

Children & Young People's Services Planning Obligations for Educational Provision Practice Note

Introduction

Under the School Standards & Framework Act 1998, Cheshire West & Chester Council (CW&C) is the strategic commissioner of maintained sector school places across the Borough.

This statutory responsibility is to plan and maintain a sufficient supply of suitable school places. Where this duty is not met, there may be a financial cost to the Authority or inefficient use of resources, such as increased admissions appeals, additional transport solutions, expensive temporary solutions and potentially inefficient provision of education.

The balance between demand for pupil places and the associated school organisation and capital requirements is regularly reviewed by Children and Young People's Services (CYPS). Where there is a need for additional school places, CYPS will look for a solution that is practical, deliverable and, most importantly, educationally sound.

It is of paramount importance that any solution giving rise to an increase in school places at a given school or schools has school improvement as a fundamental consideration. Any solution therefore must not be prejudicial to the education of pupils currently at the school or those that are forecast to attend in the future.

Purpose

The aim of this document is to provide clear and consistent guidance to residential developers on the assumptions and analysis applied by CYPS when evaluating child yield and potential capital contributions for educational provision.

This document outlines:

1. The process for calculating child yield and developer contributions;
2. The criteria and data used to assess the need for a developer contribution;
3. The payment of contributions and implementation of capital schemes.

Government Policy

Section 106 (S106) of the Town and Country Planning Act 1990, enables residential developers to make contributions to local authorities to mitigate any adverse impact of their development on the local infrastructure and services.

It is lawful for Authority's to receive legitimate capital investment from residential developers where planned development will put an additional burden on the educational infrastructure by generating additional pupils into existing educational provision. The basis for any S106 contribution is that must be:-

1. Necessary to make the development acceptable in planning terms;
2. Directly related to the development by either a functional or geographic link; and
3. Fairly and reasonably related in scale and kind to the development.

Scope

CYPS may seek legitimate capital investment where the residential development will impact on:

- a. Primary Schools: Community, Voluntary Controlled, Voluntary Aided, Foundation, Free Schools and Academies.
- b. Secondary Schools: Community, Voluntary Controlled, Voluntary Aided, Foundation, Free Schools and Academies.
- c. Special Schools
- d. Sixth form provision (when part of any of the above establishments)
- e. Pre-school provision (when part of any of the above establishments)

Types of capital schemes included, but not exhaustively, within the scope of works include:

- a. The provision of sites and the construction of new schools;
- b. Extension of existing schools;
- c. Remodelling of existing schools, including upgrading and addition of existing facilities to accommodate an increase in pupil numbers;
- d. Replacement of temporary accommodation.

Categories of Development for Educational Purposes

In considering the need for any S106 developer contributions, CYPS currently split developments into 2 categories:-

Category 1. 6 – 250 units

Based on the Child Yield Calculation (described below) developments of this size produce low to moderate pupil numbers and may warrant a developer contribution. If the development is one of a number of small developments within a single school catchment area, the cumulative effect of the developments would be considered and would fall into the category below.

Category 2. 251+ Units

Based on the Child Yield Calculation (described below) developments of this size produce significant pupil numbers and would definitely warrant a developer contribution either to increase the net capacity at an existing school, replace time limited temporary accommodation with permanent build or to provide the funding and/or a site for a new school where the child yield or location warrants it.

The Evaluation and Implementation Process

CYPS officers work through the following process:

1 Ascertain the potential impact of the development

CYPS use a child yield calculation to determine how many pre-school, primary, secondary sixth form and SEN form pupils are likely to come from the residential development. Retirement units and 1 bedroom dwellings are not included in the calculation.

The child yield factors have been calculated from data gathered from the 2011 Census (**Annex One**).

The table below shows the child yield factor for each sector for 2 to 5+ bedroom dwellings.

Age Range	2 Bedrooms	3 Bedrooms	4 Bedrooms	5+ Bedrooms
Pre-School (age 2-4)	0.06	0.075	0.085	0.10
Primary (age 5-11)	0.08	0.17	0.27	0.36
Secondary (age 12-16)	0.04	0.15	0.22	0.32
Sixth Form (age 17-19)	0.02	0.06	0.10	0.14

All yields are rounded to the nearest decimal.

To determine the number child yield from a development the number of dwellings is multiplied by the relevant child yield factor.

SEN Yield

SEN provision caters for pupils aged 2 – 19, therefore the SEN yield is the total average of all above age ranges multiplied by the current % of pupils in CW&C with an Education Health and Care Plan. As at May 2022, this stands at 3.6%.

For example 100 four bedroom dwellings would give the following calculation:

100 x 0.085 = **9** Pre-school age children

100 x 0.27 = **26** Primary age children (– 1 SEN child)

100 x 0.22 = **21** Secondary age children (– 1 SEN child)

100 x 0.1 = **10** Sixth form age children

100 x 0.675 (0.085 + 0.27 + 0.22 + 0.10) x 0.036 (3.6%) = 2 SEN children

No. dwellings x No. of children generated x SEND % = No. SEND places

To avoid double counting the SEN children have been removed from the mainstream calculation. SEN children generated will be assumed to be of the age of the highest yield (for example this usually results in a primary child first, then secondary)

2 Existing Provision and Forecast Numbers

The next step is to analyse and consider the current and forecast data for the catchment primary and secondary schools and in the case of special schools and pre-schools, gather appropriate evidence from SEN and Early Years colleagues.

Where a single major development, or multiple developments in close proximity warrants a significant number of new school places, The Council will require provision for a new school.

