

Supplementary
PLANNING
GUIDANCE

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Developer
Contributions to
Education Facilities

BACKGROUND

The North Yorkshire County Structure Plan, adopted in 1995, makes allowance for 34,400 additions to the housing stock up to 2006. The County Council, as Local Education Authority (LEA), has a statutory duty to ensure sufficient school places are available for the additional children from such development.

The normal method of securing resources to build or extend schools is via the Capital Bidding mechanism to the Department for Education and Employment (DfEE). LEA needs are assessed and the Department of the Environment, Transport and the Regions (DETR) in consultation with the Treasury and other departments, makes allocations of spending approvals to authorities. Over the last few years, as resources have generally diminished, there have been increasing difficulties in keeping up with the LEA's statutory responsibilities towards the children in its area.

The position of the LEA in relation to capital funding generally is worsening, and increasingly other means for achieving improvements to the school stock are being considered such as a Private Finance Initiative, land sales or 'one-off' schemes such as Capital Challenge.

To date, the North Yorkshire County Council Education and Library Services Committee has taken the view that the provision of a fully serviced site, at the least, would be sought from developers where the size of a proposed development is such that it will require a new school simply to serve that development. For other developments the view has been that provision would be secured through the normal Capital Bidding mechanism. However, the County Council has been finding it increasingly difficult to secure appropriate provision (i.e. not temporary buildings) for children from new housing development unless contributions are sought from developers.

PURPOSE OF THE SUPPLEMENTARY PLANNING GUIDANCE

The purpose of this Supplementary Planning Guidance is to set out the Council's justification for the request for contributions from developers of housing sites towards education facilities, to explain the procedures for calculating the contributions and the means of implementing the proposals.

The Supplementary Planning Guidance is intended to be used by landowners and potential developers of housing sites and their professional advisers to inform them of the circumstances where North Yorkshire County Council may seek contributions towards providing adequate education facilities to serve the development and the method of calculating such contributions.

CIRCULAR 1/97 : PLANNING OBLIGATIONS

Section 106 of the Town and Country Planning Act 1990, as amended by the 1991 Act, 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 housing estates for a contribution towards the cost of extending an existing school or building a new one.

Circular 1/97 provides guidance on planning 'obligations'. It states (Annex B Paragraph 2) that 'properly used, planning obligations may enhance the quality of development, providing a mechanism whereby the interests of the developers may be reconciled with the need to protect the environment and the need to meet certain infrastructure costs arising from development'. It states that such obligations must be relevant to planning, directly related to the proposed development and 'fairly and reasonably related in scale'. The Circular (Paragraph B12) states that 'developers may reasonably be expected

to pay for or contribute to the cost of infrastructure which would not have been necessary but for the development.' It is clear that developers should not have to remedy existing deficiencies, unless the proposed development would 'materially exacerbate the situation'.

Paragraph B10 of the Circular states that 'the provision of community facilities, e.g. reasonable amounts of open space, social, educational, recreational or sporting facilities, may be acceptable provided such facilities are directly related to the development proposal and the need for them arises from its implementation and they are related in scale and kind'.

The Circular indicates that in negotiating with applicants for planning permission, the Local Planning Authority may seek modifications or improvements to applications or enter into agreements to enable development to go ahead which might otherwise be

refused or to overcome planning objection or meet the 'costs' imposed as a result of the development, i.e. the full cost of essential community facilities required as a direct result of a proposed development.

The Circular also states that 'the existence of plan policies should not preclude negotiation on proper and appropriate planning obligations on their merits in relation to individual planning proposals.'

THE REQUIREMENT FOR CONTRIBUTIONS FROM DEVELOPERS TOWARDS EDUCATION FACILITIES

The advice in Circular 1/97 is clear that contributions should only be sought where the need for additional facilities arises as a consequence of the new development and moreover, they should be fairly and reasonably related in scale to the proposed development. In effect this means that contributions towards new education facilities can only be sought where the education authority is able to demonstrate that new housing development is likely to generate more children than the local primary school can accommodate. Calculations will be made of the number of primary school age children likely to arise from a given number of new houses, together with forecasts of the number of children in the school's catchment area. Formulae used in the calculations must be clear and justifiable.

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 will impose a burden or 'planning loss' on the local community which the developer should be required to resolve.

The planning authority is entitled to refuse planning permission or impose conditions which delay development, or part of the development, until such time as the necessary provision is made.

