

REDDITCH BOROUGH COUNCIL



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Supplementary Planning Document



Planning Obligations for Education Contributions Supporting Documents

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Urdu اگر آپ کو انگریزی میں بات چیت کرنے میں مدد درکار ہے تو 'ایٹھنک ایکسیس لنک' کو اس نمبر پر فون کیجئے 01905 25121

Punjabi ਜੇ ਤੁਸੀਂ ਅੰਗਰੇਜ਼ੀ ਵਿੱਚ ਗੱਲ ਕਰਨ ਲਈ ਮੱਦਦ ਚਾਹੁੰਦੇ ਹੋ ਤਾਂ 'ਐਥਨਿਕ ਐਕਸੈੱਸ ਲਿੰਕ' ਨੂੰ 01905 25121 ਨੰਬਰ ਉੱਤੇ ਫੋਨ ਕਰੋ।

Bengali ইংরেজীতে যোগাযোগ করতে সহায়তার প্রয়োজন হলে দয়া করে 'এথনিক এক্সেস লিঙ্ক' এর সঙ্গে 01905 25121 নম্বরে ফোনে যোগাযোগ করুন।

REDDITCH BOROUGH COUNCIL

SECTION 106 PLANNING OBLIGATIONS FOR THE PROVISION OF EDUCATION FACILITIES

SUPPLEMENTARY PLANNING DOCUMENT

1. Introduction

- 1.1 The opportunity of a decent education is central to the Government's aims of achieving sustainable communities. Provision of adequate education facilities is crucial in ensuring that all children have the opportunity to gain the vital knowledge, skills and qualifications needed for a bright start in life.
- 1.2 Without investment, schools' ability to accommodate extra pupils generated by new housing development can be compromised. It is therefore important to maintain sufficient levels of school capacity and infrastructure for a growing population. The development industry has a key role to play in delivering this provision, on a scale and kind that is appropriate to the new development.
- 1.3 Planning obligations include "Section 106 Agreements" and "Unilateral Undertakings" authorised by Section 106 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991, Section 12. Section 106 agreements are negotiated between the local planning authority and the developer, usually in the context of planning applications, intended to make acceptable development which would otherwise be unacceptable in planning terms. In the context of this Supplementary Planning Document (SPD), the use of a planning obligation is to mitigate, or compensate for, a development's impact on school capacity to accommodate local pupils.
- 1.4 The SPD replaces Worcestershire County Council's Supplementary Planning Guidance on 'Section 106 Planning Obligations – Education Facilities' (2003).
As a consequence of the new planning system introduced by the Planning and Compulsory Purchase Act 2004, the County Council cannot adopt this SPD and it falls to the Borough Council to do so.
- 1.5 The purpose of this SPD is to provide further guidance and expand upon the current adopted policies on planning obligations set out in Policy L.2 of the Borough of Redditch Local Plan No.3. and Policy IMP.1 of the Worcestershire County Structure Plan 1996-2011. As a Local Development Document (LDD), the SPD constitutes part of the Local Development Framework for Redditch Borough.

1.6 This draft Education policy of the SPD has been informed by a Sustainability Appraisal (SA), which assesses the policy against environmental, social and economic objectives. The appraisal concluded that the SPD's Education policy does not conflict with these objectives, and has a positive overall contribution to sustainability. The SA is being consulted on in parallel with this Education policy of the SPD. Any comments received will be considered and may result in changes to the final adopted SA report.

2. Planning Policy Context

2.1 The Planning and Compensation Act 1991 provides the statutory framework for planning obligations. The 1991 Act amended section 106 of the Town and Country Planning Act 1990. National policy on planning obligations is provided in ODPM Circular 05/2005, which seeks to establish planning obligations as an important element of sustainable development. Planning obligations, often referred to as Section 106 agreements, are used to *prescribe, compensate, or mitigate* the impact of a development. Paragraph B.3 of Circular 05/2005 states that such obligations are *"intended to make acceptable development which would otherwise be unacceptable in planning terms."* The Circular provides five key tests, all of which must be satisfied, in deciding whether or not a planning obligation may be entered into:

A PLANNING OBLIGATION MUST BE:	
i)	RELEVANT TO PLANNING;
ii)	NECESSARY TO MAKE THE PROPOSED DEVELOPMENT ACCEPTABLE IN PLANNING TERMS;
iii)	DIRECTLY RELATED TO THE PROPOSED DEVELOPMENT;
iv)	FAIRLY AND REASONABLY RELATED IN SCALE AND KIND TO THE PROPOSED DEVELOPMENT; AND
v)	REASONABLE IN ALL OTHER RESPECTS.

