

**Cabinet**

**16 September 2015**



**Securing Developer Contributions  
Towards Education Provision in  
County Durham**

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**Report of Corporate Management Team  
Joint Report of Ian Thompson, Director Regeneration and  
Economic Development and Rachael Shimmin, Corporate Director,  
Children and Adults Services  
Councillor Neil Foster, Cabinet Portfolio Holder for Economic  
Regeneration  
Councillor Ossie Johnson, Portfolio Holder for Children and Young  
People's Service**

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**Purpose of the Report**

1. The purpose of this report is to agree how the financial contributions required to accommodate pupils from new residential development are both calculated and secured through the statutory planning process as detailed within the 'Securing Developer Contributions towards Education Provision in County Durham' draft document (Appendix 2).

**Background**

2. The Sustainable Communities Strategy and Regeneration Statement set out where the County aims to be in 2030, which includes having a thriving economy and bridging the gap between its economic performance and that of other parts of the North East and the rest of England.
3. To meet the vision for sustainable communities it is essential that residents can live close to and have access to local facilities. Education provision is critical to ensuring this vision is achieved. Where there is insufficient capacity in existing schools to meet the demands from a new housing development it is essential that this is appropriately mitigated through securing financial contributions from developers towards the provision of additional school places.
4. Historically in County Durham there has not been a significant need to request education contributions from developers via Section 106 Agreements as there were large numbers of surplus places across the County and therefore additional school places were not needed. That situation has now changed due to increases in the birth rate, net inward migration and the fact that Local Authorities were encouraged by Government to remove large numbers of surplus places as retaining them was viewed as an inefficient use of resources.

## Education Provision within County Durham

6. When forecasting future school rolls a range of information is used, which includes:
  - Health Authorities (live births);
  - Termly School Census (January, October, May each year);
  - Primary School patterns of transition to secondary school;
  - Neighbouring Authorities (transfer of information regarding pupil movement across borders and school re-organisation proposals);
  - Housing data on new build developments and demolition programmes that have received planning permission, and demolitions;
  - Early Years and Sure Start (nursery/childcare figures); and
  - Staying on rate at Post-16.
7. As a result of an increase in the birth rate, it is expected that in the County there will be in the region of 1,220 more primary aged pupils by 2023-24 than there were in 2013-14. However, this increase does not take account of any future residential developments that may come forward through the planning process and that could have a significant impact on the future pattern and provision of school places, especially within the primary sector.

## Funding

5. Local Authorities receive a DfE grant each year for additional school places where there is existing pressure (Basic Need). Table 1 shows that funding has significantly reduced since 2011/12. Table 1 also shows that there is a planned increase for 2017/18 but it should be noted that this increase is as a result of increased pupil rolls from a rise in the birth rate and from recent housing developments.

**Table 1 Basic Need allocations 2011/12 – 2017/18**

Funding Source	2011/12 £	2012/13 £	2013/14 £	2014/15 £	2015/16 £	2016/17 £	2017/18 £
Basic Need	3,764,095	2,235,315	216,803	216,803	488,411	512,831	2,019,958

8. It is unlikely that future Basic Need allocations will be sufficient to fund all of the extra pupil places required; therefore other sources of funding are therefore required to enable the Council to fulfil its statutory duty of ensuring there are sufficient school places available.

## Developer Contributions, Viability and Deliverability

9. Where the need for additional school places as a result of new residential development is required, one potential source of funding is a financial contribution from developers via a Section 106 agreement where the development(s) is in an area that will result in additional school places being required.

10. Ensuring delivery and viability of housing developments within the County is critical and therefore it is important that a balanced approach is taken to ensure deliverability of housing developments whilst also ensuring appropriate associated infrastructure, such as additional school places is provided.
11. It should be noted that developers have a finite resource available to them for other infrastructure contributions, which in addition to education may include affordable housing, open space, targeted recruitment and training, older persons housing, transport improvements etc. Consequently there is a risk that the developer may not be in a position to agree to a full range of contributions on developments where they consider that the development could become unviable. In such cases the Council will need to determine priorities for contributions through the planning application process.
12. The Council will continue to examine all proposals on a site by site basis and thoroughly check viability assumptions to ensure appropriate levels of contributions are secured by the Council, whilst also ensuring delivery is achieved.
13. In circumstances where the developer cannot be apportioned the full costs or where there are issues around viability the Council may seek to share the cost of providing additional school places. This would be through the basic need allocation and/or making capital requests to the Council Capital Programme for funding.

### **Calculating Developer Contributions (Pupil Yield Methodology)**

14. New residential developments generate a demand for education places in all age groups over and above natural population changes. In terms of housing developments, some properties will clearly not generate a significant need for additional places such as student accommodation and care homes.
15. Accurately predicting the number of pupils likely to be produced from new housing developments is not straightforward as it depends upon various factors including the location and type of housing.
16. Research in line with guidance from the Education Funding Agency<sup>1</sup> has been undertaken on a number of existing housing developments in County Durham to determine the number of pupils produced.
17. The detailed research has been undertaken on a number of housing developments that have been built over the last 20 years and as such, has taken into account market trends and changes. This research indicates that the expected pupil yield from developments is as follows:

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<sup>1</sup> School Capacity (SCAP) Survey 2014 - Guide to forecasting pupil numbers in school place planning, June 2014, Education Funding Agency

- 0.3 primary aged pupils per house (i.e. 'broadly' 3 houses could typically generate one primary aged pupil)
  - 0.12 secondary aged pupils per house (i.e. just under 10 houses could typically generate one secondary aged pupil).
18. The pupil yields reflect demand for places generated, rather than actual children moving to the development. It also recognises that some children will not need to change school and some may attend private, selective or faith schools.
19. When assessing the nearest school(s) to the site of a proposed residential development(s) to assess the availability of school places to accommodate any demand that would arise, where it is practicable to do so the Council will apply a distance of 2 miles from the development measured by the shortest available safe walking route to avoid increases in home to school transport expenditure.

