



REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON 13 JUNE 2024

SUBJECT: INFORMATION REPORT: LEARNING ESTATE STRATEGY – PROGRAMME DELIVERY UPDATE

BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)

1. REASON FOR REPORT

- 1.1 To inform the Committee of changes to the methodology to determine school capacity which is likely to have an impact on the level of developer obligations sought for education infrastructure.
- 1.2 This report is submitted to Committee in terms of Section III (E) of the Council's Scheme of Administration relating to functions of the Council under Section 127 Town and Country Planning (Scotland) Act 1997.

2. BACKGROUND

- 2.1 A report on the Learning Estate Strategy – Programme Delivery Update was approved by the Education, Children's and Leisure Services (ECLS) committee on 14 May 2024. This set out that a change in methodology to determine primary and secondary school capacity is being implemented by the Council. This is to ensure that the Council's methodology is better aligned with the Scottish Government's 2014 Determining Primary School Capacity guidance and to provide a more accurate indicator of current and future school capacities for planning. The report and appendices are set out in **Appendix 1**.
- 2.2 Whilst the principle of seeking developer obligations for education infrastructure is not altered by revising the methodology to calculate capacities in accord with the Scottish Government's 2014 guidance, the impact is that this will likely result in a differential between the new and previous planning capacities (previously referred to as physical capacity). In the majority of cases the planning capacity is lower than the physical capacity which means there is less capacity available in schools to accommodate pupils arising from new developments, which may impact on the level of developer obligations sought. In some cases, this may result in a higher level of developer obligations being sought to address the impact of the proposed development on education infrastructure.

3. **SUMMARY OF IMPLICATIONS**

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Developer obligations will assist in delivering the infrastructure necessary to support the Council's priorities, such as developing a sustainable economy, creating ambitious and confident young people and safer communities.

(b) Policy and Legal

The Scottish Government National Planning Framework 4 (NPF4) and the Moray Local Development Plan 2020 (LDP) form the statutory Development Plan for Moray. Both have policies on an infrastructure first approach and developer obligations. Moray Council's Supplementary Guidance on Developer Obligations (SG) forms part of the statutory Development Plan.

The principle of seeking developer obligations for education infrastructure is not altered by revising the methodology to calculate capacities in accord with the Scottish Government's 2014 guidance. The impact is that this will likely result in a differential between the new and previous planning capacities (previously referred to as physical capacity). In the majority of cases the planning capacity is lower than the previous planning capacity which means there is less capacity available in schools to accommodate pupils arising from new developments, and this may impact on the level of developer obligations sought.

(c) Financial implications

The Council may need to provide for any adverse impact on existing infrastructure and facilities from new development should developer obligations not cover the costs following viability appraisals or any successful legal challenges on developer obligations/viability.

(d) Risk Implications

There is the potential for increased viability challenges and/or appeals on viability where the level of developer obligations rises. As set out in the Developer Obligations SG and on the Council's website, developers are encouraged to contact the Strategic Planning and Development team as early as possible in the development process to ascertain the likely level of developer obligations that will be sought in order that this can be accounted for within development appraisals and reflected in the purchase price of land.

Where an appeal is granted in the developers favour there is a reputational risk to the Council.

(e) Staffing Implications

Work on developer obligations is carried out by the Strategic Planning and Development Team, supported by officers in Education,

Transportation, Housing, Legal, Finance, and NHS Grampian. Challenges from developers result in significant staff time to enable the Council to defend their position.

(f) Property

The property implications arising from the ECLS report on 14 May 2024 are addressed in **Appendix 1**.

(g) Equalities/Socio Economic Impact

The equalities/socio economic impacts arising from the ELCS report on 14 May 2024 are addressed in **Appendix 1**.

(h) Climate Change and Biodiversity Impacts

All aspects of the Learning Estate programme will be aligned with current and future Council policy on climate change and biodiversity.

(i) Consultations

The Depute Chief Executive (Economy, Environment and Finance), the Acting Head of Economic Growth and Development, Strategic Planning & Development Manager, the Head of Education, the Legal Services Manager, the Chief Financial Officer, Committee Services and the Equal Opportunities Officer have been consulted and the comments received have been incorporated into the report.

4. CONCLUSION

4.1 The Committee is asked to note the changes to the methodology in calculating school capacity and the potential impact this may have on the level of developer obligations sought for education infrastructure.

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Background Papers:

Ref: