

West Sussex County Council: SEND Developer Contribution Requirements as a Statutory Education Provider

Key Points

- 1.58% of all pupils within West Sussex are educated in a specialist provision (special school or specialist support centre, 2019).
- 41% of pupils, with an Educational, Health & Care Plan (EHCP), are educated in a West Sussex Special School or Specialist Support Centre. (Excludes SEND children & young people (CYP) attending Independent non-maintained schools).
- Due to Special Educational Needs and Disabilities (SEND) and the need for personalised curriculums, some pupils travel across West Sussex to attend a school that best meets their needs. The school will be named in their EHCP (SEND Code of Practice, Children and Families Act 2014).
- Classroom space for a special school pupil is recommended to be four times the space required for a mainstream pupil (BB104).
- This requirement sets out contributions from developers to mitigate for the education of SEND pupils required due to housing growth.

Key Definitions:

SEND – a CYP has SEND if they have a learning difficulty and/or a disability that means they need special health and education support.

EHCP – is a legal document that describes a CYP's special educational, health and social care needs. It explains the extra help that will be given to meet those needs and how that help will support the CYP to achieve what they want in their life.

BB104 – Building Bulletin – notes on area guidelines for SEND and alternative provision.

Ambulant – the definition of ambulant is someone who can move around.

Non-ambulant – has a physical and permanent disability to such a degree that the CYP is unable to move from place to place without the aid of a wheelchair.

Alternative Provision – for CYP who do not attend mainstream school for reasons such as school exclusion, behaviour issues, school refusal or short- or long-term illness.

AECOM – (architecture, engineering, construction, operations and management) American multinational engineering firm.

1.0 What are developer contributions required for?

SEND developer contributions are required to provide additional school places to mitigate the impact of development, which can be through expansion of an existing facility or by establishing a new school. Only strategic sites are likely to require the provision of a new school on site. However, a combination of non-strategic developments may also prompt the need for a new school or are likely to necessitate the provision of additional capacity at existing facilities.

2.0 Special Educational Needs and Disabilities

A child or young person has a learning difficulty or disability if they:

- have a significantly greater difficulty in learning than the majority of others of the same age, or;

- have a disability which prevents or hinders him or her from making use of the facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post 16 provisions;
- for children aged 2 or more, special educational provision is educational provision that is additional to or different from that made generally for other children or young people of the same age by mainstream schools, maintained nursery schools, mainstream post 16 institutions or by relevant early years providers. For a child under 2 years of age, special educational provision means educational provision of any kind.

3.0 SEND Code of Practice: (Revised 2015) 0-25 years

Statutory guidance for organisations that work with and support children and young people who have special education; needs or disabilities – **Part 3 Children’s & Families Act 2014**

There are four broad areas of need that SEND falls under, but many children and young people have needs that cut across more than one area of need:

□ **Communication and interaction** where children and young people may have difficulty in communicating, understanding what is being said to them or not understand or use social rules of communication. This includes children and young people with Autistic Spectrum Condition (ASC, including Asperger’s Syndrome and Autism) which also impacts on how they relate to others;

□ **Cognition and Learning** including moderate learning difficulties (MLD), severe learning difficulties (SLD) where children and young people are likely to need support in all areas of the curriculum, and with mobility and communication, and profound and multiple learning difficulties (PMLD) where children and young people are likely to have very complex learning needs as well as a physical disability or sensory impairment. Many will also have medical needs. This area also includes specific learning difficulties which includes dyslexia, dyspraxia and dyscalculia;

□ **Social, Emotional and Mental Health Difficulties (SEMH)** which includes children and young people who become isolated or withdrawn, as well as those displaying challenging, disruptive or disturbing behaviour. These behaviours may reflect underlying mental health difficulties such as anxiety or depression, self-harming, substance misuse, eating disorders or disorders such as Attention Deficit Disorder, Attention Deficit Hyperactivity Disorder or Attachment Disorder;

□ **Sensory and/or physical needs** which include visual impairment, hearing impairment or a multi-sensory impairment, all of which will require specialist support and / or equipment to access their learning or suitable support. Some children with physical disabilities will require ongoing support and equipment to access all the opportunities available to their peers.

