

Education Planning Obligations Policy Worcestershire

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Introduction

- 1.1 Worcestershire County Council has a statutory duty under the Education Act 1996 to ensure there are sufficient school places for all children (aged 4-18) resident in Worcestershire who wish to attend a publicly-funded school. This includes academies and free schools. Provision of sufficient high-quality school places is crucial in ensuring that all children have an opportunity to gain the vital knowledge, skills and qualifications necessary for life and work.
- 1.2 Worcestershire County Council also has a duty within the terms set out in the Childcare Act 2006 and 2016 to ensure all three and four year olds and all eligible two year olds have access to high quality free early education places¹, either within school provision or with private providers.
- 1.3 The National Planning Policy Framework (NPPF) paragraph 94² states that '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 towards 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, developers and statutory bodies to identify and resolve key planning issues before applications are submitted.'

It is considered that this is applicable both to school development proposals themselves and to addressing the education impacts of development generally.

- 1.4 Without investment, schools and early education providers may be unable to accommodate new pupils generated by new housing, impacting on the ability of new and established communities to access education places, raising concerns over the viability and sustainability of development. Developers are therefore required to mitigate the cost of the additional need for places.
- 1.5 In April 2019, the Department for Education (DFE) issued non-statutory guidance on securing developer contributions for education³. The guidance has been produced to help local authorities secure appropriate developer contributions for education so that new development can appropriately mitigate the cost of providing the new school places required from housing growth. This guidance has helped shape the approach Worcestershire County Council will take in assessing the impact of new housing developments on education provision and calculating the appropriate mitigation via conditions and planning obligations, as set out in this policy document.
- 1.6 This policy document is applicable to any planning application submitted from 1st August 2019.
- 1.7 To ensure that planning obligations and the Community Infrastructure Levy (CIL) operate in a way that is complimentary and does not hinder development, the CIL regulations 122 and 123 place limits on the use of planning obligations. This approach will involve close working with local planning authorities. This document should be read alongside the relevant district council local plan policies and subsequent supplementary planning documents as appropriate.
- 1.8 Worcestershire County Council welcomes and encourages discussions with district councils and developers at an early stage of development to identify the potential impact of housing growth to ensure a sufficient number of school and early years places are provided to mitigate the impact of proposed development.

¹ <https://www.gov.uk/help-with-childcare-costs/free-childcare-and-education-for-2-to-4-year-olds>

² <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793661/Securing_developer_contributions_for_education.pdf

Worcestershire County Council's Approach to Developer Contributions

- 2.1 Worcestershire County Council primarily utilises Section 106 planning obligations and Community Infrastructure Levy contributions to mitigate the impact of developments on educational infrastructure.
- 2.2 Worcestershire has six district councils each with a policy enabling the collection of developer contributions. To date the South Worcestershire Councils are the only councils in Worcestershire to have adopted a Community Infrastructure Levy (CIL) charging schedule.

South Worcestershire Councils:

