



## **Planning Obligations**

### **Town and Country Planning Act Section 106 (Amended)**

### **Contributions relating to Education Facilities**

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#### **Context**

When a new housing development is announced the Council can seek to secure a financial contribution from the developer towards educational facilities in the local area. It is accepted that with new housing there will also be new families with children moving to the area who will require places within local schools. A number of schools experience pressure on their numbers and new development can therefore exacerbate this, which can only be alleviated through the provision of additional facilities. Also, many schools presently operate in sub-standard accommodation not necessarily considered suitable for 21<sup>st</sup> century schooling, and in these circumstances a contribution will be sought to supplement the modernisation of school buildings in line with the Local Authority's Asset Management Plan.

#### **The Legal Requirement**

A request by the Council for Section 106 planning obligations can only be made if the obligation is to make the development acceptable in planning terms, directly related to the proposed development, and fairly and reasonably related in scale and kind to the proposed development.

The planning obligation will specify that monies received must be used for the purpose(s) so specified within an agreed period (e.g. 5 years) from the receipt of the monies. If not so applied, within the terms of the Agreement, the monies shall become re-payable on demand together with interest.

#### **New Places and Modernisation, Refurbishment or Improvement**

In most cases the Local Authority will calculate the required level of an educational contribution on the basis of a need for pupil places, reducing the level by the percentage of surplus places within a 2 mile radius( primary schools) or 3 mile radius ( secondary schools) as appropriate, using a straightforward formula which produces a figure based upon the expected number of new children. However, in cases where there is not an immediate or projected need for additional places at the local schools, the Local Authority will consider whether there are modernisation or refurbishment needs ( such as replacing temporary accommodation with a permanent build) at local schools within a 2 mile radius. The Local Authority are able to negotiate with developers an agreement without regard to the formula where local factors dictate that there should be a specific level of contribution to meet the Council's expectation with regard to quality education provision for a particular area. In many cases there are already planned improvement schemes which have been prioritised through the Asset

Management process. In other cases, prioritisation of modernisation (including condition) work may have taken place but funding may not have been identified.

It should be noted that any existing spare capacity will not necessarily be available to accommodate the pupil yield from new housing development. In assessing spare capacity the council will take account of other factors such as increases in the birth rate and, where appropriate, other proposed developments which may be in the planning pipeline.

The Local Authority also has to provide places for pupils with special educational needs who require specialist facilities. As these facilities are provided centrally for pupils from across the borough, in a range of schools and units, a proportion of the contribution will be used to expand/enhance this specialist provision. As the average number of pupils within special schools is up to 2% of the total cohort of pupils, a figure of up to 2% will be used as the proportion of contributions to be used to support specialist projects in this sector.

## **Facilities for Children & Young People**

The School Organisation Services Delivery Unit is made aware of new planning applications/outline planning applications by the Development Management Service Delivery Unit of Housing and Planning. This is normally done directly or through the operation of the online Planning Consultation section of the Telford & Wrekin website.

Two of the Council's 7 priorities are relevant to this area. These are "putting our children and young people first" and "improving local people's prospects through education and skills training". The Council will consider the following infrastructure for Children & Young People when identifying the level of contribution for a proposed development:

- Nursery and Early Years Facilities
- Primary School Facilities
- Secondary School Facilities
- Special Educational Needs Provision
- Sixth Form and Post 16 Provision
- Youth Facilities
- Home to School Transport

Consideration will be given to facilities that are reasonably considered to relate to the new development. For primary and secondary schools, this will normally mean those situated within a 2 mile radius (3 mile radius for secondary) of the proposed site. However, in rural areas this radius may be considerably larger. Each development will be considered on an individual basis to take account of location and other factors.

