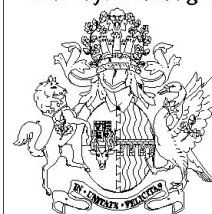


Report for: ACTION

The Royal Borough



Windsor &
Maidenhead

Contains Confidential or Exempt Information	No – Part I
Title	Review and Revision of the S106 Education Contributions
Responsible Officer(s)	Chris Hilton, Director of Development and Regeneration Alison Alexander, Managing Director and Strategic Director of Children's Services
Contact officer, job title and phone no.	David Scott, Head of Education
Member reporting	Cllr Derek Wilson Lead Member for Planning Cllr Phillip Bicknell Lead Member for Education
For Consideration By	Cabinet
Date to be Considered	26 November 2015
Implementation Date if Not Called In	8 December 2015
Affected Wards	All wards
Keywords/Index	S106, developer contributions, education, schools

REPORT SUMMARY

1. Provisions made in the Community Infrastructure Levy Regulations 2010 (as amended) came into effect on 6th April 2015. These provisions restrict the use of S106 contributions. This has resulted in a need to change the way in which Education S106 contributions are allocated. These contributions are used to offset the impact of new housing on school capacity.
2. This report recommends approval of an interim methodology for justifying and allocating developer contributions for education as set out in Appendix A, with implementation from 8th December 2015. The interim methodology includes updates to the level of contribution sought, these being amended in accordance with prior delegation from Council.
3. Appendix A sets out when contributions are required from developers for education projects and the justification for the amount sought. It also sets out the process for prioritising specific projects to offset the impact of a particular development.
4. The Royal Borough will continue to negotiate for developer contributions in this way until Community Infrastructure Levy (CIL) has been implemented.

If recommendations are adopted, how will residents benefit?	
Benefits to residents and reasons why they will benefit	Dates by which they can expect to notice difference
This report updates the way in which education S106 developer contributions are collected and allocated, in line with regulations, so that residents can continue to benefit from investment to provide new capacity in local schools.	December 2015

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATIONS: That Cabinet:

- i) **Approves the interim education S106 developer contributions methodology attached at Appendix A to be used as the basis for negotiations with developers. This includes revisions to the level of contribution sought per dwelling, in accordance with prior delegation from Council.**
- ii) **Requests that schools submit updated Asset Management Plans.**
- iii) **Delegates authority to the Managing Director and Strategic Director of Children's Services to agree future updates to the level of contribution sought per dwelling.**

2. BACKGROUND

- 2.1 The Royal Borough has been collecting education S106 developer contributions since 2002, to offset the impact of new housing developments on local schools. Over £10m has been collected, helping schools in all parts of the borough to expand their facilities to accommodate the additional children from new housing.
- 2.2 The existing framework was agreed by the Royal Borough's full Council in November 2005, and published as the *Planning Obligations and Developer Contributions Supplementary Planning Document – A Developers' Guide* in December 2005. An annual update, published under delegated authority from Council, set out revised costs and lists of projects eligible for funding.
- 2.3 The Community Infrastructure Levy Regulations 2010 (as amended) now restricts the use of S106 contributions, with the result that the existing arrangements for collecting and utilising education S106 developer contributions can no longer be applied.
- 2.4 The borough is currently working towards implementing CIL in 2016. This report recommends adoption of an interim education S106 developer contributions methodology so that residents, schools and developers are aware of the basis for negotiating education contributions is. The CIL will replace S106 contributions for education.
- 2.5 Revisions to the contributions sought are made under authority delegated by Council, in November 2005. Appendix A sets out the methodology and is briefly outlined as:
 - Education S106 developer contributions will now only be collected from a relatively small number of developments, due to restrictions on combining, or 'pooling',

contributions from more than five developments towards any single piece of infrastructure.

- Contributions will be sought where there are less than 10% surplus places at any tier of education in the area local to the development.
- Contributions will not usually be sought on developments that generate a net pupil yield of less than three children.
- The amount sought will be based on the cost of providing additional school infrastructure for the number of pupils that a new development is expected to yield.
- The proposed per m² build rate is based on DfE costs, updated in line with inflation. The space required per pupil is based on government guidance.
- Contributions from any single development will usually only be used to fund or part-fund a scheme at one school. The contributions will not, as has previously been the case, be split across a number of schools or across primary/secondary schools. This is to ensure that the sums collected can be used effectively and that the project can be delivered.
- Only certain schemes are compliant with the CIL regulations – e.g. new schools, extensions to existing schools, internal remodelling of existing schools and disabled access improvements. It makes clear that certain types of work, such as repairs and maintenance, are not eligible for education S106 developer contributions.
- There will be a number of schools with potential projects. These will be prioritised as follows:
 - Priority 1 – school expansion schemes that are already approved by Cabinet.
 - Priority 2 – other compliant schemes.

2.6 Within Priority 2, potential schemes will be derived from the current School Asset Management Plans (AMP). Schools are asked each summer to update their AMPs¹, and this report recommends that schools are asked for an updated AMP following Cabinet. Schools will be asked to rank their projects and estimate the size of the scheme (m²).

2.7 This approach ensures that the administrative impact on schools is kept to a minimum and that planning applications can be determined within statutory timeframes, whilst still preserving direct school involvement.

2.8 Schemes within Priority 2 will be scored on the basis of best addressing local demand for places; whether they result in an increased school Published Admission Number (PAN); the current balance between the number of places at the school and available workplaces; and cost.

2.9 The main changes from the previous system of collecting and allocating education S106 developer contributions are that:

- Contributions from one development will not be split between several schools but directed towards one project.
- Projects to be funded will be identified at the planning application stage, not subsequently.
- A prioritisation process will be used to identify projects to be funded. This was not previously required.
- The per m² build costs have been updated in line with inflation.

¹ Except in Summer 2014.

3. OPTIONS

Recommendation 1 - Approves the Interim Education S106 Developer Contributions Methodology attached at Appendix A to be used as the basis for negotiations with developers. This includes revisions to the level of contribution sought per dwelling, in accordance with prior delegation from Council.	
Approve	Recommended. This will provide a robust framework for the negotiation of education S106 developer contributions that is clear to residents, schools and developers.
Reject	Not recommended. The borough will still be able to negotiate education S106 developer contributions, but there could be less clarity about process or the grounds for negotiation.

