

HERTFORDSHIRE COUNTY COUNCIL

CABINET

MONDAY, 18, JUNE 2018 AT 2.00PM

DEVELOPER CONTRIBUTIONS TO NEW SCHOOLS

Agenda Item
No.

7

Joint Report of the Director of Children's Services and the Director of Resources

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Executive Members: Terry Douris, Education, Libraries & Localism
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1. Purpose of report

1.1 To seek Cabinet approval to the proposed change in approach to the developers' financial contributions to school buildings.

2. Summary

2.1 In April 2016, Cabinet approved a report which endorsed the County Council's adoption of the upper end of the Department for Education's (DfE) Building Bulletin 103 (BB103) space standards.

2.2 In light of the Education and Skills Funding Agency's (ESFA) policy and practice to build schools at the lower end of the BB103 range, officers consider that the high-level costs associated with the County Council's approach is no longer considered sustainable in the context of seeking developer contributions to school buildings.

2.3 A change in the County Council's current approach to seeking developer's contributions for new and expanded school buildings is therefore being recommended by Officers to support 'Good Growth' in Hertfordshire, whilst maintaining good and collaborative relationships with Local Planning Authorities (LPA) and developers.

2.4 It is proposed that whilst the County Council continues to seek new school sites in line with its current policy (i.e. the top of BB103) the County Council will use the lower end of BB103 when it comes to quantifying the value of developer contributions to the cost of the school buildings. A further reduction in price (by up to 10%) will be available on the basis of robust evidence of quality of site.

3. Recommendation

- 3.1 The Education, Libraries & Localism Cabinet Panel and the Resources & Performance Cabinet considered a report on this item of business at their meetings on 5 June 2018 and 6 June 2018 respectively. The Panels recommended to Cabinet that Cabinet agrees a change in approach to developer sought contributions to the cost of school buildings as set out in paragraph 5.1 of the report as follows:

A new approach is taken to securing developers contributions adopting:

- *the bottom end of the BB103 space standards*
- *the upper quartile build costs (to be kept under review by officers subject to prevailing market conditions)*
- *the potential to reduce costs by 10% where risks are contained*

4. Background

- 4.1 In May 2016, Cabinet approved a report [CMIS > Calendar of council meetings](#)¹ which endorsed the adoption of space standards at the upper end of the DfE's BB103 guidance for school site and buildings.
- 4.2 This allowed the County Council to continue to deliver school sites and buildings broadly in line with (or in excess of) previous County Council space standards, which had been formulated through extensive consultation with education advisers and Head Teachers.
- 4.3 In 2017, updated estimates for the cost of building new schools and school expansions were sought from a cost consultant. These costs estimates are required for adoption within the planned update of the County Council's Section 106 (S106) toolkit (<https://www.hertfordshire.gov.uk/about-the-council/freedom-of-information-and-council-data/open-data-statistics-about-hertfordshire/who-we-are-and-what-we-do/property/planning-obligations-guidance.aspx>); to respond to Local Planning Authorities' Infrastructure Delivery Plans; and as part of negotiation with developers in relation to the provision of school sites and funding for their buildings.
- 4.4 The building cost estimates were generated using the following assumptions:
- Gross floor areas and pupil numbers (which adopt the upper end of BB103);
 - Base construction cost data obtained from BCIS. The upper quartile figure selected based benchmark cost data from schemes delivered for the County Council;
 - Site works / abnormals - 25% (primary schools) / 20% (secondary schools);
 - Contingency – a fixed percentage to cover unforeseen issues arising during construction;

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<https://cmis.hertfordshire.gov.uk/hertfordshire/Calendarofcouncilmeetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/344/Committee/8/SelectedTab/Documents/Default.aspx>

