

**JOINT MEETING OF
REGENERATION SERVICES COMMITTEE
AND
CHILDREN'S SERVICES COMMITTEE
AGENDA**



Tuesday 18 September 2018

at 3.00 pm

**in the Council Chamber,
Civic Centre, Hartlepool**

MEMBERS: REGENERATION SERVICES COMMITTEE

Councillors Brown, Cook, Cranney, Lindridge, Moore, Smith and Vacancy

MEMBERS: CHILDREN'S SERVICES COMMITTEE

Councillors Harrison, James, Lauderdale, Little, Moore, Trueman and Vacancy.

Co-opted Members: Jo Heaton, C of E Diocese and Stephen Hammond, RC Diocese representatives.

School Heads Representatives: Mark Tilling (Secondary), David Turner (Primary), Zoe Westley (Special).

Six Young Peoples Representatives

Observer: Councillor Thomas, Chair of Adult Services Committee

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. BUDGET AND POLICY FRAMEWORK ITEMS

None.

4. KEY DECISIONS

- 4.1 Local School Sprinkler Policy – *Assistant Director (Economic Growth and Regeneration)*



5. OTHER ITEMS REQUIRING DECISION

None.

6. ITEMS FOR INFORMATION

None.

7. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT



JOINT REGENERATION SERVICES COMMITTEE AND CHILDREN'S SERVICES COMMITTEE



Report of: Assistant Director (Economic Growth and Regeneration)

Subject: LOCAL SCHOOL SPRINKLER POLICY

1. TYPE OF DECISION/APPLICABLE CATEGORY

1.1 Key Decision (ii) Forward Plan Reference No RN 18/18.

2. PURPOSE OF REPORT

2.1 The report had been intended for submission to the Committee in August 2018, however, due to absentees of key stakeholders i.e. Education Professionals it was judged prudent to bring it to the September Committee when relevant members of staff were available to participate. Due to these circumstances there was a departure from the Forward Plan.

2.2 The purpose of the report is to inform Elected Members of the joint Committee of the background the proposed local school sprinkler policy and to seek agreement to endorse the local school sprinkler policy.

3. PLANNING & BUILDING CONTROL BACKGROUND

3.1 Earlier in 2018, Planning Committee considered a number of applications in relation to the provision of new school buildings. Members of Planning Committee, following advice from the Fire Authority, were keen to see sprinkler systems fitted to all school buildings in the Borough and sought to have conditions imposed requiring that sprinklers should be fitted. Unfortunately the fitting of internal sprinkler systems is not a planning matter which falls to be dealt with under other regulatory regimes. When making planning decisions Members have a statutory duty, backed up by the HBC Planning Code of Practice, only to take into account material planning considerations (including National and Local adopted policy) and to do otherwise can render any decision unlawful and subject to challenge. Given that the fitting of sprinklers is not a planning matter the Council does not have, nor will it have, a properly adopted planning policy on this subject. Therefore any challenge to a decision made with regard to the absence of sprinklers would almost certainly succeed; possibly with costs awarded against the Council.

- 3.2 At the time when a planning application is made there is no requirement that the internal design details are submitted as they are not planning matters.
- 3.3 In 2006 on the coming into force of the “The Regulatory Reform (Fire Safety) Order 2005” (the “Order”) Fire Service responsibility for issuing Fire Certificates was ended and legal responsibility for fire safety was redistributed.
- 3.4 In the case of fire precautions and fire safety issues, when designing buildings the legal duty now rests with the ‘Responsible Person’ who is the person in control of the building, often the owner. The design of buildings must comply with the various standards laid down by Building Regulations; in the case of schools there is specific guidance in relation to fire risk assessments and the requirement to fit sprinklers (BB100). It falls to the Building Control section to consider and approve the submitted plans and in doing so officers are legally required by the Order to consult the ‘Enforcing Authority’ which, in this area, is the Cleveland Fire Authority.
- 3.5 For the above reasons the legal advice is that planning conditions should not be imposed with a view to securing the fitting of sprinkler systems nor should the question of whether sprinklers are to be fitted be material when making a decision.
- 3.6 That said, it is recognised that the Council as a whole strongly supports Cleveland Fire Authority’s view that sprinklers should be fitted to all schools (and other non-domestic buildings such as hotels and HMO’s) and it is suggested that Planning Officers should play a part in trying to achieve that objective – see ‘Proposed Policy’ below.

4. SPRINKLER FUNDING BACKGROUND

- 4.1 The Council in the future will not build new schools from HBC existing budgets. The reason is that all new schools would need to be free schools which would be funded directly by the Education and Skills Funding Agency (ESFA). The only school buildings the Local Authority would fund in the future would be extensions or modifications to current school buildings in “maintained” schools.
- 4.2 There are various forms of existing funding for school buildings and the ESFA are continually bringing new funding streams to the market. The ESFA will fund the integration of sprinklers into designs if a local policy expects such provision. Currently there are three main funding routes for new school buildings through the ESFA:
- Priority School Build Programme
 - Basic Needs Funding
 - Condition Improvement Fund

4.3 **Priority School Build Programme (PSBP)**

PSBP is a fully funded scheme by the ESFA where the school building is designed and constructed utilising ESFA funding. Under PSBP the Council would not make financial contributions (the only exception being where the Council request the ESFA to increase the capacity/size of the new schools being built to meet pupil place planning needs).