Recommendation 2 - Requests that schools submit updated Asset Management Plans (AMPs).	
Approve	Recommended. Although schools are asked on an annual basis for their AMPs, many schools do not respond. A reminder may encourage more schools to provide an update, which, in turn, will ensure that the borough's information is up-to-date.
Reject	Not recommended. This will mean that the borough's AMP information will be more out-of-date than otherwise.
Alternative	Not recommended. The consideration of schools as being eligible for consideration for S106 funds could be made contingent on them having submitted an updated AMP list in 2015. This may help ensure that the borough's AMP information is more up-to-date. It is likely, however, that significant numbers of schools will still fail to provide up-to-date AMPs.
Options	Note

Recommendation 3 - Delegates authority to the Managing Director And Strategic Director of Children's Services to agree future updates to the level of contribution sought per dwelling.	
Approve	Recommended. Children's Services are currently running an exercise to update the 'pupil yield' figures (i.e. the number of children a new house is expected to generate), which won't be complete until 2016. Government guidance on school accommodation and local build costs also change. Delegated authority to amend these figures will allow the Royal Borough to use the most up-to-date figures and make prompt decisions accordingly.
Reject	Not recommended. It would be necessary to return to Cabinet to amend the figures used in the policy creating extra levels of bureaucracy and significantly impeding timeliness of decisions.

4. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Proportion of qualifying planning applications with agreed S106 developer contributions secured during operation of the interim methodology.	<10%	10%	11-14%	>15%	01/12/2016

- 4.1 This methodology will be used until such time as it is superseded by the Community Infrastructure Levy, expected in 2016.

5. FINANCIAL DETAILS

Financial impact on the budget

Capital

- 5.1 The borough received over £2m of education S106 developer contributions in each of the 2012/13, 2013/14 and 2014/15 financial years. These funds were generated by the old, pre-6th April 2015, education S106 policy, when at least 80 new agreements were signed each year.
- 5.2 In the 2015/16 financial year, monies from legal agreements that were signed prior to 6th April 2015 are still coming in, but receipts this year are expected to be significantly reduced on previous years. To date, less than £300k has been received. This is partly because a Ministerial statement in November 2014 stated that S106 contributions should not be sought on developments of ten dwellings or less. This was overturned by the High Court², but by this point CIL restrictions on pooling were in force.
- 5.3 Whilst the borough is currently moving towards implementing a CIL locally, it cannot currently collect the levy until the charging schedule has been examined by an independent examiner. Two S106 legal agreements, totalling just over £700k, have been signed since 6th April 2015. By adopting an interim S106 methodology the borough will have a transparent and compliant basis for negotiation with developers, and will therefore be able to offset some of the impact of new housing on schools.
- 5.4 The interim methodology on education S106 developer contributions states that the borough will not usually seek contributions on developments that generate a net pupil yield of less than 2 children. This means that the minimum contribution sought will be around £30k. Historically, 87% of education S106 contributions have been for less than this amount. It follows, therefore, that the proportion of planning applications for which education S106 developer contributions will be sought under the new policy will be in the region of 10-20%.
- 5.5 The number of education S106 developer contributions agreed under this policy will be dependent on the type and size of planning applications coming forward.

Revenue

- 5.6 There are no direct impacts on revenue funding.

6. LEGAL

- 6.1 The Community Infrastructure Levy Regulations 2010 (as amended) set out three tests that must be met to justify requests for contributions. They must be:
- Necessary to make the development acceptable in planning terms.
 - Directly related to the development.
 - Fairly and reasonably related in scale and kind to the development.
- 6.2 The CIL regulations also introduced a restriction in the use of S106 developer contributions on any determination of a planning application after 6th April 2015. Regulation 123 states that from the 6th April 2015:

² The Secretary of State is currently appealing the decision.

- (3) *Other than through requiring a highway agreement to be entered into, a planning obligation (“obligation A”) may not constitute a reason for granting planning permission to the extent that*
- (a) *obligation A provides for the funding or provision of an infrastructure project or provides for the funding or a provision of a type of infrastructure; and*
 - (b) *five or more separate planning obligations that—*
 - (i) *relate to planning permissions granted for development within the area of the charging authority; and*
 - (ii) *which provide for the funding or provision of that project, or provide for the funding or provision of that type of infrastructure, have been entered into on or after 6th April 2010³.*

6.3 This means that, where planning permission has been granted from 6th April 2015, any S106 contribution arising can only be pooled with up to four other S106 contributions to fund any single piece of new infrastructure. This limit of five pooled contributions includes any contributions from planning permissions granted since 6th April 2010. This limit on the ‘pooling’ of contributions is a significant change from the previous S106 arrangements. The new pooling limit does not apply, however, if all of the contributions for a single project are funded from developments approved prior to 6th April 2015.

7. VALUE FOR MONEY

7.1 By increasing the proportion of planning applications for which education S106 developer contributions are agreed, the borough will maximise the funds available to offset the impact of new development on local schools.

8. SUSTAINABILITY IMPACT APPRAISAL

8.1 There are no sustainability impacts arising from the recommendations in this report.

9. RISK MANAGEMENT

Risks	Uncontrolled Risk	Controls	Controlled Risk
Unrealistic expectations from schools about the availability of S106.	High	Offer schools an update on S106 funding via Bursar Support meetings.	Low
Perceptions of unfairness arising from allocation of S106 funds to schools.	High	Record and retain prioritisation and scoring information for each application.	Low

10. LINKS TO STRATEGIC OBJECTIVES

10.1 Residents First - Adopting this new methodology will help secure developer contributions towards education, and these contributions will be used to support improved education outcomes for our children and young people.

³The Community Infrastructure Levy Regulations 2010 (<http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>) as amended, for example, by The Community Infrastructure Levy Regulations 2011 (<http://www.legislation.gov.uk/ukdsi/2011/987/regulation/12/made>)

- 10.2 Value for Money – securing developer contributions will enable the Borough to secure additional education infrastructure capacity in a cost effect manner.
- 10.3 Equipping ourselves for the future – securing the best educational infrastructure for our children and young people will support them achieving the best possible educational outcomes to be economically independent citizens of the future.

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

- 11.1 There are no staffing/workforce or accommodation implications arising from the recommendations in this report.

12. PROPERTY AND ASSETS

- 12.1 There are no property and assets implications arising from the recommendations in this report.

