



Serving You

Regeneration, Culture and Environment Overview and Scrutiny Committee

11 June 2026

Medway Developer Contributions and Obligations Guide - Consultation

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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 Council has consulted on the Guide and is considering the comments made, prior to reporting back to Cabinet on 30 June, seeking approval for updating the Guide.

1. Recommendation

1.1. The Committee is asked to note the content in the updated Guide published for consultation and provide any comments in advance of the report to Cabinet.

2. Budget and policy framework

2.1 The Guide is a proposed Supplementary Planning Document (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.

2.2 On 10 March 2026 Cabinet approved the publication of the draft Guide for consultation. This report to Overview and Scrutiny Committee is in advance of reporting back to Cabinet on 30 June with the outcomes of the consultation.

2.3 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.

3. Background

3.1 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.

3.2 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.

3.3 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.

3.4 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.

3.5 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.

3.6 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. 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.

4. Options

- 4.1. Option 1: to continue to use the existing 2018 Guide and await the outcome of the Local Plan Examination.
- 4.2. 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 secure a stronger link to the proposed development strategy in the Submission Draft Medway Local Plan.
- 4.3. 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.

5. Advice and analysis

- 5.1. 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.
- 5.2. 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.
- 5.3. 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.

6. Risk management

- 6.1. 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	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

For risk rating, please refer to the following table (please **retain** table in final report):

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

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

7. Consultation

7.1. 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.

7.2. 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 view in a number of public libraries across urban and rural Medway.

- 7.3. 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.
 - 7.4. 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 seeking clarity that the legal tests outlined in paragraph 3.5 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.
 - 7.5. 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.
 - 7.6. 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.
 - 7.7. The Planning Service is reviewing the comments to determine any proposed changes to the Guide following consultation. The comments received to the consultation, together with the Council's responses, will be published with the report to Cabinet on 30 June 2026.
- ## 8. Climate change implications
- 8.1. 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.

9. Financial implications

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

10. Legal implications

- 10.1. 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 Draft, February 2026

Appendix 2: Diversity Impact Assessment screening

Background papers

Cabinet report 10 March 2026:

<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=87265>