4.0 Contextual Information

In West Sussex, most children and young people with special educational needs and/or disabilities will have their needs met in a mainstream school, early years setting or college. Some will need a higher level of additional support specified within an EHCP, and a proportion of these will need their education in a Special School or Specialist Support Centre (SSC) attached to a mainstream school (currently 41% of EHCP pupils within West Sussex attend an SSC or special

school). In addition, some pupils with or without an EHCP, whose needs are very challenging, will require their education to be provided through a Pupil Referral Unit (PRU) or Alternative Provision (AP), both of which deliver a bespoke and specialist curriculum. Parental requests for specific high cost placements and tribunal decisions to support parental preferences are increasing the number of children and young people being educated within INMS (Independent Non-Maintained School). This is currently around 10% of all pupils with an EHCP. The cost of an INMS placement is on average three times the cost of a maintained specialist school placement (this is in addition to the four times the cost of a mainstream placement).

4.1

It is reasonable and fair to seek developer contributions for SEND provision in direct proportion to the expected needs arising from a housing development related to pupils requiring provision in a special school, or an SSC in a mainstream school. Wherever possible, children with SEND are educated in mainstream schools.

4.2

Over the last 5 years, the percentage of the school age population nationally on roll of a school with an EHCP has risen from 2.8% to 2.9%. Currently, for West Sussex the figure is 3.2% (Nationally 3.1% January 2019 census & Hampshire 3% Sept 2019). Continuing population growth has put pressure on current specialist provision with most of the provision assessed as at or over capacity. Currently, special schools within WSCC are operating at 101.7% occupancy as of November 2019.

4.3

Due the specialist nature of West Sussex Special Schools and SSC's, and the need for them to be of sufficient size to efficiently deliver a broad and specialist personalised curriculum, they draw pupils from across the county. Consequently, standard travel distances to specialist provisions are not relevant when considering the impact of a development on the Special Schools and SSC's; instead there is a countywide solution for accommodating their education. Currently the Department of Education sets guidelines, for SEND pupils, of 45 minutes for one journey for primary age and for secondary school age 75 minutes.

4.4

As at January census 2019, 1.58% of WSCC's primary and secondary pupils will have SEND detailed within an EHCP. 41% of these CYP will require specialist education either in a special school or an SSC as the support they require, detailed within their EHCP, cannot be met within a mainstream school. This totals 2202 children and young people (CYP) across West Sussex. *(An additional 600 pupils are also educated within INMS (these pupils also have an EHCP and parents feel that WSCC provision cannot meet their CYP special educational needs). These pupils aren't included in national census data as independent schools are not required to complete this survey.)*

[School Pupils and their Characteristics - Survey 2019](#)

5.0 Calculation of Contributions for the Provision of Special School Places

Special school provision including SSC's located in mainstream facilities across the County are already at capacity and contributions will be pooled to improve or enhance facilities at the most appropriate school or centre. Improved/new facilities to support the needs of learners with EHCPs may not be located in the same geographical location to the new development. This is because consideration will need to be given to the range of need across a number of geographical areas and the most sensible distribution of specialist approaches to meet the range of needs present. It is expected that most children will travel to facilities. The yield from a new development would be calculated as shown below and compared with the places available.

6.0 BB104 - How SEND impacts on area

Special schools, AP, SSC's and Units all require more area per pupil place than mainstream schools because:

- Pupils are taught in smaller groups, averaging around 8 to 12 and as low as 4 to 6 where pupils need extensive support;
- Staff to pupil ratios are higher, particularly in a special school where 2 or 3 teaching assistants or support staff work alongside the teacher or give support in a separate space;
- Multi-agency meetings are common during the school day requiring confidential meeting rooms (these can involve several people in special schools).

6.1 These areas can also be used for the delivery of individual intervention and therapy sessions. The following apply in some settings:

- Pupils who use wheelchairs or other mobility aids need more movement space and space to store their equipment when not in use (some pupils may use up to three different pieces of mobility equipment during the school day for medical and functional reasons);
- Disabled pupils need facilities for physiotherapy (which can require specialist equipment such as a hoist) as well as specialist changing facilities;
- Pupils who are easily agitated often need more personal space around them;
- Pupils in special schools and AP need individual teaching, counselling and therapy, requiring a range of small spaces;
- Visiting professionals, such as speech and language therapists, need access to a desk space and storage in addition to the teaching areas;
- Recommended area of 42-52m² for 8 (severe social emotional and mental health SEMH), 44-53m² for 6 (severe autism), 49-56m² for 12 (ambulant), 58-66m² for 6 (non-ambulant), 28-33m² for 8 (health), 37-42m² for 8 (behaviour) (BB104);
- In special schools, it is recommended that there is 1 small group room per 3 classrooms.