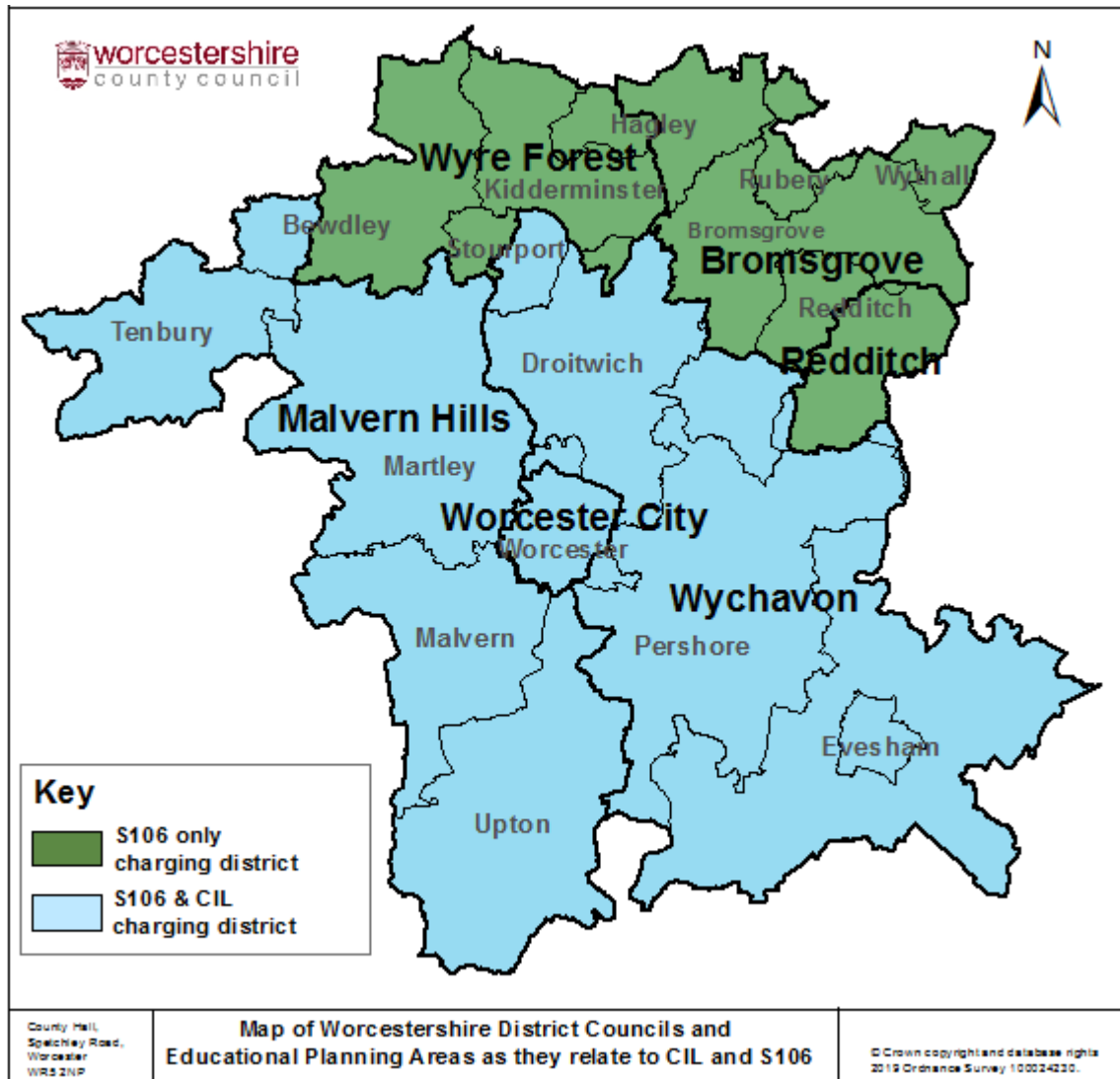
- Malvern Hills District Council
 - Wychavon District Council
 - Worcester City Council
- 2.3 When the funding becomes available from the Community Infrastructure Levy, Worcestershire County Council will bid for projects to support education infrastructure as required. CIL revenues are intended to help fund the supporting infrastructure needed to address the cumulative impact of development across a local authority area. CIL can be used to fund the provision, improvement, replacement, operation or maintenance of a wide range of infrastructure, including education.
 - 2.4 Worcestershire County Council in partnership with the district councils will also seek to work with parish councils to identify where funding from parish council CIL allocations may be pooled to best serve education infrastructure needs in an area.
 - 2.5 Section 106 obligations will still be collected for the South Worcestershire Councils for specific sites and large scale sites as stated within the regulation 123 list published on the district council websites⁴. All other education provision required as a result of new housing within the South Worcestershire Councils areas, would be expected to be funded by the CIL.
 - 2.6 The three northern district councils of Worcestershire at the point of publication have not adopted CIL. These are:

North Worcestershire Councils:

- Bromsgrove District Council
 - Redditch Borough Council
 - Wyre Forest District Council
- 2.7 The contribution arrangements for the six district councils as they relate to the 16 educational planning areas are illustrated in figure one below.

⁴ Community Infrastructure Levy documents can be located at:
Malvern Hills <https://www.malvern hills.gov.uk/community-infrastructure-levy1>
Worcester City <https://www.worcester.gov.uk/community-infrastructure-levy>
Wychavon <https://www.wychavon.gov.uk/community-infrastructure-levy>

Figure 1: Developer Contribution Arrangements



National Planning Policy Context

- 2.8 The National Planning Policy Framework 2019 and the Community Infrastructure Levy Regulations 2010 (as amended in 2014), sets out criteria in respect of planning obligations.
- 2.9 Planning obligations, also known as Section 106 agreements (based on that section of the 1990 Town & Country Planning Act) are private agreements made between local authorities and developers and can be attached to a planning permission.
- 2.10 Paragraph 54 of the National Planning Policy Framework 2019 (NPPF) states that local planning authorities should consider whether a development that would otherwise be considered unacceptable could be made acceptable through the use of conditions or planning obligations.
- 2.11 The Community Infrastructure Levy is a planning charge introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010 (as amended in 2014).
- 2.12 Regulation 123(2), of the CIL Regulations 2010, as amended by the 2014 Regulations, prevents the local authority from seeking a financial contribution or provision of an infrastructure project where five or more separate planning obligations have already been sought for the funding or provision of that project from other sources (i.e. financial contributions secured in other Section 106 agreements). All payments, counting back to 6 April 2010, are taken into account. Such payments are commonly referred to as "pooled contributions". The Ministry of Housing, Communities and Local Government (MHCLG) completed a consultation on 31st January 2019. This document currently proposes the removal of the pooling restrictions on planning obligations. The implementation date has now been set for 1st September 2019. Worcestershire County Council will follow these revised regulations from this date.
- 2.13 Section 106 Agreements and Unilateral Undertakings set out the obligations of the developer and relevant parties to mitigate the impact of a development.
- 2.14 Paragraph 57 and regulation 122 of the CIL Regulations 2010 set three tests for any planning obligation. The obligation must be:
1. Necessary to make the development acceptable in planning terms
 2. Directly related to the development
 3. Fairly and reasonably related in scale and kind to the development
- 2.15 Worcestershire County Council has set out an approach for education that meet these tests:
- 2.16 **Necessary to make the development acceptable in planning terms**
- Housing developments will create additional households in the community in which they are situated. These households are likely to include children during the lifespan of the property.
 - An increase in the child population will create additional demands on related schools and early year's providers on education infrastructure in the local area.
 - Where it can be demonstrated that the related schools and early years providers do not have sufficient capacity to absorb the additional demand, then the development cannot be considered acceptable unless appropriate mitigation is put in place.
- 2.17 **Directly related to the development**
- Only schools and early years providers deemed to be related to the development will be considered (see section 4 and 5).
- 2.18 **Fairly and reasonably related in scale and kind to the development**
- The level of contribution sought will have a direct relationship to the net number of dwellings on a development and the anticipated pupil yield, taking account of any demolitions due to take place as part of the development.

