

CABINET

8 MAY 2018

MEDWAY GUIDE TO DEVELOPER CONTRIBUTIONS AND OBLIGATIONS (2018)

Portfolio holder: Councillor Jane Chitty, Planning, Economic Growth and Regulation

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Summary

This report presents an updated Medway Guide to Developer Contributions and Obligations, which has been prepared following consultation between 26 January and 9 March 2018. This is in line with Cabinet's approval on 16 January 2018 to undertake consultation on the draft document (decision number 4/2018 refers).

Cabinet is requested to approve this updated document as the basis for securing infrastructure contributions from development in line with legal requirements.

1. Budget and Policy Framework

- 1.1 The Medway Guide to Developer Contributions and Obligations is intended to be a Supplementary Planning Document (SPD), which is consistent with the provisions of the 2003 Medway Local Plan. The Local Plan is the development plan for the area and forms part of the council's policy framework. Therefore, this is a matter for the Cabinet.
- 1.2 The work on the revised guide has been carried out within the Planning Service budget.

2. Background

- 2.1 The Planning system supports mechanisms to collect funding from new developments to help deliver infrastructure and services to meet the demands arising from the associated growth in population. In Medway, the council has

produced a Guide to Developer Contributions to set out the requirements arising from planning permissions.

- 2.2 The Guide to Developer Contributions (GDC) was first adopted as a Supplementary Planning Document (SPD) in April 2008, providing specific guidance in relation to the determination of planning applications. It has since been reviewed on a number of occasions. The council consulted on a draft updated Guide in early 2018.
- 2.3 This document sets out the level of contributions required for specific services and infrastructure, such as school places and open space facilities, for developments of 10 or more dwellings. This enables developers to understand the costs involved prior to purchasing land for development. The latest Guide also presents information on obligations that developments of under 10 dwellings need to meet.
- 2.4 The Guide must meet the legal requirements for the collection of contributions from development, to ensure that the process is fair, and funding requests are proportionate and directly related to the impact of the development. Section 106 of the Town & Country Planning Act 1990 provides that anyone with an interest in land may enter into a planning obligation, which is enforceable by a local planning authority. An obligation may be created by agreement or by the party with an interest in the land making a unilateral undertaking.
- 2.5 Obligations may:
 - Restrict the development or use of land;
 - Require operations to be carried out in, on, under or over the land;
 - Require the land to be used in any specified way; or
 - Require payments to be made to the local planning authority, either in a single sum or periodically.
- 2.6 A planning obligation may only constitute a reason for granting planning permission if it is:
 - Necessary to make the development acceptable in planning terms;
 - Directly related to the development;
 - Fairly and reasonable related in scale and kind to the development.
- 2.7 In addition to meeting the legal tests for collecting developer contributions, the council must set out evidence on the need for investments in infrastructure. The Guide provides information on levels of contributions required to meet the additional service needs arising from development.
- 2.8 The council commenced a review of the Guide in 2017, by seeking updated information on service and infrastructure planning needs and costs from appropriate council services and external bodies, such as the Medway NHS Clinical Commissioning Group. This information was used to prepare a draft revised Guide. On 16 January 2018, the Cabinet was presented with a report which provided details of the revised Medway Guide to Developer

Contribution and Obligations. The Cabinet approved option 3 (update the Guide to Developer Contributions 2014, to provide a more robust policy basis, pending the further progress of the Local Plan and government reforms to the Planning system), as set out in section 3 of that report. The Cabinet also agreed to change the name of the Guide from 'The Guide to Developer Contributions' to 'Medway Guide to Developer Contributions and Obligations' and approved the publication of the draft document 'Medway Guide to Developer Contributions and Obligations' for consultation and agreed to consider the outcome of this consultation, by way of a report back to the Cabinet to agree the final version of the Guide (Decision numbers 2/2018 to 4/2018 refer). The draft revised guide was published for consultation in early 2018. This 2018 Guide is intended to be more user friendly and informative. It includes sections on air quality, flood risk management and sustainable drainage. These sections set out obligations for developers, rather than specific financial contributions.

- 2.9 The Planning Service has assessed the responses received to the consultation and incorporated changes, where appropriate, to the draft Guide. The proposed updated Guide is set out at Appendix A. Further details on the responses received to the consultation are set out at Appendix B.
- 2.10 The council intends to carry out a further review of development contributions to align to the evidence base for the new Local Plan on infrastructure needs and the preferred growth strategy promoted in the plan.
- 2.11 The government has indicated that it is seeking to review the system of developer contributions towards the funding of infrastructure. It has set out its proposals in the consultation document: 'Supporting housing delivery through developer contributions'¹. The consultation closes on 10 March 2018, and it is anticipated that government will introduce further policy updates, based on the draft proposals, following consideration of the responses to the consultation. The consultation document confirms the government's support for the Community Infrastructure Levy (CIL), as its preferred mechanism for collecting development contributions. It sets out a number of proposals for streamlining the procedures for establishing and reviewing CIL charging schedules, and improving transparency and increasing accountability.
- 2.12 Medway Council has not adopted CIL and it will need to consider its approach to developer contributions in the light of updated government policy and guidance. This will be carried out in conjunction with work on the new Medway Local Plan.

3. Options

- 3.1 The council is preparing a new Local Plan that will set out Medway's development strategy up to 2035. This will include the requirements for infrastructure to support the area's growth. An Infrastructure Delivery Plan will

¹ Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691182/Developer_Contributions_Consultation.pdf

set out investments needed in association with development. As noted in paragraph 2.11 above, updated national policy and guidance is anticipated shortly in this area. It is noted that the indicative changes to national policy and guidance would retain the 'pooling restriction' that prevents local authorities from using more than five S106 planning obligations to fund a single infrastructure project.

3.2 Cabinet considered three options on 16 January 2018, these were:

- Option 1: Continue to use the current Guide to Developer Contributions, 2014, and await the publication of the draft Local Plan and supporting Infrastructure Delivery Plan.
- Option 2: Continue to use the current Guide to Developer Contributions, 2014, and await the implementation of legislative reforms of infrastructure funding.
- Option 3: Approve an update to the Guide to Developer Contributions, 2014 to provide a more robust policy basis, pending the further progress of the Local Plan and government reforms to the Planning system.

3.3 The Cabinet approved option 3 (update the Guide to Developer Contributions 2014, to provide a more robust policy basis, pending the further progress of the Local Plan and government reforms to the Planning system), as set out in section 3 of that report (decision number 2/2018 refers).

3.4 Cabinet is asked to approve the Medway Guide to Developer Contributions and Obligations as set out at Appendix A to the report.

4. Advice and analysis

4.1 The Planning Service consulted on the draft Medway Guide to Developer Contributions and Obligations between 26 January and 9 March 2018. A total of 21 representations were received to the consultation. A matrix of key issues raised in the representations has been produced and is set out at Appendix B to the report. The matrix includes responses and proposed actions, where appropriate, after a comprehensive review of these issues has been completed. Some key issues raised and the council's consideration of these comments are set out below.

4.2 Representations were received from the following:

- Medway Labour Group
- St James Isle of Grain Parish Council
- Developers
 - Lichfields for the Peel Group
 - GVA for Homes England
 - Vincent Goring for Trenport Investments Ltd
 - Countryside
 - Wealden Homes
- Environment Agency
- Diocese of Rochester

- 2 local residents
- 2 Medway Council services
- Kent County Council
- St Mary's Island Residents Association
- Natural England
- Education & Skills Funding Agency
- NHS Medway Clinical Commissioning Group
- Friends of Great Lines Heritage Park Committee
- Sport England
- Highways England.

- 4.3 A common theme raised in developers' representations was a query on the justification for such a significant increase in charges which could hamper development, by challenging viability. The increase in the charging rates reflects the proposal to bring contributions in line with rising inflationary costs. The original 2008 Guide included a commitment to index link the charges periodically; this was not actioned due to prevailing market conditions. Indexation has now been applied from October 2007, which was when the charges were first produced for the 2008 adopted Guide.
- 4.4 A number of representations queried how the occupation figure of 2.43 persons per dwelling had been calculated. The council has used official public data on households for the reference point. The figure was taken from table 427 of Household projections for English local authority districts published in July 2016 by DCLG.²
- 4.5 The consultation draft Guide, did not include information on 'environmental mitigation' which was previously included in the open space section in the 2014 SPD. This was an error and the section has been reinstated.
- 4.6 Several stakeholders submitted comments that were not directly relevant to this consultation, and the Planning Service has considered how best these issues can be addressed. Comments relating to the Local Plan have been passed to the Planning Policy team where appropriate. Other comments will be reviewed for possible action separately.
- 4.7 From an assessment of the representations received, it is not considered appropriate to amend the charges from those set out in the consultation draft.
- 4.8 Agreement is sought from the Cabinet to delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive in consultation with the Portfolio Holder for Planning, Economic Growth and Regulation to approve minor changes to the Medway Guide to Developer Contributions and Obligations if required to address minor presentation matters.

² <https://www.gov.uk/government/statistical-data-sets/live-tables-on-household-projections>

- 4.9 Agreement is sought from the Cabinet for a standing delegation to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive in consultation with the Portfolio Holder for Planning, Economic Growth and Regulation to undertake the annual review of indexation of S106 contributions using the all items retail prices index (RPI) and update the Medway Guide to Developer Contributions and Obligations Supplementary Planning Document accordingly to come into effect on 1 April each year.
- 4.10 The funding of infrastructure and services to mitigate the impacts of development is one means of ensuring that development is sustainable. A Diversity Impact Assessment is set out in Appendix C to the report.

5. Risk management implications

Risk	Description	Action to avoid or mitigate risk	Risk rating
Some developments become unviable	Significant increases in the level of contributions requested render the development unviable	A viability assessment based on an open book approach can be submitted with any planning application. In such instances this will be assessed by an independent viability expert on behalf of the Council.	C2
Lack of appropriate infrastructure for new developments	Developer contributions are insufficient to cover infrastructure to mitigate the impact of developments	As part of the work on the Local Plan an Infrastructure Delivery Plan will be produced which will assist requests for developer contributions as well as bids to Government for additional funding to facilitate appropriate development and growth.	C2

6. Consultation

- 6.1 Consultation was carried out between 26 January and 9 March 2018, in accordance with the Medway Statement of Community Involvement. The Planning Service used its Local Plan database of over 1000 people and organisations to send notification of the consultation by email, or letter where appropriate. Information was placed on the council's website, including an

alert of the consultation. Copies of the draft Guide were available for inspection in all Medway libraries.

- 6.2 Officers briefed members at the cross party Development Plans Advisory Group in preparing the draft update to the Guide and will continue to provide regular updates on further development work on developer contributions.

7. Financial implications

- 7.1 Failure to update the Guide would result in contributions received not being sufficient to provide the necessary infrastructure, such as school places and facilities to meet the needs of new residents, and could place additional budget pressures on the authority and service providers.
- 7.2 A significant rise in the total cost of S106 contributions per dwelling could result in developments becoming unviable. The recommended increase in charges in the Guide is deemed to be acceptable; calculations have been based upon index linking existing charges (which have an evidence base) and taking into account the decrease in occupancy levels from 2.45 persons per dwelling to 2.43, in line with official data sources.
- 7.3 The costs of producing the revised Guide have been met within the Planning Service budget and has not created additional pressures.

8. Legal Implications

- 8.1 The Guide has been produced in conformity with planning legislation, specifically the Town and Country Planning Act, 1990. The updated Guide on adoption would be a supplementary planning document (SPD) prepared in conformity with 'saved' Medway Local Plan policies, and would align with the emerging new Local Plan. As an adopted SPD, the Guide carries considerable weight in the determination of planning applications.

9. Recommendations

- 9.1 The Cabinet is asked to approve the Medway Guide to Developer Contributions and Obligations, as set out at Appendix A to the report for adoption as a Supplementary Planning Document.
- 9.2 The Cabinet is asked to delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, in consultation with the Portfolio Holder for Planning, Economic Growth and Regulation, to approve minor changes to the Medway Guide to Developer Contributions and Obligations, if required to address minor presentational matters.
- 9.3 The Cabinet is asked to delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, in consultation with the Portfolio Holder for Planning, Economic Growth and Regulation to undertake the annual review of indexation of S106 contributions

using the all items retail prices index (RPI) and update the Medway Guide to Developer Contributions and Obligations Supplementary Planning Document accordingly to come into effect on 1 April each year.

10. Suggested Reasons for Decisions

- 10.1 To provide an effective basis for the collection of contributions from development to appropriately mitigate the impacts through the provision of services and infrastructure.

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Appendices

Appendix A: Medway Guide to Developer Contributions and Obligations, 2018

Appendix B: Table of responses received to consultation and consideration of issues raised

Appendix C: Diversity Impact Assessment

Background papers

Cabinet report 16 January 2018
<https://democracy.medway.gov.uk/ielssueDetails.aspx?Ild=20951&Opt=3>

MEDWAY GUIDE TO DEVELOPER CONTRIBUTIONS AND OBLIGATIONS

Appendix A

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Introduction

- 1.1 The development of new housing increases the number of people living in an area, and with that the demand on local services, such as schools, health services, parks, and transport. The Planning system recognises the need to address the impacts arising from development, and can use legal obligations, agreements and unilateral undertakings to secure acceptable development. Developer contributions are an important component of this process. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms.
- 1.2 The purpose of this guide is to set out Medway Council's policy relating to developer contributions. It is to assist developers, the Council's own staff and all stakeholders to:
 - Ensure the impacts of developments are properly mitigated
 - Ensure that there is clear information on the Council's policy for developer contributions
 - Ensure consistency, transparency and accountability
 - Provide a streamlined, efficient service
 - Achieve greater speed in determining planning applications
- 1.3 The Council introduced its first Medway Guide to Developer Contributions in 2008. This document is the third review. This Guide has been adopted by Medway Council in May 2018 as a supplementary planning document, following consideration of comments received during consultation. This means that the guidance is a material consideration in making decisions on planning applications. The Council has not progressed a Community Infrastructure Levy, due to ongoing work on preparing a new Local Plan for Medway and the associated evidence base. This will be further considered in light of anticipated updated government policy and guidance. Further work on identifying infrastructure capacity and needs is being carried out to support the new Local Plan. This updated evidence base will inform a further policy document setting out the process and requirements relating to developer contributions, and will be published alongside the new Local Plan. This will include viability testing of the cumulative requirements of the Local Plan policies.
- 1.4 This guide provides comprehensive advice on how to determine contributions and includes technical details for services for which contributions may be sought. The guide also includes a checklist at Appendix 1, to be followed in order to enable faster decisions to be made.
- 1.5 Every effort has been made to make this guide as comprehensive as possible but it is not possible to anticipate the needs generated by all types of development. It is the responsibility of those submitting planning applications to contact planning staff at as early a stage as possible to determine whether the potential impacts of a proposed development go beyond the advice given here.

1.6 Developers are expected to take account of, and meet, the requirements of this document, before submitting planning applications to the council.

