North East Lincolnshire 
Supplementary Planning 
Guidance 
Note No. 4

Developer Contributions 
to Education Facilities

Adopted April 2005

Economic 
Regeneration 
Agency
This page is intentionally left blank
Executive Summary

DEVELOPER CONTRIBUTIONS WILL BE SOUGHT FOR THE PROVISION OF EDUCATION FACILITIES IN ACCORDANCE WITH THE FOLLOWING:-

• Contributions will be sought through legal agreement (in accordance with Section 106 of the T&CP Act 1990, as amended);

• Contributions will be sought on all housing developments of 10 or more units (subject to exemptions and exceptions) where it is demonstrated that there would be insufficient school capacity to accommodate the anticipated number of children generated by the proposed development;

• Contributions will only be sought in relation to primary education facilities;

• Contributions will relate only to meeting the need for additional school facilities generated by the development;

• The contribution will be a once only payment linked to the granting of planning permission;

• The size of the contribution will be determined based upon the LEA’s forecast of future school capacity within the identified catchment over a 3 year time horizon. This will be based upon a contribution of £7,024 per primary school place (subject to annual review);

• In the event of contributions exceeding the cost of necessary works or the contribution remaining unspent after an agreed period of time, contributions or parts thereof will be returned.
1.0 Introduction

1.1 The following Supplementary Planning Guidance (SPG) has been produced to set out the Council's justification on the use of planning obligations to meet educational needs arising from new residential development. It sets out the reasoning for the need for educational contributions and the procedures for calculating the contributions and the means of implementing the proposals.

1.2 The SPG is intended for use by landowners, potential developers and their agents to inform them of circumstances where contributions will be sought and the scale of such a contribution.

1.3 The SPG expands upon Policy GEN1 (Development Areas). Suitability of proposals in relation to the provision of services, and specifically para 6.18 of the explanatory text to Policy H1 (Proposed Housing Sites) of the North East Lincolnshire Local Plan, Adopted Nov 2003.
2.0 Local Education Authority Responsibility

2.1 The Council as Local Education Authority (LEA) has a statutory duty to ensure sufficient school places are available to meet the needs of the population. New housing development places pressures upon existing school provision that the LEA has a duty to address.

2.2 A School Organisation Plan (SOP) is produced, as a minimum every three years, which makes an assessment of the supply and demand for school places in North East Lincolnshire. The SOP findings are based upon projected school rolls taking into account trends in admissions. It assumes in determining catchments that the nearest school to a new housing site is normally preferred by parents. This accords with the principles of sustainability and meets the LEA’s objective of minimising pupils' travel. When it is appropriate to consider schools serving the same catchment this will form the basis of the assessment. In such cases the LEA will consider schools within an acceptable walking catchment, this will include considering not only distance but the presence of barriers to movement such as major highways.

2.3 The normal method of securing resources to build or extend schools as identified by the SOP, is via the capital bidding mechanism to the Department for Education and Skills (DfES). However it does not always follow that capital grants are available to improve facilities at those schools with the greatest demand for places.

2.4 The DfES criteria for primary schools takes into account the number of school places available within all schools within a two mile radius of the growth area. An overall deficit of capacity in all schools in a growth area has to be established before a 'basic need' for more places is proved and grant made available.

2.5 The DfES 'basic need' criteria for assessing the merits of providing extra funding for extra school capacity is primarily a mechanism for allocating additional funding rather than for ensuring the adequacy of school places. No account is taken of whether the spare places are in the right year group for the children requiring them or what distance is reasonable for a young child attending primary school to travel to school.
3.0 Planning Policy Background

3.1 The Regional Spatial Strategy for Yorkshire and the Humber 2016 recognises the importance of the educational infrastructure in the region to promoting both social inclusion and economic growth and regeneration, Policy SOC2 Education.

3.2 The Humberside Structure Plan 1987 as amended 1993 states in Policy S2, 'New housing will, whenever possible be related to existing potential jobs, educational facilities, public transport and services.'

3.3 The North East Lincolnshire Local Plan Adopted Nov 2003 requires the suitability of development proposals to be considered in relation to, amongst others, provision of services. Policy GEN1, Development Areas.

3.4 Specifically para 6.18 of the accompanying text to Policy H1, Proposed Housing Sites, states:

'PPG3 advises that sites proposed for new housing should be well related in scale and location to existing development. Schemes should also be well integrated with the existing pattern of settlement and surrounding land uses and should take account of the availability of, or need for, infrastructure including public transport. New housing developments can often put a strain on existing school facilities which may then require the extension of an existing school or in extreme cases, a new school. When this occurs the Council will seek by negotiation the signing of 106 Agreements with developers of new housing sites to provide new school facilities to the satisfaction of the Education Authority.'
4.0 Section 106 Planning Obligations

4.1 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.

