

**Committee Name and Date of Committee Meeting**

Cabinet – 19 December 2022

**Report Title**

Section 106 Developer Education Contributions Policy

**Is this a Key Decision and has it been included on the Forward Plan?**

Yes

**Strategic Director Approving Submission of the Report**

Suzanne Joyner, Strategic Director of Children and Young People's Services

**Report Author(s)**

Dean Fenton, Head of Service – Access to Education

[Dean.fenton@rotherham.gov.uk](mailto:Dean.fenton@rotherham.gov.uk)

**Ward(s) Affected**

All Wards

**Report Summary**

The Section 106 Developer Contributions Policy aligned to the Town and Country Planning Act 1990 has been updated to reflect the latest cost multipliers published by the Department for Education and BCIS (Building Cost Information Service). The Policy also proposes that future changes to the costs multiplier (usually updated annually) will automatically be updated in calculating appropriate developer contributions. This report proposes changes to threshold criteria to reflect recent updates to the evidence base, and further work undertaken within the Council to prepare refreshed supplementary planning policy guidance.

**Recommendations**

1. That approval be granted to the revised Section 106 Developer Education Contributions Policy.

**List of Appendices Included**

- Appendix 1 Revised Section 106 Developer Contributions – Education (Draft)
- Appendix 2 Equalities Impact Assessment
- Appendix 3 Environmental Impact Assessment

## **Background Papers**

Report to Council Cabinet (23.7.2013):  
Section 106 Developer Education Contributions Policy

Department for Education – cost multipliers document updated

RMBC refreshed supplementary planning policy guidance

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## **Section 106 Developer Education contributions policy**

### **1. Background**

- 1.1 Housing development can have a significant impact on local education infrastructure and create a shortfall in available school places for local schools and within local communities.
- 1.2 The Town and Country Planning Act 1990 (Section 106) makes provision for Local Authorities to seek financial contributions from developers towards education infrastructure where it can be evidenced that a development will put pressure on existing school capacity.
- 1.3 The Section 106 Developer Education Contributions Policy sets out the Council's strategy towards analysing the impact on education and requesting developer contributions towards creating additional school places where necessary and appropriate.

### **2. Key Issues**

- 2.1 There is a statutory duty on Local Authorities under the requirements of the Education Act 1996 to ensure the sufficiency of school places in their area within funding parameters.
- 2.2 Rotherham has a historic profile of satisfying parental preferences on Primary and Secondary School entry National Offer Days annually that is broadly in line with statistical Neighbours and above the national average.
- 2.3 A lack of sufficiency in areas of need can lead to parents being unable to secure a place locally for their child(ren) meaning that places have to be sought further afield potentially impacting on the Council's home to school transport budget and National Offer Day allocation profiles.
- 2.4 The latest cost multipliers issued by Department for Education and BCIS (Building Cost Information Service) have uplifted the previous cost formula from £2,342 (Primary) and £2,521 (Secondary) to £3,472 (Primary), £3,737 (Secondary) and £1,621 (Sixth Form). The policy revision reflects the uplift. In future these costs will be updated annually to reflect increases in build costs and as good practice in negotiating S106 planning contributions.
- 2.5 The policy revision which is Appendix 1 to this report also incorporates the use of Section 106 funding for Special Education Needs and Disability (SEND) and Social Emotional and Mental Health (SEMH) resources as the Local Authority has a strategy to align SEND / SEMH resource bases to local mainstream schools to meet the rising need for places in mainstream education for children with SEND / SEMH both with Education, Health and Care Plans (EHCP's) and registered as SEND needs in school but below EHCP threshold.

### **3. Options considered and recommended proposal**

- 3.1 **Option 1** – leave the Section 106 Developer Education Contributions Policy as is. However, the policy was last updated in 2013 and does not reflect the latest cost formula and does not address the rising SEND / SEMH needs. Restrictive threshold criteria were included within the original S106 Contributions to Education policy. Such restrictions (not seeking contributions in relation to developments of under 20 dwellings and in relation to affordable housing) are no longer substantiated by the robust evidence base that has been prepared to support all developer contributions and enable delivery of all local plan policy requirements.
- 3.2 **Option 2 – Recommended:** seek approval of the revised Section 106 Developer Education Contributions Policy to reflect the most up to date cost formula, SEND / SEMH needs, and the methodology applied to seeking all other S106 developer contributions. The cost formula will be reviewed annually to reflect increases in build costs and as good practice in negotiating S106 planning contributions.

