

Briefing Note: Roles and Responsibilities in Planning for Education Provision

10 July 2018

Purpose

This note has been prepared by East Cambridgeshire District Council to address specific supplementary questions raised by the Planning Inspector during a hearing session¹ as part of the examination of the East Cambridgeshire Local Plan (June 2018). Specifically, this note seeks to clarify the roles and responsibilities of Cambridgeshire County Council and the Education Skills & Funding Agency (ESFA) in delivering education in East Cambridgeshire.

Annex 1 provides a summary of the ESFA's comments on the Proposed Submission Local Plan, and East Cambridgeshire District Council's response.

Responsibilities

Cambridgeshire County Council

The County Council has a statutory duty under Section 14 of the Education Act 1996 to provide a school place for every child living in their administrative boundary who is of statutory school age and whose parents want their child educated in the state funded sector. To meet future demands, the County Council undertakes forward planning for education infrastructure. The Cambridgeshire 0-19 Education Organisation Plan 2017-18² identifies pressures on the education system arising as a result of demographic changes and housing growth, and the County Councils response to those pressures such as through delivering additional school places.

The Academies Act 2010 and Education Act 2011 made a number of modifications to the education system. Of particular significance, the Education Act amended the Education and Inspections Act 2006 (section 6A), requiring that:

(1) If a local authority in England think a new school needs to be established in their area, they must seek proposals for the establishment of an Academy.

The effect of this is that all new schools opened since the 2011 Act came into force must be academies/free schools, and are not under the direct control of the County Council. Schools constructed prior to 2011 continue to be managed by the County Council unless they have opted to become an Academy or Free School.

The legislative changes did not remove the County Council's statutory responsibilities to provide school places. As such, the County Council continues to hold responsibility for planning for school places. However, the County Council's role has shifted from being an

¹ Matter 1 - Duty to Cooperate

² Updated annually by Cambs. County Council, available at: <https://County Council-live.storage.googleapis.com/upload/www.cambridgeshire.gov.uk/residents/working-together-children-families-and-adults/2017%20Education%20organisation%20plan.pdf?inline=true>

education provider to that of a 'commissioner' of services - in effect, where a new school is required it must 'go out to tender' to find a suitable education provider to run the school.

Education Skills & Funding Agency

The ESFA launched on 1st April 2017, bringing together the responsibilities of the Education Funding Agency (EFA) and the Skills Funding Agency (SFA), to create a single funding agency accountable for funding education and training for children, young people and adults. The ESFA is an executive agency, sponsored by the Department for Education (DfE). The ESFA are accountable for £61 billion of funding a year for the education and training sector, including support for all state-provided education for 8 million children aged 3 to 16, and 1.6 million young people aged 16 to 19.

For many new academy/free schools, the ESFA is the delivery body, rather than local education authorities. As such, the ESFA works closely with the local authority education departments and planning authorities to meet the demand for new school places and new schools. The ESFA does this through a variety of means, including by supporting the adoption of sound local plan policies, site allocations and guidance (all based on robust evidence) that facilitate the delivery of education infrastructure where and when it is needed and maximise developer contributions for schools.

During preparation of the Local Plan, the Council consulted the ESFA. It should be noted that the ESFA is not a statutory consultee nor a Duty to Cooperate body. In its comments, the ESFA does not dispute the education infrastructure requirements identified by the Local Plan, therefore there is no reason to suggest it would not support the provision of such facilities.

Routes to school delivery

There are two available routes for establishing a new school. Firstly, where the County Council believes a new school needs to be established, section 6A of the Education & Inspections Act 2006 places the County Council under a duty to seek proposals from new school proposers (academy trusts) to establish an academy (free school) and to specify a date by which proposals must be submitted to the local authority. In this 'local authority presumption route' the County Council is responsible for finding the site, providing the capital and pre-/post-opening funding and managing the build process.

Following this route, East Cambridgeshire District Council has engaged with the County Council throughout the preparation of the Local Plan. In distributing development, the Local Plan has had particular regard to the constraints within existing education infrastructure, and the opportunities which exist to expand or provide new education infrastructure. The Infrastructure Investment Plan 2017 identifies specific education infrastructure projects required to meet future needs arising from growth.

