

Report of Consultation
Education Contributions from Residential
Developments SPD

April 2021

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1. Name of Document

Education Contributions from Residential Developments Supplementary Planning Document (SPD)

2. Purpose of the SPD

The production of the above SPD will help to ensure that the Council secures any required education infrastructure associated with new residential development.

SPDs are documents which add further detail to the policies in the Local Plan. They can be used to provide further guidance for development on specific sites, or on particular issues. SPDs are capable of being a material consideration in planning decisions but are not part of the statutory development plan.

This SPD is supplementary to the Local Plan Part 2 (2020) and the Nottingham City Aligned Core Strategy (2014). The SPD conforms to the National Planning Policy Framework (NPPF) and once adopted will be a material consideration when determining planning applications.

3. Persons/bodies/groups consulted

Consultation has been undertaken with statutory bodies, local businesses, citizens, agents and developers, wider interest groups and stakeholders, local councillors, and Nottingham City Council officers. Letters providing details of the consultation were e-mailed to all contacts on the Local Plan database of consultees.

4. Ways in which consultation was undertaken

Wherever possible, consultation was undertaken in accordance with the City Council's Statement of Community Involvement (SCI). As a consequence of the Covid 19 pandemic it was not possible make paper copies available for inspection, owing to the closure of public libraries and council offices. In view of these necessary temporary changes to the way an SPD would typically be advertised, the consultation period was extended to a 10 week period, with comments requested from Wednesday 25th March and Wednesday 3rd June 2020.

The document was available to view and download from the City Council's web site alongside an online response form. The consultation was also advertised on the Engage Nottingham Hub webpage.

5. Representations

A total of 21 representation comments were received from 6 interested parties. All comments have been considered and a number of changes to the SPD were proposed as

a result. The table in **Appendix 1** sets out the comments made, and the City Council's response to them, together with any recommended changes to the draft document.

6. Sustainability Appraisal

Undertaking a Sustainability Appraisal (SA) is a statutory requirement/process, which must be undertaken for any new planning document in accordance with the Planning and Compulsory Purchase Act (2004). The purpose of an SA is to assess the economic, social and environmental impacts of projects, strategies or plans, so that the preferred option promotes, rather than inhibits sustainable development. In addition to an SA, European directive 2001/42/EC (commonly referred to as Strategic Environmental Assessment or SEA), requires that Local Authorities undertake an "environmental assessment" of any plans and programmes they prepare that are likely to have a significant effect upon the environment.

The requirements of the SEA have been incorporated into the SA for the Local Plan Part 2 (2020). An SA was undertaken on the Local Plan Part 2, therefore a separate SA is not required. The process has appraised social, environmental and economic effects. The SA was undertaken from the start of the LAPP process through its various preparation stages. In doing so, it has helped to ensure that the decisions made on policies and allocations have contributed to achieving sustainable development. Furthermore, the SA recommended some changes to ensure that the LAPP is as sustainable as possible. The SA has facilitated the evaluation of alternatives and also considered the cumulative, synergistic and secondary impacts of the LAPP policies and sites.

The SA also demonstrated that the Plan is an appropriate approach when considering reasonable alternatives and, where negative impacts have been found, suggested suitable mitigation measures to try and overcome them. Monitoring arrangements are also proposed to ensure that the impact of the policies can be properly evaluated.

Details of the SA process, and methodology, can be found at www.nottinghamcity.gov.uk/localplan.

Appendix 1 - Summary of comments and City Council response

Name	Summary of comments	City Council response
Historic England	No Comments	Noted
Natural England	No Comments	Noted
Nottingham City Homes	Generally support the desire to see funding support for school provision to meet need that flows from new residential developments. This should operate alongside policies that the Council has in place to help deliver the affordable housing Nottingham City has identified that the city requires.	Support Noted
Nottingham City Homes	School provision enabled through the funds detailed should be within a reasonable distance of the dwellings concerned.	Comment noted
Nottingham City Homes	Support the application of the policy to the ages of schooling detailed, including early years and post 16 provision.	Support Noted
Nottingham City Homes	Support the objective of requiring contributions that can be used to assist with provision for children with SEND as set out at the percentage proposed.	Support Noted
Nottingham City Homes	Supportive of the methodology set out in the draft document.	Support Noted
NHS Nottingham West CCG	Advise that the Nottingham and Nottinghamshire CCG would also be seeking Section 106 Developer Contributions for Health Provision in relation to residential developments and would like to be notified electronically of all planning applications at notified email address	Details of relevant applications to be provided to consultee, as requested.
Environment Agency	No comments	Noted

