

MEDWAY GUIDE TO DEVELOPER CONTRIBUTIONS AND OBLIGATIONS



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Introduction

- 1.1 The development of new housing increases the number of people living in an area, and with that the demand on local services, such as schools, health services, parks, and transport. The Planning system recognises the need to address the impacts arising from development, and can use legal obligations, agreements and unilateral undertakings to secure acceptable development. Developer contributions are an important component of this process. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms.
- 1.2 The purpose of this guide is to set out Medway Council's policy relating to developer contributions. It is to assist developers, the Council's own staff and all stakeholders to:
 - Ensure the impacts of developments are properly mitigated
 - Ensure that there is clear information on the Council's policy for developer contributions
 - Ensure consistency, transparency and accountability
 - Provide a streamlined, efficient service
 - Achieve greater speed in determining planning applications
- 1.3 The Council introduced its first Medway Guide to Developer Contributions in 2008. This document is the third review. This Guide has been adopted by Medway Council in May 2018 as a supplementary planning document, following consideration of comments received during consultation. This means that the guidance is a material consideration in making decisions on planning applications. The Council has not progressed a Community Infrastructure Levy, due to ongoing work on preparing a new Local Plan for Medway and the associated evidence base. This will be further considered in light of anticipated updated government policy and guidance. Further work on identifying infrastructure capacity and needs is being carried out to support the new Local Plan. This updated evidence base will inform a further policy document setting out the process and requirements relating to developer contributions, and will be published alongside the new Local Plan. This will include viability testing of the cumulative requirements of the Local Plan policies.
- 1.4 This guide provides comprehensive advice on how to determine contributions and includes technical details for services for which contributions may be sought. The guide also includes a checklist at Appendix 1, to be followed in order to enable faster decisions to be made.
- 1.5 Every effort has been made to make this guide as comprehensive as possible but it is not possible to anticipate the needs generated by all types of development. It is the responsibility of those submitting planning applications to contact planning staff at as early a stage as possible to determine whether the potential impacts of a proposed development go beyond the advice given here.

- 1.6 Developers are expected to take account of, and meet, the requirements of this document, before submitting planning applications to the council.**

Legal and Policy Context

- 2.1 The planning process can support the delivery of development to meet the area's needs for homes, jobs, services and infrastructure. Many aspects of the area's infrastructure are under pressure in meeting the needs of the growing population. The delivery of timely and appropriate investments in infrastructure improvements to support housing growth is a major issue. It was the key concern raised by residents in consultation on the emerging Local Plan, and a common issue for comments on planning applications.
- 2.2 The council wants to ensure that the process of securing the delivery of upgraded infrastructure and services to meet the increased demands arising from new development works effectively. This guide has been adopted as a supplementary planning document, and is a material consideration in determining planning applications.
- 2.3 This guide has been prepared in accordance with planning legislation and policy overseeing the processes of securing appropriate contributions and obligations from developments. Planning obligations or agreements and Unilateral Undertakings are normally entered into in accordance with Section 106 of the Town & Country Planning Act 1990 (as amended). These tend to be referred to on a day-to-day basis as 'Section 106 (S106) agreements' and this term is used throughout this guide.
- 2.4 Section 106 of the 1990 Act 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. 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.
- 2.5 Obligations run with the land and, providing all parties with an interest in the land enter into the agreement, affect everyone with an interest in it, including successors in title. They are registered as Local Land Charges.
- 2.6 The main principles governing the use of obligations are that:
- They should only be used when planning conditions are not appropriate
 - They are intended to make development acceptable which would otherwise be unacceptable in planning terms
 - They can be used to prescribe the nature of the development (e.g. a proportion of the housing must be affordable), to compensate for loss or damage caused by the development (e.g. loss of open space) or mitigate a development's impact (e.g. increase public transport provision).

2.7 All S106 agreements should satisfy the following tests:

- it must be necessary to make the proposed development acceptable in planning terms,
- it is directly related to the proposed development,
- it is fairly and reasonably related in scale and kind to the proposed development.

