



**Chief Internal Auditor
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Appendix 2

Internal Audit Report

To

Kevin Anderson, Executive Director Place
Fiona Robertson, Executive Director Children, Young People & Partnerships
Michelle Strong, Education Chief Operating Officer
Sinead Urquhart, Executive Business Manager
Marc Bedwell, Executive Business Manager
Katy Johnstone, Resource Officer Education
Fiona Clandillon, Head of Development – Capital and Entrepreneurial Resources
Peter Arnsdorf, Senior Manager Planning, Sustainable Growth and Investment
Martin Patrick, Lead Officer, Planning Obligations (Acting Up)
David Gladwin, Chief Finance Officer and Section 95 Officer
Gary Thomson, Senior Finance Business Partner

On

Bowles Report - School Capacity

18 September 2024

1 Background

- 1.1 The housing development at Dargavel in Renfrewshire progressed into one of the largest housing developments in Scotland and following a report presented to the Education and Children's Services Policy Board of Renfrewshire Council highlighting a significant projected shortfall in the capacity at Dargavel Primary School, an independent external review was requested by the Chief Executive of Renfrewshire Council.
- 1.2 The independent review was subsequently undertaken by David Bowles and a report on the Dargavel Primary School Capacity Shortfall was issued in June 2023. It highlighted significant historic failings of leadership, oversight and risk management in relation to the provision of school accommodation for Dargavel Village. An action plan was developed with all the recommendations being agreed by Management. However, following a review of the 2022/23 Annual Audit Report for Renfrewshire Council and the findings of the independent review, the Controller of Audit referred the issues identified to the Accounts Commission.
- 1.3 The referral by the Controller of Audit, resulted in a report being issued by the Accounts Commission in January 2024, which concluded that the Commission was concerned that significant risks remain in relation to actions the Council was taking in response to the acknowledged failings and that its governance and scrutiny arrangements would continue to be monitored. A follow up report was published in August 2024 and a further update on progress with some of the remaining issues will be provided in the annual audit report due to be published in September 2024 and the Best Value report which has been brought forward from 2027 to December 2024. Local authorities in Scotland have been urged to note the findings from the reports and consider how improvements can be made to their own processes.
- 1.4 Following discussions with the Council Executive Director of Children, Young People and Partnerships and the Chief Executive, Internal Audit were asked to review the approach adopted by the Council when projecting the required future school capacity relating to any proposed new housing developments in Midlothian.
- 1.5 This assurance review will consider the failings identified in the Bowles report, together with the associated recommendations and will measure them against the governance, risk and control framework within Midlothian Council.

2 Scope

The scope of this assurance review was to ensure that:

- 2.1 The Council has an appropriate methodology in place to forecast pupil numbers (including primary, secondary, early years, denominational and ASN requirements); the methodology is regularly reviewed and compared with best practice adopted across the UK and consideration is given to utilising specialist analytical support for large or unusual developments;
- 2.2 There are appropriate internal governance processes in place including adequate senior officer oversight, appropriate review of modelling outputs and formal reporting of the approach taken for the planning of new educational facilities and / or the utilisation of spare capacity across Midlothian (for both long-term and short-term increases);
- 2.3 The Council has and maintains up to date supplementary guidance to the development plans clearly indicating the approach to developer contributions based on identified need, and the guidance is utilised when completing developer contribution agreements;
- 2.4 Proposed education asset developments are reported at appropriate stages through the Council's internal governance process. Adequate engagement with the local community is undertaken and consultation responses are appropriately responded to prior to legal agreements being completed; and

- 2.5 Risks including inaccurate pupil projections, non or lower payment of developer contributions as a result of clauses in developer agreements, inflationary costs or additional asset requirements are clearly recognised, recorded and formally discussed with those charged with Governance and appropriate mitigations are identified and monitored to implementation.