Where public funding is unavailable, a planning authority is entitled to seek the full costs of

educational facilities arising from a development. Retrospective requirements or provision to rectify existing deficiencies cannot be sought. Negotiations between the developer and the planning authority should be based on the application of clear and reasonable criteria which identify how developer contributions are calculated and the type of development or geographic area to which contributions should apply.



Station Court, Northallerton

PROCEDURES FOR CALCULATING DEVELOPER CONTRIBUTIONS

The starting point for determining whether contributions will be required is an assessment by the Director of Education 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. This information is set out in the County Council's 'School Organisation Plan'.

Determination of Type and Location of Development which may be subject to Developer Contributions

It is proposed that contributions should be sought on all housing proposals of 25 or more dwellings within the catchment area of schools where it is demonstrated that there would be insufficient capacity at the school to accommodate the anticipated number of children residing in the proposed development. Care will be taken to ensure that the total development site is not deliberately sub-divided or phased in an attempt to avoid this threshold.

The following types of housing will not be suitable for families and it is not proposed to seek contributions on them:

- one bedroomed flats or houses which are clearly incapable of being enlarged to two bedroomed units.
- sheltered accommodation or bona fide elderly person 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.

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. If the developer is not prepared to agree to an appropriate contribution, it would be for the Local Planning Authority to consider refusing the application or imposing conditions to delay development, or part of the development, until such time as the necessary provision is made.

Calculation of Number of Children Arising from the Proposed Development



Knayton C. of E. Primary School

Calculations of the number of children arising from a development would be made on the basis that 0.25 primary school places were generated per relevant house or residential unit. The number of children generated by a new residential development will vary depending on the type and size of dwelling and by the



Romanby Park, Northallerton

location of the development. In some cases a developer may argue that houses are built for a particular market, e.g. couples, starter homes or the retired or that a development is not within easy reach of a primary school. The Planning and Education Authorities will not normally reduce the basis for the calculation to

take account of variables such as these because, over time any dwelling (excluding sheltered, elderly person or one bedroom units) in any location, has the potential to accommodate children of primary school age.



South Otterington C.of E. Primary School

Calculation of School Capacity and Number of Places for which Contributions will be Sought

Forecasts of future school capacity and 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 3, contributions will be sought for all places generated by the development.

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 or decrease in the number of units approved through, for example a revised application, will result in revised contributions. No account will be taken of the rate of house-building on the site as this is an uncertain variable.

Calculation of Contributions

The basis for calculating the contributions for primary school places (age 5-11) used by the County Council currently (1999) is as follows:

£4,592	(DfEE cost multiplier)
×	0.97 (regional factor)
+	10% (fees)
+	£187 (furniture/equipment)
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£5,086	per primary place.

The elements of this formula are 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.

By way of an example, the calculation will result in a contribution of about £125,000 being sought on a development of 100 houses resulting in 25 new school places.

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.

Review of Calculations

The basis of the calculations set out previously will be subject to review, independent audit and change in the light of new demographic and other trends.

Circular 1/97 provides that contributions may be sought from developers for a range of educational and community facilities. The County Council is currently proposing to seek contributions only towards the provision of primary school places. However, this will be subject to review. It may be considered appropriate in the future to introduce contributions towards the provision of secondary school places or nursery provision, or other social and community needs. The Council reserves the right to review the policy and introduce alternative thresholds where necessary.

Implementation of Education Proposals

Contributions will be secured by way of a Section 106 Agreement. This would be an agreement between the District Council, County Council and the developer which would be appended to any agreement between the District Council and developer relating to other matters.

Contributions may be either financial contributions or may be in the form of the direct construction of classrooms or other facility to an agreed standard. The provision of temporary or mobile classrooms is not considered an acceptable alternative.

It is proposed that contributions will normally be required upon the first occupation of the new dwellings. In certain circumstances, payment of contributions may be delayed or phased by agreement with the Education Authority.

Contributions will only be required where a local need is identified. The Education Authority will, therefore, be obliged to show how the funds received will be spent within a prescribed period and how they will deal with the identified impact. The Education Authority will make provision for the return of contributions under specific circumstances, for example, if the developer does not proceed with the development. In the majority of cases, funds will be spent on the local primary school, however, the Education Authority reserves the right to allocate funds to other schools if overall education strategy or changes in catchment areas or parental choice so demand.

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