Legal and Policy Context

- 2.1 Medway is a growing urban area that is projected to increase to over 330,000 people by 2035. The planning process can support the delivery of development to meet the area's needs for homes, jobs, services and infrastructure. Many aspects of the area's infrastructure are under pressure in meeting the needs of the growing population. The delivery of timely and appropriate investments in infrastructure improvements to support housing growth is a major issue. It was the key concern raised by residents in consultation on the emerging Local Plan, and a common issue for comments on planning applications.
- 2.2 The council wants to ensure that the process of securing the delivery of upgraded infrastructure and services to meet the increased demands arising from new development works effectively. This guide has been adopted as a supplementary planning document, and is a material consideration in determining planning applications.
- 2.3 This guide has been prepared in accordance with planning legislation and policy overseeing the processes of securing appropriate contributions and obligations from developments. Planning obligations or agreements and Unilateral Undertakings are normally entered into in accordance with Section 106 of the Town & Country Planning Act 1990 (as amended). These tend to be referred to on a day-to-day basis as 'Section 106 (S106) agreements' and this term is used throughout this guide.
- 2.4 Section 106 of the 1990 Act provides that anyone with an interest in land may enter into a planning obligation, which is enforceable by a local planning authority. An obligation may be created by agreement or by the party with an interest in the land making a unilateral undertaking. Obligations may:
- Restrict the development or use of land
 - Require operations to be carried out in, on, under or over the land
 - Require the land to be used in any specified way; or
 - Require payments to be made to the local planning authority, either in a single sum or periodically.
- 2.5 Obligations run with the land and, providing all parties with an interest in the land enter into the agreement, affect everyone with an interest in it, including successors in title. They are registered as Local Land Charges.
- 2.6 The main principles governing the use of obligations are that:
- They should only be used when planning conditions are not appropriate
 - They are intended to make development acceptable which would otherwise be unacceptable in planning terms
 - They can be used to prescribe the nature of the development (e.g. a proportion of the housing must be affordable), to compensate for loss or damage caused by the development (e.g. loss of open space) or mitigate a development's impact (e.g. increase public transport provision).

- 2.7 All S106 agreements should satisfy the following tests:
- it must be necessary to make the proposed development acceptable in planning terms,
 - it is directly related to the proposed development,
 - it is fairly and reasonably related in scale and kind to the proposed development.
- 2.8 Agreements must be governed by the fundamental principle that planning permissions may not be bought or sold, and they cannot be used to secure a share in the profit from development.
- 2.9 Contributions may be either in kind or in the form of a financial contribution. Payments can be made in the form of a lump sum, an endowment, or as phased payments related to dates, events or triggers.
- 2.10 Local planning authorities should set out their policy on local standards, including infrastructure contributions and requirements for affordable housing in the Local Plan. The plan is subject to testing the cumulative impact of policies and requirements on viability, so that the Local Plan can be delivered. As the Local Plan process is ongoing, the council has updated its current guidance so that prospective developers are aware in advance of what contributions might be sought from any particular development. This is the prime function of this guide. The council will take account of further guidance and policy on developer contributions anticipated to follow consultation carried out in Spring 2018.
- 2.11 Medway Council supports the delivery of quality development which delivers its ambitions for the area's successful growth. The council has led in the production of a Planning Protocol for Delivering Growth in Kent and Medway. This aims to provide increased efficiency and certainty in the planning process for communities and developers. The protocol sets out the council's commitment to effective communication and working to increase certainty and consistency in the development planning process. The preparation and review of this Guide to Developer Contributions and Obligations specifically addresses the standards and commitments set out in the Planning Protocol.
- 2.12 This Guide provides clarity to developers and wider stakeholders on the requirements for infrastructure arising from consented developments, and associated obligations to ensure that the impacts of new developments are appropriately considered and mitigated.
- 2.13 The Council's current policy in respect of developer contributions is set out in "saved" Policy S.6 of the Medway Local Plan 2003. This states that:

"The Council will set conditions on planning permissions or seek to enter into a legal agreement with developers to provide for new physical infrastructure, social, recreational and community facilities (including education facilities) and environmental mitigation or compensation measures where mitigation is impossible or inadequate on its own, where the need for these arises directly from the development concerned. Provision will be sought in proportion to the

size and nature of the individual development, and will take into account the existing pattern of provision and capacity in the locality.

Provision will be made on the site where this can be reasonably achieved. When this is not the case, contributions will be sought for the provision of facilities and ecological features elsewhere, provided their location can adequately serve the development site or are appropriately related to it.”

2.14 This policy is the basis for the detailed requirements set out later in this guide. It will be replaced in due course by policies in the new Local Plan.

Procedural and Administrative Considerations

- 3.1 Medway Council has put in place systems and arrangements to assist developers, speed the decision making process and ensure consistency, transparency and accountability. These procedures cover pre-application advice, submission of planning application(s) and post decision issues. Further information is set out at Appendix 1 of this document: Summary Chart and Checklist for Applicants.
- 3.2 Developers should contact the Section 106 (S106) Officer regarding payment of contributions after the agreement is completed.
- 3.3 *Standard Templates and Clauses*
To ensure effective use of staff resources in drafting legal agreements, the Council has developed standard templates, based on many years experience and established legal practice. For unilateral undertakings, proof of ownership of the land affected by the agreement must be shown. Templates are available on the website <http://www.medway.gov.uk>
Please search for 'developer contributions' for developments of 10 dwellings or more, and 'bird disturbance in North Kent' for developments of 1 – 9 dwellings'.
- 3.4 *Contacting and Negotiating with the Council*
Co-ordination and openness are critical to the successful negotiation and completion of agreements. Developers and their agents should:
- Conduct all negotiations through the development management case officer. In pre-application discussions the Council will make every effort to identify a case officer, to ensure continuity and consistency. A pre-application charge will be levied by the council. Please visit the website for details <http://www.medway.gov.uk>. One to one negotiations with a particular service should only take place with the prior agreement of the case officer. The case officer will usually attend all such meetings. Contact with the Legal Section by the applicant should not be necessary in straight forward cases other than for checking title information, technical legal queries or to arrange the engrossing of an agreement. The case officer is responsible for involving the Legal Section, if necessary, in all other cases. However in his/her capacity as monitoring officer, the Assistant Director Corporate Services can always require legal involvement where necessary to protect the position of the council.
 - Traditionally the negotiation and drafting of agreements has started very late in the determination of a planning application. This imposes great pressure to agree heads of terms before Planning Committee meetings and can delay planning permissions not being granted for weeks or months after a positive resolution. With this in mind Medway Council will enter into 'without prejudice' negotiations and drafting at as early a stage as possible. These negotiations will consider S106 related matters without prejudice to the consideration of the associated planning application. In this way negotiations can commence at the pre-application

stage and the shared aim should be to have a completed agreement ready by the time an application is determined.

3.5 *Planning Performance Agreements*

The Council promotes the use of Planning Performance Agreements (PPAs) to achieve a more efficient and effective application process. The consideration and resolution of the S106 agreement forms part of the timetabled and resourced actions throughout the key stages from pre-application discussions, processing of the application and issue of decision and clearance of conditions.

3.6 *Basis of Guide*

The Council's initial negotiations will generally be based on this guide. Only where there are good and valid reasons for departing from the guide will alternatives be considered.

3.7 An example might be where the 'normal' level of contribution is genuinely unaffordable in which case the developer should inform the Council as quickly as possible and provide detailed financial evidence to substantiate the claim. Only where comprehensive evidence is provided will it be possible for the Council to consider such departures and in these cases an 'open book' approach will be required.

3.8 Each new dwelling within a defined 6km buffer of the Thames, Medway and Swale Special Protection Areas and Ramsar sites (please see Appendix 2 for map showing buffers) will incur a bird disturbance mitigation contribution of £223.58 per dwelling for a Strategic Access Management and Monitoring Scheme. Contributions for services to mitigate the impact of the development will be sought on developments of 10 dwellings or more.

3.9 All S106 contributions will be index linked annually on 1 April (using the all items retail prices index – rpi), and will be calculated at 2.43 persons per dwelling. Therefore it should be understood that the sums set out in this document are subject to annual review in line with the RPI as set out above.

3.10 *Resolving Disputes*

Complaints relating to procedural and administrative matters will be dealt with in accordance with the Council's normal complaints procedure as set out on our website. Any concerns over negotiations should be made initially to the case officer, and if this does not resolve the problem, to the Head of Planning. If necessary the matter will then be referred to the Assistant Director, Physical and Cultural Regeneration, and if necessary to the Director, Regeneration, Culture, Environment and Transformation.

3.11 Administrative and Associated Costs

The Council is committed to providing sufficient resources to achieve a high level of service and has set administrative costs, to be paid on completion of the agreement, on all agreements as follows:

- £300 per trigger event as set out in the S106 agreement
- The Council's reasonable legal costs, at a minimum of £500 per agreement
- In some cases the cost of the case officer's time negotiating the S106 matters.

3.12 Thresholds

Land Use	Threshold
Housing	10 units or more or combined GIA of 1000 sq.m
Office	100 sq.m or more
Industrial	250 sq.m or more
Warehouse	500 sq.m or more
Retail	100 sq.m or more
Educational	25 students or more
Hotel	25 rooms or more
Other	50 users or more

The requirements relating to the provision for Affordable Housing vary, and developers should refer to the details set out in the Affordable Housing section of this guide.

The tariff relating to Strategic Access Management and Monitoring scheme to address the risk of bird disturbance in the designated estuarine habitats applies to all dwellings within a 6km buffer of the designated areas.

For developers promoting schemes involving self-build housing developments, designated starter home exception sites, or the redevelopment of a vacant building, there are additional considerations. In such cases, prospective developers should contact the Planning Service for further details of the contributions and obligations required.

Planning Practice Guidance provides more detail on these considerations:

<https://www.gov.uk/guidance/planning-obligations>

3.13 Reporting on contributions and obligations

The Council is committed to providing clear information on developer contributions and obligations. S106 agreements are published with the planning application on the council's website through Public Access. The Planning

Service reports quarterly to Planning Committee on developer contributions. These reports list information on S106 contributions received, and obligations included in all S106 agreements completed in that quarter. The Council also reports on developer contributions in its annual Authority Monitoring Report, which is published each December for the preceding financial year.

Level of contributions per dwelling

Please note that developer contributions will be required for developments of 10 dwellings or more.

A bird disturbance mitigation contribution of £239.61 per dwelling will be sought for each new dwelling within the SPA and RAMSAR 6 km buffers (please see plan on the last page of this document – Appendix 2).

If required, contributions for transport/travel will be site specific.

Contribution for	Amount per dwelling based on average 2.43 persons per dwelling
Bird disturbance mitigation (SAMMS)	£239.61
<u>Cultural services :</u>	
- Community services	£178.80
- Heritage and museums	£277.80
- Libraries *	£161.15
<u>Education** :</u>	
- Nursery	£1,345.59
- Primary	£3,302.81
- Secondary	£2,616.93
- Sixth form	£688.87
Health	617.05
Open/play space, outdoor formal sport	£2,489.73
Sports facilities	£237.58
Waste and recycling	£168.86
Youth provision	£76.42
TOTAL	£12,401.20

* contribution for existing library provision

** contribution for extension of existing schools, not for provision of new school.

Figures to be indexed to retail price index on 1 April annually

Affordable Housing

1. Background

- 1.1 *Medway Local Plan 2003 Policy H3: Affordable Housing* states that where a need has been identified, affordable housing will be sought as a proportion of residential developments of a substantial scale.
- 1.2 The 2015 *North Kent Strategic Housing Assessment (SHMA)* clearly identifies a need for additional affordable housing in Medway and the Council is committed to meeting this.
- 1.3 The aim of the Council's Affordable Housing Planning Policies and this guidance is to ensure the development of balanced and integrated communities and to deliver good quality affordable housing for local people in housing need for both present and future generations.

2. Definition of Affordable Housing

- 2.1 The primary definition that is used to assess need, suitability, and to inform the development of requirements for affordable housing is provided within National Planning Policy Framework Annex 2: Glossary, which defines affordable housing as:

Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with Homes England.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

Homes that do not meet this definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes.

3. When Affordable Housing Will Be Sought

3.1 As set out in *Policy H3 of the Medway Local Plan (2003)*, affordable housing will be required on residential developments of a substantial scale i.e.

- developments of 15 or more dwellings or developments with a gross site area of 0.5 hectare or more in rural settlements with a population of 3,000 or less; or
- developments of 25 or more dwellings or developments with a gross site area of 1 hectare or more in urban areas.

3.2 The application of the policy is Medway-wide and reflects the need for affordable housing throughout the area as identified in the *North Kent Strategic Market Housing Assessment (2015)* and subsequent detailed analysis of both the council’s housing register and demand data held by the Help to Buy agency.

3.3 S106 Agreements will require the affordable housing to be retained in perpetuity. Matters to be taken into account when affordable housing is negotiated will be:

- a) the suitability of the site for affordable housing development;
- b) the economics of provision;
- c) the proximity of local services and facilities and access to public transport;
- d) the realisation of other planning objectives;
- e) the need to support Medway’s regeneration agenda and to achieve a successful housing development, taking into account the appropriate mix of affordable housing types and the proportion of affordable housing and its subsequent management.

4. How Much Affordable Housing Will Be Sought

4.1 The Council’s target is to seek at least 25% of homes to be affordable homes on any site meeting the Council’s size thresholds.

4.2 The size thresholds and the percentage of affordable housing are supported by the 2015 *North Kent Strategic Housing Market Assessment*. Where the Council considers that intermediate tenures are appropriate on a site they will be included within the overall percentage of affordable housing.

4.3 The target will be the baseline for negotiations for affordable housing on suitable housing sites. Where a developer considers that this requirement significantly affects the viability of a scheme an “open book” approach based on

the residual valuation methodology will be taken to establish the extent of this case.

- 4.4 In many cases, when calculating how many dwellings the percentage target represents on a site, the outcome will not be a whole number. Where the calculation results is a residual of 0.5 or more of a dwelling, the number of dwellings should be rounded up to the nearest whole dwelling and where it results in a residual of less than 0.5 of a dwelling it should be rounded down to the nearest whole dwelling.

5. Who Can Deliver Affordable Housing?

5.1 Affordable Housing Providers

Medway Council does not want to adopt restrictive practices, which could preclude innovation and competition between potential providers of affordable housing. The most effective way of delivering the requirement however, is widely considered to be by engaging a Registered Provider of social housing or be an Homes England Investment Partner.

- 5.2 It is recommended that the skills and experiences of Registered Providers be used at an early stage of the design process. Design and management issues in relation to affordable housing are far better resolved at this stage. Registered Providers will also be able to advise on the financial implications of the affordable housing requirement.

- 5.3 Contact details for those Registered Provider partners that have a demonstrable track record of delivery and management within Medway can be provided on request. The Council retains its right not to support the disposal of affordable units to RPs that do not have the management abilities and local knowledge to effectively manage new affordable housing in Medway.