<p>Department for Education (letter dated 27 May 2020)</p>	<p>The Policy Context section of the SPD should take account of planning practice guidance, in particular on Viability (paragraph 29), Planning Obligations (paragraphs 7 and 8), and Healthy and Safe Communities (paragraphs 7 and 8). These documents all include guidance which is relevant in the context of securing developer contributions for education. We recommend that this section of the SPD also acknowledge the legal tests under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations.</p>	<p>Reference, and hyperlinks, to guidance notes and legislation suggested by DfE proposed to be added in SPD Policy Context chapter at Paragraphs 5.3. 5.4, 5.5, and 5.6.</p>
<p>Department for Education (letter dated 27 May 2020)</p>	<p>Welcome the fact that this SPD has referenced (paragraph 2.3) and taken account of the guidance produced by the DfE on securing developer contributions for education.</p>	<p>Support noted.</p>
<p>Department for Education (letter dated 27 May 2020)</p>	<p>Welcome the draft SPD's approach to securing contributions for early years places, which reflects DfE guidance and preferred approach.</p>	<p>Support noted.</p>
<p>Department for Education (letter dated 27 May 2020)</p>	<p>Welcomes the SPD's assertion that both land and funding for the provision of schools will be required.</p>	<p>Support noted.</p>
<p>Department for Education (letter dated 27 May 2020)</p>	<p>The text in paragraph 4.3 is not correct as it suggests that the Basic Need grant only addresses the need created by demographic growth and does not provide for need associated with new housing. Local authorities report anticipated places required due to housing developments in their SCAP returns, and the number of places that will be funded by developer contributions. Basic Need allocations are adjusted to take account of developer contributions, to avoid double funding the same school places. Paragraph 6 of our developer contributions for education guidance provides further guidance on this issue: " While basic need funding can be used for new school places that are required due to housing development, we would expect this to be the minimum amount necessary to maintain development viability..". Please note that although Basic Need funding can be provided to help meet the costs of school places arising from housing development, it does not factor in the costs of land acquisition (Paragraph 5 of our guidance), so it's important that when</p>	<p>Noted and as agreed with DfE, propose replacement para (now) 3.3 of the SPD with this:</p> <p>The Education Authority receives a central government capital grant to support the supply of school places. This is referred to as Basic Need Grant. However, Basic Need allocations are adjusted to take account of expected or received developer contributions, to avoid double funding the same school places. Central government Basic Need Grant, the DfE free schools programme and other capital funding do not negate the housing developers' responsibility to mitigate the impact of their development on education. They also do not factor in the costs of land acquisition, so it's important that when development generates the</p>

	development generates the need for a new school, the land is secured at no cost to the local authority.	need for a new school, the land is secured at no cost to the local authority.
Department for Education (letter dated 27 May 2020)	Noted that Nottingham City does not currently have in place a CIL charging regime (paragraph 5.3). The CIL regulations, as currently drafted, allow councils to secure developer contributions from both CIL and S106 and use these to fund the same item of infrastructure. Our preference would be for S106 to be used for the collection of education contributions in most cases. The advantage of using Section 106 relative to CIL for funding schools is that it is clear and transparent to all stakeholders what value of contribution is being allocated by which development to which schools, thereby increasing certainty that developer contributions will be used to fund the new school places that are needed.	Comments noted.
Department for Education (letter dated 27 May 2020)	The planning obligations PPG states: 'Whilst standardised or formulaic evidence may have informed the identification of needs and costs and the setting of plan policies, the decision maker must still ensure that each planning obligation sought meets the statutory tests set out in regulation 122.' The PPG guidance also states: 'It is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination.' An SPD should not be used as means of introducing a tariff, and planning obligations should be specific rather than being based on a generic tariff. Given the current lack of evidence to support the SPD's pupil yields and per pupil costs, as set out above, the methodology in Appendix 1 looks like a generic tariff approach rather than an approach based on robust evidence. This approach is likely to	The SPD supports and expands on the adopted Local Plan. The SPD includes the formula for information and transparency. This formula / methodology will be reviewed again when the DfE publish national guidance on an appropriate methodology as stated in paragraph 8.12 of the SPD.