4.2 The Department of the Environment Circular 1/97 provides guidance on planning obligations. It states: “Properly used, planning obligations may enhance the quality of development and enable proposals to go ahead which might otherwise be refused.” (Annex B, paragraph B2). It states that such obligations should be necessary, relevant to planning, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects.

4.3 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 their development". It is clear that developers should not have to remedy existing deficiencies.

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

4.5 The Circular indicates that in negotiating with applicants for planning permission, the local planning authority may seek modification or improvements to applications. Agreements may be entered into to enable development to go ahead that might otherwise be refused. Such an approach may be sought to overcome a planning objection to meet the ‘costs’ imposed as a result of the development, i.e. the full cost of essential community facilities required as a result of a proposed development.

4.6 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." Planning obligations should be sought only where they meet the following tests:

i. necessary

ii. relevant to planning

iii. directly related to the proposed development
iv. fairly and reasonably related in scale and kind to the proposed development

v. reasonable in all other respects.

4.7 In terms of educational facilities, the local planning authority is entitled to negotiate reasonable and appropriate financial contributions or contributions by way of buildings or facilities. The planning authority may require a contribution where the facilities are required and are necessary as a direct consequence of the development or the need arises as a result of the development.

4.8 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 imposes a burden or "planning loss" on the community which the developer should resolve either indirectly or directly.

4.9 A planning authority is entitled (where public funding is unavailable) to seek the full costs of educational facilities arising from a development. Retrospective requirement 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 to which contributions should apply.
5.0 Calculation of Developer Contributions

5.1 Circular 1/97 states that it is not acceptable to impose rigid formulae. However, there is a need to reflect the impact of development on local school provision. It is therefore appropriate to apply a cost formula that reflects the impact of a particular development.

5.2 Developer contributions will be sought on all housing proposals of 10 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.

5.3 Care will be taken to ensure that the development site is not deliberately sub-divided or phased in an attempt to avoid this threshold.

5.4 Contributions will not be sought where a development (or part thereof) would not generate a demand for additional school places. Therefore the following accommodation will be exempt:

- Sheltered accommodation or bona fide elderly person, student or holiday accommodation (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.)

- Temporary housing, bedsits and one bedroom dwellings that are clearly incapable of enlargement to two bed units.

5.5 Affordable housing will not be exempt from the assessment unless falling within one of the exempt categories. Affordable housing is capable of generating demand for school places on the same basis as market housing.

5.6 Currently no contribution is sought for secondary school places, due to the difficulties in demonstrating clearly to developers the impact that their specific scheme may have upon secondary school needs. It is not simply a case of seeking to provide additional classroom space. There are additional complexities created by specialist curriculum needs and parental choice.

5.7 The starting point for calculating education contributions is an assessment by the LEA of existing school provision. The number of vacant places and the effect of national population growth in the community in the absence of the proposed housing development. Developers will only be asked to contribute to education facilities, which are a direct consequence of the development or the need arises as a result of the development. The SOP provides the LEA's assessment of the supply and demand for school places and forms the basis for the assessment.
5.8 In addition 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 capacity problems in local schools. Where other full or reserved matters applications have been approved in the same school catchment area as the proposed application, these applications will be considered in relation to any assessment of capacity. This is considered appropriate to minimise the possibility of double counting any spare capacity within schools.

5.9 Where outline applications are submitted an initial assessment will be undertaken to determine whether an education contribution is appropriate. In such cases the applicant will be required to accept a formula based approach to determine the scale of the contribution on approval of the reserved matters application. Such an approach will enable the final contribution to be based upon the actual numbers of dwellings to be constructed, allowing for any exempt dwellings to be excluded.

5.10 Outline applications will initially be assessed on the assumption that developments will be built at a minimum of 30 dwellings/ha. Where a density has not been proposed by the applicant, a density figure of 30 dwellings/ha will be used for the initial assessment unless other material considerations apply. Where a higher density is proposed this will form the basis for the assessment. No account will be taken of the rate of house building on site, as this is an uncertain variable.

5.11 Calculations are made on the basis that 0.25 primary school places are generated per relevant house or residential unit. This figure has been derived from the LEA's assessment of primary school places generated by the Scartho Top housing site. The number and age range of children generated by residential development will vary dependent on house type and mix and school location and popularity. The basis for the calculations will not normally be reduced to account for such variables as these vary over time affecting the potential to accommodate primary school children.

5.12 Forecasts of future school capacity and national population growth are made by the LEA and are identified in the SOP. If these forecasts identify that local primary school provision within the catchment is deemed to be at capacity in year 3 of the forecast, contributions will be sought for all places generated by the development. In exceptional cases where year 4 and 5 predictions show increasing capacity consideration will be given to the appropriateness of seeking the contribution.

5.13 It must be noted that the SOP forecasts make no allowance for future housing development whether committed or not. It is therefore appropriate that each individual new development that gives rise to the need for additional primary school provision should provide appropriate facilities.
5.14 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'.

