

# Education Contributions from Residential Developments

## Supplementary Planning Document

Consultation Draft – March 2020



## Contents

### Contents

1.0	Foreword .....	1
2.0	Purpose and Status of the Document .....	2
3.0	Consultation .....	3
4.0	Introduction .....	4
5.0	Section 106 Agreements .....	5
6.0	Policy Context .....	6
7.0	Assessment of contribution need.....	7
8.0	How education Section 106 planning contributions will be applied.....	9
9.0	Methodology for calculating Education s106 contributions.....	10
	Appendix 1: Methodology and formula used to calculate Education Contributions per development of 10 or more houses or 2+ bed flats.....	12

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## 1.0 Foreword

1.1 Policies IN4 and LS5 of the Nottingham Local Plan (part 2) require that developer contributions will be sought where necessary to support new and expanded community facilities depending on the scale and nature of development proposals and the need arising from the development. The purpose of this Supplementary Planning Document (SPD) is to provide further guidance to developers on the Local Planning Authority's requirements for new or improved educational nursery, primary or secondary facilities as a result of new residential development.

## 2.0 Purpose and Status of the Document

- 2.1 Nottingham City Council has prepared this Education Contributions Supplementary Planning Document in order to provide additional guidance on the City Council's approach to seeking contributions towards education infrastructure provision from new housing development within the city. Policy 19 of the Aligned Core Strategy 2014 (ACS)<sup>1</sup> and Policies IN4 (Developer Contributions) and Policy LS5 (Community Facilities) of the Land and Planning Policies Local Plan Part 2 (LAPP)<sup>2</sup> provide the policy basis for requiring such contributions.
- 2.2 This SPD outlines the City Council's approach to raising financial contributions via planning obligations under section 106 (s106) of the Town and Country Planning Act 1990 (as amended)<sup>3</sup>.
- 2.3 This SPD provides more detail on the local approach to seeking developer contributions for education, while taking account of updated DfE guidance: 'Securing developer contributions for education' (November 2019)<sup>4</sup> and the National School Delivery Cost Benchmarking report for Primary, Secondary and special educational needs (SEN) schools (June 2019)<sup>5</sup>.
- 2.4 The contributions raised will be directed to funding works associated with addressing the increased pressure on existing school provision that a development will generate. This approach will ensure that new housing development makes a proportionate contribution to meeting the additional requirement for education provision that it will generate.

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<sup>1</sup> <https://www.nottinghamcity.gov.uk/media/361912/broxtowe-gedling-and-nottingham-aligned-core-strategies.pdf>

<sup>2</sup> <http://documents.nottinghamcity.gov.uk/download/7056>

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/1990/8/contents>

<sup>4</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/843957/Developer\\_Contributions\\_Guidance\\_update\\_Nov2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843957/Developer_Contributions_Guidance_update_Nov2019.pdf)

<sup>5</sup> <https://ebdog.org.uk/wp-content/uploads/2019/06/F07125-National-School-Delivery-Cost-Benchmarking-Primary-Secondary-and--SEN-Schools-Final-June-2019-v6.7a.pdf>

### 3.0 Consultation

- 3.1 This draft SPD has been prepared for public consultation, the results of which will help shape the final document. The consultation period runs from (**dates to be confirmed**). You can view a paper copy of the document at Loxley House reception and Nottingham Central Library.
- 3.2 You may comment on the SPD in a number of ways:

On line at: [www.nottinghamcity.gov.uk/localplanconsultations](http://www.nottinghamcity.gov.uk/localplanconsultations)

By email: [localplan@nottinghamcity.gov.uk](mailto:localplan@nottinghamcity.gov.uk)

Although the Council would prefer comments to be made electronically, if this is not possible, they will consider written representations by post to the following address:  
Planning Policy Team,  
Loxley House, Station Street,  
Nottingham,  
NG2 3NG

If you would like any further information on the SPD please contact the Planning Policy Team at the above address or by telephone on (0115) 876 4594.