13. ANY OTHER IMPLICATIONS

- 13.1 There are no other implications at this stage.

14. CONSULTATION

- 14.1 Representatives from the Fairer Funding For All Borough Schools group were invited by the Chair of the Children’s Services Overview and Scrutiny Panel to the meeting of that panel on Tuesday 20th October 2015. The Chair invited the representatives to answer three questions:

- How do we strike balance between the need to respond to planning applications quickly and involving schools in any decisions?
- How do we strike a balance between treating schools fairly and ensuring that education S106 contributions are spent in accordance with regulations?
- How do we decide between competing school projects?

- 14.2 A summary of the Fairer Funding suggestions and the borough’s responses to those is included as Appendix B.

15. TIMETABLE FOR IMPLEMENTATION

- 15.1 Subject to call-in, this policy will be implemented on 1st December 2015 and will remain in place until the borough implements the CIL locally.

16. APPENDICES

Appendix A: Interim Education S106 Policy
Appendix B: Consultation with Fairer Funding

17. BACKGROUND INFORMATION

Legislation and Guidance

17.1 The legislation that sets out the circumstances in which local authorities can seek developer contributions are contained in the following:

- The Planning Action 2008.
- The Community Infrastructure Levy Regulations 2010 (as Amended).
- Localism Act 2011.
- The National Planning Policy Framework 2012.
- The Growth & Infrastructure Act 2013.

17.2 Guidance is set out in the National Planning Practice Guidance.

Cabinet papers

17.3 None.

Previous policies

17.4 None.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Cllr Burbage	Leader of the Council	30/10/2015	02/11/2015	
Michaela Rizou	Cabinet Policy Assistant	23/10/2015	27/10/2015	
Cllr Bicknell	Lead Member for Children's Services	26/10/2015	26/10/2015	
Sean O'Connor	Head of Legal Services/SLS	26/10/2015	28/10/2015	
Edmund Bradley	Finance partner	26/10/2015	29/10/2015	
Andrew Brooker	Head of Service			
Alison Alexander	Managing Director	23/10/2015	29/10/2015	
External				

Report History

Decision type:	Urgency item?	
Key decision	No	
Full name of report author	Job title	Full contact no:
Ben Wright	Education Planning Officer	01628 796572
Hilary Oliver	S106 Special Projects Officer	01628 796363

INTERIM EDUCATION S106 METHODOLOGY

This interim Education S106 developer contributions methodology applies for the period from 8th December 2015 until the point at which the Community Infrastructure Levy (CIL) is implemented in the Royal Borough.

1. LEGAL CONTEXT

1.1 The legislation that sets out the circumstances in which local authorities can seek developer contributions are contained in the following:

- The Planning Act 2008.
- The Community Infrastructure Levy Regulations 2010 (as Amended).
- Localism Act 2011.
- The National Planning Policy Framework 2012.
- The Growth & Infrastructure Act 2013.

1.2 Guidance is set out in the National Planning Practice Guidance 2012.

1.3 The CIL regulations set out three tests that must be met to justify requests for contributions. They must be:

- Necessary to make the development acceptable in planning terms.
- Directly related to the development.
- Fairly and reasonably related in scale and kind to the development.

1.4 The regulations also introduced a restriction on the use of S106 developer contributions. Regulation 123 states:

- (3) *Other than through requiring a highway agreement to be entered into, a planning obligation (“obligation A”) may not constitute a reason for granting planning permission to the extent that*
- (a) *obligation A provides for the funding or provision of an infrastructure project or provides for the funding or a provision of a type of infrastructure; and*
- (b) *five or more separate planning obligations that—*
- (i) *relate to planning permissions granted for development within the area of the charging authority; and*
- (ii) *which provide for the funding or provision of that project, or provide for the funding or provision of that type of infrastructure,*
- have been entered into on or after 6th April 2010.*

1.5 This means that any single school project can only be funded or part-funded by S106 developer contributions from up to five developments. ‘Pooling’ of six or more contributions towards a single project is not permitted¹.

¹ This applies to all new developments where developer contributions have been agreed since 6th April 2015. Developer contributions agreed prior to this date can be pooled towards a single project without limit, except where one or more of the contributions is from 6th April 2015 or after. In those cases the limit on pooling contributions applies.

- 1.6 As has always been the case S106 contributions can only be spent on projects that are needed to offset or 'mitigate' the effect of the development. For education, the effect of a new housing development will usually be to increase the number of school age children resident locally and so increasing the demand for school places. Mitigating the effect of the development, therefore, means increasing the capacity of the local schools to admit additional children.

2. DETERMINING EDUCATION S106 DEVELOPER CONTRIBUTIONS

Pooling contributions

- 2.1 As set out above, the CIL regulations place a limit on the pooling of S106 developer contributions. New education provision in the borough costs on average £2,000 per m². It will not, therefore, usually be effective to collect minor amounts as even pooled with four other contributions they are unlikely to generate sufficient funding to deliver new capital schemes at schools.
- 2.2 In order to ensure that sums collected are of sufficient size to fund or part-fund schemes, within the pooling limit, the borough will not usually consider seeking contributions on schemes that generate a net pupil yield of less than three children. Table 1 in Section 4 sets out the current expected pupil yields arising from new dwellings. On this basis, contributions would not usually be sought on a development of less than four houses, or eighteen two bedroom flats.

Surplus places and local schools

- 2.3 The Royal Borough has two separate school systems, with a three-tier system in Windsor, Eton and Old Windsor, made up of first, middle and upper schools. The rest of the borough has a two-tier system of primary and secondary schools.
- 2.4 Under this methodology the borough will usually seek developer contributions for primary, secondary and special educational needs provision.
- 2.5 For the purposes of school place planning, the borough is split geographically into four areas for secondary sector schools and fourteen subareas for primary sector schools. Each new development will be located in one area and one subarea.
- 2.6 Contributions will usually be sought where the subarea or area in which the development is sited have either less than 10% surplus places, or fewer than six surplus places at any tier of education. This assessment will consider the longer term balance between supply and demand for school places locally, with reference to the level of surplus places in the intake years and the projections of future pupil numbers locally. Where the surplus of places is above the thresholds given for all tiers of education, and is likely to remain above that threshold for the subsequent five year period, the borough will not usually seek any contributions.
- 2.7 The Royal Borough submits a return to the DfE annually, called the School Capacity (SCAP) survey, which provides information about surplus places and forecast demand. This document will form the basis of all assessments of supply and demand of school places.
- 2.8 Section A of the Annexe to this methodology sets out where the borough's schools are located with regard to areas and subareas.