It should be noted that the NPPF attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. The County Council's Planning Obligations Strategy sets out its approach to estimating education needs which may arise from new development. For major development, East Cambridgeshire District Council typically secures funding for education infrastructure from developers through applying planning obligations via a s106 legal agreement (with the exception of Littleport where school provision is identified on the Regulation 123 Infrastructure List).

Secondly, there is an alternative route where an academy trust can apply directly to the DfE during an application round or 'wave' to set up a free school. The current wave is a reduced programme targeted at areas with low education standards and low capacity to improve, including areas with low social mobility. As such, it is not expected to provide the main route for meeting needs arising from Local Plan growth. Typically, where a school is provided via this route, the County Council would likely be less involved, although it may support groups in pre-opening and/or may provide a site for basic need.

Whilst East Cambridgeshire is located in an area which is eligible to make an application under 'route 2', the Council is not aware of any such applications having been made.

Conclusion

The ESFA is likely to be an important partner in the future provision of education infrastructure, both as a provider of funding and potentially as a delivery body. However, the County Council remains responsible for planning for and commissioning education infrastructure in East Cambridgeshire.

Over the course of the plan period, it is likely that most additional education infrastructure will be delivered via 'route 1', the 'local authority presumption route'. As such, the Council has appropriately engaged with the County Council in identifying education needs, and will continue to work jointly as the plan is implemented.

Annex 1: Key Issues raised by ESFA (PSLP consultation Nov-Dec 17)

The Education Skills & Funding Agency's (ESFA) comments on the Proposed Submission Local Plan were received by email in December 2017. The table provides a summary of the key issues raised by the ESFA and the Council's proposed response.

#	Policy / Section	ESFA comment	ECDC suggested response
1	Policy LP16	<p>Policy LP16: Infrastructure to Support Growth sets out the council's strategic approach to infrastructure planning. The ESFA broadly supports the emphasis on ensuring that development proposals demonstrate "...that there is, or will be, sufficient infrastructure capacity to support and meet all the necessary requirements arising from the proposed development", including through the use of conditions and planning obligations to achieve this. The references to integrating infrastructure delivery with development phasing to ensure timely provision of essential infrastructure; and to further information on implementation of the policy (including on infrastructure themes and spending of contributions) in supporting documents such as the Infrastructure Investment Plan, are also supported.</p>	Noted
2	Policy LP16 (CIL/s106)	<p>One of the tests of soundness is that a Local Plan is 'effective' i.e. the plan should be deliverable over its period. In this context and with specific regard to planning for schools, there is a need to ensure that education contributions made by developers are sufficient to deliver the additional school places required to meet the increase in demand generated by new developments. The ESFA notes that a Community Infrastructure Levy (CIL) has been adopted by the council and that the Regulation 123 List identifies two specific education projects (at Littleport and North Ely) likely to be funded by CIL, leaving the council flexibility to fund other education projects via s106 or CIL.</p> <p>Guidance on developer contributions is set out in the Developer Contributions Supplementary Planning Document (2013), which the local plan indicates will be kept under review and updated as necessary...</p> <p>...The ESFA supports the Council's approach to ensure developer contributions address the impacts arising from growth.</p>	Noted