Paragraph B6, Circular 05/2005 'Planning Obligations', ODPM (2005)

2.2 Circular 05/2005 provides examples of the range of uses of planning obligations. Mitigation is likely to be the most appropriate form in the case of provision for education facilities, and paragraph B15 provides one possible circumstance in which an obligation would be sought: *"if a proposed development would give rise to the need for additional or expanded community infrastructure, for example, a new school classroom, which is necessary in planning terms and not provided for in an application, it might be acceptable for contributions to be sought towards this additional provision through a planning obligation."*

2.3 The development plan policies concerning planning obligations referred to in paragraph 1.5 above are reproduced below.

2.4 This SPD has been informed by a Sustainability Appraisal (SA), which assesses the policy against environmental, social and economic objectives. The appraisal concluded that the SPD does not conflict with these objectives, and has a positive overall contribution to sustainability.

POLICY L.2

THE ADOPTED SUPPLEMENTARY PLANNING GUIDANCE (SPG) 'SECTION 106 PLANNING OBLIGATIONS EDUCATION FACILITIES' WILL BE USED TO DETERMINE WHETHER A PROPOSED DEVELOPMENT SHOULD MAKE A CONTRIBUTION TO EDUCATION FACILITIES FOR SCHOOLS. THE SPG WILL SEEK A FINANCIAL CONTRIBUTION THAT IS RELATIVE TO THE PROPOSED DEVELOPMENT, AND/OR DIRECT PROVISION OF THE LAND OR BUILDINGS.

WHERE APPROPRIATE, IF A DEVELOPMENT CREATES A DEMAND FOR EDUCATIONAL FACILITIES IN ADDITION TO THE ABOVE, I.E. PRESCHOOLS OR ADULT EDUCATION, ADDITIONAL EDUCATION CONTRIBUTIONS WILL BE SOUGHT.

1. RESIDENTIAL DEVELOPMENT CAN SOMETIMES CREATE ADDITIONAL PRESSURE ON EDUCATION FACILITIES. THIS IS AN ISSUE WHICH IS COMMON ACROSS WORCESTERSHIRE. CONSEQUENTLY THE COUNTY COUNCIL HAS PRODUCED A COUNTY WIDE POLICY AND APPROACH TO SECURING EDUCATIONAL CONTRIBUTIONS AS A DIRECT RESULT OF THE GRANTING OF PLANNING PERMISSION FOR RESIDENTIAL DEVELOPMENT.

2. THE SPG 'SECTION 106 PLANNING OBLIGATIONS EDUCATION FACILITIES' PROVIDES ADDITIONAL ADVICE ON STRUCTURE PLAN POLICY IMP.1 (IMPLEMENTATION OF DEVELOPMENT). THE SPG HAS THREE AIMS:

I. TO ESTABLISH THE VALUE OF THE CONTRIBUTION A HOUSING DEVELOPMENT SHOULD MAKE TOWARDS EDUCATIONAL FACILITIES;

II. TO SET OUT THE CONDITIONS UNDER WHICH A DEVELOPER WILL BE EXPECTED TO CONTRIBUTE. RELATING TO THE SIZE, AND TYPE OF DEVELOPMENT AND LOCAL NEED; AND

III. TO EXPLAIN THE PROCEDURES FOR THE DELIVERY OF THE CONTRIBUTION.

3. THIS SPG WILL BE USED TO DETERMINE THE VALUE OF ALL EDUCATION CONTRIBUTIONS IN THE BOROUGH.

4. ALL SECTIONS OF THE COMMUNITY SHOULD BE ABLE TO ACCESS TRAINING AND EDUCATIONAL FACILITIES IF THEY SO DESIRE. OPPORTUNITIES FOR PRESCHOOL AND FOR FURTHER AND ADULT EDUCATION SHOULD BE AVAILABLE FOR FORMAL AND INFORMAL LEARNING. IF A DEVELOPMENT PLACES INCREASED PRESSURE ON EXISTING EDUCATIONAL FACILITIES THE DEVELOPERS WILL BE ASKED TO HELP PROVIDE OR IMPROVE EXISTING FACILITIES.

Borough of Redditch Adopted Local Plan No.3 (2006)

POLICY IMP.1 - IMPLEMENTATION OF DEVELOPMENT

THE DESIGN AND PROVISIONS OF NEW DEVELOPMENT WILL BE EXPECTED TO HELP ACHIEVE THE SUSTAINABILITY OBJECTIVES OF THE STRUCTURE PLAN.