3. DETERMINING THE LEVEL OF CONTRIBUTIONS

- 3.1 The Royal Borough will usually determine the level of S106 developer contributions sought for education on the basis of per dwelling cost. This cost is calculated by multiplying the expected number of pupils arising from a residential development by the cost of providing fixed education infrastructure for each pupil, via the following formula:

$$\text{Per Dwelling Pupil Yield} \times \text{Per Pupil Space Requirement} \times \text{Building Cost per m}^2$$

- 3.2 More details about the elements of this formula are given in the following sections.

4. PER DWELLING PUPIL YIELD

What are the per pupil yield figures?

- 4.1 The pupil yield figures are set out in Table 1. These figures vary according to the number of bedrooms in the dwelling and are expressed per dwelling. The pupil yields for two-bedroom properties have been split between flats and houses.

Table 1: Pupil Yield figures per new dwelling

Dwelling size	two bed flat	two bed house	three bed house	four bed house	five bed house
Pupil Yield	0.168	0.810	0.747	0.846	0.966

What are the figures based on?

- 4.2 The pupil yield figures are derived from the efeedback Pupil Product Ratio Research Study, 2005. Efeedback carried out a survey of new properties to establish the number of children resident in dwellings of different sizes and types.

When will these figures be updated?

- 4.3 The Royal Borough is currently carrying out work on establishing new pupil yield figures for use in preparing forecasts of future pupil demand. This work is expected to be completed in the first half of 2016. The pupil yield figures in Table 1 will be updated once that exercise is complete.

5. PER PUPIL SPACE REQUIREMENT

What is the per pupil space figure?

- 5.1 The per pupil space requirement figure is **7.56m²**.

What is the figure based on?

- 5.2 The figures are based on the following government guidance:

- *Building Bulletin 103: Area Guidelines for Mainstream Schools*, DfE/EFA, June 2014.
- *Building Bulletin 102: Designing for disabled children and children with special educational need*, DfE/EFA, March 2014.

How was the figure calculated?

- 5.3 The Building Bulletins set out expected ranges for space requirements for both primary and secondary schools. To calculate the figure used in this methodology, the borough has taken the middle of those ranges for both primary and secondary schools, and then averaged them to provide an overall figure. A small adjustment has then been made to reflect the 1.1 children per 100 (i.e. 1.1%) having Special Educational Needs (SEN) and requiring placement either in special school provision or a Resourced Unit, where there is a much greater per pupil space requirement.
- 5.4 The full calculations are set out in Section C of the Annexe.

When will this figure be updated?

- 5.5 The figures will be updated if government area guidelines are changed. New sixth form staying-on rates, calculated annually, may also result in slight changes to the secondary school per pupil space requirement.

6. BUILDING COST PER M²**What is the building cost per m² figure?**

- 6.1 The building cost per m² is **£1,808.50**.

What is the figure based on?

- 6.2 The Royal Borough has based its per m² build cost on Department for Education publications, with inflation factors from the Building Cost Information Service (BCIS) applied. The Education Building Projects: Information on Costs and Performance Data April 2003, gives basic costs per m² for new primary and secondary school extensions. Following various DfE and inflation updates, the figure was £1,624.54 in March 2014, rising to £1,786.99 with the location factor of 1.1 (to take account of higher than average construction costs locally).

How was the figure calculated?

- 6.3 BCIS Construction Briefings note that tender prices rose by 0.6% between the Quarter 1 2013 and Quarter 1 2014, and again by 0.6% to Quarter 2 2015. Applying this to the previous figure of £1,786.99 gives a new figure of £1,808.50.

When will this figure be updated?

- 6.4 This figure will be updated in November 2016 to take account of inflation, or earlier if new information becomes available.

7. PER DWELLING COSTS

- 7.1 Table 2 provides the maximum education S106 developer contribution that would usually be sought.

Table 2: Maximum education S106 developer contributions for one new dwelling, by dwelling size

Dwelling size	two bed flat	two bed house	three bed house	four bed house	five bed house
Contribution	£2,296.94	£11,074.53 ²	£10,213.18	£11,566.73	£13,207.40

² The contribution for a two-bedroom house is higher than that of a three-bed house, which reflects the higher number of children living in those dwellings, based on the Pupil Product Ratio Research Study, 2005.

7.2 Where new dwellings are proposed that are of a size or type not in the table above, a pragmatic approach will be taken to calculate an appropriate level of contributions. For example:

- Three bedroom flats will usually be calculated as 1.5x a two bedroom flat.
- Houses with more than five bedrooms will usually be counted as five bedroom houses.
- Bungalows will usually be counted as flats, with the relevant number of bedrooms.

Demolitions

7.3 Some developments can only occur once existing dwellings have been demolished. It is likely that these properties will previously have had children in them and so the pupil yield from the demolitions will usually be offset against the yield expected from the new dwellings. This offset will usually result in lower contributions.

8. LARGE DEVELOPMENTS

8.1 For larger developments that result in the need for a new school, the developer(s) may in the first instance have the option of providing this directly, together with the required land and access arrangements. In these circumstances the local authority will provide a detailed specification for the school building and site, with reference to Building Bulletin 103: Area Guidelines for Mainstream Schools (or later version if changed).

8.2 The Royal Borough will also prepare a specific cost estimate for the provision of a new school or schools, which will form the basis of negotiations for education S106 developer contributions for large developments.

9. SCHEMES TO BE FUNDED BY EDUCATION S106 DEVELOPER CONTRIBUTIONS

S106 compliant schemes

9.1 Education S106 developer contributions must be spent on schemes that increase the capacity of local schools to admit additional children. Compliant schemes include:

- New schools, including land purchase.
- Extensions to existing schools.
- Remodelling of existing schools to provide additional space.
- Disabled access improvements.

