

Our Ref: DfE/Local Plan/ Rugby Local Plan Issues and Options (Reg18)

23 January 2024

Dear Sir/Madam,

Re: Rugby Local Plan Issues and Options (Reg 18)

Consultation under Regulation 18 of Town and Country Planning (Local Planning) (England) Regulations 2012

Submission of the Department for Education (DfE)

1. We welcome the opportunity to contribute to the development of planning policy at the local level.
2. Under the provisions of the Education Act 2011 and the Academies Act 2010, all new state schools are now academies/free schools and DfE is the delivery body for some of these, rather than local education authorities. However, local education authorities still retain the statutory responsibility to ensure sufficient school places, including those at sixth form, and have a key role in securing contributions from development to new education infrastructure. In this context, we aim to work closely with local authority education departments and planning authorities to meet the demand for new school places and new schools. We have published guidance on securing developer contributions for education, and estimating pupil yield from housing development, at <https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>. You will also be aware of the corresponding additions to Planning Practice Guidance on planning obligations, viability and safe and healthy communities.¹
3. We would like to offer the following comments in response to the above consultation document.

General Comments

4. The department notes that significant growth in housing stock is expected in the borough; the Rugby Local Plan Issues and Options consultation document anticipates (**paragraph 9.21**) an annual housing requirement of between 506 and 735 homes per year for the plan period 2021 to 2041. This will place additional

¹ <https://www.gov.uk/government/collections/planning-practice-guidance>

pressure on social infrastructure such as education facilities. The Local Plan will need to be 'positively prepared' to meet the objectively assessed development needs and infrastructure requirements.

5. The department welcomes reference within the plan to support the development of appropriate social and community infrastructure within **paragraph 2.3**, and the specific reference made to the need to deliver new schools.
6. The National Planning Policy Framework (NPPF) advises that local planning authorities (LPAs) should take a proactive, positive and collaborative approach to ensuring that a sufficient choice of school places is available to meet the needs of communities and that LPAs should give great weight to the need to create, expand or alter schools to widen choice in education (para 95).
7. The department supports the principle of Rugby Borough Council safeguarding land for the provision of new schools to meet government planning policy objectives as set out in paragraph 95 of the NPPF. When new schools are developed, local authorities should also seek to safeguard land for any future expansion of new schools where demand indicates this might be necessary, in accordance with Planning Practice Guidance and DfE guidance on securing developer contributions for education.² We would be happy to share examples of best practice.
8. Rugby Borough Council should also have regard to the Joint Policy Statement from the Secretary of State for Communities and Local Government and the Secretary of State for Education on Planning for Schools Development³ (2011) which sets out the government's commitment to support the development of state-funded schools and their delivery through the planning system.
9. In light of the above and the Duty to Cooperate on strategic priorities such as community infrastructure (NPPF para 24-27)⁴, DfE encourages close working with local authorities during all stages of planning policy development to help guide the development of new school infrastructure and to meet the predicted demand for primary and secondary school places. Please add the department to your list of relevant organisations with which you engage in preparation of the plan.
10. Please note that new schools may be delivered by local authorities, Warwickshire County Council or by the department under the Free Schools Programme. Under the 'local authority presumption route' the local authority is responsible for finding the site, providing the capital and managing the build process. When the department delivers the school, the local authority is less involved but may provide support, including a site. Either route can deliver schools on land that has been provided as a developer contribution. The department has published further general information on opening free schools⁵.

Site Allocations

11. We note that the table Source of future housing supply (paragraph 9.21) indicates that two large allocations at **South West Rugby** and **Houlton (Rugby Radio**

² <https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>

³ <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

⁴ NPPF paragraph 24-27 specifies that this collaborative working should include infrastructure providers.

⁵ <https://www.gov.uk/government/collections/opening-a-free-school>

Station) will deliver **4,766** houses and **4,603** houses respectively, between now and 2041. The next version of the Local Plan should seek to identify specific sites (existing or new) which can deliver the school places needed to support growth, based on the latest evidence of identified need and demand in the Infrastructure Delivery Plan (Adopted 2019). The site allocations and associated safeguarding policies should also seek to clarify requirements for the delivery of new schools, including when they should be delivered to support housing growth, the minimum site area required, any preferred site characteristics, and any requirements for safeguarding additional land for future expansion of schools where need and demand indicates this might be necessary. Establishing these requirements within the plan is particularly important for securing sites at an appropriate value when additional land or standalone sites for schools need to be purchased, as DfE 'Basic Need' funding allocations do not factor in the costs of site acquisition.

