn. Once completed we will look to share this with head teachers through one of the regular meetings with School Improvement. It is intended that the Population Profile will be updated annually and shared in this way	Autumn 2014	Helen Potter, Research & Intelligence Manager