

Medway Developer Contribution and Obligations Guide – Consultation Outcomes 2026

Who responded?

CATEGORY	RESPONDENT
GOVERNMENT DEPARTMENT	Department for Education
STATUTORY BODIES	Environment Agency
STATUTORY BODIES	National Highways
STATUTORY BODIES	East Sussex County Council
STATUTORY BODIES	Natural England
STATUTORY BODIES	NHS Kent & Medway ICB
ARMS-LENGTH BODY OF GOVERNMENT	Sport England
OTHER	Designing Out Crime Team
OTHER	Mrs Alison Heine
VOLUNTARY AND COMMUNITY ORGANISATIONS	Kent Wildlife Trust
VOLUNTARY AND COMMUNITY ORGANISATIONS	Arches Chatham Neighbourhood Forum
VOLUNTARY AND COMMUNITY ORGANISATIONS	Swifts Local Network
STATUTORY BODIES	NHS Kent & Medway ICB
MEMBERS OF THE PUBLIC	Elaine Cutting
MEMBERS OF THE PUBLIC	Phil Worton
DEVELOPERS OR AGENTS	Brookworth Homes
DEVELOPERS OR AGENTS	Esquire Developments
DEVELOPERS OR AGENTS	F D Attwood and Partners
DEVELOPERS OR AGENTS	Home Builders Federation
DEVELOPERS OR AGENTS	Homes England

CATEGORY	RESPONDENT
DEVELOPERS OR AGENTS	Hoo Consortium
DEVELOPERS OR AGENTS	Kent SME Network
DEVELOPERS OR AGENTS	Peel Waters
DEVELOPERS OR AGENTS	Peter Court Associates
DEVELOPERS OR AGENTS	Taylor Wimpey

Key themes from consultation responses

THEME	SUMMARY	RESPONSE EXTRACTS	PLANNING SERVICE'S RESPONSE
TIMING OF SPD	The SPD is premature ahead of Local Plan Examination. Calls to delay SPD adoption until Local Plan Examination is complete.	<p>Esquire Developments Ltd: <i>"In our view the consultation has been undertaken prematurely and does not meet the legal test of the CIL Regs."</i></p> <p>Homes England: <i>"... it is strongly opined that the adoption of the draft MDCG should not take place until the emerging Local Plan has been adopted and the policies therein sufficiently tested as a whole."</i></p>	<p>The proposed updated Developer Contributions & Obligations Guide is consistent with the current development plan. It will be superseded following adoption of the Medway Local Plan 2041, which will require main modifications to set out contributions expected from development. This is in line with paragraph 35 of the National Planning Policy Framework.</p> <p>Planning officers are drafting statements of common ground with planning agents of strategic site allocations. For some strategic sites, the statements of common ground will propose departures from the Developer Contributions and Obligations Guide based where necessary.</p>
INTERPLAY WITH ASSOCIATED DOCUMENTS	Needs consistency between Viability Assessment, Infrastructure Delivery Plan and Submission Medway Local Plan 2041.	<p>Esquire Developments Ltd: <i>"... the Council should provide clarity on how the Developer Contributions Guide and Infrastructure Delivery Plan relate to each other."</i></p> <p>Taylor Wimpey: <i>"In particular to the Guide, there is limited clarity</i></p>	<p>The Infrastructure Delivery Schedule, attached to the Infrastructure Delivery Plan, sets out the necessary infrastructure required to support Medway's growth to 2041.</p> <p>Planning officers are drafting statements of common ground with planning agents of strategic site allocations. For some strategic sites, the statements of common ground will propose departures from the Developer Contributions and Obligations Guide based where</p>

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VIABILITY & OVERALL COST BURDEN	<p>Requests for updated whole plan Viability Assessment and alignment with evidence base.</p> <p>Strong concern that cumulative developer contributions are too high and may affect deliverability of schemes.</p>	<p><i>on how the requested contributions directly relate to the Infrastructure Delivery Plan (IDP), how they have been derived and how they will directly contribute towards delivery of the infrastructure identified within the IDP."</i></p> <p>Home Builders Federation: <i>"The Council will need to update the viability study that has been produced to justify the policies in the submitted local plan."</i></p> <p>Brookworth Homes: <i>"The National Planning Policy Framework (NPPG) refers to viability in plan making. It confirms: "Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan." (Our emphasis)</i></p>	<p>necessary. This work will address paragraph 35 of the National Planning Policy Framework (NPPF) (December 2024), i.e. plans should set out the contributions expected from development, which should not undermine the deliverability of the plan.</p> <p>At planning application stage, the charges set out in the Developer Contributions & Obligations Guide will only be sought where Regulation 122 tests are met.</p> <p>Planning officers are drafting statements of common ground with planning agents of strategic site allocations. For some strategic sites, the statements of common ground will propose departures from the Developer Contributions and Obligations Guide based where necessary.</p> <p>Planning officers are discussing the need to update the Local Plan's Viability Assessment with the consultant ahead of the Local Plan Examination hearings. This work will address paragraph 35 of the National Planning Policy Framework (NPPF) (December 2024), i.e. plans should set out the contributions expected from development, which should not undermine the deliverability of the plan.</p>