## 4.0 Introduction

- 4.1 Under the Education Act 1996, Nottingham City Council as Education Authority retains the statutory duty to ensure that there are sufficient school places available within the City to meet the educational needs of the population. This is the case regardless of whether schools are; LA maintained, have academy status, or are free schools.
- 4.2 There is a sound policy basis for requesting Education Contributions from relevant housing developments and the Planning Authority's approach has been devised to take account of educational need whilst ensuring that the contributions to be required may be spent flexibly on those schools which serve the relevant development.
- 4.3 The Education Authority receives a central government capital grant to support the supply of places, which arise as a consequence of demographic growth. This is referred to as 'Basic Need funding'. However in terms of pupils arising from new housing developments the government does not provide funding to develop or expand educational facilities, and expects that such places will be funded by developer contributions. In order for new residential developments to be sustainable, the demand they create for education provision will need to be catered for as part of the Council's school place planning strategy. The timely provision of education infrastructure is essential to secure high quality school places where and when they are needed.
- 4.4 The City Council as Planning Authority will therefore seek Education Contributions from housing developers to meet the cost of new school places arising as a consequence of new development, including affordable housing, in order to ensure that education provision remains sustainable. Such contributions may be added to Basic Need funding, where there is a need to increase capacity or enhance existing educational facilities due to demand for places also arising from other factors.

## 5.0 Section 106 Agreements

- 5.1 Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), (commonly known as s106 agreements) are legal agreements between Local Planning Authorities and developers which are linked to planning permissions.
- 5.2 Section 106 agreements are used when it is considered that a development will have significant impacts on the local area that cannot be moderated by means of conditions attached to a planning decision. Such agreements may make provision for the payment of a financial contribution to mitigate the effects of those impacts and thus make an otherwise unacceptable development proposal acceptable.
- 5.3 The Community Infrastructure Levy (CIL) is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in to help deliver infrastructure to support the development of their area. At the time of writing Nottingham City Council does not have a CIL in place, although it remains a possible option for consideration in the future. Should the Council decide to introduce CIL, consultation on the level of CIL to be charged for particular uses will take place with interested parties in accordance with the statutory process. If education contributions were then included in the CIL they would replace the requirement for s.106 contributions.

## 6.0 Policy Context

- 6.1 National and Local policies and other material planning considerations are used to determine what is needed to make a development acceptable.
- 6.2 The National Planning Policy Framework (NPPF)<sup>6</sup> states (paragraph 94):
- 'It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:*
- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and*
  - b) work with schools promoters, delivery partners and statutory bodies'*
- 6.3 ACS Policy 19: Developer Contributions, outlines that developments are expected to meet the reasonable cost for infrastructure required as a consequence of the proposal. The extent of the contributions will be fairly and reasonably related to the scale and type of scheme. Considerations will also be given to economic conditions and viability.
- 6.4 LAPP Policy IN4: Developer Contributions, echoes Policy 19 of the ACS, indicating that development will be expected to meet the reasonable costs of new infrastructure or services required as a consequence of the proposal. This policy also specifies community facilities, including education, as an example of infrastructure or services that an obligation may (subject to viability and viability issues) be negotiated for.
- 6.5 LAPP Policy LS5 (Community Facilities) allows for developer contributions to support new and expanded community facilities, subject to scale and nature of development proposals and the need arising from the development. Housing developments are specified in the justification as possibly giving rise to the need for new or expanded facilities to support new communities, depending on the nature of the proposal and the capacity of existing facilities in the area.
- 6.6 These planning policies support the Council's position of securing contributions from developers through section 106 agreements, and using the funds to provide appropriate school facilities for the local community. In addition the Department for Education (DfE) publication 'securing developer contributions for education'<sup>7</sup> provides additional advice and guidance in relation to such contributions.