6. Registered Providers & Investment Partners

- 6.1 The Council does not prescribe the affordable housing providers that developers use to deliver affordable housing nor does it have a restrictive list of partner affordable housing providers eligible to operate in the area. To ensure prospective partners are competent and committed to affordable housing delivery and management in Medway they are required to either be a Registered Provider or have Homes England Investment Partner status. In addition the organisation must be able to demonstrate that they can meet the eligibility criteria set out by the North Kent Housing Partnership.

- 6.2 Registered Providers are bodies registered with Homes England as a social landlord pursuant to the provisions of the Housing and Regeneration Act 2008.

- 6.3 Investment partners are those organisations that have successfully qualified for investment partner status by completing Homes England's qualification questionnaire and having been selected; this selection having taken into account the applicants technical ability (based on the technical standards

described in the former Housing Corporation's Design and Quality Strategy and Design and Quality Standards), financial capacity and good standing.

- 6.4 This will enable the Council to make an informed decision on the ability of the organisation to deliver and manage affordable housing whilst ensuring all interested organisations have a fair and equal opportunity to demonstrate how they will operate.
- 6.5 Specialist housing providers who are unable to fulfil all the criteria may still be considered but the Council reserves the right to demand additional information.

7. North Kent Housing Partnership Eligibility Criteria

7.1 All affordable housing providers wishing to operate in Medway will be expected to be able to fulfil all of the following criteria. They must:

- 1. Be a body registered with Homes England (HE) as a social landlord pursuant to the provisions of the Housing and Regeneration Act 2008 or any other body or company approved by Homes England for receipt of social housing grant or other financial support and approved by the Council.
- 2. Enter into a nominations agreement with the Council for the units to be delivered.
- 3. Be a member of Kent HomeChoice and agree that all lettings will go through the Kent choice-based lettings system.
- 4. Have due regard to the Tenancy Strategy of the council when formulating policies relating to :
 - a. the kinds of tenancies they grant
 - b. the circumstances in which they will grant a tenancy of a particular kind
 - c. where they grant tenancies for a term, the length of the term and
 - d. the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.
- 5. Have an office within Medway or be able to demonstrate that adequate management arrangements have been put in place for the management of the stock in the area.
- 6. Be willing to actively engage as a key stakeholder in the development of policies and strategies developed by the council where invited to do so.
- 7. Consider the use of Modern Methods of Construction (MMC) for all new developments (where practicably possible).
- 8. Use all reasonable endeavours to make developments meet the current Secure by Design standard, and where suitable the additional provisions

for specialist provision (unless otherwise agreed by Homes England and the Council).

9. Comply with the standards set out in Fact Sheet No. 6 – Design Principles for Extra Care (CSIP, 2008) or any subsequent design standards that may be adopted by the Council where extra care units are to be delivered.
10. Deliver a range of unit types, tenures and sizes as identified by local need and suitable to the location.
11. Work with the council's occupational therapists (OTs) from the initial unit design stage through to the occupation of units. This will better enable units that can be designed for clients with specialist needs to be accommodated and delivered at minimal cost to all parties. OTs can also assist with the identification of clients with specialist accommodation needs ensuring such units are ready for occupation on completion or relets thus minimising void times.
12. Deliver a minimum 5% of all new affordable dwellings as wheelchair-user housing as set out within the Housing Corporations Design and Quality Standards (April 2007). Where it can be demonstrated to the council's satisfaction that a site cannot deliver wheelchair-user dwellings an exemption will need to be sought.
13. Ensure that their practices are compliant with the council's duties towards equalities. As public bodies, local authorities are required to meet Public Sector Equality Duties (PSEDs), which are set out under Section 149 of the Equality Act 2010. Further information on PSED can be found at <http://www.equalityhumanrights.com/advice-and-guidance/public-sectorequality-duty>

These duties include the need to consider how we:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunities; and
- foster good relations

14. Respond in a timely manner to requests by the Council for qualitative and quantitative information – including quarterly information on voids, re-lets, tenure conversions, decent homes standards and rent levels.
15. Be willing to meet quarterly with officers of the Housing Strategy & Partnership Team to discuss the organisation's development plan.
16. Agree to provide training to Council staff on relevant affordable housing standards and issues, which are of clear benefit to the enabling function of the Council and affordable housing providers.
17. Provide information on customer satisfaction levels to the Council on a scheme-by-scheme basis.

18. Be willing to arrange site visits for the Council's staff both prior to and on completion of schemes. The aim of this is to assist with developing local lettings plans and to better ensure the properties are correctly advertised on the Kent HomeChoice system.

8. Affordable Housing Tenure Mix

- 8.1 The social rented stock in Medway at 14.8% (17,047) is low relative to the national average of 19.3% and does not provide adequate turnover to meet the scale of need identified. The scale of need could justify the whole allocation for affordable housing being used as social or affordable rented units but a balanced approach is now the core of the strategy in Medway and this approach will be pursued.
- 8.2 The Council's preferred options are for mixed tenure schemes of social or affordable rented and intermediate tenures (usually shared ownership). It is accepted that for smaller sites there may be reasons for not mixing tenures. Therefore, where there are to be 10 or less affordable housing units provided in a scheme the Council may accept that the units can be of a single tenure. This will be determined by the Housing Strategy & Partnership Team on a site-by-site basis based on local needs.
- 8.3 Where the number of affordable units to be provided is greater than 10, a tenure mix of 60% affordable rent and 40% intermediate affordable housing (of which shared ownership is the preferred option) will be sought.
- 8.4 The Council maps the location of affordable housing by tenure and size of units, and in the interests of creating sustainable communities reserves the right to seek different tenure mixes where this improves the mix of tenures locally.

9. Affordable Housing Size Mix

- 9.1 In terms of the size mix of affordable unit on a site, the Council will generally seek to achieve the approximate following mix, where practically feasible :
 - 30% 1-bedroom properties
 - 30% 2-bedroom properties
 - 30% 3-bedroom properties
 - 5% 4-bedroom properties
 - 5% 5-bedroom properties

The Housing Strategy & Partnership Team recognises that Medway contains a wide range of development sites and not all sites will be capable of delivering the full range of unit sizes. Some sites may be unsuitable for houses and others unsuitable for apartments or bungalows. Where this is the case the Housing Development and Investment Team will expect the affordable element to be representative of the total size mix to be delivered on any given scheme.

9.2 The above breakdown of both housing tenure and size is to be regarded only as a guide. The exact percentages for each site will be determined following discussions between the Housing Strategy & Partnership Team, Development Management and the developer prior to the drafting of a S106 Agreement.

10. Design and Layout of Affordable Housing on s106 Sites

10.1 In accordance with government guidelines on sustainability, the Council favours a mix of housing types and tenures on developments. The Council expects affordable housing to be so designed that it cannot be easily distinguished from market housing however in some circumstances some differences may be accepted. The developer and affordable housing provider are advised to work together to ensure that the affordable housing forms an integral part of the overall development.

10.2 Developers will need to satisfy the Council that the mix of unit types will address the housing need that has been identified in the area and that the standard of construction is suitable.

10.3 Internal space standards should, as a minimum, comply with any current council or Homes England guidance (whichever is larger). The following table gives indicative space standards for selected dwelling types based on the current nationally described space standard

Number Of Bedrooms	Number of Bed spaces	1 storey Dwelling	2 Storey dwellings	3 Storey Dwellings
1b	1p	39		
	2p	50	58	
2b	3p	61	70	
	4p	70	79	
3b	4p	74	84	90
	5p	86	96	99
	6p	95	102	108
4b	5p	90	97	103
	6p	99	106	112
	7p	108	115	121
	8p	117	124	130
5b	6p	103	110	116
	7p	112	119	125
	8p	121	128	134
6b	7p	116	123	129
	8p	125	132	138

10.4 The Council requires developers as a minimum to adhere to the provisions of the technical housing standards as set out in Nationally Described Space

Standards¹, published by DCLG in 2015. As such compliance will be a consideration in the grant of planning permission and will apply to all proposals involving new units of accommodation, including affordable units.

- 10.5 Specific advice on individual sites should be sought at an early stage from the Housing Strategy & Partnership Team.
- 10.6 On sites that are large enough for there to be a choice of location for the affordable housing, the opportunity should be taken to locate it near bus routes and local facilities if these are available.
- 10.7 It is expected that developers will take part in a Considerate Contractor scheme, and where possible seek to use local contractors and suppliers whilst promoting training and career advancement opportunities

11. Affordable Housing Plan for S106 Sites

11.1 As part of s106 obligations developers will be required to provide an Affordable Housing Plan (AHP). See below for items that should be incorporated within the AHP. The AHP will need to be approved in writing by the Housing Strategy & Partnerships Team prior to the commencement of any development. For larger sites broken down by phases the AHP will need to be agreed for each phase before development can commence.

11.2 The AHP should illustrate/include the following

- Meet the minimum target for affordable housing, provided across the entire site including gardens and any associated buildings such as garages.
- The size (sqm), number of bedrooms and housing type of each affordable property.
- Clearly labelled associated parking for the affordable units.
- Tenure of the affordable housing - normally 60% affordable rented and 40% intermediate - to be shown in different colours on a layout plan (or floor plans in the case of flats).
- Where more than one type of intermediate product is being delivered these will need to be distinguishable via the use of different colours.
- Which of the affordable homes are being delivered to the Lifetime Homes standard or as wheelchair-user units.
- Which of the affordable homes are specialist units (extra care, sheltered, learning disability etc) where applicable.
- Written evidence that the scheme has been assessed and meets the required design and quality standards.

¹ Department for Communities and Local Government, 'Technical housing standards-nationally described space standard', March 2015, Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/524531/160519_Nationally_Described_Space_Standard_Final_Web_version.pdf

12. Phasing

- 12.1 The affordable housing provision to be made on a site should be an integral part of the development. Where a development is to be provided in phases, it may also be appropriate for the affordable housing element to be phased.

13. Sustainable Integrated Communities

- 13.1 On sites where an element of affordable housing is required, it should be provided on the site. This supports the creation of balanced sustainable communities. Normally the affordable housing element of a site should be of a similar size and character to the market housing on the site unless this does not reflect the local need.
- 13.2 The Council believes that to create integrated communities the affordable homes should be indistinguishable from the market housing and distributed throughout the development. However, the Council considers clusters of affordable housing to be more practical than excessive 'pepper-potting' and where it is demonstrated to be essential to ensure high standards of estate management and maintenance, larger clusters of affordable housing will be permitted.
- 13.3 On larger sites, the Council will negotiate a phased release of affordable housing to ensure a better distribution of tenure mix. This will be secured by way of the s106 Agreement that will include appropriate triggers to link the occupation of open market units to the delivery of the affordable housing

14. Building to Meet Housing Need

- 14.1 New schemes must meet the proven housing needs in Medway. The Council undertakes regular needs analysis based on its housing register, housing needs surveys and/or strategic housing market assessments to establish the housing needs of Medway.
- 14.2 The most recent strategic housing market assessment was undertaken in 2015 in line with *Practice Guidance (2007)* published by Department of Communities and Local Government.
- 14.3 The *Strategic Housing Market Assessment (2015)* identified exceptional local constraints, which a significant number of local residents face. It compared local house prices and the incomes of those seeking new accommodation.
- 14.4 This showed that average house prices had increased rapidly since 2009 and outstripped the average local households income
- 14.5 It is recognised that several housing sub-markets operate within Medway and the tenure mix sought may vary to reflect local need and existing supply within any given locality.

14.6 The Medway housing register indicates a significant requirement for properties that are fully wheelchair-adapted or suitable for clients with mobility problems. All suitable affordable housing schemes are to include a minimum 5% of homes that are fully adapted to wheelchair standards.

14.7 Further information on housing requirement can be found in the *North Kent Strategic Housing Market Assessment* which is available for download from the Council's website at:

https://www.medway.gov.uk/downloads/file/629/north_kent_shena_with_gravesham_final_report_-_2016

15. Affordability

15.1 The Council will insist that intermediate housing products are affordable to local people in housing need before agreeing to their inclusion within an affordable housing scheme. The Council collects data on local incomes and house prices/market rents to establish the income levels required to access the local housing market. This will be used to assess the affordability of intermediate products based on mortgage and rental costs equating to no more than 30% of the average gross income of households unable to access the open market.

15.2 Where service charges are to be charged, they should be reasonable so as not to render the units unaffordable once added to the rents.

16. Funding for affordable housing

16.1 The cost of providing affordable housing should be accounted for in the land purchase price. The Council does not accept situations where developers purchase land with the assumption that the requirements for affordable housing will be reduced in order to ensure financial viability.

17. Site Viability and Abnormal Development Costs

17.1 The Council recognises that requiring developers to allow part of their site to be used for non-market housing will result in a cost. In order to offset these costs, developers will be expected to take the requirement into account in negotiating realistic land values with site owners.

17.2 Other planning related requirements such as education, community facilities, children's play areas etc. will likewise be treated as known costs.

18. The 'Planning Gain' Requirement

18.1 When negotiating on sites with a requirement for affordable housing, the contribution that the Council will seek from the developer is the provision of the affordable housing land fully serviced to the site boundary for free.

- 18.2 Serviced land covers provision to the site boundary of all services (electricity, gas, water, sewerage, telephone, lighting etc) necessary for development. It also covers connection costs, demolition costs, infrastructure (roads, footpaths, boundary walls etc), decontamination, archaeological costs and site clearance where applicable. Services must be provided to the edge of the land and there must be no legal, physical or financial barrier (i.e. unencumbered access) to the serviced the land for the builder constructing the affordable housing.
- 18.3 In cases where the developer is to build the affordable homes rather than just transfer the land for free, the Council will expect the planning gain to be demonstrated by the cost that the developer charges the affordable housing provider for the built units. The price should reflect build costs (rather than the value of the dwellings) and exclude the value of the clean serviced land.
- 18.4 The Council follows an “open book” approach to valuations and development economics on affordable housing schemes where developers present schemes that do not meet the requirements of the affordable housing policy. In these cases the applicants should be prepared to discuss the various cost components of their schemes with the Council, and will be required to meet the costs of an independent assessment of these costs commissioned by the Council.

19. Off-Site Provision

- 19.1 The Council will generally expect affordable housing to be provided on the development site in order to create balanced communities. The Council will, in exceptional cases, take into account the size of the site and the type of development proposed and consider provision on an alternative site within Medway or a financial contribution towards such provision in lieu of on-site provision.
- 19.2 In the exceptional cases where off-site provision is acceptable, a developer will be expected to make the equivalent contribution of an agreed number, size and type of affordable dwellings on a different site (or sites) elsewhere in the area as agreed as part of the Planning Application.
- 19.3 Where it is agreed that it is not possible to provide an alternative site or buildings, the Council will seek a level of financial contribution that will actually result in the provision of affordable housing elsewhere in the relevant area. The sum involved must be adequate to ensure that affordable housing can be provided in that location within an agreed timescale.

20. Supported Housing

- 20.1 The Council regularly undertakes detailed needs analysis on the housing requirement of older and vulnerable client groups. The council will on occasions seek to negotiate an element of supported housing as part of the affordable requirements.

20.2 This reflects the government's objectives to provide high quality, value for money housing and support services to vulnerable people. Details on the identified requirement for affordable supported housing can be obtained by contacting the Housing Strategy and Partnership Team.

