

To: Planning and Climate Change Policy Board

On: 19 March 2024

Report by: Chief Executive

Title: Developer Contributions (Education) – new planning guidance

1. Summary

- 1.1 This report sets out proposed draft planning guidance on potential education contributions from new housing development in Renfrewshire.
 - 1.2 The draft guidance supplements and aligns with the current relevant Local Development Plan (LDP) policy I8 on Developer Contributions.
 - 1.3 Subject to approval of the draft guidance, the document will be published for a period of stakeholder consultation before being brought back to Board for formal approval as Council policy.
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2. Recommendations

- 2.1 It is recommended that the Board:
 - (i) Consider the new draft planning guidance on Developer Contributions (Education) appended to this report;
 - (ii) Approve the draft planning guidance for stakeholder consultation for a 6-week period;
 - (iii) Note that the outcomes of this consultation will be brought back to a subsequent Board meeting for member consideration;
 - (iv) Delegate authority to the Convenor, in conjunction with the Head of Economy and Development, to make any further incidental changes to the draft document as may be relevant, to account for any changes made by the Board and to ensure that the consultation document is as up to date as possible at the time of publication;

3. Background

- 3.1 Planning and Climate Change Policy Board considered and noted a report in January 2024 that set out the reasons why new planning guidance for developer contributions (education) is being brought forward by Renfrewshire Council in 2024. It also explained the key metrics that the Council will rely on in its proposed new planning guidance.
- 3.2 It is considered, therefore, that there is no need to repeat that background context here.
- 3.3 One question that has been raised with officers since the January Board meeting is whether an “Infrastructure Levy” or similar policy mechanism could be introduced in Renfrewshire, rather than (or alongside) the approach being proposed in the new draft planning guidance.
- 3.4 The Planning (Scotland) Act 2019 makes provision at Section 54 for Scottish Ministers to present regulations that would lead to local authorities having the ability to introduce an infrastructure levy for their area. However, these regulations have not yet been published and, as such, local authorities are not able to move forward with defining an approach for any prospective Infrastructure Levy. Should this context change then officers will update members. The draft guidance has been prepared with consideration that such a mechanism may become available to Renfrewshire Council at a later date.

4 Draft planning guidance

- 4.1 The principal aim of the new guidance is to introduce a degree of certainty for all stakeholders concerned with education capacity in Renfrewshire. Linking with the Council’s Learning Estate Management Plan, the guidance aims to clarify how planned housing development and the pupils they generate will be accommodated within Renfrewshire’s schools.
- 4.2 Applicants for planning permission for residential development will be expected to use the guidance in shaping their planning applications and to allow them to make allowance for any financial or other contribution that may be expected from that proposed development.
- 4.3 As is common with this type of policy in Renfrewshire (and elsewhere) the expectation is that the applicant is expected to mitigate the impact from their proposed development.
- 4.4 The draft guidance offers clarification on the Council’s proposed approach to:
- Pupil product ratio (the number of school age pupils likely to be derived from the new homes built);
 - How identified housing land and existing planning consents will be factored in to any calculations;

- Planning applications for “windfall” (unidentified) housing sites;
- Dealing with the cumulative effect of multiple applications in the same catchment;
- How the “operational capacity” of schools will be calculated;
- How the catchment of the denominational and non-denominational primary and secondary schools will relate to the location of the planning application site;
- Using individual school capacity statistics;
- Understanding the implications of planned school capital investment;
- New housing development requiring a new school to be provided;
- Developer contribution amounts to be negotiated for;
- Exceptions to the Council’s planning policy;

5 Next Steps

- 5.1 Subject to any changes Board wish to agree to make to the draft guidance, the document will then be published for stakeholder consultation for a period of 6 weeks in spring 2024.
- 5.2 All representations made to the Council on their draft guidance will then be brought back to the Planning and Climate Change Policy Board for their consideration. The Board will then be asked to agree a final version of the policy guidance which will be published on the Council’s website for use by planning applicants for residential development in Renfrewshire.