School Organisation in Worcestershire

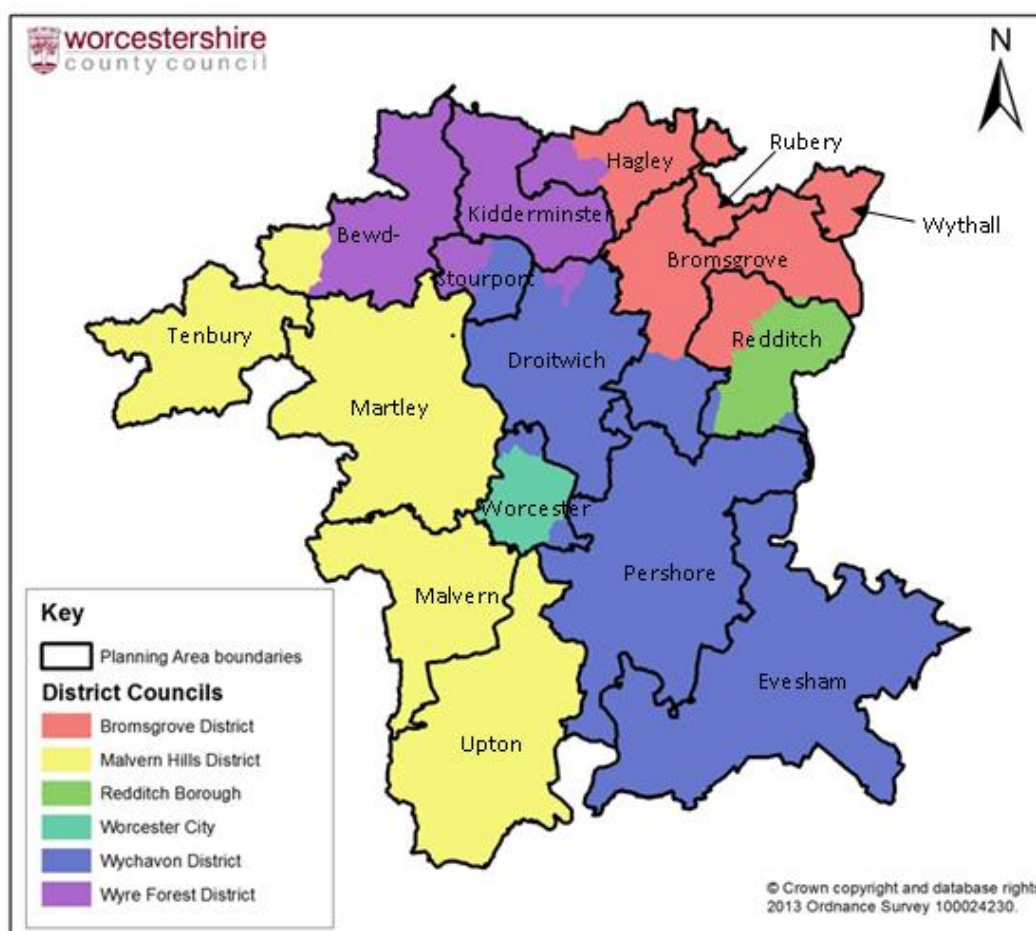
3.1 Worcestershire County Council is responsible for ensuring there are sufficient school places in state funded schools. There are several different types of school that fall within the state funded sector, all of which are eligible to receive funding from planning obligations if they are deemed to be related to a particular development. This includes the following types of school:

- Community
- Voluntary Controlled
- Voluntary Aided
- Foundation
- Academy
- Free School

3.2 Worcestershire County Council's role as a statutory provider of school places has changed with the implementation of academies and free schools, which are operated independently of the local authority. As such Worcestershire County Council now acts as a commissioner of school places, and therefore cannot compel schools to expand.

3.3 Worcestershire County Council operates 16 Education Planning Areas, based around the main population centres. Figure two below shows how these Education Planning Areas relate to district council boundaries.