WHERE APPROPRIATE, DEVELOPERS WILL BE REQUIRED TO MAKE PROVISION FOR RELATED ENVIRONMENTAL WORKS, INFRASTRUCTURE AND COMMUNITY FACILITIES AND SERVICES. THE MORE DETAILED REQUIREMENTS WILL BE SET OUT IN LOCAL PLANS OR DEVELOPMENT BRIEFS AFTER CONSULTATION BETWEEN THE APPROPRIATE LOCAL PLANNING AUTHORITIES, OTHER SERVICE PROVIDERS AND OTHER RELEVANT BODIES, SUCH AS THE REGULATORY AUTHORITIES.

DEVELOPERS WILL BE REQUIRED TO FINANCE THE FULL COST OF ALL SUCH PROVISION WHICH IS FAIRLY AND REASONABLY RELATED IN SCALE AND KIND TO THE PROPOSED DEVELOPMENT AND ITS IMPACT ON THE LOCAL ENVIRONMENT.

THESE PROVISIONS WILL BE THE SUBJECT OF PLANNING OBLIGATIONS IN ACCORDANCE WITH THE RELEVANT LEGISLATION WHICH WILL BE SECURED PRIOR TO THE ISSUE OF PLANNING PERMISSION AND WILL INCLUDE:

- (i) THOSE WITHIN THE DEVELOPMENT SITE THAT ARE NECESSARY IN THE INTERESTS OF COMPREHENSIVE PLANNING AND SUSTAINABLE DEVELOPMENT; AND
- (ii) THOSE OFF-SITE THAT ARE NECESSARY IN ORDER TO SERVE THE DEVELOPMENT OR MITIGATE ITS IMPACT.

Worcestershire County Structure Plan 1996-2011

3. Aims of the Document

- TO PROVIDE GREATER CLARITY FOR DEVELOPERS AND APPLICANTS AND ASSIST IN STREAMLINING THE PROCESSING OF APPLICATIONS.
- TO PROVIDE A CLEAR FRAMEWORK FOR ASSESSING THE REQUIREMENT FOR ADDITIONAL EDUCATION FACILITIES AND CALCULATING PLANNING OBLIGATIONS FOR DEVELOPMENTS IN THE BOROUGH.
- TO PLAY AN IMPORTANT ROLE IN ENSURING THAT COMMUNITY AND INFRASTRUCTURE NEEDS ARE FULFILLED AS PART OF NEW DEVELOPMENT PROPOSALS AND THAT THE PROCESS IS FAIR AND TRANSPARENT TO THE LOCAL COMMUNITY.
- TO CLEARLY STATE THE COUNCIL'S PROCEDURES IN DEALING WITH PLANNING APPLICATIONS WHICH ARE LIKELY TO GENERATE PLANNING OBLIGATIONS FOR EDUCATION FACILITIES AND IN DRAFTING AGREEMENTS THAT SECURE PLANNING OBLIGATIONS.

3.1 The aims of the SPD are set out above. The following 3 specific objectives have been derived from the above aims:

- (i) to clearly establish the level of contribution towards the provision of education facilities for children that Worcestershire County Council (as Local Authority providing children's services) will require from new housing development;

- (ii) to establish the threshold at which that contribution will become payable both in terms of surplus school places and the scale of housing development to which the SPD will apply; and
- (iii) to set out the procedure for agreement and payment of contributions.

4. Policy Framework for seeking education contributions and amount of contribution

4.1 It is fundamental to the principles of the planning system to ensure that the circumstances in which education contributions will be sought, together with the type and amount of such contributions, are open and transparent.

4.2 As encouraged in Circular 05/2005, contributions for education facilities will be determined through applying a formula and standard charges. This is in order to “*speed up negotiations*” and “*ensure predictability*”, whilst helping to “*promote transparency*” and “*assist in accountability in the spending of monies*”. (Circular 05/2005, para B33).

4.3 The formula takes into account the following elements:

- **Building cost multiplier** – which is the cost per pupil for building new accommodation, based on a weighted average of two separate multipliers, one for totally new schools and one for existing schools. The building cost multiplier is calculated by the DfES and updated periodically. Separate multipliers are published for the primary and secondary phases of education. An area weighting is applied.
- **Pupil yield** - which represents the number of children in each year group, that may be expected to arise from new housing. A figure of 2.9 children per year group per 100 dwellings will be used. This is derived from the 2001 Census of Population average number of children per privately owned dwelling.
- **Number of year groups in each phase of schooling** – in Redditch Borough education is organised on a three tier system. There are 5 primary school year groups in first schools, 2 primary school year groups and 2 secondary school year groups in middle schools, and 3 secondary school year groups and 2 post-16 year groups in high schools.
- **Size of dwelling** – in terms of number of bedrooms. A 2-3 bedroomed dwelling is considered the standard (and so has no additional effect on the basic calculations), whereas a dwelling with 4 or more bedrooms requires a 50% increase on the calculated standard contribution. This is due to the increased likelihood of there being children resident in the dwelling, derived from output from the 2001 Census of

Population. One-bedroomed dwellings (including one-bedroomed flats) are not subject to any contribution.