Implications of the Report

1. **Financial** – Significant potential impact, depending on the successful implementation of any new developer contributions policy.
2. **HR & Organisational Development** – Examination going forward of the additional resources required to negotiate planning obligations because of submitted / approved planning application.
3. **Community/Council Planning** –
 - *Our Renfrewshire is thriving* – The new developer contributions policy can assist in supporting new or enhanced community infrastructure (schools) in connection with new housing for pupils living in the local area;
 - *Building strong, safe, and resilient communities*: The policy can assist in the forward planning of education capacity requirements across Renfrewshire’s varied communities and achieve positive education outcomes for our younger residents;

4. **Legal** – Likelihood of additional resource demand being placed on Council's Legal Team in terms of negotiating and confirming planning obligations (including Section 75 Agreements) for a larger number of planning applications.
 5. **Property/Assets** – None.
 6. **Information Technology** – None.
 7. **Equality & Human Rights** -
 - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
 8. **Health & Safety** – None.
 9. **Procurement** – None.
 10. **Risk** – None.
 11. **Privacy Impact** – None.
 12. **COSLA Policy Position** - None.
 13. **Climate Risk** – None.
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RENFREWSHIRE COUNCIL

Renfrewshire Local Development Plan 2021: Draft Planning Guidance ***Developer Contributions (Education) Supplementary Guidance***

V.9.0

March 2024

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1. Summary

- The principal aim of the guidance is to set out new Renfrewshire Council planning policy guidance on developer contributions towards education capacity impacts from new housing development. The guidance aligns with Policy I8 of the Renfrewshire Local Development Plan;
- Once adopted this guidance will be used in the assessment of all planning applications in Renfrewshire for residential development (subject to any exceptions outlined in the policy);
- The guidance has used information on the current and forecast school rolls and capacity for all primary and secondary schools in Renfrewshire, taking account of planned or proposed housing development that the Council is aware of;
- Renfrewshire continues to be a desirable location for new housing development and will continue to face pressure to both identify additional land and assess planning applications for this purpose. The guidance offers details of the currently identified housing land supply in Renfrewshire;
- The Council's capital programme currently outlines investment plans for new or replacement schools and planned extension of schools;
- The guidance outlines the proposed pupil product ratio (average number of pupils per new dwelling built) that has been generated from recent housing developments in Renfrewshire.

The Council will apply this average to future planning applications in catchments of all denominational and non-denominational primary and secondary schools;

- Contributions will be sought for all housing developments which will result in the relevant school's operational capacity (85%) being met or breached by the quantum of planned housing in the respective planning application is factored to have generated the estimated number of pupils to the catchment;
- The developer contribution negotiated for by the Council will be based on estimated additional pupil impact from new homes granted planning permission;
- The specific developer contribution applied is based upon several sources which are relevant to the current Renfrewshire context. The contribution rate will apply across Renfrewshire on a uniform basis for all schools of that type;
- Contributions will be confirmed through appropriate legal agreements between the applicant/developer/landowner and Renfrewshire Council. New housing development (as relevant) will not be built and occupied until such agreements have been signed. Payment of contributions can, in certain circumstances, be phased for a housing development;
- Contributions will be sought from all planning applications for 10 or more new dwellings on a site, except where that application site is located in a school catchment where total identified land supply proposed will breach operational capacity of the relevant schools. In such cases all new housing will require to contribute, regardless of the scale of housing site proposed or timing of the planning application;
- Contributions will not apply to one-bedroom homes, to homes built specifically for an older demographic resident or to student housing and will be calculated at a lower rate of pupils per new home where flats / apartments are proposed;

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2. Introduction

- 2.1 This ***Developer Contributions (Education) supplementary guidance*** document forms part of Renfrewshire Council's non-statutory planning guidance and is a material consideration in the determination of planning applications. Applicants and other stakeholders should take account of the guidance when preparing development proposals.
- 2.2 This guidance details the Council's approach to securing developer contributions in respect of education provision and will be reflected in all such discussions with applicants in relation to proposals for residential developments.
- 2.3 The guidance covers a range of issues related to education impact from new housing development, including current school capacity, proposed housing development by catchment, estimated pupil product ratios from new housing and links to Renfrewshire Council's Learning Estate Management Plan.
- 2.4 It makes clear the expected financial contributions from planning applications for new housing developments in school catchments which (as a result of the new housing being built) will meet or breach agreed operational capacity levels.

Aims of the guidance

- 2.5 The principal aim of this new guidance is to introduce a degree of certainty for all stakeholders concerned with education capacity in Renfrewshire. Linking with the Council's Learning Estate Management Plan, it clarifies how housing developments and the school pupils they generate will be accommodated within Renfrewshire's schools.
- 2.6 Renfrewshire's Planning Service actively encourage discussions with prospective applicants for residential development at the earliest opportunity to ensure that they are fully conversant with the implications of this (and other) planning guidance before submitting applications for development. Prospective applicants are encouraged to submit a pre-application enquiry in the first instance to **dc@renfrewshire.gov.uk**.

Review

- 2.7 This guidance will be reviewed at regular intervals to ensure that the education and housing land supply data which informs it is as up to date as possible.