9.2 Schools are made of up a mixture of accommodation types, including general classrooms and more specialist teaching areas, as well as ancillary, administrative and staffing areas. Each type of accommodation contributes to the overall capacity of a school and is necessary for the school to operate. These accommodation needs are set out in Building Bulletins 102 and 103. Schemes funded by education S106 developer contributions may therefore include, for example, new, extended or remodelled:

- General classrooms.
- Specialist teaching classrooms (e.g. science labs, art rooms and ICT rooms).
- Small group teaching rooms.
- Large spaces (e.g. the hall, drama studio).

- Library.
- Sports spaces (e.g. gym, sports hall, changing rooms)
- Circulation space (e.g. corridors, reception).
- Staff areas (e.g. offices, staffroom).
- Toilets (e.g. pupil, staff, disabled access, medical room).
- Disabled access improvements (e.g. ramps, lifts, acoustic treatment)
- Catering (e.g. kitchen, dining room).

9.3 A percentage of children from new developments are likely to have medical or physical difficulties that may or may not be associated with learning difficulties. Whilst some of these children will be educated in special school provision, the majority will be taught in their local schools. Disabled access improvements will increase the capacity of the local schools to meet that specific demand that could arise from the new development.

9.4 Education S106 developer contributions cannot be used to remedy existing deficiencies, i.e. maintenance, repair or upgrade works to the fabric of school buildings. In addition, education contributions will not be used to fund improvements to external works such as play areas, lighting, car-parking or fencing. The list below provides some examples of works that would not, therefore, be funded through education S106 developer contributions:

- Roof repair or replacement.
- Window repair or replacement.
- New boiler/heating repairs or upgrade.
- Electrical works, including re-wiring.
- Playground resurfacing.
- New car-parking.

9.5 Education S106 developer contributions can pay for these works, however, if they are necessary to enable an extension to be built. An older building might, for example, require an upgrade to its electrical system to allow an extension to be built.

Eligible schools

9.6 A school will usually be considered eligible to have a scheme part or fully funded by education S106 developer contributions if:

- The school is a primary, first, infant or junior school and serves all or part of the 'subarea' that the development is located in.
- The school is a secondary, middle or upper school and serves all or part of the 'area' that the development is located in.
- The school offers specialist SEN provision and is located anywhere in the borough.

9.7 In some circumstances, schools outside the subarea or area may also be considered eligible. This is most likely to be the case where school provision is being re-organised, e.g. a new school.

9.8 Section A of the Annexe sets out where the borough's schools are located with regard to areas and subareas.

Determining which scheme should be funded

- 9.9 Education S106 developer contributions from any single development will only usually be used to fund or part-fund a scheme at one school. The contribution will not usually be divided between several schools, because the resulting sums will normally be too small to fund a compliant project in its entirety. More than one project may be identified, however, if the development is a large one.
- 9.10 Following the assessment of the longer term balance between supply and demand of school places locally (as set out in paragraph 2.7), there may be several eligible schools with compliant schemes. A prioritisation process is, therefore, needed to determine which project is chosen. This prioritisation is as follows:
- **Priority 1 – school expansion scheme agreed by Cabinet**
If a school located in the development's area or subarea has had its expansion agreed by Cabinet³ and that expansion is being funded or part-funded by fewer than five other education S106 developer contributions, then that scheme will take automatic priority. Where there is more than one such scheme, priority will be given to the scheme that is closest (as a straight line distance measurement) to the development.
- 9.11 Priority 1 ensures that, where possible, education S106 developer contributions are used on projects already considered and approved by Cabinet. These schemes will be addressing a demand that has already been identified, which may or may not include the additional demand arising from the new development. In either case, any new development will either be part of the identified demand or be exacerbating that demand, hence the need for mitigation through education S106 developer contributions.
- 9.12 Identified potential Priority 1 projects are listed in Section D of the Annexe.
- 9.13 Priority 2 schemes are then considered if there are no appropriate Priority 1 schemes.
- **Priority 2 - other compliant schemes**
The borough will prioritise the projects listed on the Asset Management Plans (AMPs) of the schools located in the development's area or subarea. The prioritisation model is set out in full at Section C in the Annexe. Schools are asked to submit their updated AMPs annually.
- 9.14 The borough needs an efficient mechanism for quickly identifying and prioritising eligible projects at schools. This is because the statutory time limits for making a decision on a planning application are short:
- 1 to 9 dwellings on a site having an area of less than one hectare: 8 weeks.
 - 10+ dwellings on a site, or a site of one hectare or more: 13 weeks.
- 9.15 This includes the time for agreeing and signing a legal agreement to cover S106 developer contributions. At the same time, the borough needs to base decisions on up-to-date information with necessary school involvement.

³ This includes decisions made under powers delegated to officers from Cabinet following Cabinet consideration of a report on school expansions.

- 9.16 Priority 2 projects, therefore, will be identified from school AMPs. The borough already asks schools for these each summer, but upon approval of this interim methodology, will request updated versions, asking for:
- S106 compliant projects.
 - A ranking of the projects.
 - Any information on potential solutions, costings and size of project (m²).
- 9.17 Where no response is received from a school the borough will make its own judgement about rankings, costings and the size of a project.
- 9.18 For priority 2 projects, the borough reserves the right to add additional projects not identified by schools or on the AMPs. This is of particular relevance where a housing development, either by itself or in conjunction with other schemes, triggers the need for a new school or for a substantial extension of an existing one.
- 9.19 Schools are able to update their AMPs at any time, and the borough will discuss projects with schools as necessary.
- 9.20 All decisions on Priority 1 and Priority 2 projects will be recorded.

10. ADDITIONAL INFORMATION

- 10.1 No distinction is made between different types of state funded schools when determining eligibility for education S106 developer contribution, whether they are: academies, free schools, community, voluntary aided or voluntary controlled schools.
- 10.2 The borough will continue to collect Asset Management Plan and Net Capacity information for all types of state schools, including academies and free schools.

ANNEXE

1. SCHOOLS BY AREA AND SUBAREA

1.1 The tables below show the Royal Borough schools by their subareas (primary sector) and areas (secondary sector). These boundaries have been drawn up with reference to school designated area borders.