Figure 2: Education Planning Areas



3.4 There are both two-tier and three-tier education systems in operation across Worcestershire. In areas which operate a two-tier model, children enter primary school at reception (R) before transferring to a secondary school at the start of year seven. In areas which operate a three-tier model, children enter first school at reception (R), transfer to a middle school at the start of year five (A & B) or six (C), then transfer again to high school at the start of year eight (B) or nine (A & C). Table one below summarises the predominant model in operation in each Education Planning Area:

Table 1: School Operating Models

| Two-tier model Primary Years R-6 Secondary Years 7 - 13 | Three-tier model A First Years R-4 Middle Years 5-8 High Years 9-13 | Three-tier model B First Years R-4 Middle Years 5-7 High Years 8-13 | Three-tier model C First Years R-5 Middle Years 6-8 High Years 9-13 |
|---|---|---|---|
| <ul style="list-style-type: none"> • Bewdley • Hagley • Kidderminster • Malvern • Martley • Rubery • Stourport • Tenbury • Upton • Worcester • Wythall | <ul style="list-style-type: none"> • Bromsgrove • Redditch | <ul style="list-style-type: none"> • Droitwich • Pershore | <ul style="list-style-type: none"> • Evesham |

3.5 A small number of schools in the three-tier areas operate on a primary / secondary two-tier basis. This includes Catholic school provision and where some other schools have changed their age range away from the three-tier model to a two-tier model.

3.6 Subject to permission from the Secretary of State for Education, academies have the right to change their age ranges which can impact on the number of places available within Educational Planning Areas of Worcestershire.

3.7 Early years education is provided through a mix of both private and maintained provision in the county. There are several different types of early years provider within Worcestershire, all of which are eligible to receive funding from planning obligations if they are deemed to be related to a development. This includes the following types of provider:

- Day Nursery;
- Childminders and childcare on non-domestic premises;
- School based provision at both academy and maintained schools; and
- Any other type of provision that offer funded early education places.

Assessing Impact on Early Years Places in Worcestershire

- 4.1 Worcestershire County Council is responsible for ensuring that all eligible two year olds and all three and four year olds can access free early years education. When a development site comes forward, Worcestershire County Council will assess whether current related early years provision is sufficient to support families living on the new development to access their entitlement. Where additional demand from the development is required above that which can currently be supported by the market, a contribution will be sought.

Calculating the Requirement for Early Years Childcare places

- 4.2 Worcestershire County Council will conduct a detailed assessment on all planning applications of 10 dwellings or greater.
- 4.3 The detailed assessment will firstly consider the number of 15 hour places that will likely be required for children living on the development. All three and four year olds are entitled to 15 hours free early year's education for 38 weeks of the year (a place). However, only a certain percentage of eligible two year olds are entitled to a free early education place. From September 2017, a percentage of eligible three and four year olds also became entitled to an additional 15 hours (for a total of 30 hours) of early education for 38 weeks of the year.
- 4.4 For four year old funding requirements, one third of the anticipated yield of 4 year olds will be discounted as they will be expected to enter straight into reception (summer born children) and will therefore be accounted for within the mainstream pupil cost multiplier.
- 4.5 Average pupil yields as set out in section seven show that each additional dwelling generates an average of 0.07 extra pre-school children per year group. This yield is compared to the average eligibility rates for two year old funding and 30 hours funding for three and four year olds. Table two below shows these rates for Worcestershire correct at May 2018.
- 4.6 This is then compared to the number of dwellings on the development to create an estimate of the impact of a new development on the demand for early years childcare places:
- 4.7 When relevant, other factors such as the location of the development and other extant planning permissions in the area will be factored in to determine the likely impact of the new development.

((Number of dwellings X Pupil yield per dwelling) X Average eligibility for 2 year old places) = The number of additional early years education places required for 2 year olds

+

((Number of dwellings X Pupil yield per dwelling) X Average eligibility for 3 year old places) = The number of additional early years education places required for 3 year olds

+

((((Number of dwellings X Pupil yield per dwelling) X Average eligibility for 4 year old places) X 0.66) = The number of additional early years education places required for 4 year olds

=

Total number of additional 15 hours early years education places required from the development

÷ 2

= Total number of additional full time equivalent early years education places required

Table 2: Pre-School 15 hour Place Requirements

| No. of dwellings | Pupils per year group (x 0.07) | 2 Year old places (32% eligibility) | 3 year old places (168% eligibility) | 4 year old places (168% eligibility) *2/3rds | Estimated early education places required (15 hours) |
|------------------|--------------------------------|-------------------------------------|--------------------------------------|--|--|
| 100 | 7.00 | 2.24 | 11.76 | 7.83 | 21.83 |
| 120 | 8.40 | 2.69 | 14.11 | 9.40 | 26.20 |
| 250 | 17.50 | 5.60 | 29.40 | 19.58 | 54.58 |
| 500 | 35.00 | 11.20 | 58.80 | 39.16 | 109.16 |
| 600 | 42.00 | 13.44 | 70.56 | 46.99 | 130.99 |
| 700 | 49.00 | 15.68 | 82.32 | 54.83 | 152.83 |
| 1000 | 70.00 | 22.40 | 117.60 | 78.32 | 218.32 |

Using this calculation we can determine that the early education full time equivalent place requirements for two, three, and four year olds on a development will be on average 0.11 per dwelling.

$$((1 \times 0.07 \times 0.32 = 0.02) + (1 \times 0.7 \times 1.68 = 0.12) + (1 \times 0.7 \times 1.68 \times 0.66 = 0.08))/2 = 0.11$$

4.8 When relevant, other factors such as the location of the development and other extant planning permissions in the area will be factored in to determine the likely impact of the new development.