3. Background

Purpose of planning obligations

- 3.1 Planning obligations seek to mitigate the impacts of a proposed development and make it acceptable in planning terms. They can be used to secure financial contributions to, or in-kind provision of, necessary new social and community infrastructure to support new developments.

- 3.2 Obligations are usually entered into in accordance with Section 75 of Town and Country Planning (Scotland) Act 1997, as amended, and are commonly referred to as **Section 75 Agreements** (S75). They are often used where a planning condition or another form of legal agreement would not be appropriate to address the impact of the development in question.
- 3.3 Planning obligations can be entered into between a person with an interest in the land and the planning authority; or via a unilateral undertaking by a person with an interest in the land. S75 agreements run with the land and the obligation continues to be enforceable against any subsequent owner of the land until such time as the details of the agreement are fully discharged by the local planning authority.
- 3.4 Scottish Government's policy on Planning Obligations is expressed in **Circular 3/2012 (Planning Obligations and Good Neighbour Agreements - Revised 2020)**. The Circular sets out five tests which must be met when seeking to secure a planning obligation:
- Necessary to make a proposal acceptable in planning terms (and overcome a barrier to the approval of planning permission);
 - Serve a planning purpose where it is possible to identify infrastructure provision requirements to advance, should relate to development plans;
 - Be related to the proposed development either as a direct consequence of it or arising from the cumulative impact of development in an area;
 - Fairly and reasonably relate in scale and kind to the proposed development (provide or contribute to the provision of infrastructure that would not be necessary were it not for the development, on a proportionate pro-rata basis as appropriate, but not to resolve existing deficiencies); and
 - Be reasonable in all other respects.
- 3.5 A planning authority may utilise an alternative legal mechanism to secure developer contributions in certain circumstances. Section 69 of the Local Government (Scotland) Act 1973 provides the Council with the power to enter into an agreement with the developer with the discharge of any of its functions.

Known, more widely, as **Section 69 Agreements**, they can include payment of financial contributions and is normally used when a one-time payment of a developer contribution is agreed, without the need for this agreement to be binding on subsequent owners of the land.

Renfrewshire's Planning Policy Context

3.6 Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, requires that planning applications be determined in accordance with the development plan, unless material considerations indicate otherwise. In the case of Renfrewshire, the development plan currently consists of:

- *National Planning Framework 4 (NPF4; 2023); and*
- *Renfrewshire Local Development Plan 2 (2021)*

3.7 **Policy 18 of NPF4 (Infrastructure First)** seeks to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking. The policy notes that developments will be supported where they provide or contribute to infrastructure in line with that identified as necessary in Local Development and Delivery Programmes.

3.8 In addition, Policy 18 notes that the impacts of development proposal on infrastructure should be mitigated. The policy states that:

Development proposals will only be supported where it can be demonstrated that provision is made to address the impacts on infrastructure. Where planning conditions, planning obligations, or other legal agreements are to be used, the relevant tests will apply.

3.9 **Policy 18 of the Renfrewshire Local Development Plan (Developer Contributions)** sets the policy context for the outlined framework:

Contributions will be sought for the following items to address infrastructure deficits and/ or a shortfall in infrastructure capacity that arise as a direct result of new development. Any contribution sought will be appropriate, proportionate, necessary and relevant to the nature of the development, its scale and its location:

- **Education** – *additional classrooms and associated school facilities required to support the operation of a school, related to the number of pupils generated by the development;*
- **Healthcare Services and Facilities** – *where investment is required to provide healthcare infrastructure to address increased demand generated by the development;*
- **Traffic Management and Active Travel** – *traffic signals, crossings, measures required in relation to road safety and providing safer routes to school, active travel connections and improvements to the road network required to support the development;*
- **Public Transport Infrastructure** – *where investment is required to address increased demand associated with the development;*

- **Open Space** – where a contribution is required to enhance open space provision off-site to support the development;
- **Blue/Green Infrastructure** – where a contribution is required in relation to the sustainable management of water and where mitigation including on-site or offsite habitat creation or enhancements to watercourses are required.

Recent housing development in Renfrewshire

3.10 Renfrewshire has been the subject of significant levels of housebuilding in recent years. The development of sites at Renfrew Riverside, Dargavel, Hawkhead Road in Paisley and Johnstone South West (amongst others) have kept completions at a relatively high level.

3.11 The table below illustrates the annual total new build completions by year since 2012. Full analysis of Renfrewshire’s housing land supply on a site-by-site basis is available in the annually published Housing Land Audit.