21. Equality Guidance

21.1 Medway Council recommends that all affordable housing providers wishing to operate in Medway ensure that their practices are compliant with the [Housing Corporation Good Practice Note 8: Equality and Diversity \(November 2007\)](#). It is aimed at eliminating discrimination and promoting equality through the people affordable housing providers employ in the delivery of services to the community.

21.2 Affordable housing providers should observe and act upon the Equality for Human Rights Commission's code on housing and associated guidance.

21.3 The Council also encourages affordable housing providers to give due regard to guidance produced by Habinteg Equality Centre (2007), "*Housing Association Guide to Disability Equality Schemes and Action Plans*" in the delivery of their schemes.

22. Mortgagee-in-possession clauses

22.1 The Council will make provision in s106 Agreements for mortgagees in possession to be exempted from covenants to use land only for affordable housing and from occupancy restrictions linked to the development of the affordable homes.

23. Pre-application Discussions

23.1 Negotiations where affordable housing is involved often require considerable input. Contact should be made with the Council at the earliest opportunity and well in advance of any planning application being submitted. Negotiation must be concluded before the Council decides on the planning applications or schemes will be recommended for refusal.

24. Registered Providers already operating In Medway

24.1 Medway Council operates a flexible approach to partnership working and does not maintain a list of preferred Registered Providers. However, a number of Registered Providers have been developing and managing affordable stock in Medway for a long period of time which has enabled them to develop a better understanding of need and operating procedures in Medway.

24.2 Where a developer is seeking to deliver affordable units or deliver the units in partnership with a Registered Provider not currently operating in Medway it is advised that the Housing Development & Investment Team be contacted at the earliest opportunity.

24.3 This is advised to ensure the organisation delivering the affordable units is fully aware of the housing need requirements of Medway and the necessary standards are achieved in terms of both build and management. Medway Council will only seek to work with organisations that can demonstrate a long-term commitment to affordable housing delivery and management in line with the Council's strategies and objectives.

24.4 A list of Registered Providers currently operating in Medway can be obtained from the Housing Development and Investment Team.

25. Policy/evidence base

[National Planning Policy Framework : annex 2](#)

North Kent Strategic Housing Market Assessment (2015)

https://www.medway.gov.uk/info/200149/planning_policy/519/future_medway_local_plan/2

Housing Association Guide to Disability Equality Schemes and Action Plans

<https://www.habinteq.org.uk/housing-association-guide-to-des>

Air quality

- 1.1 Poor air quality affects human health and the environment. Developments have the potential to affect local air quality significantly, through the location and design of receptor locations and through an associated increase in emissions.
- 1.2 All new developments shall have due regard to the Medway Air Quality Planning Guidance. This guidance applies to all new full or outline planning applications submitted after April 2016 and not to reserved matters applications where outline approval was consented before the adoption of the Air Quality Planning Guidance. The guidance has been developed in conjunction with the other Kent local authorities to improve air quality across the region and encourage emissions reductions to improve the environment and health of the population. The document aims to provide developers with clear information as to what the council requires and provide consistency in how the council will approach planning applications in terms of air quality. The damage costs approach set out in the document seeks to minimise the emissions impact of developments wherever practicable to sustainable levels, by securing reasonable emission mitigation while also seeking to counter the cumulative impacts arising from all developments.

2. Policy / evidence base

Air Quality Planning Guidance April 2016 (Medway Council

https://www.medway.gov.uk/info/200140/environment/416/air_quality/2

Medway Local Plan 2003 (Medway Council) –

https://www.medway.gov.uk/downloads/file/2400/medway_local_plan_2003

National Planning Policy Framework (NPPF) March 2012 -

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Medway Air Quality Action Plan December 2016 –

http://www.kentair.org.uk/Pagesfiles/Final_Approved_Medway_AQAP_December_2015.pdf

Bird disturbance mitigation

Strategic Access Management and Monitoring Scheme (SAMMS)

- 1.1 Much of the estuary and marshes along the north Kent coast on the Thames, Medway and Swale are designated Special Protection Areas (SPA), or Ramsar sites. This is in recognition of their international significance for wintering birds, in particular waders and waterfowl.
- 1.2 Research commissioned by the North Kent Environmental Planning Group found that there have been marked declines in the numbers of birds using the SPAs, and this can be directly linked to those locations with high levels of public access. 75% of visitors to the coast have travelled from within 6km. A series of strategic mitigation measures to reduce bird disturbance caused by recreational visitors to the SPAs and Ramsar sites has been proposed. A Strategic scheme is supported by the north Kent planning authorities, and is endorsed by Natural England in addressing this aspect of potential impact to the Special Protection Areas.
- 1.4 A SAMMS contribution of £239.61 will apply to any new dwelling created within the 6km zone of influence of the protected sites. In some circumstances, the tariff will apply up to 10km. The council applies the tariff to all new residential developments within the defined zone and criteria of the strategic scheme, including those under 10 dwellings. This sum is index linked and subject to annual review. SAMMS was introduced in the autumn of 2015, and will not apply to reserved matters applications where the outline was approved prior to Autumn 2015.

2. Policy / evidence base

Footprint Ecology, 'Bird Disturbance Study North Kent 2010/2011, Available at: <http://www.footprint-ecology.co.uk/reports/Liley%20and%20Fearnley%20-%202011%20-%20Bird%20Disturbance%20Study,%20North%20Kent%202010-2011..pdf>

Footprint Ecology, 'North Kent Visitor Survey Results', Available at: <http://www.footprint-ecology.co.uk/reports/Fearnley%20and%20Liley%20-%202011%20-%20North%20Kent%20visitor%20survey%20results.pdf>

Footprint Ecology, 'Thames Medway Swale Strategic Access Management and Monitoring Scheme', Available at: https://www.medway.gov.uk/downloads/file/1834/strategic-access-and_recreationmanagementplan

Medway Council Interim Policy Statement – Strategic Access Management and Mitigation, 2015:

https://www.medway.gov.uk/downloads/file/622/strategic_access_management_and_mitigation

Further information on Bird Disturbance in north Kent:

<https://www.medway.gov.uk/downloads/file/1835/north-kent-bird-disturbance-report-2012>

Cultural services

Cultural services cover the following : community facilities, heritage and museums and libraries.

1. Community facilities

- 1.1 Community facilities such as community centres, village halls and meeting rooms are an essential part of a sustainable living environment promoting general well-being amongst members of the local community and facilitating community cohesion.
- 1.2 This element of social infrastructure is wide reaching in terms of its benefits, providing for the health, welfare social, educational, spiritual, leisure and recreational needs of the community. They enable residents to participate in community life and enable people to connect with others in their local area.
- 1.3 It is important that:
 - Community facilities are well connected to other community facilities, public transport services, open space, recreation facilities, and employment and education opportunities.
 - Corresponding services are relevant to local people and can be flexible enough to respond to changing needs.
 - Community services infrastructure should be equitably distributed so that all groups in the community are able to benefit
 - Community infrastructure is integrated well into its surroundings and the landscape and natural attributes of sites and settings.
- 1.4 Contributions will be sought for a variety of community facilities. Community facilities can be provided by many different types of community groups, community centres, village halls, churches and other places of worship, local associations etc. When major planning applications are received, community facilities of all types in that particular area will be reviewed and contributions requested for the most appropriate to the development.

Charge : **£178.80 per dwelling**

2. Heritage and Museums

- 2.1 The Heritage and Museums service of Medway Council is responsible for Medway's most iconic and historic buildings, including Rochester and Upnor Castles, Temple Manor in Strood, Eastgate House and the Guildhall Museum in Rochester and the Brook Pumping Station in Chatham. Alongside these it also manages the Medway Archives Centre in Strood, and the Visitor Information Centre in Rochester.
- 2.2 As well as operating the buildings as places to visit for the public, the service also conserves and maintains these buildings and collections, provides an educational service for local and visiting schools, and develops exhibitions, events, and activities throughout the year.

- 2.3 Heritage and Museums are major assets for the entire Medway population and demands on their fabric upkeep and maintenance and costs directly increase with local population growth. The Visiting Friends and Relatives market is particularly strong in Medway and set to grow with local population growth.
- 2.4 The Heritage and Museums contribution of **£277.80 per dwelling** in line with the defined thresholds applies to developments within 1,000 metres of the sites identified in 2.1.

2.5 **Policy and evidence base**

Medway Economic Impact Study 2015

http://www.visitkentbusiness.co.uk/library/Economic_Impact_of_Tourism_-_Medway_2015_FINAL_REPORT.PDF

Destination Management Plan 2014

3. **The Library Service**

- 3.1 Medway Council has a statutory duty to provide a public Library service that is 'comprehensive and efficient' (under the 1964 Public Libraries and Museums Act.)
- 3.2 The Library Service is currently provided by 15 static Libraries and two mobile Libraries along with Community Hubs support reading and literacy through books, spoken word CD's to borrow, to download, and through related activities.
- 3.3 The service provides access to information technology, through stand alone PCs, the Internet and Wi-Fi which supports residents learning new skills and finding employment. By providing a shared community space residents feel safe and supported which addresses loneliness and social isolation; activities also support the health and well-being agenda.

3.4 Charge

For investment in existing provision : **£161.15 per dwelling**

Or towards the provision of a new library : **£297.58 per dwelling**

3.5 **Policy and evidence base**

Public Libraries and Museums act (1964)

http://www.legislation.gov.uk/ukpga/1964/75/pdfs/ukpga_19640075_en.pdf

Education

1. Medway Council has a statutory duty to provide sufficient school places. Central government provides basic need funding to help provide extra places due to forecast need, but developers need to contribute towards the additional extra places required due to new housing. Only dwellings which are suitable for family occupation will be included for the purposes of an education request. Family dwellings are defined as dwellings with two or more bedrooms.
2. The precise number of new homes to trigger the need for new schools, and/or expansions of another local school, requires careful consideration on a case by case basis. This will depend upon dwelling mix and availability in local schools. The council also considers the wider picture, looking at a number of developments as a whole rather than in isolation, to ensure that sufficient provision is provided to meet demand from the developments, but also to consider the danger of over provision. For example, 776 homes would generate 210 pupils and raise the need for a 1FE primary school, but a request for contributions would take account of existing provision in the local area.
3. Funding from developer contributions will be utilised for providing early years, primary, secondary, 6th form, and special provision.
4. The National Planning Policy Framework states that planning policies should minimise journey lengths for education, and where practical, primary schools should be within walking distance of developments. Medway Council defines nearby schools as within walking distance (2 miles for primary and 3 miles for secondary).
5. A 5% surplus capacity is maintained to ensure that if more pupils move into the area than forecast, there will be places available. 5% is a nationally accepted surplus.

6. Charges

6.1 The charge per dwelling is :

Nursery:	£1,345.59 for extending an existing school
Primary:	£3,302.81 for extending an existing school
Secondary :	£2,616.93 for provision within existing schools
Sixth form:	£688.87 for provision within existing schools

When a new school is required to accommodate demand the following charges would apply per dwelling :

Nursery :	£1,722.35
Primary :	£4,227.60
Secondary :	£3,349.66
Sixth form :	£881.75

- 6.2 The Education service requests contributions on a pupil yield basis. At the point of agreeing the S106 agreement, this is converted into a charge per dwelling.
- 6.3 In some cases the council will accept alternatives to a financial contribution. This is at the sole discretion of the council, and would generally be on large developments. Where developments are over 776 dwellings, there is an opportunity to discuss with the local authority how best to deliver a new school. The specification of the facilities would be determined by the council, and would include all furniture, fixtures, and information technology equipment as necessary.

For example in lieu of a financial contribution a developer could provide their own nursery provision, or for larger developments with significant number of pupils, a new school.

7. Policy and evidence base

Pupil Product Ratios – MORI study 2005/06

Annual forecast rolls . School Organisation Plan

https://www.medway.gov.uk/downloads/file/791/school_organisation_plan

Latest annual update <https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=38033>

EBDOG Cost Benchmarking Surveys for Schools:

<http://ebdog.org.uk/>

Medway School Place Planning Strategy

Charge per pupil - National School Delivery Cost Benchmarking, Education Building and Development Officers Group

(<https://www.local.gov.uk/sites/default/files/documents/national-school-delivery--af4.pdf>)

Flood Risk Management & Sustainable Drainage

1. A number of areas within Medway are at risk of flooding, including tidal, surface water, groundwater and flooding associated with ditches and streams.
2. Flood risk in Medway is managed by a number of Flood Risk Management Authorities including the Environment Agency, Medway Council (as Lead Local Flood Authority and Highways Service), Internal Drainage Boards, and Southern Water.
3. The National Planning Policy framework requires certain sizes and locations of development to submit a Flood Risk Assessment (FRA) as part of the planning application process. These assessments identify any flood risks and mitigation measures required to make a development viable.
4. The consequences of flooding would be dependent on the nature, scale, and location of a development; therefore it is not possible to provide standardised guidance on what mitigations would be required at a typical site although further information can be sought on the Medway Council's website

https://www.medway.gov.uk/downloads/file/1831/local_flood_risk_strategy

5 Policy context

- 5.1 The NPPF emphasises the importance of meeting the challenge of climate change, flooding, and coastal change, and sets out the Government's approach within the National Planning Policy Guidance (NPPG). Local Plan policies set out the approach to sustainable drainage and flood risk mitigation.
- 5.2 A number of documents are relevant to the planning process at a local level. The Medway Strategic Flood Risk Assessment (SFRA) which assesses the risk of all sources of flooding within Medway and supports the Local Plan to help make planning decisions. The Local Flood Risk Management Strategy is a key document which identifies objectives to manage sources of local flood risk such as surface water, groundwater and ditches/streams.
- 5.3 The Environment Agency (EA) are developing the Medway Estuary and Swale Strategy (MEASS), a flood and coastal erosion risk management strategy which will determine the best economic, environmental and technically appropriate approach to managing flood and coastal erosion risk within the strategic area, and identify suitable schemes to deliver the policies set out within the Medway Estuary and Swale, and the Isle of Grain to South Foreland Shoreline Management Plans. MEASS is due to be published in summer 2018 and will contain plans for tidal frontages at risk of flooding through Medway for the next 100 years, setting out required capital funded defence works and identifying where third party partnership funding will be required. Any potential development sites should make reference to MEASS and where sites would benefit from flood defence works, a contribution for the site and/or wider strategic area may be requested.

6. Assessing the requirement

- 6.1 Flood mitigation works needed as a consequence of a development proposal are determined through completing a Flood Risk Assessment (FRA) (where required). FRA's provide an assessment of the risk of flooding from all sources including groundwater, coastal, tidal, fluvial and pluvial. FRA's identify flood mitigation measures and provide advice on actions to be taken before development commences, taking into account local policies and strategy. The FRA will be submitted with the application and reviewed by the relevant Risk Management Authorities.
- 6.2 The risk of pluvial/surface water flooding is generally managed via the use of on-site Sustainable Drainage Systems (SuDs). SuDs designs can be integrated into the layout of a site and provide an opportunity to fulfil several planning objectives via the provision of amenity and biodiversity, and can contribute towards improvements to water quality. If considered early in the design phase of a development, then both the capital costs of drainage and amenity can be reduced along with maintenance costs. Above ground systems are more economical to construct and maintain, compared with underground systems over the lifetime of a development. Medway Council Lead Local Flood Authority promotes the use of above ground systems where possible and appropriate.