4.4 **Basic Needs Funding (BNF)**

The Local Authority receives BNF which funds the expansion of school places for school place planning purposes, such as an to an existing school building (e.g. classroom extension). For any such extensions the Council would plan for the inclusion of sprinklers (should they be required through an assessment) in the design and therefore be accounted for in any financial planning to deliver the scheme.

4.5 **Condition Improvement Fund (CIF)**

CIF is only available to academies. Should an academy wish to make changes to the school building they can bid to the ESFA for CIF funding for modifications (e.g. a new sports hall) but CIF is explicitly not for new school place purposes (e.g. new classrooms).

4.6 Whilst the cost of providing sprinklers would be included in the overall design and build costs, going forward where schools incorporate sprinklers the schools would need to cover the cost of maintenance through their current/future budgets; currently there is no additional funding to support this from the Council or the ESFA.

5. **PROPOSED POLICY**

5.1 The Council expects that the following developments will be designed to incorporate sprinklers into the design and delivered as part of the works:

- 1) New school buildings
- 2) Extensions to existing school buildings
- 3) Change of use of non-school buildings to school use

5.2 The Council does not expect that existing school buildings retrospectively incorporate sprinklers as part of this policy; it exclusively relates to new development.

5.3 It is expected that the provision of sprinklers be incorporated into the early design and costing exercise to ensure that the buildings can physically incorporate the infrastructure and that funding is in place to deliver sprinklers.

5.4 Notwithstanding that the fitting of sprinkler systems is not a planning matter, planning officers, at the earliest stage in the process (whether at pre-application stage or on receipt of an application) will notify the applicant in writing of the Council's target to have sprinklers fitted in all schools. Officers will draw the applicant's attention to the advice of Cleveland Fire Authority

pointing out that any subsequent Building Regulation Application will be subject to the Fire Authority's scrutiny. Any subsequent report to Planning Committee will confirm that the above measure has been complied with and report any response.

6. RISK IMPLICATIONS

- 6.1 Consistent advice from the Cleveland Fire Authority on previous planning applications states that a fire can potentially place pupils, teachers and firefighter's lives at risk; it may expose children to lengthy periods of disrupted education which could result in unachieved potential. The provision of sprinklers would mitigate this risk going forward although there is a balance to be made between the risk of fire damage compared to water damage from the activation of sprinklers in an incident or by deliberate misuse.

7. FINANCIAL CONSIDERATIONS

- 7.1 The availability of external funding is detailed in Section 4. In terms of Council budget implications; where sprinklers are required, in accordance with national standards it is expected that existing budgets will allow for such infrastructure provision; with the cost of sprinklers being incorporated early at the design stage. In terms of individual school budgets; the cost of future repair and maintenance of school sprinkler systems will place additional financial pressure on the school budgets going forward.

8. LEGAL CONSIDERATIONS

- 8.1 The imposition of planning conditions requiring the fitting of sprinkler systems is not a planning matter and would risk interfering with other statutory regimes. Basing a decision on the absence of a sprinkler system might be a breach of that Member's statutory duty and render any decision unlawful.
- 8.2 Requiring planning officers to inform an applicant of the Council's stance and a subsequent response would not be improper provided that response was not expressed by a Member to be a reason for their decision.

9. CHILD AND FAMILY POVERTY

- 9.1 There are no child and family poverty implications relating to this report.

10. EQUALITY AND DIVERSITY CONSIDERATIONS

- 10.1 There are no equality and diversity considerations relating to this report.

11. SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS

11.1 There are no Section 17 considerations relating to this report.

12. STAFF CONSIDERATIONS

12.1 There are no staff considerations relating to this report.

13. ASSET MANAGEMENT CONSIDERATIONS

13.1 Where Council owned assets are utilised the policy will be implemented accordingly.

13.2 All schools hold their own devolved maintenance budgets. Going forward where schools have incorporated sprinklers the schools would need to cover the costs of maintenance through their current and future budgets.

13.3 Notwithstanding the above, there are no further asset management considerations for the Council relating to this report.

14. RECOMMENDATIONS

14.1 That the Committee Members endorse the policy and its implementation as set out in paragraphs 5.1, 5.2 and 5.3 of this report.

15. REASONS FOR RECOMMENDATIONS

15.1 To ensure school-related developments will be designed to incorporate sprinklers into the design and delivered as part of the works to reduce the risk/impact of potentially:

- Placing pupils, teachers and firefighters' lives at risk.
- Exposing children to lengthy periods of disrupted education which could result in unachieved potential.

16. BACKGROUND PAPERS

16.1 The following background papers are relevant:

Hartlepool Local Plan:

https://www.hartlepool.gov.uk/downloads/file/4393/hartlepool_local_plan_-_adopted_may_2018pdf

Building Bulletin 100: design for fire safety in schools (BB100):

<https://www.gov.uk/government/publications/building-bulletin-100-design-for-fire-safety-in-schools>

17. CONTACT OFFICER

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