

Cabinet

30 June 2026

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. 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 Council has consulted on the Guide and the comments made considered. The Cabinet is asked to agree the updated Guide.

The report was previously considered by the Regeneration, Culture and Environment Overview and Scrutiny Committee on 11 June 2026. The minutes of this meeting will be set out in a supplementary agenda.

1. Recommendations

- 1.1. The Cabinet is recommended to note the comments of the Regeneration, Culture and Environment Overview and Scrutiny Committee, as set out in the supplementary agenda.
- 1.2. The Cabinet is recommended to approve the Medway Developer Contributions and Obligations Guide, as set out at Appendix 1 to the report for adoption as a Supplementary Planning Document.
- 1.3. The Cabinet is recommended to delegate authority to the Director of Place, in consultation with the Portfolio Holder for Climate Change and Strategic Regeneration, to approve minor changes to the Medway Developer Contributions and Obligations Guide.

- 1.4. The Cabinet is recommended to delegate authority to the Director of Place, in consultation with the Portfolio Holder for Climate Change and Strategic Regeneration, to undertake the annual review of indexation of S106 contributions using all items retail prices index (RPI) and update the Medway Developer Contributions and Obligations Guide Supplementary Planning Document accordingly, to come into effect on 1 April each year.
- 1.5. The Cabinet is asked to agree that recommendation 1.2 is considered urgent and therefore should not be subject to call in.

2. Suggested Reasons for Decisions

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

3. Budget and policy framework

- 3.1. The Guide is a proposed Supplementary Planning Document (SPD), consistent with the adopted 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. On 10 March 2026 Cabinet approved the publication of the draft Guide for consultation. This report has been considered by the Regeneration, Culture and Environment Overview and Scrutiny Committee in advance of reporting back to this meeting of the Cabinet.
- 3.3. In line with rule 15.11 of Chapter 4, Part 5 of the Constitution, call-in can be waived where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the Public's interests. It is noted that it will no longer be possible for Local Authorities to prepare Supplementary Planning Documents after 30 June 2026. This is set out in the transitional arrangements for plan making - The Levelling-up and Regeneration Act 2023 (Commencement No. 11 and Saving and Transitional Provisions) Regulations 2026, Schedule 1. In this case, it is crucial that the Guide is approved before the deadline to ensure the Council can continue to provide an effective basis for the collection of contributions from development to appropriately mitigate the impacts through the provision of services and infrastructure. On this occasion it is therefore proposed that the call-in period be waived. The Chairperson of the Regeneration, Culture and Environment Overview and Scrutiny Committee has agreed that the decisions proposed are reasonable in all the circumstances and to them being treated as a matter of urgency and to waive call-in.
- 3.4. 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, including the Infrastructure Delivery Plan, where there has been liaison with services in reviewing needs and costs. 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. Work on the Local Plan has also assessed viability considerations.

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 review the Guide, taking account of comments raised in the consultation and progress the production of a revised Guide to reflect updated evidence and costs.
- 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 updated evidence and costs.

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. Work on the new Local Plan includes 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 through reference to updated evidence but still retains the policy link to the adopted Medway Local Plan.
- 6.3. The Council consulted on the draft Guide from 23 March to 5 May 2026. A summary of the comments received, and the Council's response is set out at Appendix 2 to the report. Comments received included challenges that the Guide did not follow the legal requirements as outlined in paragraph 4.5 above, and reference to the emerging Local Plan was premature in advance of the examination outcome and adoption. Queries were raised on the evidence supporting the contributions requests, and the scale of funding would undermine viability of development. Other comments sought wider scope for contributions, such as local and rural centres, rather than main town centres.
- 6.4. The Council views that the range of services and levels of contributions in the consultation draft of the Guide are appropriate. Requests for higher contributions or additional services would present viability challenges. The Council continues to work on strengthening its evidence base on infrastructure planning and securing funding. This work includes new evidence on requirements for sports facilities, endorsed by Sport England.
- 6.5. The Guide acknowledges the emerging Local Plan and the strategic growth proposed and refers to a bespoke approach to take account of specific needs. A number of proposed Plan development allocation sites are being

progressed as planning applications in advance of the Plan. It is important that the consideration of such applications is informed by the updated evidence on infrastructure planning for strategic sites, to ensure sustainable development.