3	Policy Kennett 4	<p>Kennett4: Site KEN.M1 (500 homes) - Land to the west of Station Road; “provide a primary school with pre-school facilities” – this policy is clear and is supported by the Infrastructure Investment Plan (IIP); however, there does not appear to be any identified need for a new school in Cambridgeshire’s 0-19 Education Organisation Plan 2017-2018. Perhaps the IIP is based on more recent data on the level of proposed development or local school capacity? If the size of the school (number of FE) is known, this should be stated in the policy to provide clarity to developers and other stakeholders. If it is not known, the policy could point to the IIP for guidance, which can be updated with school sizes in future as these are better defined.</p>	<p>The reason a new school at Kennett is not identified in the Education Organisation Plan 17-18 is likely to be a matter of timing. The merits of the site have not yet been assessed through the examination process. The Council expects that, subject to the conclusions of the Planning Inspector, future iterations of the EOP document would identify an additional primary school (with pre-school facilities) at Kennett.</p> <p>If the Inspector deems a large scale site at Kennett is not appropriate, then the need for the new school would highly likely disappear, and would therefore never feature in a EOP.</p> <p>The IIP17 indicates that the new primary school should provide 420 places, which is equivalent to two-forms of entry.</p> <p>The overall scale of the education infrastructure required is likely to vary depending on the time and rate at which development comes forward. This infrastructure requirement may be influenced by available capacity in existing schools and demographic trends at the time. As such, the requirement for additional education infrastructure will be re-evaluated at the planning application stage.</p>
4	Policy Ely2	<p>Ely2: Infrastructure and Community Facilities – sites for over 3,000 homes are allocated for Ely; the policy highlights the need to “consider whether it is appropriate and necessary to contribute towards one or more of the identified priority infrastructure items below” which include “Additional education provision”. The IIP provides more information, stating that a primary school is required to serve strategic development site ELY.M1 (3000 homes); this is to be delivered in accordance with two previously consented schemes and the North Ely SPD. To provide greater clarity to developers and other stakeholders, could further detail from the IIP be added to policy Ely2 (i.e. clarifying that a primary school is required, and stating the anticipated number of FE if known), or has the council consciously not done this to retain maximum flexibility if circumstances change? If the latter is the case, perhaps the IIP (which is likely to be regularly updated) could again be signposted for further guidance.</p>	<p>The policy is intended to be flexible. Ely is the district’s main population centre, and is served by a number of schools. Developments such as North Ely will be built over the course of the plan period (i.e. long term), during which time demographic factors may change. The Local Plan takes a flexible approach to the dwelling capacity of some mixed-use sites. In addition, there may be opportunities for infill and re-development. A flexible approach is therefore justified.</p> <p>The IIP17 identifies a requirement for a 2FE primary school at Ely.</p> <p>The overall scale of the education infrastructure required is likely to vary depending on the time and rate at which development comes forward. This infrastructure requirement may be influenced by available capacity in existing schools and demographic trends at the time. As such, the requirement for additional education infrastructure will be re-evaluated at the planning application stage. It would not be appropriate to ‘fix’ the requirement precisely in the Local Plan.</p>

5	Policy Littleport2	<p>Littleport2: Infrastructure and Community Facilities – sites for over 2,000 homes are allocated for Littleport; the policy highlights the need to “consider whether it is appropriate and necessary to contribute towards one or more of the identified priority infrastructure items below” which include “Additional primary education provision, to be located at the education campus and at site LIT.M2 Land south of Grange Lane”. This policy is clear and goes beyond the information in the IIP, though the anticipated size (number of FE) of the school should be stated where known.</p>	<p>Littleport is served by a number of existing schools, and whilst additional education infrastructure is required, it is difficult to predict with certainty the overall number of school places which may be required due to the extended time period in which development is expected to take place.</p> <p>The IIP17 identifies a requirement for a 2FE primary school to serve strategic development site LIT.M2, and a further 210 places to meet growth needs elsewhere in Littleport.</p> <p>The overall scale of the education infrastructure required is likely to vary depending on the time and rate at which development comes forward. This infrastructure requirement may be influenced by available capacity in existing schools and demographic trends at the time. As such, the requirement for additional education infrastructure will be re-evaluated at the planning application stage. It would not be appropriate to ‘fix’ the requirement precisely in the Local Plan.</p>
6	Policy Littleport6	<p>Littleport6: Site LIT.M2 (1,200 homes, 600 assumed in plan period) - Land south of Grange Lane – “The following special considerations/requirements apply to proposals for site LIT.M2... New on-site community facilities and infrastructure, including new education provision. The precise nature of this provision should be informed by discussion with the parish council and other service providers...” The IIP states that a new primary school is required to serve this strategic development site. To provide clarity to developers and wider stakeholders could the policy refer to provision of a new primary school? If the number of FE can be predicted, this should also be specified, or if not a references to the IIP should be included for further guidance.</p>	<p>Littleport is served by a number of existing schools, and whilst additional education infrastructure is required, it is difficult to predict with certainty the overall number of school places which may be required due to the extended time period in which development is expected to take place.</p> <p>The IIP17 identifies a requirement for a 2FE primary school to serve strategic development site LIT.M2.</p> <p>The overall scale of the education infrastructure required is likely to vary depending on the time and rate at which development comes forward. This infrastructure requirement may be influenced by available capacity in existing schools and demographic trends at the time. As such, the requirement for additional education infrastructure will be re-evaluated at the planning application stage. It would not be appropriate to ‘fix’ the requirement precisely in the Local Plan.</p>