Identifying Relevant Pre-School Projects

4.9 Where the impact of a development is judged to be of a level which cannot be supported within existing provision, a contribution will be required.

4.10 Where a standard financial contribution towards existing provision is required, this will be calculated using the method as outlined in section 6.

4.11 Projects may involve, but are not limited to:

- Creation of a new nursery, on a school site or standalone private provider;
- Expansion of existing provision on maintained sites or on private provision;
- Refurbishment of existing buildings to allow additional suitable facilities.

4.12 Where the impact of a development is judged to be of a level which would require delivery of a new nursery then the contribution will be negotiated with the developer, in this instance, the contribution sought will reflect the project specific build costs and proportion of the places in the new provision which are likely to be required from children resident on the proposed development. Worcestershire County Council will consider payment in kind by way of the direct provision of buildings by the developer. The specification of any buildings to be directly provided by the developer must be agreed with Worcestershire County Council. Where a new school is required from a development, early year's provision will always be built alongside it to a size suitable to the requirements of the site.

Assessing Impact on State Funded School Places

- 5.1 Worcestershire County Council is responsible for ensuring there are sufficient school places in state funded schools. When a development site comes forward, Worcestershire County Council will assess whether current education provision is sufficient to support families living on the new development to access a school place. Where additional demand from the development is required above that which can currently be supported within related schools, a contribution will be sought.

Calculating the School Place Requirements of New Developments

- 5.2 Worcestershire County Council will initially assess the anticipated number of school places required from a new development.
- 5.3 Assessments are dealt with on an individual basis with relevant evidence provided to the local planning authority and developer
- 5.4 The detailed assessment will firstly consider the number of dwellings proposed as part of the application. Average pupil yields as set out below show the average expected pupil product ratio (PPR) expected from additional dwellings.
- 5.5 In line with the current National Planning Practice Guidance paragraph 23, education planning obligations will not be sought on developments of fewer than 10 dwellings.

Pupil Product Ratio (PPR)

- 5.6 The mainstream PPR is based on evidence from recent housing developments, matching school census data and known children numbers to housing developments to determine average pupil numbers and characteristics over time
- 5.7 The SEND PPR is based on the average percentage of pupils in Worcestershire requiring specialist education provision. This is based on the average percentage of pupils in Worcestershire with an Education Healthcare plan over the last 5 years, which is 3%. This percentage is significantly lower for children under the age of 5, therefore SEND provision will not be sought for early education places.
- 5.8 A pre-school PPR, primary PPR and secondary PPR are acknowledged to be different due to the characteristics of new developments.
- 5.9 Relevant pupil yields will be applied when determining estimated impact on any given school, considering the age range of the school itself.
- 5.10 The estimated pupil yield for each phase will be rounded up to the nearest integer to determine the total number of places required per phase of education, except when calculating SEND PPR, which will be rounded to the nearest integer.
- 5.11 This figure will be used in conjunction with other considerations, such as location, expected levels of recirculation, parental preference and any cross-boundary movements to estimate the impact of a development on related schools and early years providers.
- 5.12 In certain circumstances, we would expect to see a greater PPR than those outlined below, such as on large scale developments of 2000+ dwellings. In these circumstances, WCC will assess contributions on a case by case basis.

Table 3 Pupil Product Ratio per year group per dwelling in Worcestershire

| | Pupil Yield |
|----------------|-------------|
| Pre-school PPR | 0.07 |
| Primary PPR | 0.05 |
| Secondary PPR | 0.04 |

5.13 The assessment will also consider additional factors such as:

- the location of the development, including the proximity to existing educational infrastructure, existing tier structure and proximity to other local authorities;
- known trends in parental preference and expected characteristics of the development;
- the full extent of the development site area, neighbouring sites and any other planning applications approved or expected in the area, particularly where developments come forward as a result of subdivision of larger development areas.

5.14 Other factors may also be taken into account when they are considered to have an impact on the expected pupil yield from the development

Operational Surplus in Mainstream Schools

5.15 Worcestershire is divided into 16 Education Pyramids, based around the main centres of population. Parents have the right under the School Admissions Code⁵ to apply to any school of their preference for a place for their child. While there is no automatic entitlement to a place at their first choice school, the ability to nominate a preference does raise expectations that a significant proportion of applications will be successful. In addition, a surplus allows for in year migration into and out of schools and reduces the number of school place appeals. It is therefore recognised that in order to maintain an efficient system while still offering a degree of parental choice Worcestershire County Council should seek to maintain an operational surplus of school places above the anticipated level of need. Worcestershire County Council aims to maintain a 5% surplus capacity in any education pyramid, in line with recommendations from the National Audit Office⁶.