- Fees (10% fees for consultant design and specialist support);
 - Fixed furniture and equipment (FF&E) and ICT equipment
- 4.5 The initial view from officers was that the result of these revised build cost-estimates inevitably appear high given the inputs above, before any site specific feasibility (c. £9.5m for a 2 f.e. primary school). This has been borne out in discussions with Local Planning Authorities and developers, who consider these costs unreasonable and are seeking justification for the significant contribution being sought. This is leading to protracted negotiations.
- 4.6 The County Council is engaged with developer negotiations in most areas of the County. Often developers are experienced in working with local authorities outside Hertfordshire, where negotiations have been concluded and new school buildings have been delivered at the lower end of the BB103 range (at lower cost than those being presented by the county council). There has been specific challenge to the County Council on this point.
- 4.7 This aligns with the Education and Skills Funding Agency (ESFA) approach to the delivery of new Free Schools and rebuilds through, for example, the Priority School Building Programme. Within Hertfordshire, several new or rebuilt primary and secondary schools have been (or will be) delivered through these routes via Central Government programmes at the lower end of the BB103 range.
- 4.8 It therefore appears appropriate to review the current approach to developer contributions to school build costs. This will enable the County Council to enter sensible discussions with Local Planning Authorities around county council delivery of school building, being positive and supportive of the Growth Agenda across Hertfordshire. It will also help to maintain good and collaborative relationships with Local Planning Authorities.
- 4.9 Consideration of the key elements of the build costs (see para 4.4) is summarised below.
- 4.10 The size of the required school is specified in BB103 as a range of values. Any increase above the baseline results in increased costs which are built into the developer contributions. The County Council can vary its policy in this regard.
- 4.11 Officers consider that this element of the costs (i.e. upper end of BB103) is hard to justify and the rationale for reducing this to the lower end would be as follows:
- the ESFA has already built schools in Hertfordshire at this level;
 - Head teachers and schools have not demonstrated any ongoing concerns with these builds;
 - some other local authorities already work to this standard;
 - developers are challenging this principle, which is increasingly difficult to defend

Build costs

- 4.12 Construction costs per metre squared are derived from national Building Cost Indices (BCIS) as a range. These are considered robust and are adjusted

independently to derive estimates for the cost of building in Hertfordshire. The County Council can choose to adopt a higher or lower position relative to the average.

- 4.13 The County Council currently applies an upper quartile index figure which reflects the experience from real build contracts as to the cost of building in Hertfordshire. This approach is evidence based and will be kept under review by officers but may be adjusted to react to current market conditions. Decisions to apply a lower position will need to consider the financial risks which relate to the market prices of contracts at the time of tendering.

Abnormal costs and contingency

- 4.14 Percentages for these elements are variable and account for known and unknown risks. The actual percentages are arbitrary but based on industry norms. They reflect the real uncertainty that exists on an unknown site.
- 4.15 The amount explicitly demanded could be reduced but this would transfer risk to the County council. It is suggested that 10% might be offered where a developer is prepared to sign up to the County Council's school site specification document and provide appropriate evidence. The County Council could also seek additional contributions on sites where site conditions are cause for significant concern (e.g. contaminated land).

5. Recommended approach

- 5.1 Officers are therefore recommending that a new approach is taken to securing developers contributions adopting:

- the bottom end of the BB103 space standards
- the upper quartile build costs (to be kept under review by officers subject to prevailing market conditions)
- the potential to reduce costs by 10% where risks are contained

6. Financial implications

- 6.1 The adoption of a new position in respect of developer contributions is a balance of risk. The risk of not securing sufficient contributions to cover essential costs must be balanced against securing the necessary housing growth and educational infrastructure required.
- 6.2 There are many other reasons within the planning system why the total amount of developer contributions might still require the County Council to top-up the cost of new and expanded school infrastructure. To date this has been achieved through the use of Basic Need or other applicable S106 contributions, although this may not be achievable to the same extent in the future. Any future proposal to 'top up' schemes with Basic Need or County Council capital would be reported to Cabinet on an individual basis for a decision.

- 6.3 The proposed approach will ensure the County Council is in a stronger position to negotiate contributions without undermining the genuine cost of building in Hertfordshire. The proposals offer a £1.5m reduction on the current cost of a 2FE primary. The actual price will of course vary on a case-by-case basis.
- 6.4 For illustrative purposes the modelled costs relating to a 2 f.e. primary school are included below:

Scenario	Cost Estimate	Difference
A. Upper end BB103 (Illustrative)	£9,543,785.75	
B. Lower end BB103 (including 10% for abnormals)	£8,719,208.56	-£824,577.19
C. Lower end BB103, less 10% abnormals (clean site)	£8,075,671.88	-£1,468,113.87

7. Equality Implications

- 7.1 When considering proposals placed before Members it is important that they are fully aware of, and have themselves rigorously considered the Equality implications of the decision that they are making.
- 7.2 Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the county council's statutory obligations under the Public Sector Equality Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers.
- 7.3 The Equality Act 2010 requires the county council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief, sex and sexual orientation.
- 7.4 An Equalities Impact Assessments (EqIAs) has been carried out on this proposal and will be updated where necessary (attached at Appendix A). The EqIA will be reviewed and updated as part of any future public consultation.
- 7.5 Consideration has been given to the likely impact of the proposal, and current assessments conclude that it is not anticipated that people with protected characteristics will be affected disproportionately.

Background Information

May 2016 Cabinet Minutes -

<https://cmis.hertfordshire.gov.uk/hertfordshire/Calendarofcouncilmeetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/344/Committee/8/SelectedTab/Documents/Default.aspx>