2.8 Agreements must be governed by the fundamental principle that planning permissions may not be bought or sold, and they cannot be used to secure a share in the profit from development.

2.9 Contributions may be either in kind or in the form of a financial contribution. Payments can be made in the form of a lump sum, an endowment, or as phased payments related to dates, events or triggers.

2.10 Local planning authorities should set out their policy on local standards, including infrastructure contributions and requirements for affordable housing in the Local Plan. The plan is subject to testing the cumulative impact of policies and requirements on viability, so that the Local Plan can be delivered. As the Local Plan process is ongoing, the council has updated its current guidance so that prospective developers are aware in advance of what contributions might be sought from any particular development. This is the prime function of this guide. The council will take account of further guidance and policy on developer contributions anticipated to follow consultation carried out in Spring 2018.

2.11 Medway Council supports the delivery of quality development which delivers its ambitions for the area's successful growth. The council has led in the production of a Planning Protocol for Delivering Growth in Kent and Medway. This aims to provide increased efficiency and certainty in the planning process for communities and developers. The protocol sets out the council's commitment to effective communication and working to increase certainty and consistency in the development planning process. The preparation and review of this Guide to Developer Contributions and Obligations specifically addresses the standards and commitments set out in the Planning Protocol.

2.12 This Guide provides clarity to developers and wider stakeholders on the requirements for infrastructure arising from consented developments, and associated obligations to ensure that the impacts of new developments are appropriately considered and mitigated.

2.13 The Council's current policy in respect of developer contributions is set out in "saved" Policy S.6 of the Medway Local Plan 2003. This states that:

"The Council will set conditions on planning permissions or seek to enter into a legal agreement with developers to provide for new physical infrastructure, social, recreational and community facilities (including education facilities) and environmental mitigation or compensation measures where mitigation is impossible or inadequate on its own, where the need for these arises directly from the development concerned. Provision will be sought in proportion to the

size and nature of the individual development, and will take into account the existing pattern of provision and capacity in the locality.

Provision will be made on the site where this can be reasonably achieved. When this is not the case, contributions will be sought for the provision of facilities and ecological features elsewhere, provided their location can adequately serve the development site or are appropriately related to it.”

- 2.14 This policy is the basis for the detailed requirements set out later in this guide. It will be replaced in due course by policies in the new Local Plan.

Procedural and Administrative Considerations

- 3.1 Medway Council has put in place systems and arrangements to assist developers, speed the decision making process and ensure consistency, transparency and accountability. These procedures cover pre-application advice, submission of planning application(s) and post decision issues. Further information is set out at Appendix 1 of this document: Summary Chart and Checklist for Applicants.
- 3.2 Developers should contact the Section 106 (S106) Officer regarding payment of contributions after the agreement is completed.
- 3.3 *Standard Templates and Clauses*
To ensure effective use of staff resources in drafting legal agreements, the Council has developed standard templates, based on many years experience and established legal practice. For unilateral undertakings, proof of ownership of the land affected by the agreement must be shown. Templates are available on the website <http://www.medway.gov.uk>
Please search for 'developer contributions' for developments of 10 dwellings or more, and 'bird disturbance in North Kent' for developments of 1 – 9 dwellings'.
- 3.4 *Contacting and Negotiating with the Council*
Co-ordination and openness are critical to the successful negotiation and completion of agreements. Developers and their agents should:
- Conduct all negotiations through the development management case officer. In pre-application discussions the Council will make every effort to identify a case officer, to ensure continuity and consistency. A pre-application charge will be levied by the council. Please visit the website for details <http://www.medway.gov.uk>. One to one negotiations with a particular service should only take place with the prior agreement of the case officer. The case officer will usually attend all such meetings. Contact with the Legal Section by the applicant should not be necessary in straight forward cases other than for checking title information, technical legal queries or to arrange the engrossing of an agreement. The case officer is responsible for involving the Legal Section, if necessary, in all other cases. However in his/her capacity as monitoring officer, the Assistant Director Corporate Services can always require legal involvement where necessary to protect the position of the council.
 - Traditionally the negotiation and drafting of agreements has started very late in the determination of a planning application. This imposes great pressure to agree heads of terms before Planning Committee meetings and can delay planning permissions not being granted for weeks or months after a positive resolution. With this in mind Medway Council will enter into 'without prejudice' negotiations and drafting at as early a stage as possible. These negotiations will consider S106 related matters without prejudice to the consideration of the associated planning application. In this way negotiations can commence at the pre-application