- **Type of dwelling – Flats¹** will be allowed a 60% discount on the standard charge. This represents the reduced likelihood of there being children resident in the dwelling, based on results of the 2001 Census of Population.

4.4 The schedule of rates will be updated every year in April in line with changes to the building cost multiplier, the numbers on roll as at the annual January school census, and the current capacity of the school. For current rates refer to the Table of Charges Summary available from Worcestershire County Council (see Worcestershire Hub website or contact details at section 11.1).

4.5 A worked example of the calculation of the contribution is given below:

First School
5 year groups in primary age group (age 5-11) x pupil yield x multiplier for primary phase $5 \times 0.029 \times \pounds 9,957 = \pounds 1,444$
Middle School
2 year groups in primary age group x pupil yield x multiplier for primary phase + 2 year groups in secondary age group (age 11-16) x pupil yield x multiplier for secondary phase $2 \times 0.029 \times \pounds 9,957 + 2 \times 0.029 \times \pounds 15,214 = \pounds 1,460$
High School
3 year groups in secondary age group x pupil yield x multiplier for secondary phase + 2 post-16 year groups (2 x 0.5 because of lower transfer rate) x pupil yield x multiplier for post-16 years $3 \times 0.029 \times \pounds 15,214 + (2 \times 0.5) \times 0.029 \times \pounds 16,332 = \pounds 1,797$
Total contribution for all phases = $\pounds 1,444 + \pounds 1,460 + \pounds 1,797$ for 2 or 3 bedroom dwellings = $\pounds 4,701$
For 4 bedroom dwellings = $\pounds 4,701 + 50\% = \pounds 7,052$
For a flat = $\pounds 4,701 - 60\% = \pounds 1,880$
Notes –
0.029 = Pupil Yield per dwelling (2001 Census of Population output)
$\pounds 9,957$ = Building Cost multiplier for primary phase (2006-7 rate)
$\pounds 15,214$ = Building cost multiplier for secondary phase (2006-7 rate)
$\pounds 16,332$ = Building Cost Multiplier for Sixth Form. (2006-7 rate)

5. Threshold for Charges

5.1 The threshold for contributions will depend on the size of the development and the number of surplus places at schools serving the development. The size of the development is

¹ Definition of a flat. Building Regulations 2000 (SI 2000 no. 2351) give the following definition: "A flat is a separate and self-contained premises constructed or adapted for use for residential purposes and forming part of a building from some other part of which it is divided horizontally"

determined by the net gain in dwellings. For example, a building project involving the demolition of two existing dwellings and the construction of 5 new dwellings will be considered to be a development of 3 dwellings for the purposes of assessing the S106 education contribution.

- 5.2 In general, no charge will be sought for developments of 4 or fewer dwellings. However, the Borough Council will also take into account the full extent of the site area and neighbouring sites, to ensure that housing sites are not developed in a piecemeal fashion in order to keep below the threshold for payment of planning obligations for education provision. Conditions may be attached to permissions for housing sites that fall below the threshold if they form part of a larger scheme on the site.
- 5.3 For developments of 5-30 dwellings, contributions will only be sought for schools which have no surplus places in at least one year group.
- 5.4 For developments of 31-60 dwellings, contributions will only be sought for schools which have 1 or no surplus places in at least 1 year group.
- 5.5 For developments of 61-99 dwellings, contributions will be sought for schools which have 2 or fewer surplus places in at least 1 year group.
- 5.6 For developments of over 100 dwellings, Worcestershire County Council will seek to negotiate with the developer. An extension of this tariff may be used for the basis or, alternatively, Worcestershire County Council may seek land and / or buildings for a new school. Each development of over 100 dwellings will be assessed individually by the Children's Services Directorate at the County Council.
- 5.7 A surplus place is defined as the difference between the number on roll for the year group at the point of the January school census and the Indicative Admission Number, calculated using the DfES standard methodology.

6. Eligible Schools

- 6.1 Contributions will be sought from housing developments where it can be shown that the scheme will result in a direct need for additional school facilities at one or more schools serving the development. Schools eligible for contributions are the schools meeting the surplus place criteria in Section 5 above whose catchment area includes the development.