Table A: Primary and first schools in RBWM by subarea

Ascot

Ascot	Cheapside CE Primary School Holy Trinity Church of England Primary School, Sunningdale St Francis Catholic Primary School St Michael's C of E Primary School, Sunninghill South Ascot Village School
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Datchet and Wraysbury

Datchet and Wraysbury	Datchet St Mary's C of E Primary Academy Wraysbury Primary School
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Maidenhead

Bisham and Cookham	Bisham School Cookham Dean CE Aided Primary School Cookham Rise Primary School Holy Trinity C of E Primary School, Cookham
Central Maidenhead	All Saints Church of England Junior School Boyne Hill C of E Infant and Nursery School Larchfield Primary and Nursery School
Maidenhead Villages	Burchetts Green CE Infant School Knowl Hill CE Primary School Waltham St Lawrence Primary School White Waltham C of E Academy
North East Maidenhead	Riverside Primary School and Nursery St Luke's Church of England Primary School
North West Maidenhead	Alwyn Infant School Courthouse Junior School Furze Platt Infant School Furze Platt Junior School
South East Maidenhead	Braywick Court Holyport C of E (Aided) Primary School & Foundation Unit Oldfield Primary School
South West Maidenhead	Lowbrook Academy Wessex Primary School Woodlands Park Primary School

Windsor

East Windsor	Oakfield First School The Queen Anne Royal Free CE First School Trinity St Stephen Church of England First School
Eton	Eton Porny C of E First School Eton Wick C of E First School
Old Windsor and Park	Kings Court First School The Royal School (Crown Aided)
Windsor North	Dedworth Green First School Homer First School and Nursery St Edward's Catholic First School
Windsor South	Alexander First School Clewer Green CE (Aided) First School Hilltop First School
Windsor Villages	Braywood CE First School

Table B: Secondary, middle and upper schools in RBWM by area

Ascot	Charters School
Datchet and Wraysbury	Churchmead Church of England School
Maidenhead	Altwood Church of England School Cox Green School Desborough College Furze Platt Senior School Holyport College (Year 7) Newlands Girls' School
Windsor	Dedworth Middle School Holyport College (Year 9)

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	St Edward's Royal Free Ecumenical Middle School St Peter's CE Middle School The Windsor Boys' School Trevelyan Middle School Windsor Girls' School
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Table C: Special Educational Needs schools in RBWM

RBWM	Forest Bridge School* Manor Green School
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*Forest Bridge School will be considered for projects once it moves to a permanent site.

2. PER PUPIL SPACE REQUIREMENT CALCULATIONS

2.1 For mainstream education in primary and secondary school provision, the guidance gives expected ranges for space requirements, as set out at Annex A, page 42, of Building Bulletin 103. The minimum, maximum and average per space requirements are shown in Table D, with the average figure used by the borough as the basis for its per pupil space requirement.

Table D: Per pupil space requirement calculations for mainstream schools

	Base m ²			Per pupil m ²			Pupils	Calculation
	Min	Max	Avg	Min	Max	Avg		
Primary	350	400	375	4.1	4.5	4.3	210	$4.3 \times 210 = 903\text{m}^2$ $375\text{m}^2 + 903\text{m}^2 = 1,278\text{m}^2$ $1,278\text{m}^2 / 210 = \mathbf{6.08\text{m}^2 \text{ (A)}}$
Secondary (11-16)	1,050	1,270	1,160	6.3	7.1	6.7	750	$6.7 \times 750 = 5,025\text{m}^2$ $5,025\text{m}^2 + 1,160\text{m}^2 = 6,185\text{m}^2$ $6,185\text{m}^2 / 750 = 8.25\text{m}^2$ $(750/924) \times 8.25\text{m}^2 = 6.70\text{m}^2$
(16+)	350	430	390	7	7.85	7.425	174 (based on average RBWM staying-on rates)	$7.425 \times 174 = 1,292\text{m}^2$ $1,292\text{m}^2 + 350\text{m}^2 = 1,642\text{m}^2$ $1,642\text{m}^2 / 174 = 9.43\text{m}^2$ $(174/924) \times 9.43\text{m}^2 = 1.78\text{m}^2$
Secondary (all)	-	-	-	-	-	-	924	$6.697\text{m}^2 + 1.776\text{m}^2 = \mathbf{8.47\text{m}^2 \text{ (B)}}$

2.2 The guidelines for special education accommodation are for different types of Special Educational Needs (SEN) provision. The borough is adopting an average of these figures, as set out in Annex F, pages 192 to 196 of Building Bulletin 102.

Table E: Per pupil space requirement calculations for special educational needs accommodation

	Pupils	Total Gross Area (m ²)	Per pupil m ²
School type A (primary)	56	1,879	33.55
School type B (primary)	112	3,199	28.56
School type C (primary)	88	3,307	37.58
School type A (secondary)	88	3,532	40.14
School type B (secondary)	136	4,416	32.47
School type C (secondary)	88	4,079	46.35
Average	-	-	36.44 (C)

2.3 The calculations in Tables D and E provide the per pupil space requirement figures for:

- **(A)** Primary pupils: 6.08m²
- **(B)** Secondary pupils: 8.47m²
- **(C)** SEN pupils: 36.44m²

2.4 These figures are combined to provide an overall per pupil space requirement figure covering primary, secondary and SEN provision as follows:

$$(((A + B)/2) \times 98.9) + C / 100 = 7.56\text{m}^2$$

- 2.5 This calculation takes the average of the primary and secondary pupil space requirement figures, and adjusts it so that the higher floor space needed for the 1.1% of children needing placement in either special school provision or a resourced unit is accounted for.

3. PRIORITISATION MODEL

- 3.1 When there are two or more schemes that could be funded using an education S106 developer contribution, the following prioritisation model will be used. The project achieving the most points will usually be the prioritised scheme.

S106 compliant

- 3.2 All projects must contribute to increasing the capacity of a school to admit additional pupils. Any project not meeting this criterion will automatically be excluded.

Table F: S106 compliant project

Project is S106 Compliant	Further action
Yes	Include in prioritisation
No	Don't include in prioritisation.

Local demand

- 3.3 This criterion awards a project five points if it provides additional capacity where there is the greatest need. This will be assessed by identifying which tier of education locally, i.e. primary, secondary, first, middle or upper, has the largest projected percentage imbalance between supply and demand of school places. The calculation will be based on the full forecast figures as at the last forecast year provided for each area and tier.

Table G: Scoring for local demand

Location of project	Points
Project is located in a school in the tier of education with largest projected percentage imbalance.	5
Project is <u>not</u> located in a school in the tier of education with largest projected percentage imbalance	0

A project increasing capacity and/or accessibility to a Special Educational Needs school will automatically be awarded the five points under this criterion.

