

# Guidance on Developer Contributions to Education Facilities

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## Guidance on Developer Contributions to Education Facilities

### 1 Background

- 1.1** In the National Planning Policy Framework (NPPF) the government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities (LPAs) should take a proactive, positive and collaborative approach to meeting this requirement and to development that will widen choice in education. The NPPF advises that LPAs should give great weight to the need to create, expand or alter schools and work with schools promoters to identify and resolve key planning issues before applications are submitted.
- 1.2** One of the core principles of the NPPF that should underpin both plan-making and decision-taking is that planning should actively manage patterns of growth to enable infrastructure such as primary schools to be provided in walkable locations to areas of new residential development to facilitate sustainable travel patterns.
- 1.3** Provision of education infrastructure is an integral part of new residential development and is an important element in achieving sustainable communities. In considering development proposals consultation will take place with North Yorkshire County Council as the local education authority who have a statutory duty to ensure sufficient school places are provided for the additional children from such development. The form of developer contribution towards education provision will vary from site to site and size of development.

### 2 Section 106 Agreements: Principles

- 2.1** Section 106 of the Town & Country Planning Act 1990, as amended, enables planning authorities to seek to negotiate a contribution from developers towards the cost of meeting the infrastructure necessary to support their development. For education, this could mean asking developers of new housing estates for a contribution towards the cost of extending an existing school or building a new one.
- 2.2** The National Planning Policy Framework ( NPPF) at paragraphs 203 and 204 states:
- LPAs should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
  - Planning obligations should only be sought where they meet the three tests outlined in regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended):
    - necessary to make development acceptable in planning terms;
    - directly related to the development; and
    - fairly and reasonably related in scale and kind to the development.

#### Relationship between CIL and planning obligations

- 2.3** The CIL Regulations 2010 included a deadline of 6 April 2015 beyond which restrictions on the pooling of planning obligations (i.e. S106 Agreements and commuted sums) came into force. Since then the council has not been able to pool more than five contributions from separate developments towards a single item of infrastructure not to be funded by CIL. In terms of developer contributions to education facilities this will

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apply to the pooling of contributions from developments of 25 dwellings or more. Until such time as the CIL is introduced, contributions will continue to be collected by means of a S106 Agreement.

### 3 The Policy Context

- 3.1** The purpose of this guidance is to explain how the council will seek to secure developer contributions to education facilities. The guidance has regard to the adopted policies of the Harrogate Core Strategy (February 2009), in particular with regard to community facilities, Core Strategy policy C1: Inclusive Communities. The policy establishes the basis for delivering social improvements to secure sustainable development within the context of local circumstances and national planning policy and guidance. It sets out the key expectations of the council when planning applications are submitted in order to ensure the necessary infrastructure is provided to enable the development of sustainable communities in the district. This includes a wide range of services and facilities which are used by the community including education.
- 3.2** In accordance with this policy, the council has sought to negotiate reasonable and appropriate financial contributions towards primary educational facilities and where appropriate the council will seek a planning obligation for infrastructure needs generated directly by a development, where this is necessary to make a scheme acceptable in planning terms, and the provision or contributions will be directly related to the development. Where appropriate, negotiations will take place regarding the provision of land or buildings for educational use.
- 3.3** When it is considered appropriate, requirements will also be sought in connection with secondary education.
- 3.4** A housing development will, depending on its size and composition, give rise either in the short or long term, to a demand for school places. If it can be demonstrated that there is, or will be, no spare capacity in local schools and no additional capacity is programmed by the education authority, then the proposed housing development imposes a burden on the community which the developer should resolve either indirectly or directly.
- 3.5** In relation to educational facilities the starting point is an assessment by the education authority of existing school provision, the number of vacant places and the effect of natural population growth in the community in the absence of the proposed housing development. In addition to this, changes in catchment areas or the existence of other non-implemented planning approvals may be a factor in determining whether the proposed development will give rise to a capacity problem in local schools or in schools where children from the proposed development are likely to attend.

### 4 Calculating Developer Contributions to Education Facilities

- 4.1** Contributions for education provision will not be sought in the following cases:
1. sheltered accommodation or bona fide elderly person, student or holiday accommodation. Such accommodation will be that which clearly is incapable of occupation for general residential purposes by virtue of its internal layout, ownership or management or which has occupancy restricted by planning condition or legal agreement.