## **Negotiated Contributions**

In most circumstances a calculation will be made that will indicate what the contribution will be, based on the expected number of homes to be built. When there is a major new development, the Council may enter into negotiations with the developers to aim to provide a new facility such as a new primary or secondary school, children's centre etc. including the land access and services on the land where it would be situated. This may not relate directly to the number of additional homes, although naturally the need for a new school would only be considered where local schools could not accommodate the number of new pupils expected. Where a new school is being considered as part of the new development, an agreement can be made with the developer over the capital costs associated with such a scheme. In most cases the Council would expect the developer to meet the associated capital cost of such a development including professional fees, although each case will be considered on an individual basis.

### **Number and Type of Dwellings to be Considered**

In most circumstances, the Council will only seek an education contribution from a developer where they propose to build 10 or more new homes. However, if a development of less than 10 homes is proposed where there are no schools within a 2 mile radius that currently have places or are projected to be full in future years, then the Council will still seek a contribution in such circumstances. Again, in rural areas this radius may have to be wider.

### **Affordable Housing**

Depending on the level of affordable housing indicated for a particular development, the Council will use its discretion over whether this is included in the education contribution calculation. Affordable housing would normally generate at least as many school aged children as most other types of housing, therefore the impact on local education facilities is likely to be similar. The Council understands that developers are sometimes expected to provide a greater percentage of affordable housing as a requirement of the planning process, therefore a balanced view will be reached when affordable housing is being considered, taking into account all the relevant factors such as viability.

### **Discounted Dwellings**

Dwellings which are one bedroom houses or flats will normally be excluded from the calculation. Sheltered housing for the elderly will also be excluded.

### **Home to School Transport**

The Local Authority has a duty to provide transport from home to school and back if a primary school aged child lives more than 2 miles from their nearest school or a child of secondary school age lives over 3 miles from their nearest school. If a proposed development is further from the nearest school than these statutory distances, or there is no demonstrably safe walking route within statutory distances then the local authority will seek a contribution from the developer to towards the cost of this transport provision.

A contribution will also be sought where there is insufficient capacity in the nearest or catchment area school and there is no alternative school with sufficient capacity within the statutory walking distance.

It is normal for the expected number of homes to fluctuate over time before plans for a development are finalised, therefore there may be several revisions of the calculation before a contribution is finalised. Once this is incorporated into the Section 106 document it is a final figure, although it is usual for the figure to be index linked, which will be stated in the agreement.

### How the Methodology Works for Primary and Secondary Schools

The Methodology used will calculate an educational contribution using DfE cost multipliers. An example of the spreadsheet is shown below:

<b>Primary School Pupils</b>		
<b>Context</b>		
<b>A</b>	Total Dwellings	250
<b>Deductions</b>		
<b>B</b>	25 sheltered houses	-25
<b>C</b>	25 x 1bed flats	-25
<b>Demand Generation</b>		
<b>D</b>	Dwellings (2/3/4 bed)	200
<b>E</b>	Average Bed/Dwelling	3.25
<b>F</b>	Total demand population (d x e)	650
<b>G</b>	Average school year (f x 0.011)	7.15
<b>Cost</b>		
<b>H</b>	Primary pupil no.s (6 yrs x g)	42.9
<b>I</b>	DCSF New build standard multiplier	£12,257 (2008-09 Cost Multiplier)
<b>J</b>	Regional variation (+ or -%)	-10% (local factor variation)
<b>K</b>	Regional Multiplier (l x j)	£11,031.3
<b>Total Cost (k x h)</b>		<b>£473,242.77</b>
		<b>Total minus surplus places</b>
		<b>£453,178.65</b>
<b>Secondary School Pupils</b>		
<b>Context</b>		
<b>A</b>	Total Dwellings	250
<b>Deductions</b>		
<b>B</b>	25 sheltered houses	-25
<b>C</b>	25 x 1bed flats	-25
<b>Demand Generation</b>		
<b>D</b>	Dwellings (2/3/4 bed)	200
<b>E</b>	Average bed/dwelling	3.25
<b>F</b>	Total demand population (d x e)	650
<b>G</b>	Average school year (f x 0.006)	3.9