Cross-boundary movements and pupil migration

5.16 The requirement to run an operational surplus, coupled with the ability of parents to express a preference, and for those pupils who have an Education Health Care Plan (EHCP), make it inevitable that most schools which use a catchment area in their admission criteria will have some pupils attending from out of the area. Therefore, consideration will be given to expected movement of pupils between catchment areas, in particular where this results in cross-boundary movements.

Recirculation

5.17 It is recognised that some of the children resident in a new development will have moved from within an Education Planning Area and may not generate a need for a new school place.

5.18 Analysis indicates that the full impact of new housing developments on secondary education requirements are not fully realised until later on in the development. This has been accounted for within the pupil product ratio, however in certain circumstances; particularly where developments are located within close proximity to existing schools, this will be further considered when

⁵ <https://www.gov.uk/government/publications/school-admissions-code--2>

⁶ <http://www.educationengland.org.uk/documents/pdfs/2013-nao-school-places.pdf>

determining the level of developer contributions and the point at which obligations for secondary schools will be required.

Bulge Year Groups

5.19 Where a school may have admitted an exceptionally large cohort in response to a short-term spike in demand, this will be taken into consideration when assessing the number of surplus places. It will not be taken as evidence that the school can admit additional children in every year group nor will it be counted as the largest year group.

Identifying Related Schools

5.20 When a development site comes forward Worcestershire County Council will identify schools that are considered to be directly related to the development. Related schools are usually:

- Schools that operate a catchment area as part of their admission criteria which covers the area in which the development is situated or;
- Schools that are located within a two mile safe walking route that offer education for children who are eight years or younger⁷ or;
- Schools that are located within a three mile safe walking route that offer education for children who are nine years or older⁶ only or;
- Schools that can demonstrate a likely demand from families moving on to the development or;
- Where a development is of sufficient scale a new school is considered (see section seven).

5.21 Worcestershire County Council will initially assess the surplus capacity of schools related to the development by reference to the number of pupils on roll in the largest year group against the published admission number in place for the most recent September intake. The number of pupils on roll for the largest year group will be taken from the census of pupils carried out each October. If this initial assessment suggests that there are insufficient places to accommodate the additional children likely to be generated by the development, whilst still maintaining the operational surplus, a more detailed assessment will take place.

5.22 Each school has a published admission number which sets out the number of pupils which can be admitted into the intake year group. The published admission number is included in the admission policy for the school, which is published each year for the following September intake.

5.23 If the schools initially identified as related to the development have no scope to expand, consideration will be given to investing in an alternative related school which does have scope to expand. Significant expansions will be subject to appropriate public consultation and approval by the relevant decision making body. If a related school is an academy or free school then expansion will be subject to agreement from the school's governing body and the Education and Skills Funding Agency.

5.24 Worcestershire County Council will only seek to expand a school which is currently rated as 'Good' or 'Outstanding' by Ofsted in line with government guidance⁸ however, certain circumstances may require us to nominate schools not currently rated as such, in particular where a given school is expected to become 'good' or 'outstanding' by the time an expansion will be required, or when no alternatives can be identified.

⁷ Based on DFE Guidance on home to school travel and transport (July 2014)

⁸ Making significant changes ('prescribed alterations') to maintained schools (October 2018)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756572/Maintained_schools_prescribed_alterations_guidance.pdf

Calculating the Level of Contribution at an Existing Provider

6.1 Where a financial contribution towards an existing provider is judged to be the appropriate mitigation for a development, the amounts sought will be calculated based on the cost of a new place at the existing provider. The formula for calculating this comprises the following elements:

Requirements for mainstream provision

- 6.2 The number of year groups in each phase of the relevant schools will be considered. Worcestershire has both two- and three-tier education systems in operation in various parts of the county. Table one in this document sets out the predominant system in each area. The year groups in reception up to the end of year six are deemed to be in the primary phase. Whilst year groups in years seven to eleven are deemed to be in the secondary phase.
- 6.3 Middle schools will have a number of primary phase year groups and a number of secondary phase year groups, depending on the age range they cover. A middle school admitting year's five to eight would be deemed to have two year groups at the primary phase and two at the secondary phase.
- 6.4 Secondary schools typically have five secondary phase year groups. Schools in three-tier areas will have fewer. Where the school has a sixth form this is treated as the equivalent of one additional year group to reflect the lower transfer rate into the sixth form.
- 6.5 Across Worcestershire the average stay on rate for children moving from year 11 (GCSE) to year 12 (Sixth Form) in a publicly funded school and assessed from 2014 – 2017 inclusive was 51%. This has resulted in a 50% reduction and is reflected in only a single year being charged for sixth form places.

Requirements for early years provision

- 6.6 There is no nationwide funding formula for Early Years provision, however there is guidance based on the amount of floor space that an Early Years child will need, based on the age of the child. Providers must meet the following indoor space requirements:
- Children under two years: 3.5 m² per child;
 - Two year olds: 2.5 m² per child;
 - Children aged three to five years: 2.3 m² per child.