This area need is over and above the space allowed in Building Bulletin 103 for mainstream schools. Special schools, AP, SSC's and Units all require more area per pupil place than mainstream schools. These are divided into two areas; 'Ambulant' and 'Non-ambulant'.

7.0 Ambulant

Special schools typically provide for one of the following:

- A range of predominantly ambulant needs MLD, SLD and autism, with pupils taught together in groups of 8 to 12; there are often a few places for pupils with greater needs such as those associated with severe autism or social emotional and mental health difficulties who are taught in smaller groups with a higher staff to pupil ratio;
- Severe SEMH difficulties where pupils require greater personal space to avoid conflict and have the capability to follow a curriculum similar to mainstream; pupils are taught in groups of 6 to 8;
- Significant difficulties associated with autism (ASD) where pupils require greater personal space and high levels of adult supervision, pupils are taught in groups of 6 to 8.

8.0 Non-ambulant

Special schools typically provide for one of the following:

- A broad range of needs with 10% to 60% of pupils being non-ambulant (requiring specialist equipment and facilities); pupils with MLD, SLD/autism are taught in groups of 8 to 10 and pupils with Profound and Multiple Learning Difficulties or severe autism are taught in groups of 4 to 6;
- A broad range of needs with 60% to 90%+ of pupils being non-ambulant (requiring specialist equipment and facilities); pupils are taught in groups of 4 to 6.

9.0 Special School Class Grouping

In special schools there is often more flexibility across the key stages than in mainstream schools. Where a special school caters for a broad range of needs, pupils are likely to be grouped to suit their needs. For example, those with profound learning difficulties, who need intensive stimulation, are likely to be grouped separately from pupils with autism, who need low sensory stimulus. Pupils who present with boisterous or aggressive behaviours may at times be taught separately from those who are vulnerable.

10.0 Special School Space Requirements

Special schools require more space per pupil than mainstream schools, and this should be reflected in the assumed costs of provision. Developer contributions for special or alternative school places are set at four times the cost of mainstream places, consistent with the space standards in Building Bulletin 104 (2015).

[Building Bulletin 104 - Area Guidelines for SEND and Alternate Provision](#)

[The National School Delivery Cost Benchmarking Primary, Secondary & SENS Schools \(June 2019\)](#) report for the costs of delivering SEN school places is also relevant. (**see section 9. regarding number of pupils per teaching spaces for ambulant and non-ambulant SEND children*) The cost per pupil for providing a special school place is therefore estimated at approximately four times the build cost of mainstream provision. Costs for the additional classroom will be based upon the primary age phase costs, i.e. £430,275.

These costs are used for smaller developments where contributions are sought for the improvement and expansion of existing schools. Strategic developments with pupil numbers greater than the local schools have capacity to take or expand to, are subject to bespoke requirements.

11.0 Edge Analytics SEND

WSCC has identified the need for a reporting and forecasting tool which considers the current and future balance between SEND need and SEND education services across the county. This tool will be used to support securing developer contributions.

12.0 SEND Yield Rates

Average Yields

School Type West Sussex CC	Child Product (Census Data 2011 Office for National Statistics)
Primary (4-11)	25 per 100 dwellings
Secondary (11-16)	18 per 100 dwellings
Post 16	4 per 100 dwellings

Number of dwellings	Number of primary age pupils	Number of secondary age pupils	Primary & Secondary pupils	Total Number of SEND pupils (Primary & Secondary pupils value x 1.58%)	Number of SEND pupils requiring specialist provision / SSC (41% from Total Number of SEND pupils)
500	125	90	215	4	2
600	150	108	258	5	2
700	175	126	301	5	3
800	200	144	344	6	3
900	225	162	387	7	3
1000	250	180	430	7	3

(Figures for SEND pupils are rounded up (strategic sites only) as there no such thing as a proportion of a child)

13.0 SEND Cost Multiplier

A pupil in a special school requires four times the space of a pupil in a mainstream school (**8.0**). Therefore, the cost of providing a special school place is expected to be four times the cost of providing mainstream provision.