YEAR	OWNER OCCUPIED	PRIVATE RENTED	COMBINED LA/SOCIAL HOUSING	ANNUAL TOTAL NEW HOUSING COMPLETIONS
2012-13	251	0	173	424
2013-14	313	0	210	532
2014-15	517	0	26	543
2015-16	577	0	101	678
2016-17	643	0	167	810
2017-18	601	0	107	708
2018-19	784	0	175	959
2019-21	1,383	0	324	1,707
2021-22	572	0	222	794
2022-23	422	0	195	617
Total	5,812	0	1,527	7,348
Annual average (10 years)	581	0	153	734

4. Current Context

Renfrewshire school capacity

4.1 Current school rolls at each of Renfrewshire’s 62 primary and secondary schools are published by Renfrewshire Council on an annual basis. School rolls are regularly updated by the Council and published online to allow for this policy to reflect the latest circumstances in the assessment of planning applications. Calculations of developer contributions will be based on the latest published information of school rolls and capacity.

- 4.2 Each residential property which is located within Renfrewshire has a 'catchment' for denominational and non-denominational primary and secondary school assigned to it. This is determined by the geographical location of the property and each school's delineated catchment area in which the property is located.
- 4.3 Although the Council aims to provide enough places for all children at the preferred catchment primary and secondary school, living within the delineated catchment area of a school does not guarantee a child a place at a catchment school.

Operational school capacity

- 4.4 The "operational capacity" of a school is considered by Renfrewshire Council to be reached when it is at **85%** of its original design capacity. This is taken as the same for all schools, regardless of denomination, location, and scale. The rationale for 85% in the Renfrewshire context is that flexibility is required in each school to plan accommodation across all year groups and allow for sufficient communal and circulation space.
- 4.5 The design capacity is used by Renfrewshire Council as the benchmark as, over time, changes have been made to the operational configuration of schools which may not align with the original design purpose of that space. For example, this could have been to meet a short-term requirement for cohorts in a particular year group. The calculation of capacity for the purposes of this policy will be made on the original intended purpose of spaces rather than necessarily their current use. Guidance will be sought from the Council's Director of Children's Services and the school's headteacher in this regard.
- 4.6 Renfrewshire Council prepares 7-year rolling forecasts for the number of pupils expected at each of its primary and secondary schools. This is based upon anticipated pupil journeys through the school estate and also the range of planned housebuilding expected to take place across Renfrewshire in this time period. Renfrewshire Council have also utilised the expertise of external consultants to advise on school roll forecasting.
- 4.7 The 85% operational capacity, together with school roll forecasting, enables the Council to produce a "RAG" (red / amber / green) status for each Renfrewshire school in relation to planned new housing development as set out in the published Housing Land Audit. It should be noted that the timescale for the building of this identified housing supply is by no means certain or guaranteed. These % capacities will therefore be kept under regular review by the local authority.
- 4.8 It should be borne in mind that the Council's forecast school rolls do not account for any "windfall" housing sites (see definition below) that may emerge during the period. The Council reserve the opportunity to update these % capacity forecasts for individual schools as new information on such windfall sites becomes available.

Windfall housing site (definition) – a site, which is granted planning permission for housing development which, at the time of that decision, was not identified as part of the housing land supply in either the Council’s Local Development Plan or Housing Land Audit

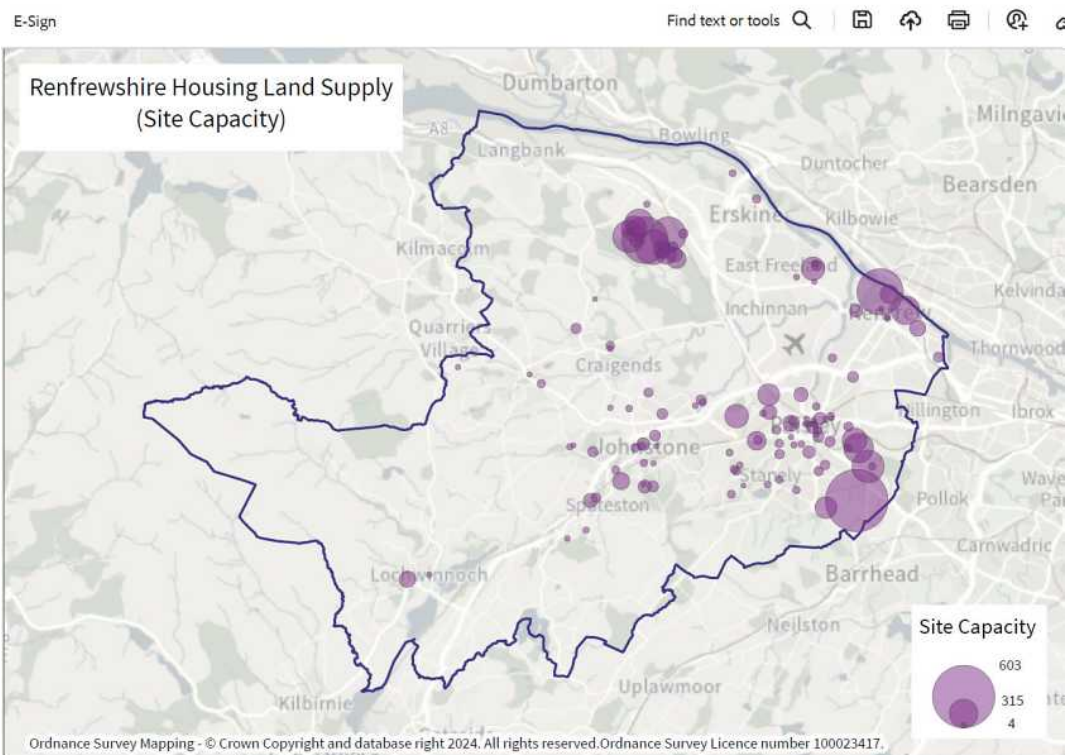
[Insert link to online source of information on individual school capacities](#)