### **Cost of Additional Places**

20. Where there are insufficient school places to accommodate the demand that would arise from a proposed development, and where that development is 10 dwellings or more, the contribution for each additional place will be based on information supplied by the Education Funding Agency (EFA) with regard to cost rates and area standards contained in the Contractors Framework issued in November 2013 (the cost with regard to Primary Schools has been increased following a funding review in October 2014). Added to this are costs for ICT and furniture, fittings and equipment which needs to be provided but are not included in the costs contained in the Contractors Framework. This gives a value of £11,705 per primary place required and £15,920 per secondary place required. The full methodology is detailed in 'Securing Developer Contributions towards Education Provision in County Durham' draft document attached as Appendix 2.
21. Developer contributions would be calculated using the formula below:

Number of Dwellings x Pupil Yield (*less any surplus places*) x Cost of Places = Developer Contribution

**Primary Example**

*(if contributions are needed and includes surplus places)*

100 Dwellings x 0.3 = 30 places, less 10 surplus places = 20 places required

20 x £11,705 = £234,100 (Developer Contribution)

**Secondary Example**

*(if contributions are needed and includes surplus places)*

100 Dwellings x 0.12 = 12 places, less 5 surplus places = 7 places required

7 x £15,920 = £111,440 (Developer Contribution)

## Developments where New Schools are Required

22. Where new developments are so large that there is a need for a new build school rather than an expansion to an existing school(s), discussions will need to take place to agree the location, design, specification, size, number of classrooms, non-teaching space, play area provision etc. The full cost of the new build will need to be agreed, in addition to other developer contributions secured as part of the planning process, and as such will not follow the methodology stated in paragraph 18.

## Securing the Financial Contribution

23. The Council has a role in assessing the likely impact of a new development on the service it provides, however, it is also the Local Planning Authority's role to decide whether or not the level of contributions requested are appropriate and in line with the Community Infrastructure Levy Regulation 2010 (regulations 122 and 123), which are:
- Necessary to make the development acceptable in planning terms;
  - Directly related to the development; and
  - Fairly and reasonably related in scale and kind to the development.
24. Where the CIL regulations above are satisfied, any financial contribution required would be secured at the time planning permission is granted (either outline or full) by way of a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990. The section 106 agreement would set out an appropriate trigger for the payment of the contribution. In most cases the contribution should be a single payment rather than provided in stages. In addition, all contributions will be index linked as the amount calculated at the time of a planning application may change due to build cost inflation by the time the development is commenced and the contribution is paid.

25. The Council is unable to request retrospective contributions from developers where it has already commenced a programme of increasing places within a school prior to any approved planning application and as such the Council would be required to fund the full cost.
26. The Council can only make reasonable requests to developers for contributions which mitigate against the impacts of their development. It is likely that in the majority of cases the full value of a classroom extension cannot be secured from the developer due to the development producing less than a full classroom size of 30 pupils. In these cases the Basic Need allocation would be utilised to supplement the developer contributions, but if there was still a shortfall capital bids would have to be made to the Council's Capital Programme.
27. As stated previously in this report the Council is mindful of national advice on viability and delivery. Therefore the determination of individual schemes often involves an assessment of viability to ensure realistic decisions are made to support development and promote economic growth. Where the viability of a development is in question, the local planning authority will be flexible in applying infrastructure and policy requirements wherever possible.

### **Recommendation**

28. It is recommended that Cabinet agree the content of this report and the 'Securing Developer Contributions towards Education Provision in County Durham' draft document attached as Appendix 2 to this report.
29. It is requested that delegated authority is provided to the Directors of Regeneration and Economic Development and Children and Adult Services in consultation with the Portfolio Holders for Economic Regeneration and Children and Young People's Service to approve any future update to secondary and primary pupil values in line with funding reviews undertaken by the EFA.

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## **Appendix 1: Implications**

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### **Finance –**

Costs associated with providing additional education places as result of new residential development will be sought from developers at a rate of £11,705 per primary place and £15,920 per secondary place. Where there is a need for a new build as opposed to an expansion of existing schools the cost will be calculated on a case by case basis.

### **Staffing –**

None.

### **Risk –**

Viability of residential developments is a critical factor in ensuring delivery of new housing throughout the County. Developer contributions secured through a Section 106 agreement will need to be mindful of viability pressures including developer financial contributions for other infrastructure elements, whilst ensuring adequate schools places are available.

The Council can only make reasonable requests to developers for contributions which mitigate against the impacts of their development. There is the potential risk to the Council that full value of a classroom extension cannot be secured from the developer due to the development producing less than a full classroom size of 30 pupils. As such the Council would have to explore other funding options which may include capital bids to the Council

The Council is unable to request retrospective contributions from developers where it has already commenced a programme of increasing places within a school prior to any approved planning application and as such the Council would be required to fund the full cost.

### **Equality and Diversity / Public Sector Equality Duty –**

None

### **Accommodation –**

None.

### **Crime and Disorder –**

None.

### **Human Rights –**

None.

### **Consultation –**

None.

### **Procurement –**

None.

**Disability Issues –**

None.

**Legal Implications –**

Legal opinion has been sought from the Council's in-house legal team and advice and guidance is sought when individual Section 106 agreements are negotiated.

The Council is mindful of the Section 106 'pooling' regulations which limit the use of no more than 5 financial contributions towards the infrastructure project.



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**Appendix 2: Securing Developer Contributions towards Education Provision in County Durham (draft)**

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