3 Findings

For the key objectives, the following points were noted:

The Methodology for Forecasting Pupil Numbers

- 3.1 The Education Service undertook a review of the school roll projection methodology in December 2021. This review was undertaken to refresh and update school roll projections, evaluate existing methodologies and calculations. The methodology and data were then benchmarked against other local authorities with similar levels of demographic growth. The data is reviewed bi-annually against the Housing Land Audit and census data and birth data and stay on rates are also factored in. A spreadsheet is used for the projections and this is updated with new data every six months and is checked every 3 months. Every time an update is undertaken, this is saved as a new version to maintain the integrity of the data and provide an audit trail.
- 3.2 Education use the most up to date information available within the SEEMiS system for relevant schools and catchment areas. This data includes the latest school rolls, pupil enrolments / leavers (including pre-school as relevant), pupil address data, potential P1 deferrals, and P1 and S1 intake data. Regular meetings are held with the Pupil Placement team regarding anticipated rolls and to discuss placing requests, deferrals etc.
- 3.3 The main annual pupil roll projections are produced from the latest validated baseline data for each data source and the Council's Housing Land Audit (HLA), which is based on completion rates from sites and discussions with developers and landowners in respect of individual housing sites - either with planning permission or allocated in the Midlothian Local Development Plan (LDP). Whilst regular meetings are undertaken between Planning and Education, the Learning Estate Resource Officer advised that it would be useful if Planning could add the catchment area for each development using the ARC GIS system as it is quite onerous for them to do.
- 3.4 The projections will include any updates from the NHS on data relating to births across Midlothian, (this has a significant impact on the baseline birth to P1 migration rate in the catchment areas).
- 3.5 The new build/child house ratio (pupil product) applied in Midlothian is 0.28 for primary schools (0.02 denominational) and 0.2 for secondary schools. A ratio is applied for the percentage of children from each residential unit who are likely to be in a specific year (these percentages have been cross checked against comparative local authorities). This is fed into the annual pupil roll projections, whilst taking into consideration a number of the variables highlighted above. For comparison, the Bowles Report stated that an average of 0.136 pupils per residential unit had been applied in the projections for Dargavel Primary School in Renfrewshire.
- 3.6 Past experience from housing developments of a similar size is not used as a guide for the calculation of the P1 intake rate from the number of houses however, Education advised that they are undertaking a review of the predicted figures to the actual figures and may adjust the pupil product ratio based on the previous 2 years projections. It has been advised that this process is currently ongoing as part of the yearly update which coincides with the release of the 2024 Housing Land Audit and no decisions have been undertaken yet as a result.

- 3.7 It was advised that they have reviewed other local authorities to try and predict when the peak will come from house building (eg for Dunbar it was 8 years after building commenced). The percentage of pupils estimated for P1s has been adjusted to 20% (less for other years but weighted to earlier year groups) to take into account previous experience. It was noted that the Roll Projections Procedure does not detail the determined percentage for each primary year group and it has been advised that this will be updated (the spreadsheet does include this data).
- 3.8 The roll projections do not account for children that are privately educated. It was advised that there is no data available to include this but if there are changes in the forecasted data, then an analysis would be undertaken to determine the reason. The Executive Business Manager advised that this would be discussed in Scotland wide forums and would be monitored given increased risks of changes in historic patterns in future years.
- 3.9 Testing of the spreadsheet highlighted a number of minor errors and it has been advised that these were human errors and have now been updated. The spreadsheet is regularly checked by the Principal Data Officer to ensure that the integrity of the spreadsheet is satisfactory – the minor errors identified had minimal impact (cells were referring to the incorrect years which were out by 1 year).
- 3.10 The roll projections methodology does not include any provision for Additional Support Needs. It has been advised that this is being reviewed and the Council is actively working to obtain the NHS / Health Visitor data to enable it to be incorporated into the calculations (there was a recommendation in the Bowles report that Health Visitor data be included in the forecasting methodology).
- 3.11 An external analytics company, who have been used by other local authorities in Scotland, have been commissioned to run their modelling software on the Council's data to provide assurance over the methodology used (this was one of the recommendations from the Bowles report).