7	Policy Soham7	<p>Soham7: Site SOH.H9 (200 homes) - Land south of Cherrytree Lane and west of Orchard Row – “...Consider provision on site of a primary school and potentially other education facilities; if not provided on-site, agree arrangements for meeting education needs which arise”. There is no reference in the IIP to provision of a new primary school (as opposed to expansions of existing schools) in Soham, or in Cambridgeshire’s 0-19 Education Organisation Plan 2017-2018, so the evidence informing the potential need for this school is unclear. The ESFA recommend this link is clarified in a topic paper, as explained further below</p>	<p>At this time, it is not confirmed whether on-site provision is required, and therefore no reference is made in the IIP17.</p> <p>The overall scale of the education infrastructure required to meet the needs of the site, are likely to vary depending on the time and rate at which development comes forward. This infrastructure requirement may be influenced by available capacity in existing schools and demographic trends at the time. As such, the requirement for additional education infrastructure will be re-evaluated at the planning application stage. It would not be appropriate to ‘fix’ the requirement precisely in the Local Plan.</p>
8	Policy Witchford2	<p>Witchford2: Infrastructure and Community Facilities – sites allocated for over 300 homes in Witchford; “...development proposals in Witchford should consider whether it is appropriate and necessary to contribute towards one or more of the identified priority infrastructure items below... Provision of additional primary education facilities”. The IIP refers to a new primary school to serve strategic development site WFD.M1, though there is no such development site in the latest local plan so it is unclear if this relates to sites WFD.H1 (up to 128 homes) or WFD.H (approximately 120 homes) or both. It would be useful if the policy wording could be clarified, drawing on the IIP and the latest education evidence; it is unclear if a new primary school is required and if so the anticipated size, or if further expansion of the Rackham primary school to 3FE is the feasible, preferred option (ongoing feasibility work relating to the potential further expansion of this school is referred to in Cambridgeshire’s 0-19 Education Organisation Plan 2017-2018).</p>	<p>The reference to a new primary school to serve site WFD.M1 is in error. Site WFD.M1 was a potential large scale site which, if taken forward in the Local Plan, would have had a policy requirement to provide a school. That site was not included in the consultation or submitted Local Plan, and we apologise for its reference in this evidence document, and its reference should be disregarded. A future update of the IIP will remove such reference.</p> <p>In relation to sites in the Local Plan, Sites WFD.H1, H3 and H4 have been granted planning permission, and education has been considered at the planning application stage – for example through securing planning obligations. An application (17/01575/OUM) is pending consideration for site WFD.H2. In its response to the application, Cambridgeshire County Council confirmed that the development can be accommodated without additional primary education facilities. Therefore, the education requirements for all housing sites in Witchford have been considered by the Education Dept. through the planning application process.</p>
9	N/a	<p>Given the queries raised above, it would be useful if a Planning for Schools topic/background paper could be produced, setting out clearly how the forecast housing growth at allocated sites has been translated (via an evidence based pupil yield calculation) into an identified need for specific numbers of school places and new schools in identified locations (and where possible in identified development phases) over the plan period. This would help to demonstrate more clearly that the approach to the planning and delivery of education infrastructure is justified based on proportionate evidence. If required, the ESFA can assist in providing good practice examples of such background documents relevant to this stage of your emerging Plan.</p>	<p>The strategic impacts of Local Plan growth were considered in the Growth Study (document PE11). Cambridgeshire County Council’s Education Dept. was consulted throughout the preparation of the Local Plan, including additional technical stakeholder consultation on proposed development sites. The Infrastructure Investment Plan 2017 (PE12) has been informed by this engagement with Cambridgeshire County Council, and by the Education Organisation Plan 2017-18 and County Council’s Planning Obligations Strategy.</p> <p>The Council has established mechanisms for securing funding for education through planning obligations and CIL, as appropriate.</p>

			<p>The IIP17, along with the Council's Developer Contributions SPD and Reg 123 Infrastructure List, comprehensively identifies education infrastructure requirements, and the mechanisms by which developer funding can be secured. It is therefore difficult to envisage what additional material such a topic paper might contain, and as such is considered unnecessary. Preparing such a document would go beyond NPPF para 182 requirement to prepare 'proportionate evidence'</p>
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