7. Scope for contributions

- 7.1 Schedule 3 of the Flood and Water Management Act 2010 prescribed that major developments would need drainage approval from the Lead Local Flood Authority whom would be expected to adopt and maintain approved sustainable drainage systems. However a funding mechanism is yet to be realised for the ongoing maintenance and therefore this schedule has yet to be enacted. In the interim, the NPPF requires developers to design SuDs in accordance with the national SuDs guidance and any other local guidance where available. Under certain circumstances, the Council may consider adopting SuDs ahead of the implementation of the Act. In such circumstances, the cost of ongoing maintenance could be part of the Section 106 negotiation (or commuted sums if part of a Section 38 Highways Adoptions Agreement).

8. Summary

- 8.1 In regeneration areas, flood mitigation may be best served through strategic flood solutions that serve the wider area/collective developments. Current work is ongoing with regards to the phasing of developments/flood mitigation works to ensure that risk is appropriately managed at a strategic scale.
- 8.2 Flood risk mitigation, including the use of SuDs may in some instances be combined with other requirements and initiatives such as green infrastructure, open space provision, urban and landscape design. These wider issues should be discussed with the Council via the pre planning process to ensure that a proposal does not compromise either requirement or any other future infrastructure provision.

8.3 The solutions described above will normally be secured through planning conditions; however planning obligations may be required to secure elements such as the timing, adoption, maintenance and or financial contributions to offsite solutions.

Health

1. Healthcare contributions will support expansion and improvement of existing facilities, although some developments may be so significant as to warrant a new health facility in the development area.
2. Medway Clinical Commissioning Group has the responsibility for commissioning the majority of health services in Medway; Public Health (Medway Council) is also responsible for commissioning a range of services.
3. The modelling tool produced by the Healthy Urban Development Unit (HUDU) was prepared by a joint Local Authority and NHS unit. The unit based in London has been set up to assist in the infrastructure development for health and is widely used across London and nationally. The model takes full account of the demographics of the existing population, and the future predicted population growth. Using standard NHS cost and floor space requirements for the various facilities, the model is able to quantify the impact in terms of physical space and subsequent cost, and estimate a cost per dwelling based on the future expansion of the population.
4. The HUDU model was used to determine a figure for local health facilities, based on Medway demographics.
5. Charge : **£617.05 per dwelling**
6. Where a new facility is required on a large development, the building may, with the agreement of the developer, be built, developed and funded by the developer and the freehold or long leasehold interest handed over to the NHS. In these circumstances the developer can not charge a CMR for a minimum of 10 years to ensure appropriate planning gain. Where there is provision of a new facility by the developer, no financial contribution would be sought.

Open space and outdoor formal sport

1. Contributions will be pro-rata where suitable on-site provision is made in accordance with local standards established in the '*Playing Pitch and Outdoor Sports Facilities Study*' (December 2012 - under review) and '*Open Space PPG17 Study*' (June 2012) excluding athletics tracks, civic spaces, churchyards and green corridors. Contributions will be requested on all developments even where on-site provision is made.
2. Quality and quantity of open space provision varies across Medway. All development will result in additional open space need and this contribution will be utilised to best meet need arising from development in the area either through provision of new facilities or improvements to existing facilities and sites to create additional capacity. The quality of existing greenspace infrastructure has been informed by the Ward Open Space Improvement Plan (2017). This document will be used to prioritise off site investments.
3. Requests will not be made on sheltered housing and special needs housing for the elderly developments. Retirement flats/housing will be expected to contribute and will be tailored to address senior parks and dementia access in nearby greenspaces.

4. Charge : **£2,489.73 per dwelling**

5. Policy/Evidence Base

- Playing Pitch and Outdoor Sports Facilities Study, 2012 (under review)
- Open Space PPG17 Study, 2012
- Fields in Trust guidance
<http://www.fieldsintrust.org/Upload/toolkit/pdfs/Guidance-for-Outdoor-Sport-and-Play-Oct-2015.pdf>

6. Additional notes

- 6.1 The provision of open space on Employment Areas and implication on existing open space will be considered on a case-by-case basis having regard to the likely scale of the workforce that will be employed within the development.
- 6.2 Greenspace Services will not usually accept the transfer of any land to Medway Council (playgrounds, allotments, parks, informal open space, sports pitches) which would create additional landscape maintenance responsibilities and costs to the Council. Developers should therefore ensure they make their own arrangements for the management and maintenance of landscaping associated with a development to be agreed with Greenspace Services. If the Council accepts transfer, a charge adequate to cover 15 years maintenance with annual indexation will be levied.

- 6.3 Payment of S106 contributions will be sought at the earliest possible stage of the development to enable the funding of project work associated with that development. Accordingly, the trigger for payment of the contribution will be on commencement of civil engineering works, or in exceptional circumstances on the 1st occupation. Where developments are subject to significant phasing it is acknowledged that payment of S106 contributions could be phased in accordance with progress of that development.

Environmental Mitigation

1. What is covered?

- 1.1 Where possible on site management is required to offset biodiversity loss which cannot be adequately covered by planning conditions. Off site provision will be required if on site option is not practical or available.

2. Where it applies?

- 2.1 All developments in the borough which would have a direct or an indirect impact on the natural environment through the loss of protected sites and species or priority ecological habitats, and mitigation impact of noise, light pollution or increased disturbance.
- 2.2 All built developments where the site has a biodiversity interest which would be adversely affected and which has been identified through:
- Ecological Surveys / Environmental Impact Assessment / an Environmental Statement
 - Consultation with the Kent Biological Record Centre, Kent County Council eco-advice service or site surveys by Medway Council officers, independent ecologists / and local, county and national conservation organisations

3. Requirement

- 3.1 See Medway Local Plan policies BNE35-39 as below :

Policy BNE35 : international and national nature conservation sites

Policy BNE36: strategic and local nature conservation sites

Policy BNE37: wildlife habitats

Policy BNE38: wildlife corridors and stepping stones

Policy BNE39: protected species

- 3.2 Direct loss of habitat and damage to species should be avoided where reasonably possible but mitigation and/or compensation will be sought when such loss is unavoidable.

- 3.3 The re-creation of habitat on site will always be sought as the first preference and off site compensation should only be considered when all other means have been exhausted.
- 3.4 The developer will be liable for all off site costs associated with survey, translocation, species protection, habitat enhancement and site purchase, management and monitoring where off site mitigation is required.
- 3.5 Where it can be recognised that development could lead to increased pressure on adjacent sites of nature conservation interest, due to noise, disturbance, increased predation (disturbance by domestic pets), light pollution, or through increased amenity use of the site a financial contribution will be sought to minimise these impacts.
- 3.6 The extent, nature and management of required habitat enhancement or creation will depend on the size of the development, its location in the context of designated sites and likely impact on biodiversity.

4. Charging system

- 4.1 Charge will be based upon costs identified to meet the needs of each site. It is anticipated that mitigation and subsequent management will be undertaken through 1 or more of the following mechanisms

- a) On-site mitigation

Medway Council will not normally take on management of development sites where mitigation work has taken place and the developer will need to make arrangements with a third party.

Should the Council take on responsibility an endowment charge equal to 15 times the annual cost of management works (plus indexation) will be payable based on an agreed management plan.

- b) Off-site mitigation on Council land

In instances where it is agreed that mitigation can take place on Council owned land, the developer will be responsible for meeting all capital costs associated with preparing the mitigation land together with a charge equal to 15 times the annual cost (plus indexation) of maintaining the area to an agreed management plan.

- c) Off-site mitigation on third party land

In this instance it is for the developer and the third party to agree design and payment for creation and management.

5. Formulae

- 5.1 Contributions must, at a minimum, ensure like for like provision. In accordance with established ecological standards this will normally require a 2 for 1 replacement ratio. This is to compensate for the loss of quality when creating new habitats.

- 5.2 Mitigation and / or compensation measures should be ecologically functioning prior to the commencement of the development – this is particularly important for the protection of protected species.
- 5.3 Long-term management costs will be based on annualised costs set out in a site-specific management plan.

6. Policy/evidence base

Natural Environment White Paper: implementation update, October 2014
Biodiversity 2020: A strategy for England's wildlife and ecosystem services
Kent Biodiversity Action Plan. <http://www.kentbap.org.uk/>
Medway Wildlife, Countryside and Open Spaces Strategy 2008-2016

Public Health

1. An estimated 30% of Medway's adult population and over 20% of children (at the age of ten) are classified as obese. The cost of overweight and obesity to NHS Medway is estimated as £77.4 million by 2015, of which £45 million is attributed to obesity alone.
2. There are, as of March 2017 252 registered hot food takeaways in Medway – equating to 1 per 1,097 people. The majority of these premises are located in town, local and neighbourhood centres. It has been shown that there is a correlation between areas of multiple deprivation and where hot food takeaways locate.
3. In an effort to reduce childhood obesity in particular, Medway Council has produced a guidance note that seeks to decrease the prevalence of hot food takeaways in the area. New hot food takeaways of 100m², where they are deemed appropriate development, would be charged a fixed fee of £1,000.
4. Working with local stakeholders to implement a bespoke initiative with the school (s) or the local community within 400m of the development to address the impact of high energy food has on Medway's population. These initiatives could include nutritional resources for the school, community food growing and commissioned physical activities
5. Charge : £1,086.33or new hot food takeaways of at least 100m² .
6. Policy/Evidence

FEAT <http://www.feat-tool.org.uk/map/>

The National Planning Policy Framework (2012) and the National Planning Practice Guidance (2014) advocate the need for planning to consider health implications and has made an explicit link between the two.

PHE's Healthy people, healthy places briefing on [obesity and the environment: regulating the growth of fast food outlets](#).

LGA's ([Tipping the Scales: Case studies on the use of planning powers to limit hot food takeaways](#) February 2016)

Hot Food Takeaways in Medway: a Guidance Note, 2014:

[https://www.medway.gov.uk/downloads/file/625/hot food takeaways in medway - a guidance note](https://www.medway.gov.uk/downloads/file/625/hot_food_takeaways_in_medway_-_a_guidance_note)

Sports Facilities

1. The projected increase in the population of Medway will create demand for additional indoor sports facilities which reflect modern customer requirements and align with the Medway Sports Facilities Strategy assessment of needs.

2. Charge : **£237.58 per dwelling**

3. Policy and evidence :

Medway Sports Facilities Strategy – available on the Local Plan Evidence Base

https://www.medway.gov.uk/info/200149/planning_policy/519/future_medway_local_plan/2

Travel

- 1.1 The majority of new developments generate the need to travel and these movements place additional demand on local and regional transport infrastructure. In accordance with the National Planning Policy Framework (NPPF), developments generating significant movements should be located where the need to travel will be minimised and the use of sustainable modes can be maximised, giving priority to pedestrian and cycle movements and creating safe and secure layouts that minimise conflicts between traffic and cyclists or pedestrians.
- 1.2 All developments generating a significant amount of movement should be supported by a Transport Assessment or Transport Statement. These demonstrate that:
 - The opportunities for sustainable transport modes have been taken up, depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - Safe and suitable access to the site be achieved for all people; and
 - Improvements can be undertaken within the transport network that limits the significant impacts of the development, in a cost-effective way.
- 1.3 Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the Strategic Road Network, in the case of Medway, the A2 west and M2.

2. Policy Context

National Planning Policy Framework (NPPF) March 2012

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

<https://www.gov.uk/guidance/national-planning-policy-framework/4-promoting-sustainable-transport>

<https://www.gov.uk/guidance/national-planning-policy-framework/4-promoting-sustainable-transport> , para 36

Medway Local Plan 2003 (Medway Council)

Planning Practice Guidance: Travel plans, transport assessments and statements, March 2014

<https://www.gov.uk/guidance/travel-plans-transport-assessments-and-statements>

Medway Local Transport Plan 2011-2026

https://www.medway.gov.uk/info/200161/travel/545/transport_plans_and_policies/2

DfT Circular 02/2013 the Strategic Road Network and the Delivery of Sustainable Development (2013),

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/237412/dft-circular-strategic-road.pdf

Planning for the future – A guide to working with Highways England on planning matters (2013)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/461023/N150227 - Highways England Planning Document FINAL-lo.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/461023/N150227_-_Highways_England_Planning_Document_FINAL-lo.pdf)

3. Requirement

3.1 This policy context shapes Medway Council's approach in respect of transport contributions, which will be sought for off-site mitigation in respect of the following :

- Sustainable travel: accessible and connected communities
- Highway safety
- Highway capacity

3.2 The highway works deemed necessary as a result of a development proposal may include any works for improving the existing highway network, providing new highways, accommodating public transport, pedestrians and cyclists, associated engineering works and necessary legal and administrative costs. Highway works will normally be undertaken by the developer through a Section 278 agreement, which will include a charge for future maintenance. These works will be taken in to consideration when determining the level of developer contributions.

4. Sustainable Travel: accessible and connected communities

4.1 New developments will require access to key services by non-car modes and should promote walking, cycling and the use of public transport for employment, leisure and health purposes. Linkages between new developments and local facilities and community infrastructure, the public transport network and established walking and cycling routes are fundamental to achieving more sustainable patterns of movement and reducing reliance on the private motorcar.

4.2 Where necessary, improvements to non-car accessibility will be sought in the form of stand-alone measures or a contribution towards schemes that Medway Council has identified as providing wider benefits. A contribution towards public transport service provision and associated infrastructure may also be sought in order to enhance the sustainable credentials of the development.

- 4.3 Medway Council places high value on initiatives that reduce the impact of the school run on the highway network and promote 'active travel' to schools and other educational establishments. Development proposals may therefore be required to provide a contribution towards educational and promotional initiatives local to the site, including route improvements and the development of School Travel Plans.
- 4.4 Developments will often impact on the existing Public Rights of Way (PRoW) network and improvements may be required to facilitate additional use. Improvements to the existing PRoW network required as a result of a development may also necessitate the provision of new routes linking existing rights of way. In each case, the required improvements will be determined in relation to the scale of development, with a view to providing access to strategic facilities, including green infrastructure.

5. Highway Safety

- 5.1 For proposed major developments, a Transport Assessment is required to assess road safety data (available from Medway Council) within an agreed area. If the additional movements generated by the development are likely to increase the risk of crashes (all road users) in the vicinity of the site, either directly or indirectly through the diversion of traffic along other routes, a contribution towards mitigation measures may be required. This could be in the form of stand-alone improvements or a contribution towards a scheme that Medway Council has identified would provide wider safety benefits to the local highway network.

6. Highway Capacity

- 6.1 Developments that reduce the capacity of the highway network within an agreed area may be required to provide a contribution towards mitigation measures, with a view to ensuring a 'nil detriment' impact. This may be in the form of stand-alone measures or a contribution towards a scheme that Medway Council has identified would provide wider benefits to the local highway network. Developments that generate a significant number of HGV movements may be required to provide a contribution towards measures identified in Medway Council's Network Management Plan, or measures to reduce the impact of HGV parking on the highway network.