Currently planned school investment

- 4.9 The Council’s **Learning Estate Management Plan** provides further details on planned future investments in Renfrewshire schools. This Plan, in turn, will be reflected in the Council’s Capital Programme which is published annually.
- 4.10 At present the education school investment projects reflects the published Capital Programme (for year 2024 / 25). The specific timing for the delivery of each of these projects will be updated in each Capital Programme publication.
- 4.11 Some of the school investments will be made in the knowledge that contributions will be sought towards the total cost. Although the Council may be anticipating making capital investment in its school estate, this will be in anticipation of additional impacts from new housebuilding and therefore the expectation will be that all such housebuilding, regardless of the specific context of the school and its catchment, will be expected to meet the terms outlined in this guidance.

Currently Planned Housing

- 4.12 This guidance seeks to take account of all known housing sites within Renfrewshire and as such the accompanying map indicates approximate locations for residential sites (greater than 10 units) which are allocated within the Local Development Plan, benefit from planning permission or appear in the Council’s published annual Housing Land Audit. More details of each are included in the listed documents which are available on the Council’s website.
- 4.13 As outlined elsewhere in this guidance, the Council is unable to anticipate all housing development. “Windfall” sites will occur. The Council reserve the opportunity to amend calculations within this guidance because of these unknown sites emerging and being proposed for housing development. Should they be granted planning permission they will be expected to contribute financially in line with the approved guidance.



5. Calculating the Financial Contribution

Pupil Product Ratio

- 5.1 The pupil product ratio (PPR) is a commonly used calculation to demonstrate the number of pupils likely to be generated by new housing. Most local authorities in Scotland use a PPR in determining the level of education development contribution for policies of this type.
- 5.2 Renfrewshire Council has based its PPR (see below) on evidence from research into housing developments over recent years (2010 -2023).
- 5.3 Differentiation is drawn between flats and houses. This is because flats will generally have fewer bedrooms and therefore less pupils likely to be living at each address than compared to typical houses.

Age group	Type of school	Pupil Product Ratio per new home	
		Houses	Flats
Primary schools	Denominational	0.090	0.018
	Non-Denominational	0.250	0.050
Total		0.340	0.068
Secondary schools	Denominational	0.052	0.018
	Non-Denominational	0.135	0.027
Total		0.187	0.045

- 5.4 As illustrated in the example below, impact will be measured across all 4 principal school types for each proposed residential development. This will occur at the time of a planning application being considered by the Council. In any instances where the pupils generated by the new housing would cause the operational capacity threshold to be met or exceeded, a developer contribution will be sought from that application.
- 5.5 In applying such a policy, it should be borne in mind by applicants that a contribution could be required to all 4 school types in a particular location, or as few as 1 school type contribution, may be required depending on the current capacities of these schools and the calculated number of additional pupils that particular development will generate (see also “*cumulative effect in same catchment*” section of this guidance).
- 5.6 The PPR values will be reviewed by the Council (and updated if necessary) every 2 years following the adoption of this revised policy.

PPR - Worked example

- 5.7 The table below illustrates the calculation of PPR for a planning application for 50 new homes, made up of 30 houses and 20 flats.
- 5.8 These additional pupil numbers would then be assessed against the predicted school rolls and capacities for the schools in the relevant catchment.