### **4. Consultation on proposals**

- 4.1 Consultation was undertaken with stakeholders including RMBC Planning Department (linked to the draft Supplementary Planning Documents (SPD) - Securing Developer Contributions), Housing Department, Legal Department, Finance Department, Procurement Department and Regeneration and Environment Directorate.
- 4.2 Consultation on the draft Supplementary Planning Document (Developer Contributions) was undertaken mid September to mid-October 2022 by the Local Planning Authority and adoption of the SPD is anticipated in 2023.
- 4.3 Feedback from consultees has informed revisions to the revised draft policy (Appendix 3).

### **5. Timetable and Accountability for Implementing this Decision**

- 5.1
- (February – April 2022 / September 2022 – October 2022) – stakeholder consultation
  - December 2022 – report to Cabinet
- If approved by Cabinet:
- revised S106 Education Contributions Policy adopted following the Call-In period

### **6. Financial and Procurement Advice and Implications**

- 6.1 The Policy sets out the Council's approach to assessing the impact of new housing and requesting developer contributions and the rates that apply

aligned to the latest cost multipliers published by the Department for Education and Building Cost Information Service (BCIS).

- 6.2 The rates will be updated annually to accurately reflect buildings costs and provide appropriate funding to support relevant capital works.
- 6.3 There are no direct procurement implications arising from the recommendations detailed in this report.

## **7. Legal Advice and Implications**

- 7.1 The Local Authority has statutory duties under the Education Act 1996 to educate children in accordance with parental wishes; and secure efficient education to meet the needs of the population of their area within funding parameters.
- 7.2 Section 9 of the Education Act 1996 requires the Secretary of State and local authorities in exercising their powers and duties under the Education Acts to have regard to the general principle that pupils are to be educated in accordance with the wishes of their parents so far as is compatible with the efficient instruction and training and the avoidance of unnecessary public expenditure.
- 7.3 Section 13(1) of the Education Act 1996 requires local authorities to contribute towards the spiritual, moral, mental and physical development of the community by securing efficient primary and secondary education and in the case of a local authority in England further education are available to meet the needs of the population of that area.

## **8. Human Resources Advice and Implications**

- 8.1 There are no Human Resource implications to consider from the Local Authority's perspective.

## **9. Implications for Children and Young People and Vulnerable Adults**

- 9.1 Contributions from developers are sought, where the Council can evidence a shortfall in school places will occur as a result of future development. Section 106 contributions and other funding streams such as basic need funding (allocated to local authorities for the provision of new school places) are used for the provision of new school places to meet demand and are accompanied by strict contractual arrangements including timeframes for the utilisation of funding.

## **10. Equalities and Human Rights Advice and Implications**

- 10.1 The Council Plan theme supported by the proposal is to ensure every child is able to fulfil their potential. This is supported by providing school places in areas of need and in line with parental wishes.

10.2 An equalities impact assessment has been completed and is Appendix 1 to this report.

## 11. Implications for CO2 Emissions and Climate Change

11.1 An impact assessment has been undertaken linked to the proposals contained within this report and is Appendix 2.

## 12. Implications for Partners

12.1 The revised policy has been prepared following consultation with Planning Officers, Housing Department, affordable Housing Officers and other internal stakeholders including finance, Legal department and Asset Management Services.

## 13. Risks and Mitigation

13.1 The Local Authority has a statutory duty to ensure a sufficiency of school places in areas of current and future need within funding parameters.

## 14. Accountable Officers

Nathan Heath – Assistant Director, Education and Inclusion  
Dean Fenton – Head of Service, Access to Education

Approvals obtained on behalf of Statutory Officers: -

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	02/12/22
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	01/12/22
Assistant Director, Legal Services (Monitoring Officer)	Phil Horsfield	30/11/22

*Report Author:* Dean Fenton, Head of Service – Access to Education  
Email: [dean.fenton@rotherham.gov.uk](mailto:dean.fenton@rotherham.gov.uk)  
This report is published on the Council's [website](#).