In the [November 2019 DfE Guidance “Securing Developer Contributions for Education”](#) it states that the Department for Education expects Council’s to apply a local approach in regards to allowing a margin of operational surplus capacity. Cheshire West and Chester Council apply 5 per cent, which is used widely by many other Local Councils. 5 per cent is the bare minimum needed for authorities to meet their statutory duty with operational flexibility, allowing for the natural churn and movement in the pupil population, and the general manageability of the system while enabling parents to have some choice of schools. A standard 5 per cent surplus capacity is there to provide the kind of operational flexibility described above, rather than meet the need for additional school places arising from proposed developments.

Where the calculated child yield is in excess of the surplus capacity or would bring the surplus capacity to less than the 5 per cent surplus required for the flexibility, as outlined above, at the catchment school then a contribution towards educational provision will be sought.

Where the Service has built school provision in anticipation of forthcoming Local Plan sites, The Service will require a proportionate share of a retrospective contribution where the development is directly relatable to the project.

CYPS reviews the **Catchment School only**, unless:-

- a. Extension of the catchment school is not possible and/or practical (e.g. the site is landlocked with no scope for extension);
- b. Extension of the catchment school would be prejudicial to the education of the current and future pupils (e.g. extension would lead to a Planned Admission Number (PAN) which is out of line with the CYPS School Organisation Strategy);
- c. The catchment school is already at the size which is disproportionate to surrounding schools;
- d. The size of the development would justify a discrete catchment and therefore a new school.

In the cases above CYPS would then look at alternative mitigation, the criteria for which would be:

- a. Schools which are part of an existing educational planning ‘cluster’ or a formal collaboration or federation arrangement.
- b. Schools which already take a proportion of their pupils from the catchment which the development sits in.

However Schools which meet the following criteria will be discounted:

- a. Extension is not possible and/or practical (e.g. the site is landlocked with no scope for extension);
- b. Extension would be prejudicial to the education of the current and future pupils;
- c. The school is already at a size which is disproportionate to surrounding schools.

In these circumstances, alternative mitigation would be explored at a minimum of 1 school and a maximum of 6 schools, as determined by CYPS.

Cheshire West and Chester Council have identified a shortfall of SEN places within the Borough. The Council acknowledges that there is an existing shortfall of Special School places, however using the Borough’s current 3.6% of expected SEN pupils, live birth data, and additional children expected from the Local Plan will further exacerbate this. Therefore The Council will seek contributions for

SEN infrastructure until data shows that SEN children from new development can be accommodated sustainably.

3 Calculate the contribution required

The Department for Education published Guidance [November 2019 DfE Guidance “Securing Developer Contributions for Education”](#) to assist Local Councils in obtaining a national approach for S106.

The guidance recommends Councils base mainstream costs on the national average build costs published on the DfE scorecards. The costs below have been adjusted to reflect regional weighting factors and were published [June 2022](#). Costs will be updated inline with DfE updates.

DfE Guidance recommends that Pre-School costs are assumed the same as primary school costs, and similarly Sixth form are the same as secondary school costs.

SEN costs are calculated using the DfE recommended guidance of using four times the cost of mainstream places. This is on the basis that Special Schools require more space per pupil than mainstream schools, and is consistent with the additional space requirements in [Building Bulletin 104](#).

These costs are currently as follows:

Mainstream Per Pupil Build Cost Multiplier – School Expansion

School	Temporary	Permanent
Pre - school	£8,406	£17,827
Primary	£8,406	£17,827
Secondary	£9,372	£24,753
Sixth Form	£9,372	£24,753

SEN Per Pupil Build Cost Multiplier – School Expansion

School	Temporary	Permanent
Pre - school	£33,624	£71,308
Primary	£33,624	£71,308
Secondary	£37,488	£99,012
Sixth Form	£37,488	£99,012

Where the need arises for a significant increase of provision (for example 1 FE expansion) or a new school, the cost will be provided on an individual site-specific basis.

4 Analyse areas of Capital Need

CYPS carry out suitability and sufficiency assessments for all maintained schools across the Borough. Academies and Free School capacities are determined by the capacity included in their funding agreements with the DfE.

Once a potential child yield has been calculated and the relevant pupil places data analysed, CYPS will investigate providing sufficient places for those pupils either through extension or remodelling of existing accommodation or by providing new accommodation.

5. Implement schemes

Schemes will be implemented and contributions spent within the conditions and timescales agreed in S106 agreements. These conditions are usually that a local school will be expanded by way of the addition of teaching accommodation (classrooms) to enable the additional pupils arising from the development to be accommodated.

It is likely that timescales for implementation of larger developments will be phased over several years and therefore annual pupil places reviews will be carried out.

ANNEX ONE – 2011 CENSUS DATA

Data sets used from the 2011 Census are:

DC4103EW - Number of bedrooms by tenure by age of dependent children

This data set shows the number of children living in 2 – 5+ bedroom dwellings in Cheshire West and Chester.

The data set outlines that although 50% of pre-school and school age children live in 3 bedroom dwellings the number of children increases in proportion to the number of bedrooms.

DC1402EW - Household composition by number of bedrooms

This data set shows the breakdown of the number of families living in 2 – 5+ bedroom dwellings in Cheshire West and Chester.

The data set outlines that the majority of households with dependent children live in 2+ bedroom dwellings, although some children do live in one bedroom properties. The proportion of households with dependent children increases as the number of bedrooms increases.

Table QS103EW 2011 Census: Age by single year, local authorities in England and Wales

This data set shows the breakdown, by age, of the population of Cheshire West and Chester.

This data outlines the actual population as at January 2011 and shows that a fifth of the Cheshire West and Chester population is of pre-school and statutory school age. This is a higher proportion than those aged 65+.

Expiry or review date

This guidance will be reviewed as necessary (for example, in response to changes in legislation or government policy).