Age group	Type of school	Estimated number of pupils generated from new residential development	
		Houses (#30)	Flats (#20)
Primary schools	Denominational	2.70	0.36
	Non-Denominational	7.50	1.00
Secondary schools	Denominational	1.56	0.36
	Non-Denominational	4.05	0.54

Cumulative effect of multiple applications in same catchment

- 5.9 Each planning application will be assessed individually and on its own merits against the context at the time that the application is submitted and validated by the Council.
- 5.10 In considering any planning application submitted, the baseline will be considered as being all new homes consented at that time and all proposed homes on allocated housing sites in that catchment.

The Council will assume that all such homes consented and allocated will be built as planned in the timescales estimated (as detailed in the Housing Land Audit). Council officers responsible for monitoring housing land supply will be involved in assessing cumulative impact, as will colleagues in Children's Services in terms of real time changes in school enrolments.

- 5.11 The practical implication of this is that the school roll forecast will be updated annually by the Council, and this will affect planning applications not yet determined. Those making planning applications for residential development are therefore encouraged to engage at an early stage in the process.
- 5.12 The Council will be able to discuss the implications of this cumulative effect for the calculation of an individual developer contribution with any prospective applicant.

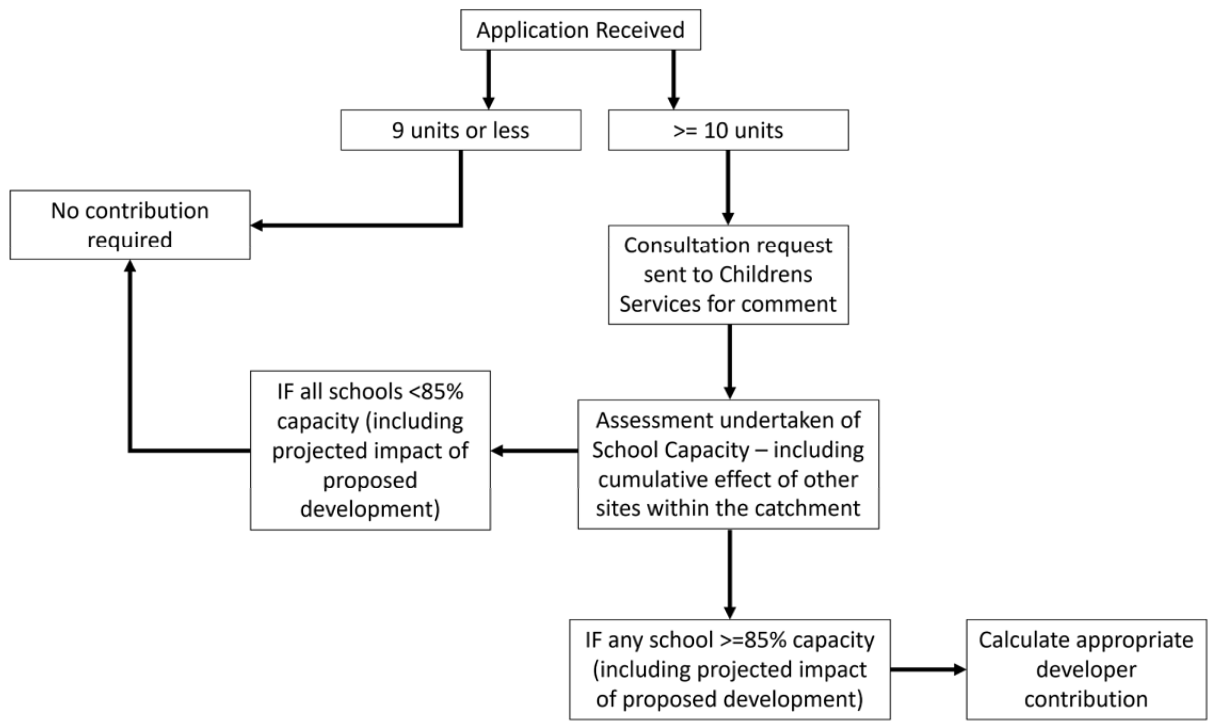
Approach to assessing planning applications for new housing