<b>Cost</b>		
<b>H</b>	Secondary pupil no.s (5 yrs x g) DCSF New build standard	19.5
<b>I</b>	multiplier	£18,469 (2008-09 Cost Multiplier)
<b>J</b>	Regional variation (+ or -%)	-10% (local factor variation)
<b>K</b>	Regional Multiplier (I x j)	£16,622.1
<b>Total Cost (k x h)</b>		<b>£324,130.95</b>
		<b>Total minus surplus places</b>
		<b>£301,062.61</b>

## Explanation of the Spreadsheet

- A. Shows the total number of dwellings of all types proposed for the development.
- B. Shows the number of dwellings removed from the total which would not be expected to yield school aged pupils.
- C. (same as B)
- D. This is the number of remaining dwellings that are expected to generate school age pupils.
- E. This is a calculation of the average number of beds per dwelling.
- F. This is total number of dwellings multiplied by the average number of beds per dwelling, which gives an indication of the expected population generated by the new development.
- G. Average School year shows an equation which calculates the number of primary and secondary aged pupils expected from the total new population. The equation is based upon the school age range as a fraction of the total expected age range of the population of a development.
- H. This is the total number of primary or secondary pupils expected to be generated by development.
- I. Shows the total cost per pupil for new primary or secondary places as informed by DfE, usually updated each spending review period. Annual updates are based on the percentage increase of RICS Building Cost Information Service all in tender price Index from 2<sup>nd</sup> quarter to 2<sup>nd</sup> quarter.
- J. The regional variation is a percentage figure which the DCSF reduce the cost multiplier for the Telford & Wrekin area citing a regional variation factor in building costs.
- K. The Regional Multiplier is the final figure per pupil based on all of the above calculations.

**Total Cost (K x H)** is the gross expected contribution. This may be reduced by a further surplus places calculation.

**Total minus surplus places** shows the figure minus the percentage of surplus places within a two mile radius of the school.

## Surplus Places Calculation

The surplus places calculation takes into account the number of places available at schools within the locality of the proposed new development. If there is some spare capacity locally, the final calculated figure is reduced by the percentage of surplus places identified within a radius of the proposed development (a 2 mile radius for primary aged pupils and a 3 mile radius for secondary aged pupils). The current number of pupils on roll will be considered, and also the projected number of pupils for the purposes of identifying whether there will be surplus capacity in future years.

In line with the National Audit Office's document "Capital Funding for new School Places" (published March 2013), a school will be considered to be at full capacity when at 5% surplus capacity or less.

## Department for Education (DfE) Cost Multiplier

The DfE Cost Multiplier is important for the Developer Contribution Formula as it forms the basis upon which each contribution is based when the basic need for places methodology is applied. At present each year the DfE update and publish online the building cost associated for Primary, Secondary and Post 16 pupils on a per pupil basis. This figure is reduced by what is called a 'Regional Variation', a percentage which DfE consider is a suitable reduction for local building costs relevant to the Telford & Wrekin Council region. Currently this reduction figure is 10% (last updated January 2009) and this remains the same for future years until updated by DfE.

## Home to School Transport Contribution

Where a contribution towards home to school transport is requested, it will be considered based on the following formula:

### **daily cost of transport x 190 school days x number of years**

The cost per pupil will be based on the specific needs of the development, to be advised by the Integrated Transport Team and in liaison with Education and Corporate Parenting. For primary schools, a seven year period would be sought, representing the number of years that a child attends that type of school. For secondary schools a five year period would be sought, representing the cost of transporting pupils from year 7 to the end of year 11. It should be noted that the cost for the council will be ongoing, but the length of contribution in each case has been limited in order to aid development.

Home to school transport will be provided in line with Telford & Wrekin Council standards. This means with CRB checked drivers/escorts, appropriate vehicles, personnel documents in place etc.

These costs would be index linked.

## **Timing of Agreed Contributions**

The Council can agree the timing of any contribution flexibly taking into account the particular circumstances pertaining to the development. However, where a new facility is reliant upon a contribution as its main capital source, it will normally be necessary to agree to an appropriately timed release of funds to secure the provision of the facility in time to meet the need.