Cost multipliers per pupil place for SEND provision: (2019-2020)

School Type	Cost Multiplier	SEND	Cost
Primary	£18,371 per child	X4	£73,484
Secondary	£27,679 per child	X4	£110,716
Sixth Form places	£30,020 per child	X4	£120,080

14.0 Strategic Sites

Strategic developments with pupil numbers greater than the local schools have capacity to take or expand to, are subject to bespoke requirements. These costs are based on predicted costs to deliver new facilities in West Sussex, are based on predicted costs for 1Q2018 and include construction, professional fees, furniture, equipment and ICT but exclude the cost of legal and financial fees and

charges, land purchases, wayleaves and licences, infrastructure costs outside the site boundary, site abnormalities / demolition and VAT.

15.0 Scenario 1

1000 new dwellings = 430 primary and secondary pupils

7 SEND pupils = 3 requiring special school or SSC placement

Average cost per pupil place (SEND) = £155,000

£155,000 x 3 = £465,000

15.1 Scenario 2

25 dwellings = 11 primary and secondary pupils

0.2 SEND pupils = 0.082 requiring special school or SSC placement

Average cost per pupil place (SEND) = £75,056

£101,427 (average cost multiplier of primary / secondary / sixth form)

£101,427 x 0.082 = £8,317

16.0 Community Infrastructure Levy (CIL) Regulations (SI 2010/948) as amended

Planning obligations assist in mitigating the impact of developments. In simple terms, planning obligations must meet the following tests:

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development

In order for the SEND contributions to comply with CIL regulations it needs to be assigned to a specific project or pooled with other projects. Specialist provisions do not have catchment areas in the same way mainstream primary and secondary have and therefore contributions may be used to meet SEND requirements outside of defined West Sussex planning areas.

17.0 How SEND contributions will be spent

Developer contributions will be spent locally where possible to increase provision for SEND children either within mainstream SSC's or specialist provisions. As already highlighted, SEND children attend provisions based on need not locality. This often means increased travel across the county. For example; currently the two main areas of growing need are SEMH and Communication and Interaction needs. Both West Sussex maintained SEMH specialist provisions are in the south (Littlehampton) and south west (Compton) of the county. Social Communication needs are catered for in mainstream settings, specialist settings and special support centres due to the complexity and spectrum of this area of need. Therefore, a variety of specialist provision across West Sussex is required to meet the range of needs effectively. As a result, the development of specialist provision may be outside of the existing planning area that is contributing the SEND resource.

References

Securing developer contributions for Education November 2019 – DfE November 2019 [Securing development contributions Department for Education 2019](#)

National School Delivery Cost Benchmarking – Primary, Secondary & SEND Schools – Hampshire CC / East Riding of Yorkshire CC / DfE – June 2019 v6

[National school delivery cost benchmarking Department for Education 2019](#)

Seeking developer contributions from new developments towards the provision of Cambridgeshire County Council Special Schools – key assumptions, rationale and level of contribution – May 2017

[Cambridgeshire planning obligations strategy 2017](#)

Developers’ Contributions towards Children’s Service Facilities – Hampshire County Council – Children’s Services Department - September 2019

Planning Obligations Policy – Leicestershire County Council – July 2019

[Leicestershire developer contributions guide 2019](#)

Developer Infrastructure Contributions Guide – Hertfordshire County Council 2019

Guide to Developer Infrastructure Contributions – Hertfordshire County Council – 2019

Home to school travel and transport guidance (Statutory guidance for local authorities) – July 2014 – DfE consultation closed October 2019

[Home to school transport statutory guidance](#)

Area guidelines for SEND and alternative provision – Including special schools, alternative provision, specially resourced provision and units – DfE BB 104 - December 2015

[Special educational needs and disability building bulletin 104](#)

SEND Code of Practice: (Revised 2015) 0-25 years Statutory guidance for organisations that work with and support children and young people who have special education; needs or disabilities – Part 3 Children’s & Families Act 2014

[Special educational needs and disability code of practice](#)

Schools, pupils and their characteristics: January 2019 (Department for Education)

[Schools, pupils and their characteristics department for education 2019](#)

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