- 5.13 If 9 or less homes proposed then no developer contribution is required unless, in combination with other identified housing sites in that catchment, the operational capacity of the school in question would be increased above 85% by the delivery of this development.
- 5.14 If 10 or more homes proposed then:
- i. PPR calculated for that new housing development across all four school types;
 - ii. Estimates (in discussion with housebuilders) on delivery timescale of homes (by year);
 - iii. For each additional pupil generated (over and above the operational capacity of schools in that catchment, taking into account the cumulative effect of all proposed housing in that catchment), applicant will be expected to contribute the per additional pupil amount set out in this guidance;
 - iv. Consideration given to whether physical extension may be required to schools within the catchment because of the new housebuilding;
 - v. Consideration as to whether physical extension is achievable at schools concerned;
 - vi. Calculation of cost of extension to school (based on recent Renfrewshire examples)
- 5.15 If number of proposed housing units is not defined in planning application_[eg. through an application for planning permission in principle] then:
- i. Estimate of numbers based on location, site characteristics and size of site;
 - ii. Average number of bedrooms per unit estimated to calculate predicted PPR;
 - iii. Process outlined above (depending on size of site) is followed;

New school required because of new housing development

- 5.16 The approach set out in this guidance does not preclude specific contexts where large scale housing allocations may require new school provision as part of the future community facilities planning for that location. If this is the case this will be set out clearly in the Council's LDP and its Learning Estate Management Plan in advance of any planning application being considered for that site.
- 5.17 The situation may arise in terms of future housing development, as it did recently in Renfrewshire with the Dargavel Masterplan, where a new school needs to be provided to meet the demand from additional pupils resulting from new housing being built. The size of site required for a new school is very much dependent on the proposed capacity of that school and therefore cannot be determined in advance.
- 5.18 The context for this, the policy approach and the expectations from the developers involved (including land requirements and the respective values attributed to that) will be set out in full in the Renfrewshire LDP and its associated documents when they are published.

Figure 1: Diagram showing the decision process once a planning application is received.



5.19 It should be noted that there will operational maximums for the number of pupils any school will be able to accommodate, even with physical extension or replacement by new school. This will be determined by Renfrewshire Council's Director of Children's Services.

Developer Contribution per pupil

5.20 Renfrewshire Council has taken the approach to negotiate for requisite developer contributions on a **per additional pupil basis**. The Council believe this is fairest way to calculate any contribution, as opposed to using a per housing unit basis, as it allows the Council to monitor contributions and estimates of capacity impact against the number of pupils which eventually transpire for the relevant schools.

5.21 The Council have utilised several sources to assist in calculating the proposed developer contribution rate per pupil from new housing developments set out in this guidance, including:

- Recent new school developments in Renfrewshire – both new build and extensions;
- Planned school investments in Renfrewshire;
- Scottish Futures Trust's evidence base of school building costs;
- Developer contributions sought by other Scottish local authorities in the most up-to-date examples of such planning policies;
- Discussions with HubCo West on their data of school construction costs in recent years;

5.22 Based on these sources of evidence, the developer contributions which Renfrewshire Council will be seeking from all new housing development (that meet the terms of this guidance) and which trigger the capacity thresholds in the relevant school catchments is as follows:

School type	Primary school	Secondary school
Level of contribution per pupil	£56,000	£56,000

5.23 In terms of the level of contribution it should be noted by applicants this contribution level is stated as at (insert month) 2024 and any required changes to this amount will be indexed linked in line with BCIS costs at (insert quarter) 2024.

5.24 The Council reserve the ability, depending on the scale of the residential development proposed, to seek phased payments of the required contribution linked to thresholds reached in terms of new housing units built over time. This will be negotiated with the applicant at the time of the S75 being agreed.

Where developer contributions will be used

- 5.25 Developer contributions associated with this policy will be utilised to overcome the impact in the specific catchment concerned from the increased number of primary and secondary school pupils generated by new housing development.
- 5.26 There may be school specific factors, such as space, and quality of ancillary accommodation, which mean increasing capacity is not a practical solution. If it is technically impossible to provide extra capacity, the Council may resolve the issue using suspensive conditions to control the phasing of development or may refuse planning permission.

Exceptions to this policy

- 5.27 All proposals relating to planning applications which result in new residential units will be assessed against the policies outlined.
- 5.28 Exceptions to the policy will be applied as follows:
- Proposals for extending or altering existing residential dwellings;
 - Proposals which would not result in an increase in the number of residential units;
 - Development proposals which involve nine residential units or less (unless, in combination with other identified housing sites in that catchment, the operational capacity of the school in question would be increased above 85% by the planned delivery of all proposed development);
 - Proposals involving one-bedroom dwellings;
 - Proposals for housing specifically aimed at an older demographic resident;
 - Proposals relating to student accommodation;
 - Proposals relating to sheltered accommodation, care homes or housing designated for older age groups; and
 - Proposals where a Viability Assessment has been submitted and independently verified and where Elected Members approve the development.
- 5.29 This list of exceptions will be kept under review by the Council and any changes dealt with in future versions of the policy guidance.