Internal Governance Structures

- 3.12 The 2017-2047 Midlothian Learning Estate strategy was agreed at a meeting of full Council on 26 September 2017. Council agreed the short-term strategy (2017-2023) as well as acknowledging the essential requirement and benefits of preparing a long-term strategy for the Learning Estate. Council noted the indicative strategy for the medium and longer terms, which were to be the subject of review and regular reporting to Council. An update to the 2017 Learning Estate Strategy was presented to full Council on 7 May 2019 and a further update was presented to Council on 20 August 2019. A further update report was presented on 13 Dec 2022. There is a risk that without having a Learning Estate Strategy in place the Council will not secure the appropriate level of S75 contributions required to deliver additional capacity arising from housing developments.
- 3.13 A Children Young People and Partnerships Estate Programme Board (CYPE) has been established and it is responsible for the delivery of each capital and asset management programme by monitoring the progress of the Children & Young People Estate programme and use of resources as well as provide strategic oversight and technical input into the projects within the programme – the terms of reference state that it will meet monthly. Minutes are produced for meetings and CYPE programme dashboards are submitted to the Capital Plan and Asset Management Board (CP&AMB) for discussion. The Capital Plan and Asset Management Board has overall accountability for the delivery of Midlothian Council's Capital Plan, which includes investment in schools, housing, regeneration and development, energy and city regional deal projects. The role is to ensure a joined-up approach to deliver the strategic objectives of the Corporate Asset Management Strategy and Capital Investment Strategy, manage overall plan delivery and the appropriate budgets. Papers are sent to Council for governance / decision making where required. It was noted that the CYPE has not met since February 2024 however the CYPE programme dashboards are updated monthly and were submitted to the CP&AMB in March, April, June and August. Major school building projects have their own

project boards and these feed into the CYPE programme dashboards. In addition, it was seen that Board members agreed actions by email to ensure projects could move forward.

- 3.14 An ASN Estate and Review Report dated Feb 2024 was discussed at the last CYPE meeting and this stated that that *'Our ASN team in early years are made aware of children within the early years setting, this information is now beginning to feed into our longer-term planning to meet the needs of children as they transition into P1, however this information is not yet sufficiently reliable enough to make informed predictions. The service anticipates this will improve significantly over the coming years as we develop the data sharing protocols with the NHS. We are on an improving journey regarding the knowledge and information required to fully understanding the range of needs required for the future. Whilst we have improved data, we continue to work with our partners in health to ensure we have robust and reliable data to inform our decisions. Public Health Scotland have provided an overview of developmental checks for 0–5-year-olds. The data above doesn't tell us where these children live or the specific need that we should plan for. The service anticipates this will improve significantly over the coming years as we develop the data sharing protocols with the NHS.'* This report has subsequently been discussed and strategy moved forward with discussion at the Council CMT.

Developer Contributions

- 3.15 The planning system allows mitigation to be sought from developers towards delivering infrastructure capacity as a result of their development or to make the development more acceptable. The Supplementary Guidance was prepared to assist landowners, developers and applicants, and sets out the items and circumstances for which financial contributions will be sought to make the proposed development acceptable in planning terms, including capacity for a transport network, education facilities, affordable housing, sports facilities, environmental mitigation and health and social care facilities.
- 3.16 The supplementary guidance for developer contributions is dated 6 March 2012 and is on the Council's intranet however the guidance is out of date and there is no provision within the guidance relating to education for ASN (the requirement to update the guidance has already been recommended in the Developer Contributions report dated December 2023).
- 3.17 The guidance states the following: *The likely number of school age children generated by planned (and windfall) housing development is taken into account in assessing whether the catchment school has any capacity. Contributions are sought for non-denominational and denominational schools at primary and secondary levels. For non-denominational schools, a pupil ratio of 0.28 children per house/unit for primary school and 0.2 for secondary school is used to calculate the likely number of pupil places arising from allocated housing developments and from windfall housing developments. For denominational schools, the ratios are 0.028 children per house/unit for primary and 0.02 for secondary. Pupil generation is then assessed against the existing school roll and any spare operating capacity of the relevant catchment school for the proposed development. Requirements for additional provision are identified and contributions are sought where no capacity exists or where existing capacity is insufficient to meet the need arising.'*
- 3.18 These are the same figures utilised in the roll projections spreadsheet however this differs from the 2017-2047 Midlothian Learning Estate Strategy which contains substantially different primary pupil product ratios including a varied number of pupil product ratios depending on catchment. The 2017-2047 Midlothian Learning Estate strategy therefore requires to be updated with the current pupil product ratios and published on the Council's website.
- 3.19 The Council's current development plan was approved in 2017 and is currently in the evidence gathering and engagement stage for preparation of MLDP2 which will replace the current MLDP and will run for a 10-year period from 2026 to 2036. The Midlothian Local Development Plan 2 (MLDP2) Evidence Report was presented to the Planning Committee in April 2024 and full Council in June 2024 and the pupil product ratios detailed reconcile to the roll projections spreadsheet (although not the 2017 LES). It states