Increase in Published Admissions Number

- 3.4 All schools have a Published Admission Number (PAN), referring to the number of children to be admitted to each of the school's year groups. Where a scheme is directly linked to an increase to a school's PAN, then it will be awarded five points.

Table H: Scoring for increase in PAN

Location of project	Points
Project leads to an increase in a school's PAN	5
Project does not lead to an increase in a school's PAN	0

Increase in workplaces

- 3.5 Under this criterion, schools with eligible schemes will be scored according to the ratio of total workplaces in the school to pupil places, compared to the borough average for the type of school.
- 3.6 The Net Capacity calculation for each school assesses the number of basic workplaces and resource workplaces in each school, based on the types and sizes of the rooms. Adding the Basic and Resource Workplace figures together provides the total workplaces figure.
- 3.7 This will be assessed on the basis of the borough's latest Net Capacity and floor plans information. Schools carrying out their own changes to accommodation need already inform the borough of alterations made, so that information is up-to-date.
- 3.8 The Total Workplaces figure will then be divided by the total number of places in the school based on its current PAN. Where a school has a sixth form, the number of places will be calculated based on the school's historic sixth form staying-on rate. Where a school has a sixth form that is not yet operational, the number of places will be calculated based on the borough's historic sixth form staying-on rate.
- 3.9 The resulting workplaces per pupil place will then be scored against the borough averages for the school type, as set out in Table I.

Table I: Scoring for workspaces

	RBWM average workplaces per pupil	Comparison to average workplaces m ²	Points
Primary Including first, primary, infant and junior schools	1.96	>10% below	5
		>7% to 10% below	4
		>4% to 7% below	3
Middle	2.40	>0% to 4% below	2
Secondary Including upper	2.54	0% to 4% above	1
		>4% above	0

- 3.10 This approach is necessarily simple, and does not take account of the challenges that schools face in delivering the national curriculum. Carrying out a full curriculum and accommodation analysis for each school at the time of application is not, however, feasible.
- 3.11 A project increasing accessibility to any school for children with Special Educational Needs will automatically be awarded the full five points under this criterion.

Cost

- 3.12 The borough does not currently cost all projects that are currently on school Asset Management Plans, as there are hundreds of schemes listed. All eligible schemes will have an estimated cost prepared at the time of application, based on the likely additional floor space and the per m² cost of £1,808.50 (as set out in Section 6 of this methodology).
- 3.13 If an eligible scheme can be wholly funded by the education S106 developer contributions arising from the development, or part funded by these funds together with any other

available monies (including other S106 contributions within the pooling limit) then it will be awarded five points.

- 3.14 If an eligible scheme requires additional funds that are not yet available, including S106 contributions from future housing developments in the local area, then the scheme will be awarded between two and four points based on the likelihood of additional funds becoming available within three years. If the funds to cover any shortfall are 'unlikely' or 'very unlikely' to be forthcoming within three years the project will automatically be excluded from further consideration. This judgement will be made in consultation with the application's case officer.

Table J: Scoring for cost

Location of project	Points
Project can be fully funded using these S106 contributions and other already available monies	5
Project can be only be funded using additional monies that are <u>certain</u> to become available in the next three years.	4
Project can be only be funded using additional monies that are <u>very likely</u> to become available in the next three years.	3
Project can be only be funded using additional monies that are <u>likely</u> to become available in the next three years.	2
Project can be only be funded using additional monies that are <u>unlikely</u> to become available in the next three years.	Project automatically excluded.
Project can be only be funded using additional monies that are <u>very unlikely</u> to become available in the next three years.	Project automatically excluded.

Tiebreak 1

- 3.15 If two or more projects at different schools achieve the same score then the tiebreak will be proximity to the proposed development, using straight line distance. The project at the closest school will be prioritised.

Tiebreak 2

- 3.16 If two or more projects at the same school achieve the same score then the tiebreak will be the school's ranking of the project, with the higher ranking project securing the monies.

4. EXAMPLES OF PROJECTS

4.1 This section gives non-exhaustive lists of the projects that could be funded or part-funded by education S106 developer contributions under this methodology.

Potential Priority 1 schemes

4.2 The following school expansion schemes have been approved by Cabinet and may result in S106 compliant projects:

- Expansion of The Windsor Boys School (Windsor)
- Expansion of Windsor Girls School (Windsor)
- Expansion of Dedworth Middle School (Windsor)
- Expansion of Cox Green School (Maidenhead)
- Expansion of Furze Platt Senior School (Maidenhead)
- Expansion of Charters School (Ascot)
- Expansion of Manor Green School (Maidenhead)

Potential Priority 2 schemes

4.3 These schemes will be assessed following further updates to school Asset Management Plans.

Comments from Fairer Funding Group

- 1.1 This appendix summarises the suggestions made by the Fairer Funding For All Borough Schools group in relation to the allocation of education S106 developer contributions. These comments were made in response to three questions posed by the Chair of Children’s Services Overview and Scrutiny Panel. This appendix also provides the borough’s comments on those suggestions.

Table 1

A. How do we strike balance between the need to respond to planning applications quickly and involving schools in any decisions?	
1.	<p>Planning applications should not be a surprise to the borough as they are weeks, months and years in the making. The borough should be able to consider new developments in a timely fashion.</p>
	<p>Most Planning Application are received without prior notice in many cases, and dependent upon the size of the application may have a statutory time line to be determined which is either eight or thirteen weeks.</p>
2.	<p>School Chairs of Governors and School Business Managers should be briefed on developer contributions, including CIL and the interim S106 arrangements, and particularly on what they might be required to deliver at short notice in terms of information about projects. The criteria for prioritising schemes should be explained, with an opportunity to suggest improvements.</p>
	<p>It is proposed that an update on S106 is provided to schools via the next School Bursars’ Meeting, with academy and free school representatives invited for that section of the meeting. A written explanation will also be sent to schools alongside the request for an updated AMP following approval of the interim methodology.</p>
3.	<p>Schools should have the responsibility for updating school Asset Management Plans, with Governor oversight. The borough should call in Asset Management Plan data regularly (half-yearly).</p>
	<p>It is for individual schools to determine how best to oversee their Asset Management Plans. The borough already asks all schools to update their Asset Management Plans on an annual basis. Schools are also able to update their AMPs at any time. It is proposed that this arrangement continues, with an update from schools requested by the borough following any Cabinet approval of the interim policy. A half yearly update is not required, given that AMPs do not change frequently.</p>
4.	<p>Put together email templates and receiver lists so that schools can be contacted quickly for each application.</p>
	<p>It is not proposed that schools are contacted in relation to each application. See ‘5’ below.</p>

B. How do we strike a balance between treating schools fairly and ensuring that education S106 contributions are spent in accordance with regulations?