7. Exemptions

- 7.1 Planning contributions for education facilities will not be sought from social rented housing² and intermediate affordable housing³ developments (or from those social rented/intermediate elements of larger schemes).
- 7.2 One-bedroom dwellings (including flats) will not be subject to negotiations for education provision, as it is considered unlikely that sufficient pupils will be generated from these households.
- 7.3 Specialist housing for the elderly or people with disabilities will not be subject to negotiations for education provision, as it is considered unlikely that sufficient pupils will be generated from these households to impact on education provision.

8. Procedure for agreement and payment of contributions

- 8.1 The County Council will prepare a standard Section 106 agreement in respect of education provision to accompany each planning application which will be available for use by the Borough Council if required. The level of contribution per dwelling will be agreed at this stage. In respect of outline planning applications, an amount per dwelling will be agreed with the developer which will then allow a final contribution to be calculated at the detailed planning application stage.
- 8.2 For small developments of 5 – 9 dwellings, the Borough Council will seek payment of the contribution for education at the commencement of the development. For developments of 10 or more dwellings, the Borough Council will seek payment on occupation of one third of the dwellings and may consider payment by instalments (adjusted for inflation) with major schemes.
- 8.3 Monies from S106 Education Contributions should be sent directly to Worcestershire County Council.
- 8.4 Worcestershire County Council will retain the funds in an interest bearing bank account set up specifically for S106 Education contributions.

² "Rented housing owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime. The proposals set out in the Three Year Review of Rent Restructuring (July 2004) were implemented as policy in April 2006. It may also include rented housing owned or managed by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Housing Corporation as a condition of grant." Annex B Definitions to PPS3: Housing, DCLG (2006)

³ "Housing at prices or rents above those of social-rent but below market prices or rents. This can include shared equity products (for example HomeBuy), other low cost homes for sale and intermediate rent." Annex B Definitions to PPS3: Housing, DCLG(2006)

8.5 Worcestershire County Council will carefully monitor and commit to spending the contributions within the time period specified in the planning agreement. This will usually be 10 years and rarely less than five.

9. Disbursement of Monies

9.1 S106 Education contributions, together with any accrued interest, shall be spent on capital projects at one or more of the eligible schools.

9.2 Contributions will always be for permanent facilities and will not be used for providing temporary accommodation.

9.3 Contributions may also be spent on voluntary aided schools (usually faith schools) which operate admission criteria not based primarily on a geographical catchment area provided they;

- (i) meet the surplus place criteria in section 5;
- (ii) (for primary / first schools) are within 2 miles of the development, this being the acceptable walking distance for children under 8 in school transport policy, or operate a well defined catchment area which includes the development, similar in extent to a comparable community or voluntary controlled school;
- (iii) (for middle / secondary / high schools) are within 3 miles of the development, this being the acceptable walking distance for children aged 8 or over in school transport policy, or operate a well defined catchment area, which includes the development, similar in extent to a comparable community or voluntary controlled school.

9.4 Contributions may also be spent on school-based Early Years facilities, extended school facilities, youth facilities, or specialist facilities for children with disabilities, or other school-based provision for the benefit of the under-18 year olds.

9.5 The decision on how the funds shall be disbursed will be taken by Worcestershire County Council and published in the annual Capital Spending Programme.

9.6 If all or some of the money is not spent within the period specified in the planning agreement, then monies will be returned with interest calculated at 1% below the bank base rate, compounded annually.

9.7 5% or £1,000, whichever is the lesser amount, will be added to the contribution to cover administrative expenses incurred by Redditch Borough Council and Worcestershire County Council. This is in addition to any legal charges.

10. Additional Information

10.1 Additional relevant information in relation to the application of this SPD is set out in a series of documents which are all available on the Borough of Redditch website at www.redditchbc.gov.uk or on the Worcestershire County Council website at www.worcestershire.gov.uk :

- Table of Charges
- Current School Organisation Plan
- School Number on Roll Summary
- Building Cost Multiplier
- School Catchment Areas
- Worcestershire Schools Database

11. Contact Details

11.1 For further information about any of these issues, please contact the following officers at Worcestershire County Council:

Isobel Gibson, Forward & Strategic Planning Officer, Children's Services Dept, 01905 766278, igibson@worcestershire.gov.uk

Ian Fisher, Principle Review Officer, Corporate Services Directorate, 01905 766412, ifisher@worcestershire.gov.uk

Or, the following Redditch Borough Council officer:

Ruth Bamford, Development Plans Manager, 01527 64252 Extn: 3219, ruth.bamford@redditchbc.gov.uk.