that 'the pupil product ratios for Midlothian were reviewed at the beginning of 2022 as part of a wider update of the Learning Estate Strategy. These were established based on previous school roll data in conjunction with analysis of comparator local authorities. These ratios are reviewed annually.

- 3.20 The S75 developer contributions are subject to indexation using the BCIS All-in Tender Price Index. In estimating the costs of new schools and extensions, the Council uses the amount per m2 from the most recent projects completed and metrics garnered from completed projects from all over Scotland in conjunction with the SFT (Scottish Futures Trust) and applies this to the calculation for developer contributions. Increases in construction costs have significantly outweighed the increases in indexation which will result in significant funding gaps for new schools where developer contributions were secured at a lower amount per m2, than the amount per m2 at today's prices. However, we were informed that S75 developer agreements do not include a clause to protect the Council against the risk of any unexpected or unusual increases in construction costs.

Local Community Consultation

- 3.21 Formal statutory schools' consultations recently took place for the following schools: Beeslack High School, Easthouses Primary School, Glencorse Primary School, Mayfield Early Learning Centre, Mayfield Additional Support Needs (ASN) and St Margaret's RC Primary School. These were undertaken in accordance with the Schools (Consultation) (Scotland) Act 2010, and the proposals were formally approved by Council.
- 3.22 It was found that whilst public meetings had been held for all consultations as is required by legislation, these were poorly attended. Management advised that the Council fulfilled its statutory duties by organising and facilitating these; the numbers of attendees is out with their control. Also, the majority of respondents do so online; the Council now has an online portal (Citizen Space) where all information pertaining to each consultation is held, there is also an online questionnaire, which for the recent school consultations, MLC have received a large number of responses. Online drop-in sessions and both online and paper surveys are also offered as standard practice during every consultation. Meetings are also offered to parental bodies and staff as well as consulting with pupils. Although public meetings are not always well attended, we regularly receive a high number of responses through our online consultation hub.

Risk Management

- 3.23 Risks in relation to Growing Council and Asset Management appear in the Council's Strategic Risk Profile, and these are updated on a quarterly basis and reported to the Audit Committee. They are both rated as Medium risks and have up to date notes. In addition, risks are detailed in the CYPE Dashboard, and these are discussed at the Children Young People and Partnerships Estate Programme Board and the Capital Plan and Asset Management Board. It was noted that service risk registers haven't been kept up to date, but this is a common theme and has been highlighted in the audit of Risk Management with a subsequent recommendation raised to address this.
- 3.24 Risks that are detailed as red (high) in the September 2024 CYPE Dashboard include: Mayfield/St Lukes, Shawfair All Through and Penicuik High School.
- 3.25 The CYPE dashboard states that: 'for the Shawfair schools' solution, the project is currently estimated for 2027/28 delivery. Alternative solutions for capacity are to be reviewed. There is an educational risk due to the amount of house building and any delay to the programme will have a significant impact. There are pressures on the current hosting schools of Danderhall PS and Dalkeith High School *which are both due to breach. Project team has been appointed and a design team engaged to provide a*

costed solution for a stage 2 design for an all through campus. A May 2024 Brief was agreed and further costed options were requested - awaiting fee proposal from Dalkeith SPV to look at a proposed extension there and this will be presented as a project proposal once complete to a CPAMB meeting.' It has been advised that there are approx. 650 houses already built and there is no cap to the rate of house building - building is currently slow and steady but there is an urgent need to determine what the educational solution will be moving forward. Planning stated that they requested for the external analysis of pupil forecasting to include modelling for Shawfair and is has been advised that this has been requested to be completed at the earliest stage of this analysis.

4. Conclusion

Based on our review, the approach adopted within the Council for pupil roll projections from major housing developments is considered reasonable, however some improvements can be made to ensure that the Council has a fully effective process in place.

