

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Strategic Environment Cabinet Committee

Date: 21 November 2023

Reporting officer: Assistant Director (Planning)

Subject: Draft Developer Contributions Guide

Purpose and summary of report:

To share an initial draft of the Developer Contributions Guide for discussion and comment

Recommendations:

1. That the Committee consider the report and provide their comments on Appendix 1.

Key Implications:	
Item	Implications
Legal	No implications. The report is for discussion
Finance and Value for Money	Developer contributions are a key component for mitigating certain impacts that arise from some developments. Where a planning decision includes developer contributions being agreed, these funds are obtained and held by the Council in its role as the Local Planning Authority, until they are service/infrastructure provider requesting these funds.
Corporate Plan	#1 People: a proud community; where residents can call a safe, clean and attractive borough their home. #2 Place: a dynamic borough; defined by a vibrant and productive local economy taking advantage of growth in the area, supported by its strong and active community.
Climate Change	The Council's commitment to Climate Change is addressed through both plan making and decision taking.

1. Introduction

- 1.1 Planning obligations are legal obligations entered into to mitigate the impacts of a development proposal.
- 1.2 This can be via a planning agreement entered into under section 106 of the Town and Country Planning Act 1990 by a person with an interest in the land and the local planning authority; or via a unilateral undertaking entered into by a person / body with an interest in the land without the local planning authority.
- 1.3 Planning obligations run with the land, are legally binding and enforceable. However, a unilateral undertaking cannot bind the Council, as the local planning authority because we are not party to it.
- 1.4 Planning obligations are also commonly referred to as 'section 106', 's106', as well as 'developer contributions' the latter also covers s.278 agreements which relate to highways contributions.
- 1.5 Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:
 - necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 1.6 These tests are set out as statutory tests in [regulation 122](#) (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework.

2. Draft Developer Contributions Guide

- 2.1 The purpose of this document is to provide advice and information to applicants and their advisers when their development has given rise to the need for the Council, acting in its role as the Local Planning Authority to secure mitigation through a s.106 legal agreement or unilateral undertaking. It is also intended to provide the wider public clarity in terms of the Council's role in this regard. In certain circumstances, there are other means of securing planning benefits such as through the imposition of conditions. However, this document is concerned mitigation secured through a s.106 legal agreement or unilateral undertaking.

3. Appendices

- 3.1 Appendix 1: Draft Planning in Gravesham – The Gravesham Borough Council Planning Service Strategy 2023-2028

4. Background Documents

- 4.1 There are no background documents.

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Secondary Implications	
Risk Assessment	No implications.
Data Protection Impact Assessment	<p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data? A definition of each type of data can be found on the Information Commissioner's Office website via the above links. No</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? Click here to start typing</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk. Click here to start typing</p>
Equality Impact Assessment	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer.</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>
Crime and Disorder	No direct implications.
Digital and website implications	This document will be published on the Council's website upon adoption.
Safeguarding children and vulnerable adults	No direct implications.