stage and the shared aim should be to have a completed agreement ready by the time an application is determined.

3.5 Planning Performance Agreements

The Council promotes the use of Planning Performance Agreements (PPAs) to achieve a more efficient and effective application process. The consideration and resolution of the S106 agreement forms part of the timetabled and resourced actions throughout the key stages from pre-application discussions, processing of the application and issue of decision and clearance of conditions.

3.6 Basis of Guide

The Council's initial negotiations will generally be based on this guide. Only where there are good and valid reasons for departing from the guide will alternatives be considered.

- 3.7 An example might be where the 'normal' level of contribution is genuinely unaffordable in which case the developer should inform the Council as quickly as possible and provide detailed financial evidence to substantiate the claim. Only where comprehensive evidence is provided will it be possible for the Council to consider such departures and in these cases an 'open book' approach will be required.
- 3.8 Each new dwelling within a defined 6km buffer of the Thames, Medway and Swale Special Protection Areas and Ramsar sites (please see Appendix 2 for map showing buffers) will incur a bird disturbance mitigation contribution of £250.39 per dwelling for a Strategic Access Management and Monitoring Scheme. Contributions for services to mitigate the impact of the development will be sought on developments of 10 dwellings or more.
- 3.9 All S106 contributions will be index linked annually on 1 April (using the all items retail prices index – rpi), and will be calculated at 2.43 persons per dwelling. Therefore it should be understood that the sums set out in this document are subject to annual review in line with the RPI as set out above.

3.10 Resolving Disputes

Complaints relating to procedural and administrative matters will be dealt with in accordance with the Council's normal complaints procedure as set out on our website. Any concerns over negotiations should be made initially to the case officer, and if this does not resolve the problem, to the Head of Planning. If necessary the matter will then be referred to the Assistant Director, Physical and Cultural Regeneration, and if necessary to the Director, Regeneration, Culture, Environment and Transformation.

3.11 Administrative and Associated Costs

The Council is committed to providing sufficient resources to achieve a high level of service and has set administrative costs, to be paid on completion of the agreement, on all agreements as follows:

- £450 per trigger event as set out in the S106 agreement
- £300 for SPA bird mitigation only Unilateral Undertakings
- The Council's reasonable legal costs, at a minimum of £500 per agreement
- In some cases the cost of the case officer's time negotiating the S106 matters.

3.12 Thresholds

Land Use	Threshold
Housing	10 units or more or combined GIA of 1000 sq.m
Office	100 sq.m or more
Industrial	250 sq.m or more
Warehouse	500 sq.m or more
Retail	100 sq.m or more
Educational	25 students or more
Hotel	25 rooms or more
Other	50 users or more

The requirements relating to the provision for Affordable Housing vary, and developers should refer to the details set out in the Affordable Housing section of this guide.

The tariff relating to Strategic Access Management and Monitoring scheme to address the risk of bird disturbance in the designated estuarine habitats applies to all dwellings within a 6km buffer of the designated areas.

For developers promoting schemes involving self-build housing developments, designated starter home exception sites, or the redevelopment of a vacant building, there are additional considerations. In such cases, prospective developers should contact the Planning Service for further details of the contributions and obligations required.

