

Cabinet

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Medway Developer Contributions and Obligations Guide - Consultation

Portfolio Holder: Councillor Simon Curry, Portfolio Holder for Climate Change and Strategic Regeneration

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Summary

The Planning Service has prepared an updated Guide for the collection of developer contributions to mitigate the impacts of development. This has been informed by work on the evidence base for the new Medway Local Plan. The Guide sets out the requirements to enhance services and infrastructure to address the demands arising from new development. It is used in the determination of planning applications.

The Cabinet is asked to approve the publication of the revised guide for consultation prior to adoption as an updated Supplementary Planning Document. It is proposed that the outcomes of the consultation and proposed amendments are reported to Regeneration, Culture and Environment Overview and Scrutiny Committee in June for any comment in advance of the adoption of the final version of the updated Guide.

1. Recommendations

- 1.1. The Cabinet is asked to approve the publication of the Medway Developer Contributions and Obligations Guide, as set out at Appendix 1 to the report, for consultation.
- 1.2. The Cabinet is asked to note the proposed reporting of the outcomes of the consultation and proposed amendments to the Guide, to the Regeneration, Culture and Environment Overview and Scrutiny Committee in June 2026.

2. Suggested reasons for decisions

- 2.1. To meet legal requirements in the preparation of a Supplementary Planning Document (SPD) and provide an updated basis for securing infrastructure contributions to address the impacts of development.

2.2. To provide oversight of the preparation of the updated policy framework for the collection of developer contributions to infrastructure in Medway.

3. Budget and policy framework

3.1. The Guide is a proposed SPD, consistent with the Medway Local Plan. The Local Plan is a key component of the development plan and forms part of the Council's policy framework. The preparation of the SPD is a matter for Cabinet.

3.2. The Guide has been prepared by the Planning Service within the current budget. Developer contributions provide an income stream for council and wider services in addressing the demands arising from new development.

4. Background

4.1. 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's Guide to Developer Contributions and Obligations SPD is used to set out the requirements arising from planning permissions, which it collects through Section 106 legal agreements.

4.2. The Guide was first adopted as a SPD in April 2008, providing specific guidance in relation to the determination of planning applications. It was most recently reviewed in 2018. The Guide 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 Guide also presents information on obligations that developments of under 10 dwellings need to meet.

4.3. 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.

4.4. 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.

4.5. 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.

4.6. 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. This review has been informed by work on the Local Plan, and particularly the Infrastructure Delivery Plan. The Planning Service has worked with services across the Council, and with the NHS Kent and Medway Integrated Care Board to gather evidence on service planning and needs arising from anticipated development. The financial contributions required to deliver new and expanded services have been considered through the Local Plan Viability Assessment to determine that the strategy and ambitions set out in the new Local Plan for sustainable development can be delivered.

5. Options

- 5.1. Option 1: to continue to use the existing 2018 Guide and await the outcome of the Local Plan Examination.
- 5.2. Option 2: to progress with the adoption of a revised Guide to reflect updated evidence and secure a stronger link to the proposed development strategy in the Submission Draft Medway Local Plan.
- 5.3. It is recommended that the Council proceeds with Option 2 to provide an updated basis for securing developer contributions to provide for sustainable growth reflecting evidence collated for the new Medway Local Plan.

6. Advice and analysis

- 6.1. The current Medway Guide to Developer Contributions and Obligations was adopted in May 2018, and costs have been updated annually in line with inflation. Concerns about the capacity of existing infrastructure and services to accommodate the needs arising from development are frequently raised in consultation on planning policy and applications, particularly by residents. Securing sustainable development where housing growth, in particular, is delivered with improvements to services is a central objective of the planning system and a core principle of the new Medway Local Plan.
- 6.2. Many comments submitted on the Draft Local Plan concerned the funding and delivery of services and wider infrastructure. Work on the new Local Plan has included an updated Infrastructure Delivery Plan, Viability Assessment, and an overarching infrastructure policy and site specific infrastructure requirements. The revised Guide has been informed by this work and provides an effective basis for updated requirements.
- 6.3. 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 2 to the report.

7. Risk management

7.1. The publication of the Guide for consultation does not involve significant direct risks. However, consideration has also been given to the wider use of the Guide.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Lack of appropriate infrastructure for new developments	Developer contributions are insufficient to cover infrastructure to mitigate the impact of developments	Needs set out in Infrastructure Delivery Plan as part of Local Plan evidence base, and contributions tested through Local Plan Viability Assessment.	CII
Some developments become unviable	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.	CII
Lack of engagement in consultation	Limited stakeholder involvement in policy development.	Communications plan for consultation.	CIII

For risk rating, please refer to the following table:

Likelihood	Impact:
A Very likely	I Catastrophic
B Likely	II Major
C Unlikely	III Moderate
D Rare	IV Minor

7.2. The examination of the new Medway Local Plan will strengthen the evidence base and strategic policy context for infrastructure planning, which will support the Guide.

8. Consultation

8.1. The Guide has been updated in consultation with service providers. It is proposed to publish the draft Guide for consultation for six weeks between 23 March and 5 May 2026. The Planning Service will coordinate the consultation programme, making use of its Policy contacts database that has been developed and maintained for work on the Local Plan. This includes a wide range of stakeholders, including developers, service providers, residents and voluntary and community organisations.

8.2. The consultation will make use of the Council's website and online consultation portal, OpusConsult, to present information and gather comments. There will be targeted consultation with service providers and

developers. Comments submitted during the consultation will be considered in the review of the final draft of the Guide that will be reported to Cabinet later this year. It is proposed that the outcomes of the consultation and proposed amendments are reported to Regeneration, Culture and Environment Overview and Scrutiny Committee in June in advance of the report to Cabinet.

9. Climate change implications

- 9.1. The Guide directs investment into a range of services to mitigate the impacts of new development. This includes helping to address the impacts of climate change, through measures such as flood risk management and sustainable drainage, open space, environmental mitigation, active travel, waste and recycling. Measures agreed and delivered are reported annually in the Infrastructure Funding Statement.

10. Financial implications

- 10.1. 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. The revised Guide reflects the proposed growth in the Submission Draft Local Plan, and infrastructure requirements to support sustainable development.
- 10.2. The costs of producing the revised Guide have been met within the Planning Service budget and has not created additional pressures.

11. Legal implications

- 11.1 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 aligns with the Submission Draft Local Plan. As an adopted SPD, the Guide carries considerable weight in the determination of planning applications.

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Appendices

Appendix 1: Medway Developer Contributions and Obligations Guide Consultation
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Appendix 2: Diversity Impact Assessment

Background papers

None