5.	<p>Email all schools in the borough for every development, asking for confirmation of receipt and requiring Nil Returns. Outline the location, scale and likely award from the development, re-iterating the success criteria, and giving a deadline to respond. Non-responders should be chased.</p>
	<p>It is proposed that schools are asked by the borough to update their Asset Management Plan list of S106 compliant projects following any Cabinet approval of the interim methodology. This will include an explanation of the methodology and the prioritisation criteria. A deadline will be set, nil returns requested and non-responders chased. An update to the Asset Management Plans will then be sought via the usual annual process in the summer term.</p>
	<p>It is proposed that schools are notified when applications potentially worth £100k for education contributions are considered, to allow them the opportunity to update their Asset Management Plans. Schools are, of course, able to advise the borough at any time of changes to these plans.</p>
	<p>However, it is not proposed to email schools in relation to every development. Children’s Services were consulted on 170 planning applications in 2013 and 160 in 2014. Whilst the number of applications meeting the new threshold under the interim policy will be lower, there is still the potential for in the region of 30 applications annually. Emailing schools about every application repeatedly is:</p> <ul style="list-style-type: none"> • Unnecessary if up-to-date information is collected initially. • Inefficient for both schools and officers, as the same information will sought/collected each time. • Likely to lead to confusion amongst schools. • Not possible during holiday periods, particularly the summer holiday.
6.	<p>Inform schools of the results, including weighting against the criteria, allowing them to improve their chances next time. Review the criteria if the same schools are always coming on top.</p>
	<p>The borough will consider how the decisions on each planning application for S106 education developer contributions can be made public. The proposed criteria in the interim methodology do not, however, offer much opportunity for schools to “improve their chances”. This is because the criteria focus on things that are not likely to change – e.g. school location, the balance of space per pupil within the school, project cost relative to the S106 available and local demand for places. The element that can change – whether a project will lead to an increased Published Admission Number, is something that the school should identify at the outset.</p>
7.	<p>Consult with other stakeholders on the prioritisation criteria, including schools.</p> <p>The draft Interim Education S106 Education Developer Contribution methodology has been circulated to schools ahead of Cabinet. The context of changes to S106 have also been discussed at the October 2015 Schools Forum meeting.</p>

C. How do we decide between competing school projects?

8.	<p>By applying clear, objective and unambiguous criteria, consistently and transparently.</p> <p>The interim S106 education developer contributions methodology sets out a clear set of objective criteria that will be applied to each planning application. The workings for each application will be recorded.</p>
9.	<p>Proximity to development should be a high priority, but balanced against the chances of a child at the development getting into the school. So for example a single-sex school might win on proximity but can only serve half the 11-18 children.</p> <p>It is proposed that schools be considered eligible for consideration if they are located in the same area or subarea as the development. For the purposes of school place planning the borough has been split into geographical areas/subareas, taking account of school designated area boundaries where available. This ensures that schools being considered are ones that give priority to residents living in the proposed development on the basis of designated area and/or proximity. The area/subarea groupings of schools are given in the interim methodology.</p>
10.	<p>Oversubscription, but should be a simple subtraction of applications minus number of places to given a clearer indication of the number of places needed. Number of 1st preferences should be given a higher weighting than Ofsted.</p> <p>It is not proposed that oversubscription is used directly as a criterion for prioritisation of S106 funding.</p> <p>However, priority for S106 funding is proposed for schools that have expansion projects already agreed by Cabinet. For secondary sector schools, these expansions will have been assessed against a different set of secondary school expansion criteria, agreed at Cabinet in September 2015. This does include oversubscription, calculated on the total number of 1st preferences, minus the number of places available, as a proportion of the places available. Ofsted rankings are given a higher weighting than 1st preferences in the secondary school expansion criteria. The secondary school expansion criteria were agreed following consultation with head teachers.</p>
12.	<p>There should be some weighting according to need, i.e. a school with no drama/music facilities, for example, should be given preference over a school with some.</p> <p>It is proposed that the criteria for S106 funding includes an assessment of the balance between the overall number of places available in a school and the number of workplaces in that schools accommodation. Projects at schools with a worse ratio (i.e. fewer workplaces per pupil place) will be scored more highly. This is based on the government's Net Capacity formula.</p> <p>This approach gives priority to schools that are more overcrowded, and so need more space to cope with additional pupils.</p>
13.	<p>If Ofsted ratings are used then the usage needs to be clearly defined – e.g. what is the position on 'No Ofsted available'.</p> <p>It is not proposed that oversubscription is used directly as a criterion for prioritisation of S106 funding.</p> <p>However, priority for S106 funding is proposed for schools that have expansion projects already agreed by Cabinet. For secondary sector schools, these expansions will have been assessed against a different set of secondary school expansion criteria, agreed at Cabinet in September 2015. This includes Ofsted gradings. The calculation of points for Ofsted is worked so that a 'No Ofsted' judgement has a neutral impact on a school's ranking.</p>
14.	<p>The existence of costed plans would indicate commitment to the development.</p> <p>Detailed costing of building works is expensive and time-consuming, and is usually only carried out where there is a clear expectation of funding being available. It is not proposed, therefore, to make the existence of costed plans a criterion. An estimated cost of projects will be taken into account, based on the borough's published per m² building rate, so that an assessment can be made on whether a scheme is affordable given the funding available.</p>
15.	<p>The ability of the school to expand in terms of available land and/or planning restrictions should be considered.</p> <p>The borough already considers planning and land restrictions in relation to AMP projects.</p>

16.	<p>Criteria should be analysed and reviewed annually.</p> <p>It is not expected that the interim arrangements will apply for more than a year, as they will be superseded once the Community Infrastructure Levy (CIL) is implemented. If the CIL is delayed significantly, then this policy will be reviewed in November 2016.</p>
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