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<sup>6</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)

<sup>7</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/843957/Developer\\_Contributions\\_Guidance\\_update\\_Nov2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843957/Developer_Contributions_Guidance_update_Nov2019.pdf)

## 7.0 Assessment of contribution need

- 7.1 The Council's consideration of whether Education Contributions are required will be informed by the projected capacity figures for the relevant educational needs. Low levels of surplus places at a school do not necessarily equate to there being sufficient capacity at that school as it is generally accepted that schools should not operate at 100% of their capacity. The Education Authority ideally needs to operate at 5% surplus capacity to allow for fluctuations in demand, parental choice and in-year migration. This level of surplus should not count as available when calculating Education Contributions.
- 7.2 Where a new development is proposed in an area with sufficient projected capacity, no Education Contribution will be required; however, where the proposed development would result in insufficient projected capacity, a contribution will be required.
- 7.3 As a development may be implemented within 3 years of the granting of planning permission and may not be completed until some years later (especially for major or phased developments,) the Education Contribution may not actually be available to the Council at an appropriate time to deliver the necessary related projects. For example, payment of an Education Contribution may not be made until the first house on a development is occupied but many more houses may become occupied at or around the same time and accommodate children who need school places. Basic Need or LA borrowing may therefore be required as forward funding to make provision for the children occupying the development, which will then be retrospectively recouped from the Education Contribution when paid.
- 7.4 In addition to increased pupil yield from housing development, there are other factors which contribute to the need for additional school places in a given area, i.e. increased birth rate and inward migration, which should be reflected in the Council's 'Basic Need' funding allocation. The necessary lead time for delivering such expansion projects will often require forward-funding of S106 Education Contributions (if this is a factor), which again would then need to be recouped later to replenish the appropriate funding stream.
- 7.5 Education Contributions will be sought in relation to outline or full applications for planning permission for residential developments of 10 or more houses or flats with 2 or more bedrooms and which are likely to result in the need for additional education provision.
- 7.6 Applications for less than 10 dwellings will be exempt unless their co-location with other sites requires examination of their cumulative impact. Education Contributions will not be sought for one bedroom dwellings or student accommodation.

- 7.7 While many early years places are provided by the private, voluntary and independent (PVI) sectors, Education Authorities have a duty to ensure early years provision within the terms set out in the Childcare Acts 2006 and 2016. All of the City's primary schools now have a nursery. Education Contributions have a role to play in helping to fund additional nursery places required as a result of housing growth, in particular where these are proposed as part of school expansions at existing or new schools.
- 7.8 The Council may therefore require a contribution for Early Years provision (0-4 years) and post-16 provision (16-19) if a proposed development will result in insufficient capacity. The per pupil cost of early years provision is assumed to be the same as for a primary school. Similarly, further education places provided within a secondary school sixth form will cost broadly the same as a secondary school place.
- 7.9 The need for an Education Contribution will be established by comparing the number of pupils generated by the development with the following:
- The pupil projections for the catchment and / or neighbouring schools and / or
  - The schools in the local pupil place planning area (as determined by the Education Authority), as some schools do not have a designated catchment area.
- 7.10 Where it can be demonstrated that the number of pupils generated by a development is greater than the spare capacity required in the catchment, neighbouring and/or planning area of schools, the Education Authority may require a contribution to fund the provision of the additional school places required, for:
- a) 0-4 years (early years places)
  - b) 4-11 years (primary places)
  - c) 11-16 years (secondary places)
  - d) 16-19 years (post-16 provision)
  - e) For b, c and d above, a 'cost per pupil place' uplift to account for the significant percentage of Special Educational Need or Disability (SEND) children in mainstream Nottingham City schools will be applied. At the time of writing this is 15%.