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FLAT RATE CHARGES	Concern regarding 'CIL-like', flat rate charges per dwelling.	<p>Homes England: <i>"Homes England seek confirmation that the draft MDCG will be implemented in a manner compliant with Regulation 122 of the CIL Regulations 2010 and ensure that obligations are directly related to the development rather than constituting a flat rate standardised charge."</i></p> <p>Homes England: <i>"Homes England seeks assurance that the MDCG will be applied flexibly and lawfully on a site-by-site basis, in full compliance with Regulation 122 of the Community Infrastructure Levy Regulations 2010." ... "this could be made clear by stating "contributions will be sought only where Regulation 122 tests are met".</i></p>	Homes England's suggested wording to be inserted, i.e. 'contributions will be sought only where Regulation 122 tests are met.'
JUSTIFICATION & EVIDENCE BASE	Some respondents questioned whether all contributions are justified and sufficiently evidenced; some considered beyond legal scope.	Esquire Developments Ltd: <i>"At present, we do not consider that the evidence to support the Developer Contributions Guide is complete or robust and therefore does not meet the legal tests for adoption."</i>	The proposed updated Developer Contributions & Obligations Guide is consistent with the current development plan. It will be superseded following adoption of the Medway Local Plan 2041, which will require main modifications to set out contributions expected from development. This is in line with paragraph 35 of the National Planning Policy Framework.
INFRASTRUCTURE SCOPE (WHAT	Debate over what infrastructure should be included (e.g., community,	Catesby Strategic Land: <i>"... the requirement should be reconsidered or removed from the</i>	Homes England's suggested wording to be inserted, i.e. 'contributions will be sought only where Regulation 122 tests are met.'

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SHOULD BE FUNDED)	heritage, tourism, libraries). Some argue these should not be funded via developer contributions.	<i>SPD unless a clear policy basis and site-specific justification can be demonstrated."</i>	Planning officers will propose modifications to the submitted Medway Local Plan 2041 to address comments from colleagues in Adult Social Care.
LOCAL PLAN VIABILITY ASSESSMENT	Need to update Local Plan Viability Assessment.	<i>Brookworth Homes: "... an updated Viability Assessment in line with the Median 2026 BCIS Construction costs, as opposed to the Lower Q; higher S106 contributions, as suggested by the Guide; additional policy requirement costs, as well as (at least) the minimum 'other normal development costs' suggested in Section 7 of the Viability Assessment, would show most greenfield sites as producing a negative residual value or a residual value that is under the benchmark/Existing Use Value."</i>	Planning officers are discussing the need to update the Local Plan's Viability Assessment with the consultant ahead of the Local Plan Examination hearings.
AFFORDABLE HOUSING	The DCG is silent on the need for a 15% increase in affordable housing provision on land released from Green Belt. Need to refer to Written Ministerial Statement (April 2026).	<i>Brookworth Homes: "... the Guide makes no mention of the 45% affordable housing requirement for land released from the green belt, providing no guidance on the viability of these sites, and Section 5 makes no mention of the Golden Rules requirement for affordable housing provision and delivery, specifically in relation to Strategic Sites. In this respect, there is conflict with the Planning</i>	The proposed updated Developer Contributions & Obligations Guide is consistent with the current development plan. It will be superseded following adoption of the Medway Local Plan 2041, which will require main modifications to set out contributions expected from development.

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SELF-BUILD & CUSTOM HOUSEBUILDING	Concern regarding any plots remaining unsold after a 12-month marketing period are first offered to the Council for affordable housing purposes. There is precedent from the examination of the St Albans and Spelthorne Local Plans, that such a requirement is not sound and therefore the text should be amended.	<p><i>Practice Guidance (PPG) that "It is important to consider the specific circumstances of strategic sites."</i></p> <p>Catesby Strategic Land: <i>"As these units are designated as market housing within the development and are to be delivered and sold accordingly, it is not considered reasonable to require the developer to offer them to the Council before they are completed and marketed as open market homes."</i></p>	No change – await outcome of Local Plan Examination, i.e. any modifications to the relevant policy.
EDUCATION CONTRIBUTIONS	Need to ensure: a) pupil yields are based on latest available data, b) pupil yields are based on rooms, rather than whole houses/flats. The SPD should include a defined review mechanism for large or phased developments with extended build-out periods.	Department for Education: <i>"The Department therefore recommends that Medway Council explicitly sets out the pupil yield factors applied by unit size and type and includes a clear commitment to review these assumptions periodically in light of updated local evidence."</i>	In discussion with Education officers.
HEALTH & SOCIAL CARE CONTRIBUTIONS	Contributions towards services commissioned by NHS Kent and Medway ICB will not be fairly and reasonably related to development as they should have already been funded nationally.	Home Builders Federation: <i>"In seeking to require contributions from NHS Kent and the Medway Integrated Care Board the Council will need to consider the fact that the funding of such services is already addressed through national funding formulas and</i>	The NHS Kent and Medway Integrated Care Board published the NHS Kent and Medway Developer Contributions Guide in March 2025. Paragraph 7.18 and Table 1 of the NHS Kent and Medway Developer Contributions Guide sets out contributions that may be sought and indicative costs, presented as maximum levels per dwelling.