The flexible nature of early years provision between term-time and all-year round provision, AM and PM sessions and the higher turnover of providers means that this can often be a variable that changes on a monthly basis. For this reason the same cost multiplier as primary aged pupils is used. 2 early years places (15 hours) will be calculated as the equivalent of 1 full time school place (30 hours).

Requirements for special education needs and disability provision

- 6.7 Where the impact of a development on educational infrastructure is such that it can be shown that there will be a requirement for additional provision for children with special needs and disabilities (SEND), either within existing mainstream or specialist schools, or in the creation of a new school, a contribution for special needs and disability provision will be sought. Any requirements for a contribution through S106 or CIL will be assessed and calculated on a case-by-case basis. A contribution directly required for SEND provision will not be sought on any developments of less than 50 dwellings.

Building Cost Multiplier (BCM)

6.8 As per Government Guidance, the BCM applied to school places arising from housing developments should reflect the actual costs of providing one additional full time school place at an existing school, based on the national average costs published annually in the DfE school place scorecards. These costs will be updated annually in line with inflation and published as at 1st April each year in line with DfE guidance to ensure the contributions remain reflective of the true cost of creating additional school places.

The current costs as at April 2019 are:

- £17,649 per primary and early years place,
- £23,528 per secondary and sixth form place
- SEND places will be calculated at 4 times the cost of a place appropriate for the phase of education as per government guidance⁹.

Formula

6.9 The formula for calculating the contribution is as follows and will need to be calculated for each tier of education in the area:

(((Number of chargeable dwellings X Pupil yield per dwelling) X Number of year groups) = the number of additional places required to be funded

X

The correct building cost multiplier for the school phase)

+

(((Number of chargeable dwellings X Early years full time equivalent place yield per dwelling) = the number of additional full time early years education places required

X

The correct building cost multiplier for the school phase)

+

(((Number of chargeable dwellings X SEND Pupil yield per dwelling) X Number of year groups) = the number of additional places required to be funded

X

The correct building cost multiplier for the school phase)

=

Contribution required

⁹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793661/Securing_developer_contributions_for_education.pdf

Working Example

6.10 An application for 100 dwellings, of which 78 dwellings are chargeable, is submitted within a two-tier educational planning area. None of the related schools have sufficient capacity to support additional pupils from the new development. The secondary school has a sixth form.

Early Years Contribution

$$(78 \times 0.11) = 8.58$$

9 full time equivalent early years places required

$$8.58 \text{ rounded up to } 9 \times \text{£}17,649 = \text{£}158,841$$

Primary Contribution

$$78 \times 0.05 = 3.9$$

3.9 X 7 year groups in the primary phase = 27.3

$$27.3 \times \text{Percentage of pupils without an EHCP of total population (97\%)} = 26.48$$

$$26.48 \text{ rounded up to } 27 \times \text{£}17,649 = \text{£}476,523$$

Secondary and Sixth Form Contribution

$$78 \times 0.04 = 3.12$$

3.12 X 6 year groups in the secondary phase and sixth form = 18.72

$$18.72 \times \text{Percentage of pupils without an EHCP of total population (97\%)} = 18.16$$

$$18.16 \text{ rounded up to } 19 \times \text{£}23,528 = \text{£}447,032$$

SEND Contribution

Primary year groups

$$78 \times 0.05 = 3.9$$

3.9 X 7 year groups in the primary phase = 27.3

$$27.3 \times \text{Percentage of pupils with an EHCP of total population (3\%)} = 0.82$$

$$0.82 \text{ rounded to } 1 \times (\text{£}17,649 \times 4) = \text{£}70,596$$

Plus Secondary year groups

$$78 \times 0.04 = 3.12$$

3.12 X 6 year groups in the secondary phase = 18.72

$$18.72 \times \text{Percentage of pupils with an EHCP of total population (3\%)} = 0.56$$

$$0.56 \text{ rounded to } 1 \times (\text{£}23,528 \times 4) = \text{£}94,112$$

Total Contribution = £1,247,104

Exemptions

6.11 When assessing the impact of a development, Worcestershire County Council will take into consideration the likely affect that new dwellings may have on school places. In doing so, consideration has been given to properties where there is a high certainty that the impact on educational infrastructure requirements will be minimal and therefore are exempt from education contributions.

6.12 Affordable housing, either for sale or rent, provides a subsidised route to home ownership for those whose needs are not met by the market. The National Planning Policy Framework (NPPF)

February 2019 Annexe 2 provides an updated definition of affordable dwellings which are categorised as follows:

- affordable housing for rent;
- starter homes;
- discounted market sales housing; and
- other affordable routes to home ownership.

6.13 In consideration of the higher level of household recirculation, Worcestershire County Council will exempt those properties deemed to be social rent or affordable rent, where the landlord is a registered housing provider and the provision is to meet local need from those families already resident in the area and, the property will remain at an affordable price for future eligible households. Build to rent schemes are not exempt as they do not meet the above criteria.