12. Viability assessment should inform options analysis and site selection, with site typologies reflecting the type and size of developments that are envisaged in the borough/district. This enables an informed judgement about which developments would be able to deliver the range of infrastructure required, including schools, leading to policy requirements that are fair, realistic and evidence-based. In accordance with Planning Practice Guidance, there should be an initial assumption that applicable developments will provide both land and funding for the construction of new schools. The total cumulative cost of complying with all relevant policies should not undermine deliverability of the plan, so it is important that anticipated education needs and costs of provision are incorporated at the outset, to inform local decisions about site selection and infrastructure priorities.⁶
13. While it is important to provide this clarity and certainty to developers and the communities affected by development, retaining a degree of flexibility about site specific requirements for schools is also necessary given that the need for school places can vary over time due to the many variables affecting it. The department therefore recommends the Council consider highlighting in the next version of the Local Plan that:
 - specific requirements for developer contributions to increasing capacity of existing schools and the provision of new schools for any particular site will be confirmed at application stage to ensure the latest data on identified need informs delivery; and that
 - requirements to deliver schools on some sites could change in future if it were demonstrated and agreed that the site had become surplus to requirements, and is therefore no longer required for school use.

Evidence Base

It would be useful if a Planning for Schools topic/background paper could be produced, expanding on the evidence in the Council's Infrastructure Delivery Plan and the Warwickshire Education Strategy (2018-2023), 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 over the plan period. This would help to demonstrate that the approach to the planning and delivery of education infrastructure is justified based on proportionate evidence.

⁶ PPG on viability and planning obligations: <https://www.gov.uk/government/collections/planning-practice-guidance>

Developer Contributions and Community Infrastructure Levy (CIL)

14. One of the tests of soundness is that a Local Plan is 'effective', meaning 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 department notes that Rugby borough council have produced a Planning Obligations SPD (Adopted 2012) which will reflect Local Plan priorities, and that the Council will implement CIL rates to ensure appropriate rates are levied and the right infrastructure is secured across the borough.
15. **Infrastructure Funding Statement**⁷ - Where additional need for school places will be generated by housing growth, the statement should identify the anticipated CIL and Section 106 funding towards this infrastructure. The statement should be reviewed annually to report on the amount of funding received via developer contributions and how it has been used, providing transparency to all stakeholders.
16. Local authorities have sometimes experienced challenges in funding schools via Section 106 planning obligations due to limitations on the pooling of developer contributions for the same item or type of infrastructure. However, the revised CIL Regulations remove this constraint, allowing unlimited pooling of developer contributions from planning obligations and the use of both Section 106 funding and CIL for the same item of infrastructure. The advantage of using Section 106 relative to CIL for funding schools is that it is clear and transparent to all stakeholders what value of contribution is being allocated by which development to which schools, thereby increasing certainty that developer contributions will be used to fund the new school places that are needed. The department supports the use of planning obligations to secure developer contributions for education wherever there is a need to mitigate the direct impacts of development, consistent with Regulation 122 of the CIL Regulations.
17. We also request a reference within the Local Plan's policies or supporting text to explain that developer contributions may be secured retrospectively, when it has been necessary to forward fund infrastructure projects in advance of anticipated housing growth. An example of this would be the local authority's expansion of a secondary school to ensure that places are available in time to support development coming forward. This helps to demonstrate that the plan is positively prepared and deliverable over its period.
18. The department would be particularly interested in responding to any update to the Infrastructure Delivery Plan/Infrastructure Funding Statement, viability assessment or other evidence relevant to education which may be used to inform local planning policies and CIL charging schedules. As such, please add the department to the database for future consultations on relevant plans and proposals.

⁷ PPG on Plan-Making: <https://www.gov.uk/guidance/plan-making#maintaining-effective-cooperation>

Conclusion

19. Finally, I hope the above comments are helpful in shaping Rugby's Local Plan, with specific regard to the provision of land and developer contributions for schools. Please advise the department of any proposed changes to policies, supporting text, site allocations or evidence base arising from these comments.
20. Please do not hesitate to contact me if you have any queries regarding this response. DfE looks forward to continuing to work with Rugby Borough Council to aid in the preparation of a sound Local Plan.

Yours faithfully,

Web: www.gov.uk/df