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	<p>No justification for social care contribution.</p>	<p><i>that as such is no funding gap the provision of some health services arising from new development. This was considered in the case of R (University Hospitals of Leicester NHS Trust) v Harborough District Council [2023] EWHC 263 (Admin)."</i></p> <p>Homes England: <i>"It is also important to understand how other funding sources are taken into account and what proportion of funding will be received from government funding, for example in relation to social care or NHS Acute Care and this should be made clear in the MDCG."</i></p> <p>Home Builders Federation: <i>"... it is not the responsibility of house-building industry to provide contribution towards the delivery of social care in Medway. This is for the Council to plan for within the Local Plan in partnership care home providers."</i></p>	<p>It is important to note that, if adopted by the Council, the Developer Contributions and Obligations Guide will be applied flexibly and lawfully on a site-by-site basis, in full compliance with Regulation 122 of the Community Infrastructure Levy Regulations 2010. It is essential that contributions are demonstrably necessary, directly related to development, and fairly and reasonably related in scale and kind, particularly for complex or strategically important sites.</p>
<p>USE OF S106 & DELIVERY EFFECTIVENESS</p>	<p>Concerns that contributions are not being spent effectively or promptly.</p>	<p>Brookworth Homes: <i>"It is worth highlighting that according to the 2024/2025 Infrastructure Funding Statement (IFS) the Council holds at least £13,123,522.15 in unallocated S106 funds."</i></p>	<p>The overall S106 pot is a rolling amount with money being spent and collected at the same time so the amount of unallocated funds will include a significant amount of recently collected funds. These have been collected to mitigate the impact of development that is already underway so can't also be used to mitigate proposed development.</p>

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OPEN SPACE, SPORTS & GREEN INFRASTRUCTURE	Concerns about outdated strategies and "CIL-like", i.e. flat-rate charging.	<p>Sport England: <i>Section 15 "Table 10 Sport England and the National Planning Policy Framework do not support National standards – Paragraph 103. So, we believe it is inappropriate to put forward standards on outdoor sports, especially pitches. You are the process of updating your playing pitch strategy and built facility strategy at this time."</i></p> <p><i>Section 18 "We have similar concerns about this section in that you are referring to a well out of date sports facility strategy and you are currently in the process of creating a new one. The planning facilities model on its own is not sufficient to be used as an evidence base it needs to be done in conjunction either with a full built facilities strategy or alternatively as a short-term measure using our sports facility calculator which incidentally we would support until the new built facilities strategy is completed."</i></p> <p>Catesby Strategic Land: "... the Council has also proposed a fixed per-dwelling cost. This approach</p>	It is important to note that, if adopted by the Council, the Developer Contributions and Obligations Guide will be applied flexibly and lawfully on a site-by-site basis, in full compliance with Regulation 122 of the Community Infrastructure Levy Regulations 2010. It is essential that contributions are demonstrably necessary, directly related to development, and fairly and reasonably related in scale and kind, particularly for complex or strategically important sites.

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		<p><i>is inconsistent: if requirements are to be determined through individual site assessments, it is not possible to redetermine a universal per-dwelling charge.”</i> <i>“...we have concerns that you have got a charge for dwelling which again is akin to CIL, rather than a Section 106 figure.”</i></p>	
<p>HERITAGE, TOURISM & PUBLIC REALM</p>	<p>Uncertainty on how distance thresholds are measured; objections to blanket tariffs regardless of proximity.</p>	<p>Catesby Strategic Land: <i>“It is not appropriate to impose a standard per-dwelling charge on all new homes in response to such requirements and therefore this should be deleted.”</i></p>	
<p>TRANSPORT & HIGHWAYS</p>	<p>The DCG should refer to ‘no unacceptable impact’, rather than ‘nil detriment’.</p>	<p>Peel Waters: <i>“19.6.1 – relating to highways capacity, the reference to contributions towards mitigation ‘with a view to ensuring a nil detriment impact’ goes beyond and should be amended to ‘no unacceptable impact’ to reflect the NPPF, which advises at paragraph 116, that ‘development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be</i></p>	<p>The relevant text will be revised in line with national planning policy and guidance.</p>