6.14 Worcestershire County Council also seeks to exempt:

- developments that are 100% for commercial use (Class B1);
- all houses and flats with a maximum of one bedroom;
- homes for older people as defined in the National Planning Policy Framework (NPPF) February 2019 Annexe 2; and
- flats or apartments, specifically designed as student accommodation.
- Specialist housing for people with disabilities

6.15 Worcestershire County Council will only seek mainstream post-16 contributions on school based provision, and not sole post-16 institutions as these institutions are funded through a different route.

6.16 In line with the current National Planning Policy Practice Guidance paragraph 23, education planning obligations will not be sought on developments of fewer than 10 dwellings

Calculating the Level of Contribution When a New School is required

- 7.1 Typically, a new primary or first school may be required where a development will contribute 300 or more new dwellings, or in areas where no potential school expansions can be identified. When a large scale development in excess of 100 dwellings is proposed we recommend developers and district councils engage with Worcestershire County Council at an early stage to allow for appropriate planning and feasibility work to be undertaken.
- 7.2 As per the pre-school place requirements in section 5 above all new First and Primary schools are likely to be required to provide early years provision on site. This requirement will be included in any feasibility work undertaken.
- 7.3 A new secondary or special school is only likely to be required on very large sites or in an area where there is a significant amount of new housing across several developments. A new school may also be required when an expansion at an existing provider is not possible
- 7.4 There should be an assumption that both land and funding for construction will be provided for new schools planned within housing developments
- 7.5 If a new school is required solely as a result of new housing, Worcestershire County Council will require the developer, or developers, to fund all of the build and land costs. The build costs will be determined by a detailed feasibility of the proposed school site where possible or a generic site where not possible.
- 7.6 Worcestershire County Council will consider payment in kind by the direct provision of buildings by the developer. In this instance the specification and design of any provision must be agreed with Worcestershire County Council.
- 7.7 Under current government policy, all new schools should be opened as free schools, which are operated under an academy trust. When a new school is required as a result of new housing, Worcestershire County Council will run a competition to determine the operator of the new school(s). Community access to school buildings for purposes other than education will be agreed upon by the school operator once they are determined. The local authority aims to work with schools and local communities to ensure the best use of school premises.
- 7.8 Where a number of small developments are expected to come forward in an area with an aggregated requirement for a new school, Worcestershire County Council would expect the local planning authority to assist in the negotiations to secure a school site.

Payment of contributions

- 8.1 Where Section 106 education planning obligations are required a legal agreement will be completed. If the application is in outline, without detailed breakdown of the types of affordable dwellings an estimated cost based on the total number of dwellings will be provided until a breakdown of house types is available.
- 8.2 Financial contributions will be subject to indexation and interest on late payments. The calculation of indexation and interest will be set out in the legal agreement.
- 8.3 Payment of agreed financial contributions will usually be sought on or before occupation of one third of the total number of dwellings on the development. On larger scale developments of 100+ dwellings trigger for payment will be subject to negotiation. Worcestershire County Council will consider payment by instalments so long as the final balance is received prior to occupation of 90% of the total number of dwellings. The trigger points for payment will usually be expressed as a percentage of the proposed number of dwellings.
- 8.4 Worcestershire County Council will retain the funds received in an interest bearing account set up specifically for education planning obligations.
- 8.5 Worcestershire County Council will carefully monitor and commit to spending the contributions within the time period agreed with the developer. This will be a minimum of ten years from receipt of the final payment as per Government Guidance¹⁰.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793661/Securing_developer_contributions_for_education.pdf

Disbursement of Monies

Nomination of projects

- 9.1 The completed legal agreement will specify the infrastructure projects to be funded from education planning obligations. Contributions will always be used to fund capital projects to deliver permanent facilities and will not be used for providing temporary accommodation unless this is a necessary short-term measure as part of the delivery of a permanent building.
- 9.2 Highest priority will be given to projects which deliver additional capacity to allow providers to admit extra children. This may include but is not limited to:
- Any form of additional teaching area or support facilities such as classrooms, halls, spaces for group work or specialist facilities for children with disabilities;
 - Additional toilet facilities;
 - Office areas and support services;
 - Outdoor physical education

Forward funding of projects

- 9.3 It may be necessary for Worcestershire County Council or its partners, to deliver education infrastructure projects ahead of the related development. This ensures that schools are able to manage the impact in time for occupations on the development or to take advantage of other funding opportunities which may be time limited. Such circumstances are only likely to occur where the infrastructure is intended to manage the cumulative impact of several sites, a single large site or is to be partially funded from other funding sources such as Government grants.
- 9.4 The forward funding of projects does not remove the obligation from developers to fund the infrastructure that is shown to be necessary to mitigate the impact of their development. Worcestershire County Council reserves the right to adjust the timing of delivery of an agreed education infrastructure project as necessary during the lifetime of the related development.

Recording and Monitoring of funds

- 9.5 It is likely that in the future local planning authorities may be asked by central government for enhanced monitoring information about the collection and expenditure of S106 and CIL contributions. Worcestershire County Council will work with District Councils to ensure they are able to fulfil this duty.

Contact Details

For further information on the content of this document or to discuss a potential development please contact:

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