Waste and Recycling

1. Medway Council is responsible for the collection and disposal of household municipal solid waste. The complexity of managing Medway's waste has steadily increased over these millennia as improved procedures using this waste as a resource rather than landfill are achieved. Waste services continue to build on past successes in order to maintain a comprehensive set of recycling options for all Medway residents.

2. Charge : **£168.86 per dwelling**

3. Policy/evidence base

Environmental Protection Act 1990

<http://www.legislation.gov.uk/ukpga/1990/43/contents>

Waste Minimisation Act 1998

<http://www.legislation.gov.uk/ukpga/1998/44/contents>

EU Landfill Directive

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69347/pb13563-landfill-directive-100322.pdf

Waste and Emissions Trading Act 2003

<http://www.legislation.gov.uk/ukpga/2003/33/contents>

Household Waste and Recycling Act 2003

<http://www.legislation.gov.uk/ukpga/2003/29/contents>

Clean Neighbourhood's and Environment Act 2005

<http://www.legislation.gov.uk/ukpga/2005/16/contents>

EU WEEE & Batteries Directive

<https://www.gov.uk/government/publications/environmental-permitting-guidance-waste-batteries-and-accumulators-directive>

4. Additional notes

4.1 Developers are invited to work alongside the council by making sure each new home is provided with adequate information relating to the council's waste provision. Printed information can be made available to developers or their agents for onward distribution to new residents. Developers are required to reference and adhere to the guide '*Waste and recycling requirements for new residential developments in Medway*' available from Waste Services or Medway Council's website, www.medway.gov.uk

Youth facilities

1 The full contribution will apply where no provision is made on site and a deficiency in youth provision, which includes sports and games, exists in the area. Pro-rata contributions will be requested where on-site provision is made.

2. Charge : **£76.42 per dwelling**

3. Policy/evidence base

Resourcing Excellent Youth Facilities

<http://www.mywf.org.uk/uploads/policy/REYSDec2002.pdf>

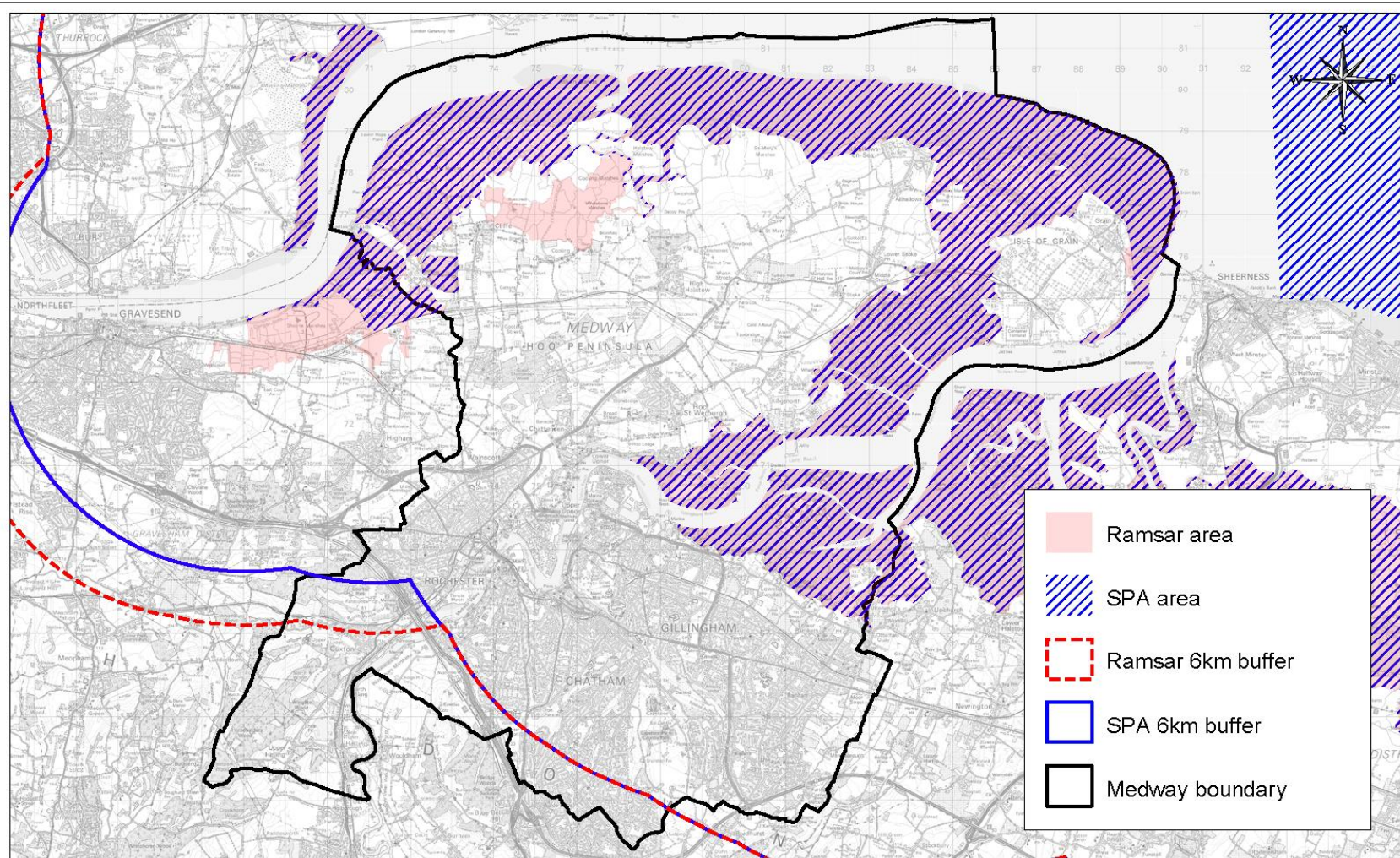
Appendix 1 : Summary Chart and Checklist for Applicants

Planning application process	Actions for applicants	Notes
1. Pre-application stage	<ul style="list-style-type: none"> • Consult contributions guidance and download standard S106 legal agreement template and relevant standard legal clauses https://www.medway.gov.uk/info/200147/applying_for_planning_permission/127/developer_applications/4 • Refer to any other relevant policy document e.g. Local Plan/LDF/development brief • Identify potential requirements • Consult with Council’s planning officer if necessary • Commence “without prejudice” negotiations with planning officer if ‘standard’ contributions approach not accepted or applicable • Information on pre-application advice service http://www.medway.gov.uk/planningandbuilding/applyforplanningpermission/pre-applicationadvice.aspx 	<ul style="list-style-type: none"> • The Council is committed to supporting the pre-application process. Early research and discussions can save time and expense later in the planning process • If clarification on any matter is required this should be through the planning officer and not an individual service • For larger schemes the Head of the Planning Service will appoint a planning officer(s) to facilitate discussion and negotiation, with the intention that this officer would be appointed as case officer to any future related planning application. There will be a charge for this
2. Submission of application	<ul style="list-style-type: none"> • Provide contact details for legal representative if standard agreement not acceptable • Set out findings from pre-application research and submit alongside planning application 	<ul style="list-style-type: none"> • In straightforward cases it may not be necessary for a legal representative to be appointed

Planning application process	Actions for applicants	Notes
3. Technical appraisal of application	<ul style="list-style-type: none"> • Seek to agree Heads of Terms for S106 agreements with the Council's planning officer at as early a stage as possible • Submit reasons if standard contributions not accepted, together with financial details of development costs where relevant • If agreement not reached the case officer will refer the matter to the Council's Head of the Planning Service. If necessary this matter can then be referred to the Assistant Director and then as necessary to the Council's Director • Complete full draft agreement ASAP (on a 'without prejudice' basis) 	<ul style="list-style-type: none"> • For cases where the Council's standard formulae are disputed on the basis that they would undermine the viability of the development, comprehensive evidence must be submitted to justify any departure from the normal process • If there is a need to adjudicate between different service demands and this cannot be resolved by the case officer the matter will be referred to the Head of the Planning Service. • Assessments are generally valid for six months from the date issued and should any circumstances change a new assessment will be required. Assessments are a 'snapshot' of requirements at a given time and variable factors may require regular reviews, particularly over the longer term
4. Determination of application	<ul style="list-style-type: none"> • The draft S106 legal agreement should be completed prior to a delegated decision on the application being made, or a report being submitted to the Planning Committee • Full Heads of Terms will be included in all officer report 	

Planning application process	Actions for applicants	Notes
5. Post determination	<p>After a resolution to approve the planning application has been made, the S106 legal agreement should be signed and engrossed without delay. Medway Council reserves the right to refer all cases which have not been completed within six months of the decision back to committee with a recommendation for refusal, unless special circumstances have been clearly identified</p>	<p>The applicant and the Council should work to a target signing and engrossing the agreement/undertaking within one week of the decision</p>
6. Post decision	<ul style="list-style-type: none"> • It is the applicants' responsibility to comply with the terms of the S106 legal agreement in a timely manner, including respecting 'trigger points' which may occur some time after a development has commenced • The Council will continually review all 'live' agreements and monitor against progress on site • It is the applicant's responsibility to complete the commencement notice and forms attached to the agreement, and post or email (to S106@medway.gov.uk) so that the council is made aware of when contributions become due. 	<ul style="list-style-type: none"> • Invoices, which include BACS details, will be raised by the S106 Officer.

Appendix 2 : SPA and Ramsar 6 km buffers



SPA and Ramsar 6km buffers

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Medway
Serving You

Scale: 1:125000 17/06/15
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APPENDIX B

Representations on Consultation Draft Medway Guide to Developer Contributions and Obligations, 2018

Comments received are summarised and are set out under the section headings of the consultation document.

Affordable housing (page 10)

No.	Name	Para/ page	Comment	Response	Action
1.	Medway Labour Group		Clarity required re numerical definitions for small and large developments	Noted that references made in number of service areas, where generally this provides for flexibility and/or a site specific approach.	N/A
		3.1/11	Threshold of 15 rural/25 urban is too high. Propose threshold of 10 in line with other authorities and trigger for contributions (young people in rural communities being forced out due to lack of AH)	Initial viability assessment for Local Plan indicates that it is not financially viable to deliver on small sites. Registered Providers (RPs) will also not take on less than 5 units locally. The National Planning Policy Framework (NPPF) refers to exception sites on edges of villages for development of affordable homes where a local need justification can be demonstrated. This will be reflected in the new Medway Local Plan.	Further work on viability testing for Local Plan will confirm threshold levels and updated policies for affordable housing and meeting the needs of rural communities.
		4.1,4.3/ 11	Increase in land/property prices does not support viability argument. Propose minimum of 30% would maximise affordable units. Requests information on statistics used to	Increase to affordable housing percentage supported by stats in the Local Plan evidence base ¹ showing that 30% is the maximum	Further work on viability testing for Local Plan will confirm threshold

¹ Strategic Housing and Economic Needs Assessment: https://www.medway.gov.uk/downloads/file/629/north_kent_shena_with_gravesham_final_report_-_2016

No.	Name	Para/ page	Comment	Response	Action
			support this section Propose higher % for greenfield sites	financially deliverable	levels, any differential rates and updated policies for affordable housing.
		8.3/15	60% affordable rent/40% shared ownership is too high. Would prefer 70/30 split; need to distinguish social rented from affordable rent	60/40 meets the current housing needs. Social Rent is not financially viable for any RP to deliver in Medway.	Further discussions are taking place between council and RPs to gauge whether the 60/40 split is deliverable. Local Plan to take account of updated government policy and guidance.
		9/15	Shortage in larger properties for social rent. Evidence required to provide correct type/size of homes	Current bed room requirement for households on the council's housing list Bed need 1 bed – 4484 2 bed – 2776 3 bed – 1323 4 bed – 335 5+bed – 343	Evidence base to be kept under review.
		12/18	Affordable elements should be completed as part of an integrated development rather than at the end of a development.	Affordable housing is usually delivered throughout development and the delivery is negotiated as part of the S106	Noted

No.	Name	Para/ page	Comment	Response	Action
2.	St James Isle of Grain Parish Council	4.1/11	What criteria is used to determine whether housing is 'affordable'	Please see clauses 15.1 and 15.2 under 'affordability'.	N/A
			Why is only 25% of each development required to be 'affordable housing'?	Financially modelled as part of the Local Plan evidence base (SHENA) which has supported the rise to 30% on rural developments	N/A
		11.2/11	How is the minimum target for affordable houses calculated and by whom?	As above	N/A
		19.1/20	If a developer can offset the requirement to provide AH in another area (off site), how can the creation of a balanced community be achieved?	At present the Authority will look first and foremost at delivery on site and will only consider off site provision or payments in exceptional circumstances. This will be reflected in Local Plan policy.	Follow up in Local Plan policy.
			There are no major housing developments planned for Grain so the community will suffer from the lack of AH provision, and community facilities for younger residents and lack of funding for residents.	Grain is restricted by significant environmental constraints which severely limit opportunities for expansion. These include matters such as Special Protection Areas, flood risk as well as COMAH.	Local Plan to consider rural sustainability policies.
3.	(local resident)	15.1, 16.1, 17.1/19	Hope the council will be mindful of the data collected. Maybe the developers expect too much profit. Does Homes England have the same aims and standards as when it was known as Homes & Community Agency?	All comments received considered. Noted but not relevant to this consultation. The recent NPPF revisions consultation makes reference to viability and developer profit. HE same aims as HCA.	N/A

No.	Name	Para/ page	Comment	Response	Action
4.	Lichfields on behalf of the Peel Group	10.4/17	Much of the standards in the Medway Housing Design Standards (MHDS) have been superseded by nationally described space standards (March 2015). Requires clarification re which section of the MHDS still apply.	Medway applies the national space standards for internal space and the MHDS for outdoor space requirements, in terms of consideration of prospective resident amenity issues	N/A
		11.2/17 11.3/18	Requirement of Affordable Housing Plan (AHP) to identify where units are delivered to different levels of the Code of Sustainable Homes. This technical guidance was withdrawn by government on 22/04/2015. This reference should be deleted to ensure policy is up to date and acceptable in planning terms	Code for Sustainable Homes is no longer relevant	Deleted
5.	Diocese of Rochester	4.1/11	25% target is too low given need. System is flawed if essential community infrastructure needs are identified and agreed, yet developers can proceed with new housing without meeting these needs due to financial viability	Affordable housing percentage supported by stats in the Local Plan evidence base showing that 30% is the maximum financially deliverable	Further work on viability testing for Local Plan will confirm threshold levels and updated policies for affordable housing
6.	Countryside	10.3/16	Internal space standards: does not comply with PPG which states space standards can only be set in Local Plan by ref to nationally described space standards (PPG para.18) which must be justified by need, viability and timing. Little evidence of any justification	All affordable homes to be delivered in line with the nationally described space standards	Noted.
		7.1.11/ 14 11.2/17	Code for Sustainable Homes. These requirements were abolished.	Noted	Reference deleted

No.	Name	Para/ page	Comment	Response	Action
		14.6/19	Not appropriate to request 5% of AH should be fully adapted to wheelchair standards as PPG para 002 states new optional technical housing standards can only set through Local Plans.	Wheelchair requirement is secured under our developers contribution guidelines	Issue to be addressed through new Local Plan.
7.	Wealden Homes	3.1/11	Policy H3 of Medway Local Plan (2003) is an outdated basis for considering AH	This is being considered as part of work on new Local Plan	Policy in new Local Plan.
		3.3/11	Suggest replace "retained permanently" with "in perpetuity"	Noted	Amended.
		4.1/11	"at least 25%" is welcomed	Noted	N/A
	Wealden Homes continued	8.2,8.3 /15	60/40 split rented/shared ownership requires more flexibility; some sites may require high remediation costs which would probably need higher shared ownership housing; some areas may have disproportional AH; need to readdress balance to favour shared ownership	More shared ownership is not required - Medway Council has a high need for affordable rented accommodation	Further discussion between council and RP's in light of changes to NPPF and grant availability
		12.1/18	Should not release AH in advance of private development due to cash flow	Noted	N/A
		13.2/18	Drive to have clusters of AH is most welcome	Noted	N/A
		16.1/19	"Residualised" should be replaced with "reduced"	Noted	Amended
		19/20	Council should create a model for financial payment in lieu of AH on site; this can create a speedier and more efficient delivery of private housing	Payments in lieu of affordable housing are only accepted on rare occasions. The starting point should be delivery on site. Only in exceptional circumstances should there then be consideration to developer providing the AH requirement themselves on another site and then only in exceptional circumstances should a commuted payment be agreed. Exceptional circumstances can include	This will be considered further in the new Local Plan.