## **8.0 How education Section 106 planning contributions will be applied**

- 8.1 Education Section 106 will provide funding for construction and, where required land, to provide additional capacity or to enhance existing facilities at academies or maintained schools. This may include, but is not limited to:
  - a) Providing additional school places
  - b) Providing new schools or school buildings
  - c) Adapting, extending or enhancing existing school buildings
  - d) Improving school grounds, sports and physical education facilities
  - e) Developing, improving or extending SEND facilities (or other non-mainstream projects) in a special school, within a mainstream school or as separate unit.
- 8.2 Planning obligations will need to allow the flexibility to direct funds appropriately within a 10 year period.
- 8.3 It may not always be practical or desirable to use s106 contributions to provide additional capacity at the catchment school, because, for example, the site may be constrained, detailed feasibility work may lead to a change of project or the school may not have the infrastructure space necessary to support the increased capacity. In these circumstances, the contributions would be used to provide or enhance capacity through extension, refurbishment or re-modelling of existing schools where the needs could be best met, or towards the provision of a new school.
- 8.4 A number of faith schools and academies have their own admissions criteria and are making changes to their age range, admission arrangements and catchments areas. This, combined with pupil migration across catchments, planning areas, and the relatively small geographical area of the City as a whole requires the Education Authority to have the flexibility to use the funding at the most appropriate school(s).
- 8.5 The Council may therefore identify more than one school project in a planning obligation, whilst still meeting the general tests for a s106 Agreement of being necessary, directly related to the development and fairly and reasonably related to it<sup>8</sup>. This will usually involve naming a primary and / or secondary school ‘planning area.’ Planning areas are determined locally by the Council. They include a number of schools and are primarily determined by geographical location. This will enable the Council to respond to such changing circumstances as those outlined above and in view of the long timescales which are often involved in building a new development. The wording of the relevant planning obligations should be flexible enough to enable this. The general approach will therefore be to allow the contribution to be used for the provision or enhancement of education facilities at one or more of the schools in the relevant ‘planning area’. In some circumstances, it may be possible to identify a specific preferred school and ‘contingency’ school expansion project.

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<sup>8</sup> Regulation 122 Community Infrastructure Levy Regulations 2010 (as amended)

## 9.0 Methodology for calculating Education s106 contributions

(Costs of provision / charge per mainstream pupil place)

- 9.1 The Council will use the National School Delivery Cost Benchmarking report: Primary, Secondary and SEN Schools, June 2019<sup>9</sup> (or such update or other Department for Education (DfE) recognised report as may replace or supersede it,) as the basis for calculating Education Contributions.
- 9.2 This report was produced by Hampshire County Council in partnership with the DfE, Education Building and Development Officers Group, East Riding Council, Infrastructure and Projects Authority, Local Government Association and National Association Construction Frameworks. It shows the average cost of delivering school places, looking at projects over a 5-year period.
- 9.3 The required Education Contribution will normally be based on the average cost per place for Rebuild & Extension projects outlined in the report, as opposed to the higher cost of New Build, as the Education Authority's projects will mainly fall under this category. At the time of writing

The cost per primary place is £14,189

The cost per secondary place is £15,239

### Projected pupil generation per development type

- 9.4 All education contributions are based on an assessment of probability and averages, recognising that the precise mix of age groups and school choices cannot be known before a development is built. Site specific factors will always need to be taken into account, but the Education Authority's pupil yield methodology is based on evidence of recent developments, national guidance and local analysis of the cost of providing school places, benchmarking other LAs pupil yield rates and local pupil projections.
- 9.5 The pupil yield formula the City Council has set is 3 pupils per year group for every 100 houses (2/3/4 bed) and 3+ bed flats.

	<b>Total pupil yield rate per 100 houses (2/3/4</b>
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<sup>9</sup> <https://ebdog.org.uk/wp-content/uploads/2019/06/F07125-National-School-Delivery-Cost-Benchmarking-Primary-Secondary-and--SEN-Schools-Final-June-2019-v6.7a.pdf>

	<b>bedrooms) or flats (3 or more bedrooms)</b>
<b>Primary age pupils</b>	<b>21</b>
<b>Secondary age pupils</b>	<b>15</b>

- 9.6 5 bed houses are uncommon for developments within the City but where a development does include 5 bed houses, they may be counted as 2 houses for the purposes of the calculation.
- 9.7 For 2 bed flats 1 primary pupil *per year group* for every 100 x 2 bed flats. Which equates to 7 primary pupils for every 100 x 2 bed flats.
- 9.8 It is assumed that smaller, younger families will be likely to be accommodated in such flats with some moving to houses before their children reach primary age and most before their children reach secondary age. The Council will not therefore claim an Education Contribution for secondary places for 2 bed flats, nor will it claim any contribution for 1-bed flats as it is not anticipated that these will be occupied by people with children.

