

A Short Guide to S106 Education Contributions

What is S106?

Section 106 (or S106) refers to a section in the Town and Country Planning Act 1990, by which developers can be obliged to make contributions to local authorities to mitigate any adverse impact of development, for example, on infrastructure. Subsequent Governments have issued guidance on the level and type of S106 contributions that can be requested of developers. Typically, Local Authorities requests for S106 contributions include payments for road improvements, leisure facilities, public open spaces and education facilities.

Responsibility for S106?

Requests for S106 contributions form part of a planning agreement between a District Council, as the statutory planning authority, and the applicant for planning permission. However the expertise in determining the impact of housing development on education provision rests with the County Council Children's Service's Directorate.

The County Council drew up a list of criteria for housing developments to be liable for S106 education contributions based on the following tests of reasonableness laid down in Government planning guidance:

- Relevant to the planning;
- Necessary to make the proposed development acceptable in planning terms;
- Directly related to the proposed development;
- Fairly and reasonably related in scale and kind to the proposed development;
- Reasonable in all other respects.

These criteria, together with the formulae for calculating the contribution requested and the legal and financial protocols for spending the monies raised are incorporated in Supplementary Planning Documents (SPDs). SPDs are adopted by district councils and form the policy basis by which S106 education contributions are requested.

Four of the six district councils in Worcestershire, Redditch Borough Council, Malvern Hills District Council, Worcester City Council and Wychavon District Council, have adopted an SPD specifically related to S106 Education Contributions. Wyre Forest District Council has incorporated the County Council's practice in a generic S106 contributions SPD. Bromsgrove District Council does not currently have an SPD but supports the County Council's approach in principle.

How do S106 Agreements come about?

Officers in the County Council Children's Services Directorate monitor planning applications and alert the relevant district council when an S106 education contribution is required from a housing development. Sometimes a district council will decide that a request by the County Council for S106 education contributions is inappropriate if it considers the level of contribution would make the development unviable. A S106 agreement is drafted, usually with both the County Council and appropriate district council as parties.

What is the impact of housing development on demand for school places?

The County Council has calculated that, as a rule of thumb, a development of 100 privately owned homes will generate 2.9 children per year group. This is based on data from the 2001 Census and analysis of the impact of recent housing developments.

What about affordable housing?

Worcestershire County Council does not ask for educational contributions on affordable housing. There are two reasons for this; firstly, affordable housing is usually demanded as a planning condition, dependent on the size of the development, either in terms of housing numbers or acreage developed. Secondly, children resident in new affordable housing are usually local and are already educated in the local schools.

Are any other types of homes exempt?

The Council does not request S106 education contributions in respect of 1-bedroomed homes and specialist housing for older people or the disabled.

How are flats and apartments treated?

Developments of flats or apartments receive a 60% discount on the contribution requested for houses as analysis of census data shows that they typically produce fewer children than houses with equivalent numbers of bedrooms. 1-bedroom flats and apartments are still exempt from contributions.

What about contributions for larger houses?

Houses with 4 or more bedrooms receive a 50% increase on the contribution for 2- and 3-bed houses as statistical evidence shows that they generate more children on average than smaller houses.

How does Worcestershire County Council decide whether the development will have an impact on local schools?

The County Council looks at the number of spare places in the largest year group at each of the catchment schools. Developments have been divided into bands based on the size of the development and a contribution will be requested if the number of spare places meets the trigger point for that band:

For developments of 5-30 dwellings – no spare places

For developments of 31-60 dwellings – where there is only 1 spare place

For developments of 61-100 dwellings – where there are 2 or fewer spare places

Why is a threshold of 5 dwellings applied?

The amount of contribution raised from very small developments does not justify the administrative and legal work involved.

How does the County Council work out how much to ask for?

When a developer applies for planning permission for a development of private sector homes, the contribution towards education facilities is calculated based on the number and mix of dwellings, the number of surplus places in the catchment area schools serving the development and the cost per school place which is provided by the Department of Children, Schools and Families.

In the 2011-2012 charging schedule the maximum the County Council would request is £7,124 for a 4-bedroomed house in a development where the schools at all phases are under pressure. In areas where not all schools are under pressure lower amounts would be requested.

What about developments of more than 100 homes?

Developments of more than 100 homes are evaluated on an individual basis. The County Council has a critical look at the education provision in the area and the likely impact of development, taking into account any specific circumstances. The Council will either negotiate for a financial contribution or it may decide a new school will be necessary and negotiate for land and / or school buildings.

What can the money be spent on?

The money can be spent on capital projects to improve or extend the buildings at the eligible schools. This could include special needs or other school based facilities for the benefit of children, e.g. children's centres, as well as "mainstream" educational facilities. Contributions will only be spent on providing permanent facilities.

Which are the eligible schools?

These are the catchment area schools serving the development. Contributions may also be spent on Voluntary Aided schools (usually faith schools) which operate admission criteria not based primarily on a geographical catchment area provided they meet the surplus place criteria and are within 2 miles of the development for primary schools and 3 miles for secondary schools.

Who decides how the money is spent?

Worcestershire County Council allocates the monies to projects at any of the eligible schools serving the development according to ranked priorities identified from the Authority's Asset Management Plan. This is compiled from information provided by schools in their individual Asset Management Plans so it is important that schools keep these up to date.

What happens if the developer does not pay up after the agreement is made?

The County Council will request that the relevant district council planning enforcement officer take the appropriate action.

What happens to monies that are not spent?

If the County Council is unable to allocate a contribution it is returned to the developer with interest at the end of the period specified in the S106 agreement, usually 10 years.

How much money has been raised through S106 agreements?

In the financial year 2010-11, the County Council received over £580,000 in Section 106 contributions for education facilities.

How has the money been used?

Examples of projects that have benefited from Section 106 monies in 2010/11 include:

Blackwell First School, Bromsgrove	improvements to entrance area
Kingsley College, Redditch	various works including 6 th form accommodation and 2 new science labs
Northwick Manor Primary School, Worcester	replacement of temporary accommodation with permanent classrooms
St Egwin's CE Middle School, Evesham	contribution to new sports hall
Stourport Primary School, Stourport	contribution towards new school building

Where can I find out more?

Links to each district council's Supplementary Planning Document and the current table of charges can be found on the County Council's website at:

<http://www.worcestershire.gov.uk/cms/education-and-learning/policy-and-guidance/schools---planning-obligations.aspx>

or contact Worcestershire County Council Children's Services on 01905 766633.