Viability Assessments

- 5.30 Circular 3/2012 notes that the economic viability of proposals should be taken into consideration when applying developer obligations and alternative solutions should be considered including options of phasing or staging payments.
- 5.31 The Council's requirements from a viability assessment submitted by an applicant for planning permission for residential is set out in **Appendix 1**.
- 5.32 Please note this will only be applicable for planning applicants who wish to make the case that the payment of a developer contribution would impact the financial viability of the development in question. The applicant should bring this matter to the attention of the Council's Planning Team at the earliest opportunity.
- 5.33 In all circumstances where a viability assessment has been undertaken, determination of the application will be the responsibility of the Planning and Climate Change Policy Board (or equivalent).

6. Legal Agreements

- 6.1 Developer contributions generally require applicants to enter into legally binding contracts, or obligations with the local authority. In line with this guidance, planning permission will not be granted until the relevant legal agreement has been concluded. The development should not commence until the decision notice has been released for the relevant planning application by Renfrewshire Council.

Section 75 Agreements (S75)

- 6.2 Following the Council's decision to grant planning permission, planning officers, together with legal colleagues, will finalise discussions in relation to seeking to agree the terms of a S75 legal agreement. It is anticipated that the broad terms of any agreement will have been discussed with the applicant before a decision is reached.
- 6.3 The S75 legal agreement requires to either be registered in the Land Register, or acknowledgement has been received from the Keeper of the Register, prior to the release of the Council's application decision notice.
- 6.4 In cases where the planning application relates to planning permission in principle, depending on circumstances, the following process will be followed:
- Where the planning permission in principle application outlines the number of residential units, the application will be assessed, and any contributions determined on the stated number of units. The S.75 agreement will thereafter secure the identified contribution noting the number of units approved.

- In circumstances where the planning permission in principle application does not outline the number of residential units, the S.75 agreement will set out the principles that will be applied to calculate the level of applicable contribution in line with this guidance

Section 69 Agreements

- 6.5 In certain circumstances it may be appropriate for development contributions to be secured via a Section 69 (S69) agreement. This would be paid in full in one instalment prior to planning permission being issued. There is no need to register a S69 agreement as a burden against the land title.
- 6.6 In the event that a contribution has been paid in respect of a S69 agreement, and the proposed development does not go ahead, the Council will not return the contribution if it has already been spent or committed for the purposes collected within the timeframes agreed.

Return of unused contributions

- 6.7 All Section 75 agreements will be entered into in favour of the Council on the expectation of having fifteen (15) years to expend the contribution received. Thereafter should contribution remain unspent, the contribution will be returned to the applicant following a request from the applicant. This timescale reflects the timescale taken to deliver larger housing sites and the resultant impacts on school capacity that may be required.
- 6.8 For developments involving phased payment of developer obligations the 15-year period for spending contributions shall commence on the date that the final phased payment is made to the Council.
- 6.9 In the event of the contribution, or part of it, not being spent within this time period, the contribution, or part of it, will be refunded to the applicant or their nominee along with relative interest accrued.

Contact

- 7.1 For further information or to arrange a discussion in relation to developer contributions, in the first instance please email **dc@renfrewshire.gov.uk**.

APPENDIX 1

Viability Assessments

- Circular 3/2012 notes that the economic viability of proposals should be taken into consideration when applying developer obligations and alternative solutions should be considered alongside options of phasing or staging payments.
- The Planning Authority will give consideration to altering the levels or payment structure of any planning obligations as part of financial contributions in the interests of maintaining overall development viability.
- In the event that the applicant considers that the payment of a developer contribution would impact the financial viability of the development in question, the applicant should bring this matter to the attention of the Planning Authority at the earliest opportunity.
- In such circumstances, the applicant will require to submit a Viability Statement including 'open book accounting' of the proposed development.
- The submitted Viability Statement will be evaluated and assessed by the District Valuer in order to provide an independent view of the viability of the proposed development.
- The evaluation and assessment of any submitted Viability Statement will be instructed by the Planning Authority; however, it should be noted that any costs associated with undertaking the assessment will be recovered in full from the applicant.
- Thereafter the opinion of the District Valuer will form a material consideration in the processing and determination of the planning application in question.
- It should be noted that while Viability Statements will be treated as confidential, full details of contributions, including an indication of the scale of any agreed reductions will be reported to members of the Planning and Climate Change Policy Board via the Report of Handling.
- In all circumstances where a viability assessment has been undertaken, determination of the application will be the responsibility of the Planning and Climate Change Policy Board.