No.	Name	Para/ page	Comment	Response	Action
				consideration of need for the area and providing balanced communities.	
		21/21	Council should set out a policy for wheelchair users (“Habinteg Wheelchair Housing Design Guide 3 rd edition)	Noted	Consideration for Medway Local Plan.
		24.4/22	List of Registered Providers should be set out in Appendix with contact details	Not suitable as the list is ever changing	N/A
		25/22	Awaiting new government guidance on AH	Noted	Guidance will be considered in drafting new Local Plan.
8.	GVA on behalf of Homes England	2.1/10	Definition of AH usually set out in Annex 2 of NPPF but need to be aware of new categories of AH, e.g. private rented housing and Starter Homes, box 4, page 100 of Housing White Paper	Medway Council does not currently accept private rented housing or starter homes as affordable housing products. Medway will consider the implications flowing from any Government Policy released including when the revised NPPF when it is formally adopted and issued.	Further review on updated government policy and advice. To be considered in new Local Plan.
		10.3,10 .4/ 16,17	Confusing. Would be useful to make reference to “technical Housing Standards – Nationally Described Space Standards” published by DCLG March 2015, table 1, page 5. This could be included by the table on page 16	Noted.	Amended.

Air quality (page 23)

No.	Name	Comment	Response	Action
1.	Medway Labour Group	Developers need to produce more robust, sustainable transport strategies. Investment in transport should prioritise buses, cycling, walking. Request council to investigate viability of mandating developers to limit/minimise pollution, resulting in effective policy to be implemented when Guide is reviewed again in approx. 12 months.	Noted. Application of Medway Air Quality Planning Guidance seeks to address pollution.	Work with Environmental Health to address air quality issues. Development of policies for sustainable transport and air quality in new Local Plan.
2.	Lichfields on behalf of the Peel Group	Para 1.2 “all new developments should have regard to the Medway Air Quality Planning Guidance” – should clarify that ‘new’ development only applies to new full/outline application submitted after Guide is adopted, and not reserved matters applications.	Noted.	Appropriate wording will be included to address this comment.

Bird disturbance mitigation (SAMMS) (page 24)

No.	Name	Para	Comment	Response	Action
1.	Frindsbury resident		Cannot understand how a tariff can protect against bird disturbance	The SAMMS scheme is endorsed by Natural England, and provides a strategic approach to mitigate adverse impacts of increased development on the Thames, Medway and Swale estuary and marshes SPA and Ramsar sites.	This policy will be embedded in the emerging Medway Local Plan.
2.	Lichfields on behalf of the Peel Group		As this is a new charge the text should clarify this applies only to new full/outline applications submitted after the Guide is adopted, and not reserved matters applications.	SAMMS was introduced in the autumn of 2015, but will not apply to reserved matters applications where the outline was approved prior to Autumn 2015.	Clarification of application of tariff relating to reserved matters.
3.	Natural England	1.3/24	Need to clarify wording on Medway approach, as general reference made elsewhere in document to contributions applying to developments of over 10 dwellings, but SAMMS applies to all dwellings.	Noted.	Wording clarified.
4.	Countryside	1.3/24	Request clarity on relevance of 10km zone, and under what circumstances will contributions be sought between 6 and 10km zone	Natural England advise ² that residential development within 6km of access points to the SPAs is particularly likely to lead to an increase in recreational use of the SPAs. Beyond 6km from access points onto the SPA, large developments, or large	N/A

² Advice at: https://www.medway.gov.uk/downloads/file/648/137979_ne_nkepg_letter_06_01_2015

No.	Name	Para	Comment	Response	Action
				scale changes to housing levels may also result in increased recreational use. Natural England's advice will therefore be sought for such developments within the local authority's areas beyond the 6km zone, so that these can be considered on a case-by-case basis.	

Cultural services (page 25)

No.	Name	Para/ page	Comment	Response	Action
1.	Heritage Officer, Medway Council		Investment required for assets, especially as increasing visitors with increasing population. Suggest more holistic and co-ordinated approach - Rochester Caste Gardens, Eastgate House Gardens, etc should be considered for greenspace contributions and not just heritage sites	Contributions sought for Cultural Services include investment in Heritage and Museums.	No changes proposed to Guide. Preparation of Local Plan will consider planning for heritage and greenspaces within holistic strategy.
			Suggest all large developments (300+ units) throughout Medway should contribute to heritage sites and museums	Noted.	No changes proposed to this version of Guide. Further consideration in Infrastructure Delivery Plan prepared for new Local Plan.
2.	Diocese of Rochester		Assume places of worship will come under 'cultural services' but this is too vague. There is clear evidence of need in areas being developed - places of worship fulfil vital community roles	Noted. Reference made to churches on page 25, Cultural Services, para 1.4.	Further consideration in Local Plan and Infrastructure Delivery Plan.
		1.4/25	Wording should be amended to read 'churches and other places of worship' to include other faith groups	Agreed	Wording updated

		2.9/4 Legal/ policy	Endowment payments (EP). Would like to use EP to fund youth and community work	Contributions collected for youth and community work.	No changes proposed.

Education (page 27)

No.	Name	Para/ page	Comment	Response	Action
1.	Medway Labour Group		Most authorities set out triggers for creation of a new school : 500 units = new primary, 1,700 require new secondary school. Need to be clear as to when these triggers are met for education	The precise number of new homes to trigger the need for new schools, and/or expansions of another local school, requires careful consideration on a case by case basis. This will depend upon dwelling mix and availability in local schools. We also consider the wider picture, looking at a number of developments as a whole rather than in isolation, to ensure that sufficient provision is provided to meet demand from the developments, but also to consider the danger of over provision.	Add guidance on thresholds for new schools e.g. 776 houses = 210 pupils = 1FE primary, but depends on existing provision in the area.
2.					
	Lichfields on behalf of the Peel Group	1/27	Requests clarification on the definition of dwellings suitable for family occupation	Family dwellings are defined as dwellings with 2 or more bedrooms	Add definition to guide
3.	GVA on behalf of Homes England		Recommend charge based on pupil yield rather than charge per dwelling.	The education department request contributions on a pupil yield basis. However, at the point of agreeing the s106 this is converted into a charge per dwelling. The charge per dwelling = charge per pupil x pupil yield per dwelling.	No changes proposed.
		1/27	Requests clarification on the definition of dwellings suitable for family occupation	Family dwellings are defined as dwellings with 2 or more bedrooms	Add definition to guide

No.	Name	Para/ page	Comment	Response	Action
			Requests justification for increases	Original charges in 2008 Guide (prepared in 2007) were to be indexed periodically. Due to market conditions at the time this was never carried out. This is the first increase in education contributions in 10 years. The increases are based upon cost benchmarking surveys undertaken by EBDog ³ .	Provide information from / link to EBDog cost benchmarking surveys to show increased building costs
4.	Education & Skills Funding Agency (ESFA)		Need clarification for special schools	Medway's special schools have been expanded to meet demand and are now at a position where further expansion is unrealistic. Medway's SEND strategy states that the preference is for pupils with SEN to be educated in a mainstream setting where possible and practical. To this end, when utilising developer contribution funding in mainstream schools, consideration is given to improving facilities for SEN. The cost of providing a new special school is likely to prove prohibitive.	Suggest including within the text a reference to special provision facilities within primary and secondary mainstream schools. Suggested text: "Funding from developer contributions will be utilised for providing early years, primary, secondary, 6 th form, and special provision."
			Should highlight that in some cases the free transfer of land to the council for new	Where the development is of an appropriate size, this is discussed with	Include within the guidance, where

³ <http://ebdog.org.uk/>

No.	Name	Para/ page	Comment	Response	Action
			school will be required	developers in advance of any request being made, to consider all angles.	developments are over 776 dwellings, the opportunity to discuss with the local authority how best to deliver a new school.
			<p>Useful to see more evidence/clarity for calculation; eg.</p> <ul style="list-style-type: none"> -New survey data post MORI 2005/6, -discounts applied for assumed proportion of children privately or home educated -build costs data (+ price index) used to inform charges -exclusions (1 bed units, student/elderly accommodation etc.) -assessment of existing and projected requirements 	<p>MORI survey figures already include discounts for private and home educated pupils</p> <p>Costs are based on EBD OG benchmarking survey</p> <p>Only 2 bed+ dwellings included, student and elderly</p> <p>Existing and projected requirements in School Place Planning Strategy</p>	<p>Include EBD OG cost benchmarking surveys as source of price</p> <p>Add definition of family dwelling as 2bed+</p> <p>Include link to School Place Planning Strategy update to show need</p>

No.	Name	Para/ page	Comment	Response	Action
			Recommends Bedford Borough Council and Essex County Council Guides for reference	Noted	N/A

Flood risk management and sustainable drainage (page 28)

Name	Comment	Response	Action
Environment Agency	<p>Flood risk : should contain reference to Medway Estuary and Swale Strategy (MEASS) to be published summer 2018. Will contain plans for tidal frontages at risk of flooding though Medway for next 100 years (sets out required capital funded defence works and identifies where 3rd party partnership funding will be required); any potential development sites should make reference to MEASS and where sites would benefit from flood defence works it may be appropriate for contributions. Can supply economic info for inclusion if requested</p>	<p>Wording changed at section 5.3. Substantive issues more relevant to Local Plan.</p>	<p>Wording amended to reflect these comments</p>
	<p>Comments from Fisheries, Biodiversity and Geomorphology :</p> <p>Policy NE2 conservation and enhancement of the natural environment : policy should state “sites of special scientific interest”</p> <p>Policy NE7 flood and water management : this policy is not robust enough</p> <p>MEASS will deliver habitat that might be useful for delivery of River Basin Management Plan (RBMP) mitigation measures. The Council should state whether they will “in principle” support habitat creation</p> <p>References to RBMP only cover water quality – should consider all water environment elements</p> <p>Should include policy re watercourses / buffers etc.</p> <p>Policy needs to be more robust</p>	<p>These comments relate to the Local Plan consultation.</p>	<p>Will be considered as part of Local Plan preparation.</p>

Health (page 31)

No.	Name	Para/ page	Comment	Response	Action
1.	Medway Labour Group		£610.84 per dwelling is low. Recommend £874.80 per dwelling in line with other authorities. If this cannot be implemented in this Guide then would expect Infrastructure Delivery Plan to include robust evidence which justifies a higher health contribution when it is adopted	Noted for consideration as part of future review, but many of other contributions also benefit public health, such as Greenspaces and Air Quality. This is also a matter for detailed design of schemes and further policy will evolve in the Local Plan.	No changes proposed to this Guide. Further consideration in preparation of Local Plan and Infrastructure Delivery Plan.
2.	NHS Medway CCG	1.1/2	Request inclusion of word 'health' with other services	Noted	Included
			Request increase to £360 per person in line with other Kent CCG requests	To be further consideration in relation to Local Plan and Infrastructure Delivery Plan.	No changes proposed to this Guide. Further consideration in preparation of Infrastructure Delivery Plan
		2/30	Delete reference to dentistry (this is commissioned by NHS England)	Noted	Deleted
		6/30	Amend para to make clear that in these circumstances the developer cannot charge a charge market rent for a defined period – suggest 10 – 15 years minimum to ensure appropriate planning gain	Noted	Wording reviewed.

Open space, play space and outdoor formal sport and Environmental mitigation (page 32)

No.	Name	Para/ page	Comment	Response	Action
1.	Lichfields on behalf of the Peel Group	1/31	Significant increase; requests clarification on calculation	The adopted 2008 Guide stated that the charges would be subject to indexation periodically. The charges were never increased due to market conditions at that time. The proposed charge is the original costs when the SPD was prepared in 2007 + indexation less the decrease in number of persons per dwelling falling from 2.45 to 2.43.	N/A
			How will the provision of on site open space be taken into account when calculating contribution	This is taken into account and contributions are calculated pro-rata on a case by case basis	N/A
		6.1/31	Employment development: there is a risk of potential double counting as workers are also likely to be residents locally. Need to include objective means of assessment for employment sites + scale of charges for employment development	Wording provides for flexible approach and consideration on case by case basis.	No changes proposed.
		6.3/32	Trigger payment should be first occupation	Wording at para 6.3 provides for flexibility.	No changes proposed.
2.	Greenspace officer, Medway Council		No reference to Great Lines Heritage Park (GLHP) contributions	Contributions may be sought for GLHP from the open space contribution where appropriate	No changes proposed.
3.	Friends of Great Lines Heritage Park Committee		Concerned no reference to GLHP which has a rich naval and military heritage, and is Medway's most prominent greenspace.	Consideration given within Greenspaces contributions where appropriate.	Further consideration within Local

No.	Name	Para/ page	Comment	Response	Action
	Open space continued		Contributions support its upkeep to enable popular community events such as Armed Forces Day, Parkruns, etc.		Plan evidence base and Infrastructure Delivery Plan.
4.	GVA on behalf of Homes Engand	1/31	Why should a developer provide on site open space + the same contribution as if there was no on site provision?	This is taken into account and contributions are calculated pro-rata on a case by case basis	No changes proposed.
5.	Vincent Goring on behalf of Trenport Investments Ltd	1/31	When a developer provides on site open space, contribution should be pro rata	This is taken into account and contributions are calculated pro-rata on a case by case basis	No changes proposed.
			Does not take into account existing facilities.	Updated open space audit and strategy will provide evidence for capacity.	Further work in connection with Local Plan evidence base and Infrastructure Delivery Plan.