5. Recommendations

5.1 Recommendation 1: The catchment area for each development should be added to the Housing Data Main Schedule spreadsheet using the ARC GIS system before this is sent to Education.

Management Response

Agree with colleagues that meeting every two weeks helps to alleviate this issue however if these meetings cannot take place there is no fall back so having the catchment included as standard would help with this.

Responsible Officer and Target Date

Katy Johnstone / Martin Patrick December 2024

5.2 Recommendation 2: Relevant officers should undertake an annual review of the new build / child house ratios used in the annual pupil roll projections to ensure that they remain accurate and up to date. This should be reported to the CYPE Board on an annual basis.

Management Response

Agreed.

Responsible Officer and Target Date

Katy Johnstone June 2025

5.3 Recommendation 3: The Roll Projections Procedure should be updated to include the determined percentage allocated for each primary year group.

Management Response

Agreed.

Responsible Officer and Target Date

Katy Johnstone December 2024

5.4 Recommendation 4: The concept of including a figure for expected numbers of children who are privately educated within the roll projections methodology should be explored as part of regular reviews of the pupil role projection.

Management Response

The education service will only be able to develop an estimate on the number of children attending private school given some families move into the area and do not register with a local school as their children may continue to attend a private school. Our estimate will be based on those in our nursery provision who choose to enter P1 at a private school and those who leave to move to a private school from another stage. We will speak to other authorities through our communication forums and use assumed best practice.

Responsible Officer and Target Date

Marc Bedwell June 2025

5.5 Recommendation 5: The frequency of the CYPP Board meetings should be reviewed and aligned with the Capital Asset and Management Board and include the minutes of any additional individual Project Board meetings on the Capital Asset and Management Board agenda (given the number and frequency of additional Boards required for large projects).

Management Response

The CYPE has not met recently due to absence, sickness and other related meetings. It should be noted that there are established project boards for Beeslack, Penicuik, Easthouses, and Mayfield projects and update reports are produced that feed into the governance process at CYPP Estates and CP&AMB.

Responsible Officer and Target Date

Fiona Robertson December 2025

5.6 Recommendation 6: Consideration should be given to incorporating ASN needs into the pupil roll projections to ensure that any additional class spaces required are identified. In addition, the ASN Estate and Review Report should be taken forward to discussion at the Capital Plan and Asset Management Board.

Management Response

There has been significant ongoing work on a pan Lothian basis to obtain NHS and Public Health Scotland data and ensure ongoing data sharing agreements. This data is now beginning to be delivered and a pan Lothian process being developed that will result in a methodology being developed. Given recent increases in ASN need, careful evaluation of multi-year data will be required to identify the additional class spaces required.

Responsible Officer and Target Date

Fiona Robertson December 2025 to develop a methodology.

5.7 Recommendation 7: The 2017-2047 Midlothian Learning Estate strategy approved in 2017 should be updated to include the correct pupil product ratios and the updated version should be published on the Council's website.

Management Response

Agreed this is already scheduled for development and will update the wording in relation to pupil product ratios. The Learning Estate Strategy will be refreshed when new set of roll projection data is available and Edge analytics have run their model. It should be noted that the approved priorities at Dec 2022 are all in planning, have been delivered, or have begun.

Responsible Officer and Target Date

Kevin Anderson/Fiona Robertson June 2025.

5.8 Recommendation 8: Consideration should be given to including a clause in S75 developer agreements to protect the Council against the risk of any unusual or unexpected increases in construction costs e.g. large increases in the price of materials or additional legislative requirements for climate change.

Management Response

Clauses may be legally possible but how workable they are in a real-world scenario may be limited as the unlikely potential of transferring an unlimited risk to developers. However, a review of clauses being used by other authorities will be completed to ensure that we are in line with best practice.

Responsible Officer and Target Date

Kevin Anderson December 2024 for completion of review.

5.9 Recommendation 9: Following the external review of pupil forecasting, risks and ratings relating to school capacity / building should be reviewed and updated where applicable.

Management Response

Agreed.

Responsible Officer and Target Date

Kevin Anderson/Fiona Robertson June 2025