5.15 If 'x' is greater than 'y' no contribution will be sought.

5.16 The calculation assumes the potential for schools to operate at 100% capacity. The calculation therefore reflects the minimum requirement.

5.17 When a school is at capacity when an application is submitted or determined, but is forecast to have an increasing surplus of spaces in future years the need for education contributions will be considered on its merits.

5.18 The basis for calculating the contribution for primary school places (age 5-11) used by the LEA is as follows:

- The Development Pupil Number

  (Equivalent to the total number of dwellings in the development minus exceptions MULTIPLIED by the school place ratio of 0.25 pupils/accountable dwelling)

  MINUS

- Primary School Capacity, Identified Shortfall

  MULTIPLIED BY

- The DfES Primary School Cost Multiplier £7,024 
  (subject to annual review)

  EQUALS

- Education Contribution

5.19 Elements of the formula are subject to annual review by the LEA in line with Government guidelines.
6.0 Implementation

6.1 Contributions will be secured by way of a Section 106 Agreement between North East Lincolnshire Council and the developer. Contributions will usually be by way of financial contributions or may in appropriate cases be in the form of agreed direct construction of classrooms or other facilities to LEA agreed construction and design standards. The provision of temporary or mobile classrooms is not considered an acceptable solution except in exceptional circumstances.

6.2 Contributions will normally be phased to ensure that school provision is in place to match demand. This will ensure new education facilities are constructed to serve the occupiers of new dwellings at the time they are required.

6.3 The Education Contribution shall be paid in two phases as follows:

(£........) to be paid on commencement of the development (usually 20%).

(£........) to be paid on completion of the (......) dwelling on the site, or completion of the 60th dwelling on the site (excluding exemptions), whichever shall occur first.

6.4 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. The payment will be index linked to take account of the period between planning approval and implementation. All education payments to be made to the council shall be increased in line with any changes in the UK General Index of Retail Prices from the date of the signing of the agreement to the date of the first education contribution payment.

6.5 Contributions are only required where a local need is identified and therefore there is an obligation to show how funds received will be spent within a prescribed period, how they will deal with the identified impact, and in a manner which will be set out by the education authority. Education contributions shall be held by the Council in an interest bearing account. Delays in the phased payment of contributions, (not granted prior approval by the local planning authority) shall be charged interest at 2% for every day's delay in receipt of funds.

6.6 The education authority will incorporate provision for the return of contributions, or parts thereof, where they remain unspent after a period of time to be agreed with the developer, (usually five years); or where the contribution exceeded the cost of necessary works; together with all interest that shall have accrued thereon.
6.7 It is recognised that some developments can involve unforeseen costs, such as remediation of contamination. In such cases the requirement to provide contributions towards education provision may lead to a situation where the proposed development is alleged to be unviable. A similar scenario may arise where contributions are sought in relation to other infrastructure provision or affordable housing. In such cases the planning authority must consider the impact the development would have on the community including over-crowding in local schools. If negotiations fail to reach agreement on these grounds it may be appropriate to require ‘open book’ information on the costs of development and residential values.
7.0 Further Advice

7.1 Council Contacts

**IMPLEMENTATION**
Phil Wallis  
Development Control Manager  
Environmental Services  
North East Lincolnshire Council  
Civic Offices  
Knoll Street  
Cleethorpes  
North East Lincolnshire  
DN35 8LN  
Tel  01472 324261  
Fax  01472 324216  
E mail  phil.wallis@nelincs.gov.uk

**LEGAL**
James Sheerin  
Solicitor  
Law and Democratic Services  
North East Lincolnshire Council  
Municipal Offices  
Town Hall Square  
Grimsby  
North East Lincolnshire  
DN31 1HU  
Tel  01472 324002  
Fax  01472 324216  
E mail  james.sheerin@nelincs.gov.uk

**PLANNING POLICY**
Ian King  
Principal Planning Officer  
Economic Regeneration Agency  
North East Lincolnshire Council  
Civic Offices  
Knoll Street  
Cleethorpes  
North East Lincolnshire  
DN35 8LN  
Tel  01472 323370  
Fax  01472 324216  
E mail  ian.king@nelincs.gov.uk

**EDUCATION**
Tony Brumfield  
Principal Education Officer  
Learning and Child Care  
North East Lincolnshire Council  
St James House  
Grimsby  
North East Lincolnshire  
DN31 1EP  
Tel  01472 323146  
Fax  01472 324216  
E mail  tony.brumfield@nelincs.gov.uk
If you would like to receive this information in another language or in another format such as large print, Braille or on audiotape, please contact:

Ian King, Principal Planning Officer  
Forward Planning  
Economic Regeneration Agency  
Civic Offices  
Knoll Street  
Cleethorpes  
North East Lincolnshire  
DN35 8LN

Tel: 01472 323370  
E-mail: ian.king@nelincs.gov.uk