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2. temporary housing or bedsits and one bedroom dwellings which are clearly incapable of being enlarged to two bedroomed units.
3. changes of use or conversion or redevelopment schemes where there is no net increase in the number of residential units to which contributions would apply.

**4.2** Any planning permission granted for the change of use from sheltered or elderly persons' accommodation or one bedroomed flats to general residential units or two bedroomed flats etc, would be subject to a contribution if the number of units exceeds the threshold criteria set below.

**4.3** The basis for calculating the contributions for primary school places (age 5-11) is shown in the table below.

Department of Education multiplier of costs per place	£12,257 <sup>(1)</sup>
x	98% regional factor
+	10% fees
+	£383 Cost for furniture and equipment
=	<b>£13,596 per primary place</b>

**Table 4.1** Calculating the contributions for primary school places

1. This figure was reduced from £13,596 in November 2017 following advice from North Yorkshire County Council

**4.4** For secondary schools (11 to 16 years) a similar calculation is used with an allocation of £20,293 per place.

**4.5** The elements within this formula will be subject to annual review by the county council in line with government guidelines. The cost multiplier is the assessment made by the government for the cost of a school place. The regional factor is an adjustment for local (county wide) costs of provision. The 10% addition represents an allowance for contingencies and fees. There is also a cost included for furniture and equipment.

**4.6** The county council will continue to address accommodation needs at secondary schools caused by additional housing and therefore the LPA, in conjunction with the education authority, may seek secondary school contributions in the light of changing circumstances and particularly in relation to large scale developments.

**4.7** Calculations are made on the basis of one primary aged child from every four properties (two or more bedroom) and one secondary school aged child from every eight properties (two or more bedroom). The number of children generated by residential development will vary depending on the type and size of dwelling and by the location of the development. In some cases a developer may argue that houses are built for a particular market, for example couples, starter homes or that a development is not within easy reach of a primary school. The local planning and education authorities will not normally reduce the basis for the calculations to account for variables such as these, because, over time, any dwelling (excluding sheltered, elderly person only, or one bedroom units) in any location, has the potential to accommodate children of primary school age.

**4.8** The contributions will normally apply to developments of 25 units or more regardless of site area. Care will be taken to ensure the total development site is not deliberately sub-divided and phased in an attempt to avoid this threshold.

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- 4.9** Forecasts of future school capacity and national population growth are made by the education authority over a three year period. If, following these calculations the local primary school is deemed to be at capacity in year three, contributions will be sought at the full rate. If the school is “X” places short of capacity and the development generates “Y” places, contributions will be sought on the difference between “X” and “Y”. If “X” is greater than “Y” no contribution will be sought. Calculations will be based on the number of houses included in the detailed planning application. Any increase in the number of units approved through, for example, a revised application, will generate additional contributions. No account will be taken of the rate of house-building on the site as this is an uncertain variable.
- 4.10** The basis of the calculations set out above will be subject to review, independent audit and change in the light of new demographic and other trends.
- 4.11** Contributions are only required where a local need is identified and therefore there is an obligation to show how funds received will be spent within a prescribed period, how they will deal with the identified impact, and in a manner that will be set out by the education authority. The education authority will incorporate provision for the return of contributions after 10 years if not spent. In the majority of cases funds will be spent on the local primary school. However, the education authority reserve the right to allocate the funds to other schools if overall education strategy or changes in catchment or parental choice so demand.
- 4.12** In the event of increased costs of implementing additional school places, no additional contributions will be sought from developers. The contribution is a once-only payment linked to the planning permission.
- 4.13** Normally, contributions will be required no later than the first occupation of the new dwellings. In certain circumstances (for example on large sites) payment of contributions may be delayed or phased by agreement with the education authority.

## 5 Procedure

- 5.1** Where masterplans are proposed for larger housing sites, the need for any commuted payment for education will be addressed through consultation with the education authority who will be available from the county council’s School Organisation Plan. The education authority will also be able to respond to housebuilders queries for individual sites.
- 5.2** Upon receipt of a relevant planning application, the local planning authority will contact the education authority to establish and advise the local planning authority whether contributions are necessary in the particular case. The applicant and the local planning authority will be notified accordingly and negotiations will take place between the education authority and the applicant/ developer. The decision on the application and therefore on the need for a Section 106 Agreement is a matter for the local planning authority. As a general principle the local planning authority will not issue a decision notice on the application until agreement has been reached between the two parties. Any contribution due will be made payable to the county council and **not** the borough council.

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### Contacts

For further details or advice:

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