Planning Practice Guidance provides more detail on these considerations:

<https://www.gov.uk/guidance/planning-obligations>

3.13 Reporting on contributions and obligations

The Council is committed to providing clear information on developer contributions and obligations. S106 agreements are published with the planning application on the council's website through Public Access. The Planning

Service reports quarterly to Planning Committee on developer contributions. These reports list information on S106 contributions received, and obligations included in all S106 agreements completed in that quarter. The Council also reports on developer contributions in its annual Authority Monitoring Report, which is published each December for the preceding financial year.

Level of contributions per dwelling

Please note that developer contributions will be required for developments of 10 dwellings or more.

A bird disturbance mitigation contribution of £245.56 per dwelling will be sought for each new dwelling within the SPA and RAMSAR 6 km buffers (please see plan on the last page of this document – Appendix 2).

If required, contributions for transport/travel will be site specific.

Contribution for	Amount per dwelling based on average 2.43 persons per dwelling
Bird disturbance mitigation (SAMMS)	£250.39
<u>Cultural services :</u>	
- Community services	£186.84
- Heritage and museums	£290.28
- Libraries *	£168.40
<u>Education** :</u>	
- Nursery	£1,406.08
- Primary	£3,451.27
- Secondary	£2,734.56
- Sixth form	£719.83
Health	644.79
Open/play space, outdoor formal sport	£2,601.63
Sports facilities	£248.25
Waste and recycling	£176.45
Youth provision	£79.86
TOTAL	£12,958.63

* contribution for existing library provision

** contribution for extension of existing schools, not for provision of new school.

Figures to be indexed to retail price index on 1 April annually

Affordable Housing

1. Background

- 1.1 *Medway Local Plan 2003 Policy H3: Affordable Housing* states that where a need has been identified, affordable housing will be sought as a proportion of residential developments of a substantial scale.
- 1.2 The 2015 *North Kent Strategic Housing Assessment (SHMA)* clearly identifies a need for additional affordable housing in Medway and the Council is committed to meeting this.
- 1.3 The aim of the Council's Affordable Housing Planning Policies and this guidance is to ensure the development of balanced and integrated communities and to deliver good quality affordable housing for local people in housing need for both present and future generations.

2. Definition of Affordable Housing

- 2.1 The primary definition that is used to assess need, suitability, and to inform the development of requirements for affordable housing is provided within National Planning Policy Framework Annex 2: Glossary, which defines affordable housing as:

Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with Homes England.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

Homes that do not meet this definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes.

3. When Affordable Housing Will Be Sought

3.1 As set out in *Policy H3* of the *Medway Local Plan (2003)*, affordable housing will be required on residential developments of a substantial scale i.e.

- developments of 15 or more dwellings or developments with a gross site area of 0.5 hectare or more in rural settlements with a population of 3,000 or less; or
- developments of 25 or more dwellings or developments with a gross site area of 1 hectare or more in urban areas.

3.2 The application of the policy is Medway-wide and reflects the need for affordable housing throughout the area as identified in the *North Kent Strategic Market Housing Assessment (2015)* and subsequent detailed analysis of both the council’s housing register and demand data held by the Help to Buy agency.

3.3 S106 Agreements will require the affordable housing to be retained in perpetuity. Matters to be taken into account when affordable housing is negotiated will be:

- a) the suitability of the site for affordable housing development;
- b) the economics of provision;
- c) the proximity of local services and facilities and access to public transport;
- d) the realisation of other planning objectives;
- e) the need to support Medway’s regeneration agenda and to achieve a successful housing development, taking into account the appropriate mix of affordable housing types and the proportion of affordable housing and its subsequent management.

4. How Much Affordable Housing Will Be Sought

4.1 The Council’s target is to seek at least 25% of homes to be affordable homes on any site meeting the Council’s size thresholds.

4.2 The size thresholds and the percentage of affordable housing are supported by the 2015 *North Kent Strategic Housing Market Assessment*. Where the Council considers that intermediate tenures are appropriate on a site they will be included within the overall percentage of affordable housing.

