

Our Ref: DfE/Local Plan/Greater Norwich 2020

16th March 2020

Dear Sir/Madam,

Re: Greater Norwich Local Plan (GNLP)

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

Submission of the Department for Education

1. The Department for Education (DfE) welcomes 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 many 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 those with an education, health and care (EHC) plan 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 education provision in garden communities and securing developer contributions for education, 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.
3. We would like to offer the following comments in response to the above consultation document.

General Comments

4. DfE notes that growth in housing stock is expected in the borough; the consultation document anticipates an overall housing target of 44,343 homes to the end of the plan period in 2038. This will place significant additional 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. DfE welcomes reference within the plan to support the development of appropriate social and community infrastructure as established in Policy 1, Policy 4 and the supporting text at paragraphs 196-199, specifically with reference to the need for timely delivery.

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 94).
7. DfE supports the principle of the Plan safeguarding land for the provision of new schools to meet government planning policy objectives as set out in paragraph 94 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.¹ We would be happy to share examples of best practice.
8. The GNLP 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 Development² (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)³, 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 (including Special Educational Needs and Disabilities 'SEND' provision for children and young adults up to age 25 with an education, health and care (EHC) plan). Please add DfE to your list of relevant organisations with which you engage in preparation of the plan.
10. Please note that there are two routes available for establishing a new school. Firstly, a local authority may seek proposals from new school proposers (academy trusts) to establish a free school, after which the Regional Schools Commissioner will select the successful trust. Under this 'local authority presumption route' the local authority is responsible for finding the site, providing the capital and managing the build process. Secondly, school proposers can apply directly to DfE during an application round or 'wave' to set up a free school. The local authority is less involved in this route but may support groups in pre-opening and/or provide a site. Either of these routes can be used to deliver schools on land that has been provided as a developer contribution. DfE has published further general information on opening free schools⁴ as well as specifically in relation to opening free schools in garden communities.⁵

Specific Comments

Question 24 - Do you support, object or have any comments relating to the approach to other strategic infrastructure (energy, water, health care, schools and green infrastructure)?

¹ <https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>

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

³ NPPF paragraph 24-27 specifies that this collaborative working should include infrastructure providers.

⁴ <https://www.gov.uk/government/collections/opening-a-free-school>

⁵ <https://www.gov.uk/government/publications/establishing-a-new-school-free-school-presumption> and <https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>

11. Policy 4 – Strategic Infrastructure sets out the context for school place planning, and identifies that both expansions of existing and new schools will be required to meet the growth needs.
12. We would advise some slight policy wording amendments to ensure that the policy is sufficiently flexible and can endure throughout the plan period, where need and demand for education places may change.

*School capacity will be increased to provide for growth by improvements **and expansions** to existing schools and the provision of new schools as required, including ~~primary~~ schools on strategic development sites and ~~a new high school in the North East growth areas~~ as identified in **the most up to date evidence base** ~~appendix 1~~.*

13. It is considered that this change will ensure that the changing growth needs are capable of being met in future years, and will be underpinned by the latest evidence base, in accordance with the supporting policy text at paragraph 232 (setting out that the information will be updated annually in line with the Greater Norwich Infrastructure Plan 'GNIP'). DfE also notes specifically that education infrastructure requirements for the plan period should be included within an Infrastructure Funding Statement⁶. 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.
14. DfE 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 DfE to the database for future consultations on relevant plans and proposals.
15. The supporting text to the policy, at paragraph 230, sets out the requirement for developer contributions and CIL in the delivery of schools.
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. DfE 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. As drafted currently, we consider that paragraph 230 does not accord with our guidance on developer contributions (as referenced in paragraph 2) and therefore we would propose the following amendments:

⁶ PPG on Plan-Making: <https://www.gov.uk/guidance/plan-making#maintaining-effective-cooperation>

~~As a rule, if a new development is likely to generate enough children to fill a new school, Norfolk County Council asks developers **are expected to contribute both the land and** for the full **construction** cost of building that school. A pro rata contribution of the full cost is requested if **pupil yield is calculated to be less than a full new school and the school places are to be provided elsewhere through expansions or on other development sites.** Numbers of children are calculated to be less than 420, a two-form entry primary school. With the current CIL approach locally, only land can be secured through a S106 agreement and the build cost of the new school is claimed through CIL. **Land must be secured through S106 Agreements, and contributions towards both on-site and off-site education can be secured through both S106 Agreements and CIL where applicable locally.**~~

18. 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.

Site Allocations

19. The 'Sites' section of the GNLP identifies site allocations, and addresses the provision of schools where required. The site allocations and associated safeguarding policies should 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.
20. 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.⁷
21. 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. DfE therefore recommends the next version of the Local Plan Sites document highlights that:
 - specific requirements for developer contributions to increasing capacity of existing schools and the provision of new schools for any particular site will be

⁷ PPG on viability and planning obligations: <https://www.gov.uk/government/collections/planning-practice-guidance>

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.

22. DfE would like to be included as early as possible in further discussions on potential site allocations, as there are central wave pipeline free school projects in South Norfolk District which may be appropriate for specific designation. We would welcome the opportunity to meet with the Council in the near future to discuss these projects.
23. Notably, we are about to start pre-application discussions with the Authority regarding a new SEND school to the south of the village of Easton, to the west of Norwich. As part of those discussions, we would also seek to discuss potential allocation of the site.
24. The proposed SEND school will be an 'all through' school which will house 170 pupils at full capacity, including a nursery and a special autism unit.

Forward Funding

25. DfE loans to forward fund schools as part of large residential developments may be of interest, for example if viability becomes an issue. Please see the Developer Loans for Schools prospectus for more information.⁸ Any offer of forward funding would seek to maximise developer contributions to education infrastructure provision while supporting delivery of schools where and when they are needed.

Conclusion

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

Yours faithfully,

Phoebe Juggins MRTPI
Forward Planning Manager – South
East

Web: www.gov.uk/dfes

⁸ Please see DLS prospectus here: <https://www.gov.uk/government/publications/developer-loans-for-schools-apply-for-a-loan>