	hamper your ability to demonstrate that regulation 122 has been complied with when development proposals come forward.	
Department for Education (letter dated 27 May 2020)	In light of the issues addressed in the Education Contributions from Residential Developments SPD the Council and developers may be interested in DfE loans to forward fund schools as part of large residential developments. Please see the Developer Loans for Schools prospectus for more information.1 Any offer of forward funding would seek to maximise developer contributions to education infrastructure provision while supporting delivery of schools where and when they are needed.	Link to the Developer loans for schools: pilot information proposed to be added in SPD at para 5.7
Department for Education (letter dated 21 January 2021)	Following discussions with the Council's Education Directorate since May (2020), this letter now provides an update to our earlier comments.	Comment noted
Department for Education (letter dated 21 January 2021)	Paragraph 6 of our previous letter recommends that the Council establish the costs of school provision in accordance with our guidance for local authorities on securing developer contributions for education. Our guidance recommends adjusting the national average costs to reflect regional cost differences, and adjusting the costs for inflation since the data	At the current time, NCC Education has made the decision to continue to use the National School Delivery Cost Benchmarking report: Primary, Secondary and SEN Schools, June 2019 (NSDCB). This provides a useful guide, based on the analysis of a large project sample of school expansions across England. The average costs per pupil place determined through this analysis are closely aligned to the Councils local evidence of average costs of recent school expansion projects in Nottingham. Therefore, the amount of money The Council are seeking to secure through developer contributions for education provision is a reliable local reflection of the costs of providing school places in Nottingham, to date. It is also consistent with other LA's. The Council notes that these costs per school place built into our formula are lower than those recommended by the DfE, which they have based

		<p>on the 2019 DfE school place scorecard, as per their recommended approach.</p> <p>The DfE have stated their guidance is non-statutory and they recognise there is sometimes local justification for deviation from their guidance; that the Council is within its rights to apply alternative costs if justified by additional local evidence, as is currently the case in Nottingham. The Council does however reserve the right to review this any time, should local analysis of expansion projects cost, justify an increase to per pupil cost. (DfE have confirmed that they are happy with the proposed approach)</p>
Department for Education (letter dated 21 January 2021)	<p>Following discussion about SEND provision in Nottingham, the department recognises that the Council plans to increase SEND capacity within mainstream schools and that local cost evidence shows this to be less expensive than special school provision. Therefore, I withdraw our advice that developer contributions towards special or alternative school places are set at four times the cost of mainstream places (paragraphs 6 and 11 of our previous letter). We support your proposal to apply a 50% uplift to the per pupil costs where relevant, based on local evidence.</p>	<p>DfE revised response in support of NCC approach – noted.</p> <p>NCC SEND strategy (which has been consulted upon extensively) is to ensure that the majority of young people have their needs met effectively in local, mainstream schools, but with targeted specialist / focused provision. This is accounted for by the 50% uplift applied to the per pupil cost for 15% of pupils (15% is the current % of SEND or EHCP pupils in the city). Approx 4% of the 15% have high physical needs. Between 1-4% access actual special school places.</p> <p>Therefore, to base the SEND formula on four times the cost of mainstream places is not currently justifiable or realistic.</p>
Department for Education (letter dated 21 January 2021)	<p>Paragraph 8 of our previous letter recommends some additional information within the SPD on the calculation of pupil yield from housing development. It is understood that the Council plans to review pupil yield factors when DfE publishes new pupil yield data and</p>	<p>Noted and the Council will keep this under review, pending the DfE publishing their new national guidance on an appropriate methodology and pupil yield data later this year. In the</p>

	<p>guidance later this year, and on that basis we accept it is not essential to include detailed evidence of pupil yields within the SPD at this time. An early review of the SPD, or in-built flexibility to disregard a particular section in light of new evidence (such as DfE published data and guidance), would help to keep the local policy position up-to-date.</p>	<p>meantime, The Council will continue with the existing methodology and pupil yield rates, which are consistent with many other LAs.</p>
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