**Uplift to account for the high percentage of Nottingham City pupils with a Special Educational Need or Disability (SEND)**

- 9.9 Approximately 15% of pupils in Nottingham City have a Special Education Need or Disability (SEND) or an EHCP (Education Health Care Plan). An increase in housing will lead to an increase in the need for SEND provision. The cost of funding a place in a special school is calculated at being four times the cost of mainstream provision. Despite this, the Education Authority will only seek additional funding towards the cost of supporting SEND pupils who are in mainstream provision. Therefore it is not necessary to disaggregate the SEN pupil yield factor according to different complex needs. An additional 50% uplift for 15% of the pupil places required by a development (equating to an additional 7.5% of the original total) will be factored in to the calculation of Education Contributions to account for this need.
- 9.10 Allowing the Education Provision to be used for the provision or enhancement of education facilities, will give the Education Authority the flexibility required to direct funds to appropriate SEND or other non-mainstream projects as appropriate. Such as to enable school building alterations to increase a mainstream school's capacity to cater for children with SEND, for example by creating sensory rooms or a SEND unit within a school.
- 9.11 The Council's methodology and the application of the formula used to calculate Education Contributions is summarised further in the Appendix.

## **Appendix 1: Methodology and formula used to calculate Education Contributions per development of 10 or more houses or 2+ bed flats**

**Table A: 2 Bed Flats, Education Contribution per development**

### **Primary Contribution Methodology**

- Step 1: (Number of 2 bed flats x pupil yield of 7 per 100 flats) x cost per primary place = A
- Step 2: SEND contribution 7.5% of A = B
- Step 3: Total primary contribution = A+B

### **Primary Contribution Formula**

- Step 1: (Number of 2 bed flats x 0.07) x £14,189 = A
- Step 2: 0.075 x A = B
- Step 3: Total primary contribution = A+B

### **Secondary Contribution methodology**

No secondary contribution required on 2-bed flats.

### **Example 1: Calculating the total Education Contribution for 50 x 2 bed flats**

1. (50 flats x 0.07 = 3.5 primary pupils) x £14,189 = £49,662 (A)
2. 0.075 x £49,662 = £3,725 (B)
3. Total contribution = A+B = £49,662 + £3,725 = £53,386

**Table B: 2/3/4 Bed houses and 3+ Bed flats, Education Contribution per development**

### **Primary Contribution Methodology**

- Step 1: (Number of houses / 3+ bed flats x pupil yield of 21 per 100 houses) x cost of primary place = A
- Step 2: SEND contribution 7.5% of A = B
- Step 3: Total primary contribution = A + B

### **Primary Contribution Formula**

- Step 1: (Number of houses / 3+ bed flats x 0.21) x £14,189 = A
- Step 2: 0.075 x A = B
- Step 3: Total primary contribution = A + B

### **Secondary Contribution Methodology**

- Step 1: (Number of houses / 3+ bed flats x pupil yield of 15 per 100 houses) x cost of secondary place = A
- Step 2: SEND contribution 7.5% of A = B
- Step 3: Total secondary contribution = A + B

### **Secondary Contribution Formula**

- Step 1: (Number of houses / 3+ bed flats x 0.15) x £15,239 = A
- Step 2: 0.075 x A = B
- Step 3: Total secondary contribution = A + B

### **Example 2: Calculating the Education Contribution for 100 x 3/4 bed houses**

#### **Primary**

1. (100 houses x 0.21 = 21 primary pupils) x £14,189 = £297,969 (A)
2. 0.075 x £297,969 = £22,348 (B)
3. Total primary contribution = A+B = £297,969 + £22,348 = £320,317

#### **Secondary**

1. (100 houses x 0.15 = 15 secondary pupils) x £15,239 = £228,585(A)
2. 0.075 x £228,585 = £17,144 (B)
3. Total secondary contribution = A+B = £228,585 + £17,144 = £245,729

**Total Contribution = Total Primary Contribution + Total Secondary Contribution**

= £320,317 + £245,729

= £566,046