Sports facilities (page 37)

No.	Name	Para/ page	Comment	Response	Action
1.	Lichfields on behalf of the Peel Group		Requests clarification on charge of £235.19 when Medway Sports Facilities Strategy is still under preparation	The charge in the 2014 Guide was adjusted from the 2008 Guide; the 2014 figure has been index linked and adjusted to take into account decrease in occupants per dwelling from 2.45 to 2.43	Medway Sports Strategy to be published Spring 2018. Further work in connection with new Local Plan.
2.	Sport England		Does the emerging, yet to be adopted, sports facility strategy include both a built facilities strategy and the playing pitch strategy? What is the basis for charge per dwelling?	See above. Updated open space audit and strategy will provide evidence for Local Plan and development contributions.	Further work in connection with new Local Plan.
			When playing pitch strategy is developed it will be possible to use data from it to feed into Sport England's New Development Playing Pitch calculator which will inform planning housing need. Suggest waiting to finalise this section until completed	This Guide document is likely to be superseded within the next 18 months after the new Local Plan, including the Infrastructure Delivery Plan, is adopted	Further work in connection with new Local Plan to support policy development and Infrastructure Delivery Plan.
3.	GVA on behalf of Homes England		What is the policy basis for contributions?	See above.	Further work in connection with new Local Plan to support policy development and Infrastructure Delivery Plan.

Travel (page 38)

No.	Name	Para/ page	Comment	Response	Action
1.	Frindsbury resident	3.2/36	"Section 278 agreement for highway works accommodating pedestrians".	If this comment means how do highway works accommodate pedestrians, these works include drop kerbs, tactile paving for visually impaired people, toucan crossings, etc.	No changes proposed. Further policy work in Local Plan on promoting pedestrian access.
		4.4/36	Developments often impact existing Public Rights of Way.	Contributions are sought for PROWs where appropriate. Comments on specific developments cannot be included here.	No changes proposed.
2.	Highways England (HE)	2.3/3 Policy context	Should clarify that HE will require any development mitigation for the Strategic Road Network (SRN) is secured via Section 278 agreements as referred to in para 116 of 'Planning for the future...' see comment below	Noted	Amended. Further engagement with HE in preparing Local Plan.
		2/35	HE concerned with impact of proposals on SRN, ie the <u>A2(west)</u> and <u>M2</u> . Requests inclusion of following : DfT Circular 02/2013 The SRN and delivery of sustainable development 2013, and Planning for the future : a guide to working with HE on planning matters September 2015	Noted.	Amended. Further engagement with HE in preparing Local Plan.
		5.1,6.1/ 37	Developments that could impact upon SRN should include HE at scoping stage	Noted. Not of direct relevance to content of this Guide.	N/A

General comments

No.	Name	Comment	Response	Action
1.	Fairhurst on behalf of Tarmac	Guide assumes contributions will be taken into account in any land value paid by developer to landowner, thus limiting scope of a viability appraisal submitted. NPPF states for sites to be considered deliverable housing should be delivered within 5 years; if contributions are assumed to be indirectly borne by landowner, some landowners could limit availability of their land until some time in the future depending upon economic circumstances	Guide is intended to provide greater certainty to developers on costs of contributions, and inform development sector.	N/A
		Guide does not allow for robust and transparent amendments in financial calculations should a housing site come forward for development which provides for necessary contributions on site or on other land in the ownership of the applicant.	The council provides for open book appraisals of viability to support delivery of sites.	N/A
		These contributions, unlike CIL, are not subject to independent examination. These 'blanket' contributions could cause some landowners to choose not to deliver or develop their sites in the immediate term.	This Guide was first adopted in 2008. Most developers understand what the requirements are and these contributions/ obligations have not curbed significant development in Medway.	Further work in preparation of Local Plan.
2.	Frindsbury resident	Is there a time limit to introduce CIL as under impression CIL was to replace S106 agreements?	There is no time limit to introduce CIL. Local authorities do not have to adopt CIL. S106 agreements can still be implemented alongside CIL where appropriate but authorities must identify which projects are funded by each mechanism.	Council to further consider CIL in relation to legislative changes and new Local Plan.
3.	Lichfields on behalf of the Peel Group	Table of contributions page 9: no evidence is publically available on how these figures have been derived.	Information based on services' evidence for developing new and extended infrastructure and services, which is set	Further work on Infrastructure Delivery Plan to

No.	Name	Comment	Response	Action
		Peel requests clarification and suggests figures should be rounded to whole £s.	out in the separate sections. Noted.	support new Local Plan.
		The contributions for cultural, health and youth facilities were per person rather than per dwelling. The proposed charges per dwelling do not reflect demographics. Requests revision to take account of demographics.	To simplify the document these figures are shown per dwelling but are based on the original per person/dwelling + indexation less the decrease in occupants per dwelling from 2.45 to 2.43	No changes proposed.
4.	Planning/ greenspace officers	Environmental Mitigation section is not included	This was an oversight and will be included	Amended.
5.	Diocese of Rochester	3.6, page 7 Basis of guide : strengthen wording – “good and valid reasons” should be replaced by “only in exceptional circumstances and where the proper community infrastructure provision can still be achieved”	Noted.	No changes proposed.
6.	Rainham resident	Greenfield sites should contribute to cost and development of infrastructure. Suggests developers provide shops e.g. Post Offices, newsagents and for 100+ units dental/doctor surgeries rather than new residents using existing facilities. Homes should be affordable, insulated, well built, architect designed with solar panels, parking spaces with charging points etc. and of appropriate size	Developments must be viable – services such as the NHS request/receive contributions for all developments over 10 dwellings at a level set out in the Guide to Developer Contributions which was currently reviewed.	Further consideration of infrastructure in development of Local Plan.
		Brownfield sites under utilised/derelict buildings	Comments not relevant to consultation	
7.	GVA on behalf of Homes England	3.4 page 6 : 2 nd bullet point should be clearer - suggest applicants submit S106 heads of terms with planning application	Noted that could be encouraged in discussions between Planning officers and applicants.	No changes proposed.

No.	Name	Comment	Response	Action
		3.9, page 7 : suggest using construction based index Is 2.43 persons per dwelling up to date/ reasonable?	Currently being considered Figure taken from table 427, Household projections for England and Local Authority districts published July 2016	N/A
		Request justification for increase in charges	Original charges in 2008 Guide (prepared in 2007) were to be indexed periodically. Due to market conditions at the time this was never carried out. There were some increases in 2014 but not for all services – a decision was taken at that time that contributions should be kept to a minimum as difficult market conditions prevailed. Services now need more appropriate level of contributions based on 2.43 persons per dwelling	
8.	Vincent Gorbng on behalf of Trenport Investments Ltd	Tariff system cannot be justified. These requirements will delay developments and add significant additional costs which could jeopardise development.	View noted.	Further viability work in relation to Local Plan and Infrastructure Delivery Plan.
		S106 contributions should not provide general funding for services provided for via council tax	Contributions requested meet 3 tests to support new development – do not support any existing deficiencies	N/A
		No feedback to developers on where the funding is spent	To meet the pooling regulations the projects to be supported by contributions are identified in the agreement. Information reported quarterly to Planning Committee and published in Authority Monitoring Report	Further work in promoting public information on how contributions are used to develop services.
		Increase in charges disguised by changing method to per dwelling	To simplify the document charges were identified only by per dwelling but based on per person – see item 7 above	No changes proposed.

No.	Name	Comment	Response	Action
9.	Natural England	Reference made to wider green infrastructure network to ensure rich natural environmental assets of Medway are conserved and enhanced through developments.	Noted. Work on green infrastructure planning to inform new Local Plan, and will be considered in Infrastructure Delivery Plan.	Further work in association with Local Plan.
10.	Countryside	3.5/7 requests that wording be included to the effect that MC Legal Section also commits to agreed timescales	Noted. Included in PPAs.	Monitoring of service standards.
		Paragraph number confusing; should have one set of para numbers continued throughout	Noted	Presentation and referencing of final document to be considered.
		Require justification for increase	The adopted 2008 Guide stated that the charges would be subject to indexation periodically. The charges were never increased due to market conditions at that time. As the 2014 Guide is out of date, and the occupancy rate has fallen, now is the appropriate time to adjust the charges	No changes proposed.
		Concerned this draft is published prematurely before full infrastructure requirements arising from Local Plan are known, and viability testing has not been completed. Developer contributions should be set out within Local Plan rather than in a SPD	This version of Guide is to provide an updated position in advance of the new Local Plan, but it will be reviewed over the next year.	Further work on viability and infrastructure planning as part of Local Plan preparation.
		CIL would provide evidence of viability but there is no evidence that viability has been considered in this draft Guide.	Guide has been informed by initial viability work for Local Plan. Viability assessments can be submitted with applications.	Whole plan viability will be undertaken for new Local Plan.

No.	Name	Comment	Response	Action
11.	Wealden Homes	<p><u>Introduction</u> :</p> <p>1.1 should delete word 'unacceptable' development</p> <p>1.3 need to make clear that draft Guide only becomes a 'material consideration' after adoption by the council</p> <p>1.5 need to make clear pre application advice requires a payment fee</p> <p>3.4 need to make clear if legal section is involved are legal charges payable?</p> <p>3.5 Planning Performance Agreements (PPA) : should provide principle of charging and scale of fees depending on development size</p>	<p>Noted. Wording reflects legislation. Final version of document amended to reflect adopted status.</p> <p>Pre-application charges referred to in para 3.4, page 6. Full information on the council's website.</p> <p>Noted.</p>	<p>Where appropriate text has been amended.</p>
		<p><u>Procedural/Administrative considerations</u></p> <p>3.7 viability process not explained; requires a protocol and timetable for work. Who pays for viability studies?</p> <p>3.9 is rpi an appropriate indexation mechanism?</p> <p>3.11 case officer's time is covered by planning fee and should be deleted</p> <p>3.12 self build/custom build: to encourage new delivery concepts they should be free of affordable housing contributions or some larger sized developments will not come forward</p>	<p>3.7 Process relates to specific cases, and further details would be provided where a developer indicates that a scheme is not viable due to infrastructure contributions. Note government proposes further guidance on viability assessments.</p> <p>3.9 Council prefers use of RPI at this stage, but will review indexation in further updates to policy.</p> <p>3.11 This refers to the costs of the monitoring officer which is not covered in the planning application fee.</p> <p>3.12 Custom and self build housing still require infrastructure to provide sustainable development. Policy will take account of updated government policy in these areas.</p>	<p>No changes proposed. Council will carry out further work in relation to legislative changes and update in connection with new Local Plan.</p>

No.	Name	Comment	Response	Action
				New policies for Custom & Self Build Housing and Affordable Housing in new Local Plan will reflect latest government policy.
		Page 9 : level contributions : no methodology. How has 2.43 persons per dwelling been calculated?	Figure taken from table 427, Household projections for England and Local Authority districts published July 2016	No changes proposed. Further work on Infrastructure Delivery Plan.
12.	St Mary's Island Resident Ass.	Agreement to long term management of development's greenspace should be included at this stage	Medway Council does not take on maintenance of new open space; details of adopting a management company are sometimes included in the S106	No changes proposed.
		Above also applies to Traffic Regulation Orders, parking etc	Noted issues. Not matter for Developer Contribution Guide.	No changes proposed.
13.	Kent County Council (KCC)	Sets out KCC S106 requirements rather than commenting on draft Guide	Noted for information.	Liaison with KCC in preparation of Local Plan and Infrastructure Delivery Plan, particularly where there are cross border services.

APPENDIX C

TITLE Name / description of the issue being assessed	Review of Medway Guide to Developer Contributions & Obligations 2018
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DATE Date the DIA is completed	10 April 2018
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LEAD OFFICER Name, title and dept of person responsible for carrying out the DIA.	Catherine Smith Planning Manager – Policy Regeneration, Culture, Environment & Transformation
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1 Summary description of the proposed change

- What is the change to policy / service / new project that is being proposed?
- How does it compare with the current situation?

The review to the Guide reflects inflationary cost increases, updated government guidance on developer contributions, and where the earlier Guide has been successfully challenged.

It involves some increases in contributions in line with inflation and some revisions to the specific services included in the remit of Developer Contribution requests. It also includes information on other Obligations on developers.

2 Summary of evidence used to support this assessment

- Eg: Feedback from consultation, performance information, service user records etc.
- Eg: Comparison of service user profile with Medway Community Profile

Monitoring of S106 development contributions.

3 What is the likely impact of the proposed change?

Is it likely to :

- Adversely impact on one or more of the protected characteristic groups?
- Advance equality of opportunity for one or more of the protected characteristic groups?
- Foster good relations between people who share a protected characteristic and those who don't?

(insert ✓ in one or more boxes)

Protected characteristic groups (Equality Act 2010)	Adverse impact	Advance equality	Foster good relations
Age			✓
Disability			✓
Gender reassignment			✓

Diversity impact assessment

Marriage/civil partnership			✓
Pregnancy/maternity			✓
Race			✓
Religion/belief			✓
Sex			✓
Sexual orientation			✓
Other (eg low income groups)			✓

4 Summary of the likely impacts

- Who will be affected?
- How will they be affected?

The Medway Guide to Developer Contributions and Obligations provides a basis for the collection of funding to invest in infrastructure and services to mitigate for the impacts of development, and take account of additional demands arising from growth. A broad range of services are included in the guide, reflecting the needs of the population. The Guide secures necessary funding for services to increase capacity to serve residents of new development. By doing so, this helps deliver services to benefit all sectors of the community.

5 What actions can be taken to mitigate likely adverse impacts, improve equality of opportunity or foster good relations?

- What alternative ways can the Council provide the service?
- Are there alternative providers?
- Can demand for services be managed differently?

The Guide helps in delivering services for all of Medway's communities. It is embedded in the Planning system as part of the determination of applications for development, and meets statutory requirements.

6 Action plan

- Actions to mitigate adverse impact, improve equality of opportunity or foster good relations and/or obtain new evidence

Action	Lead	Deadline or review date
Annual monitoring of S106 contributions	Jill King	December 2018

7 Recommendation

The recommendation by the lead officer should be stated below. This may be:

- to proceed with the change, implementing the Action Plan if appropriate
- consider alternatives
- gather further evidence

If the recommendation is to proceed with the change and there are no actions that can be taken to mitigate likely adverse impact, it is important to state why.

To proceed with publishing the Medway Guide to Developer Contributions and Obligations.

8 Authorisation

The authorising officer is consenting that:

- the recommendation can be implemented
- sufficient evidence has been obtained and appropriate mitigation is planned
- the Action Plan will be incorporated into the relevant Service Plan and monitored

Assistant Director

Tomasz Kozlowski

Date

19 April 2018

Contact your Performance and Intelligence hub for advice on completing this assessment

RCC:	phone 2443	email: annamarie.lawrence@medway.gov.uk
C&A (Children's Social Care):	contact your usual P&I contact	
C&A (all other areas):	phone 4013	email: jackie.brown@medway.gov.uk
BSD:	phone 2472/1490	email: corppi@medway.gov.uk
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