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ECOLOGY & ENVIRONMENTAL MITIGATION	Clarification sought regarding replacement habitat.	<p><i>severe, taking into account all reasonable future scenarios.”</i></p> <p>Peel Waters: <i>“16.5.1 – if the formulae for like for like or 2 for 1 replacement habitat should be removed given the legal requirement is for a minimum 10% biodiversity net gain?”</i></p> <p>Kent Wildlife Trust: <i>“It is recommended that the wording of paragraph 16.2.1 is amended to include reference to the mitigation hierarchy... reference is made to the mitigation of surface water pollution alongside the impacts of noise and light pollution and increased recreational disturbance... 16.3.5 makes explicit reference to the need for the mitigation hierarchy to be followed in the first instance before arriving at a requirement to provide a financial contribution... that parts a. and b. of paragraph 16.4.1 are amended to require an endowment charge equal to 30 times the annual cost of management works (plus indexation)...5.1 reference is made for the need to agree a bespoke and site-specific compensation strategy”</i></p>	Minor changes to background text required.

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PUBLIC ACCESS & RIGHTS OF WAY / COASTAL PATH	Requests to better reflect national trails and improve connectivity. Calls to include King Charles III England Coast Path and increase contributions.	<p>Swifts Local Network <i>"also state that this is "including building-dependent species", ideally adding: "(such as bats and nesting birds such as swifts)", as these are often forgotten as ecology tends to focus on green space."</i></p> <p>East Sussex County Council (King Charles III England Coast Path National Trail): <i>"Request this charge is increased to £100 per dwelling, to account for the higher costs of delivering works (i.e. inflation) ..."</i></p>	The text will be amended to include reference to KCIII England Coast Path but the contribution will not be increased.
LOCAL CENTRES & DISTRIBUTION OF CONTRIBUTIONS	Suggestion to include Local/Rural Centres for public realm funding.	Arches Chatham Neighbourhood Forum: <i>"Local/Rural Centres often fall outside the scope of major regeneration funding schemes yet they are important for satisfying day-to-day needs of the local population."</i>	Suggestion supported to include local and rural centres. Minor changes to background text required.
FLOOD RISK MANAGEMENT & SUSTAINABLE DRAINAGE	Proposed additional wording and corrections; position on SFRA; comments on reference to national policies; comments on collaborative working between the EA and council.		<p>Agreed to include at 12.1.2 'Where sites are being developed which are at risk of flooding, engagement with all relevant authorities should be sort prior to any formal planning application being submitted.'</p> <p>The Council is committed to working with the EA on development for the Local Plan. Further work is being undertaken in line with the SFRA and especially around further works for Strood.</p>

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STRATEGIC ROAD NETWORK (SRN)	Mitigation for SRN would be secured through Section 278 agreement with a single party/developer. The Council should not presume mitigations for SRN will be funded through a future Road Investment Strategy.		<p>Agreed to correct the MEASS adopted date to 2019.</p> <p>Reference to national and local policies noted within pre-application requirements.</p> <p>The Council is working with the EA to closely develop better schemes in Medway.</p> <p>National Highways' response should inform updates to the 'Background' and 'Policy Context' content within Chapter 19, 'Travel'.</p>
INDEXATION AND RATIOS	Clarification on exclusion of health in footnote 1(*) and correction to ratios in footnote 2 (**) p19		<p>Footnote 1 (*) excludes health because the NHS Kent & Medway ICB's Developer Contributions Guide indexation is BCIS, the Council will amend the wording to reflect this.</p> <p>Footnote 2 (**) the Council will include health as an exception to the charges being based on a ratio of 2.43 as Kent & Medway ICB's requests are calculated using the SiDM tool.</p>
SAMMS CONTRIBUTIONS	Justification for SAMMS contributions particularly in relation to temporary uses.	<p>Heine Planning: <i>"Natural England has now conceded additional recreational usage can be accommodated without harm to birdlife on KC111 coastal path including sections of the path on Isle of Sheppey which pass through the SPA....This payment can no longer be justified";</i></p> <p><i>"If payments are still sought...then arrangements</i></p>	<p>All forms of recreational activity have the potential to disturb the bird species for which these sites are designated, not solely dog walking. Accordingly, the SAMMS strategy adopts a comprehensive approach, providing a range of mitigation measures to address the cumulative impact of increased visitor activity generated by new dwellings within the zone of influence.</p>

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		<p><i>should be put in place to ensure that development sought on a temporary basis (eg Traveller sites) should not be required to make the full payment but 1/80th (or other agreed fee based on Bird Wise reports which set out how/why payment is collected) for each year permission is granted and it should be decided if the cost of collecting this sum can be justified for anything less than 5 years."</i></p>	