- 6.6. The Guide presented at Appendix 1 has been updated from the consultation version. There are some changes to text to improve clarity, and address comments made in the consultation. It is also informed by the approach taken by Planning Committee to recent applications, such as directing contributions to facilities and services on the Hoo Peninsula. The updates include a clear link to the adopted Local Plan and wording that the Guide will be applied flexibly and lawfully on a site-by-site basis, in full compliance with legal requirements as outlined in paragraph 4.5 above. The Guide reflects support for local and rural centres, and for directing investment to key open space assets on the Hoo Peninsula, where applications come forward in this rural area.
- 6.7. It is acknowledged that the Council's infrastructure planning policies will continue to evolve through the examination and progress of the new Medway Local Plan. The Council is working with developers and service providers particularly in relation to the proposed strategic site allocations. The updated Guide provides an appropriate basis for considering planning applications in advance of the adoption of the new Plan.
- 6.8. 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 3 to the report.

7. Regeneration, Culture and Environment Overview and Scrutiny Committee

- 7.1. The report was considered by the Regeneration, Culture and Environment Overview and Scrutiny Committee on 11 June 2026, the minutes of which will follow later and be set out in a supplementary agenda.

8. Risk management

- 8.1. The Guide has an important role in securing uplifts in services and infrastructure to address the needs arising from new development. The Guide must be effective in helping to deliver sustainable development, where growth supports enhancements to infrastructure, but does not render development unviable.

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	Use of Guide to secure resourcing to mitigate the impacts of growth.	C2

Risk	Description	Action to avoid or mitigate risk	Risk rating
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.	C2

For risk rating, please refer to the following table:

Likelihood	Impact:
A Very likely	1 Critical
B Likely	2 Major
C Unlikely	3 Moderate
D Rare	4 Minor

- 8.2. The examination of the new Medway Local Plan will strengthen the evidence base and update the strategic policy context for infrastructure planning.

9. Consultation

- 9.1. The content of the Guide was updated in consultation with service providers. Following approval by Cabinet on 10 March, the Council published the draft Guide for consultation for six weeks between 23 March and 5 May 2026.
- 9.2. The Planning Service worked with Communications officers to publicise the plan and update content on the Council's website. The Council directly notified statutory consultees, service providers, developers, community and voluntary organisations and residents on its Planning Policy contacts database. The consultation was promoted on the Planning landing page of the Council's website. The Guide was available to view online and printed copies were available to inspect in a number of public libraries across urban and rural Medway.
- 9.3. 25 responses were received to the consultation from government bodies and statutory consultees, the development sector, voluntary organisations, community groups and residents. There were 21 responses to the consultation in 2018 when the Guide was previously reviewed. It is noted that the volume of responses is significantly lower than participation in the consultation on the Local Plan. This is not unusual for a consultation on a technical document that does not contain development site allocations. Issues raised in the comments largely reflected the specific interests of the respondents.
- 9.4. 11 respondents were from the development sector, including developers and agents promoting and building sites in Medway, and bodies such as the Home

Builders Federation. Comments made included concerns about the level of contributions sought, to ensure that housing schemes remain viable. Representatives from the development sector were more likely to comment on the links between the Guide and the evidence base for the Local Plan, and to seek clarification on the calculation of the costs of contributions for specific services. A number of comments from this sector sought reductions or removal of contributions to some service areas. The methodology and application of the Guide in requesting contributions to services were queried and sought clarity that the legal tests outlined in paragraph 4.5 above were met. The responses included recommendations to delay the update to the Guide until after the adoption of the new Local Plan, so that policies and the supporting evidence base were fully tested. There were comments in relation to the approach in the Guide to affordable housing and custom and self-build housing.

- 9.5. 7 respondents represented statutory bodies, government agencies, or public services. These included Natural England, National Highways, the Environment Agency and NHS Kent and Medway. The representations tended to focus on particular areas of the Guide, and some comments were made on the methods used by the Council in calculating contributions.
 - 9.6. Comments were received from some local community and voluntary sector representatives, such as Neighbouring Planning groups, and environmental groups. These representations included requests for contributions to support local and rural centres and strengthen investment in environmental mitigation.
 - 9.7. The Planning Service has reviewed the comments to determine any proposed changes to the Guide following consultation. A summary of the comments raised in the consultation, and the Council's proposed response is set out in a table at Appendix 2. Copies of the full representations are available to view [online](#).
- ## 10. Climate change implications
- 10.1. 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.
- ## 11. Financial implications
- 11.1. 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.
 - 11.2. The costs of producing the revised Guide have been met within the Planning Service budget and have not created additional pressures.

12. Legal implications

12.1. 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 2003 policies. As an adopted SPD, the Guide carries considerable weight in the determination of planning application.

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Appendices

Appendix 1: Medway Developer Contributions and Obligations Guide Consultation Draft, June 2026

Appendix 2: Summary of representations made at consultation and Council's response

Appendix 3: Diversity Impact Assessment screening

Background papers

[Cabinet report 10 March 2026](#)