4.3 The target will be the baseline for negotiations for affordable housing on suitable housing sites. Where a developer considers that this requirement significantly affects the viability of a scheme an “open book” approach based on

the residual valuation methodology will be taken to establish the extent of this case.

- 4.4 In many cases, when calculating how many dwellings the percentage target represents on a site, the outcome will not be a whole number. Where the calculation results is a residual of 0.5 or more of a dwelling, the number of dwellings should be rounded up to the nearest whole dwelling and where it results in a residual of less than 0.5 of a dwelling it should be rounded down to the nearest whole dwelling.

5. Who Can Deliver Affordable Housing?

5.1 Affordable Housing Providers

Medway Council does not want to adopt restrictive practices, which could preclude innovation and competition between potential providers of affordable housing. The most effective way of delivering the requirement however, is widely considered to be by engaging a Registered Provider of social housing or be an Homes England Investment Partner.

- 5.2 It is recommended that the skills and experiences of Registered Providers be used at an early stage of the design process. Design and management issues in relation to affordable housing are far better resolved at this stage. Registered Providers will also be able to advise on the financial implications of the affordable housing requirement.

- 5.3 Contact details for those Registered Provider partners that have a demonstrable track record of delivery and management within Medway can be provided on request. The Council retains its right not to support the disposal of affordable units to RPs that do not have the management abilities and local knowledge to effectively manage new affordable housing in Medway.

6. Registered Providers & Investment Partners

- 6.1 The Council does not prescribe the affordable housing providers that developers use to deliver affordable housing nor does it have a restrictive list of partner affordable housing providers eligible to operate in the area. To ensure prospective partners are competent and committed to affordable housing delivery and management in Medway they are required to either be a Registered Provider or have Homes England Investment Partner status. In addition the organisation must be able to demonstrate that they can meet the eligibility criteria set out by the North Kent Housing Partnership.

- 6.2 Registered Providers are bodies registered with Homes England as a social landlord pursuant to the provisions of the Housing and Regeneration Act 2008.

- 6.3 Investment partners are those organisations that have successfully qualified for investment partner status by completing Homes England's qualification questionnaire and having been selected; this selection having taken into account the applicants technical ability (based on the technical standards

described in the former Housing Corporation's Design and Quality Strategy and Design and Quality Standards), financial capacity and good standing.

- 6.4 This will enable the Council to make an informed decision on the ability of the organisation to deliver and manage affordable housing whilst ensuring all interested organisations have a fair and equal opportunity to demonstrate how they will operate.
- 6.5 Specialist housing providers who are unable to fulfil all the criteria may still be considered but the Council reserves the right to demand additional information.

7. North Kent Housing Partnership Eligibility Criteria

- 7.1 All affordable housing providers wishing to operate in Medway will be expected to be able to fulfil all of the following criteria. They must:

- 1. Be a body registered with Homes England (HE) as a social landlord pursuant to the provisions of the Housing and Regeneration Act 2008 or any other body or company approved by Homes England for receipt of social housing grant or other financial support and approved by the Council.
- 2. Enter into a nominations agreement with the Council for the units to be delivered.
- 3. Be a member of Kent HomeChoice and agree that all lettings will go through the Kent choice-based lettings system.
- 4. Have due regard to the Tenancy Strategy of the council when formulating policies relating to :
 - a. the kinds of tenancies they grant
 - b. the circumstances in which they will grant a tenancy of a particular kind
 - c. where they grant tenancies for a term, the length of the term and
 - d. the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.
- 5. Have an office within Medway or be able to demonstrate that adequate management arrangements have been put in place for the management of the stock in the area.
- 6. Be willing to actively engage as a key stakeholder in the development of policies and strategies developed by the council where invited to do so.
- 7. Consider the use of Modern Methods of Construction (MMC) for all new developments (where practicably possible).
- 8. Use all reasonable endeavours to make developments meet the current Secure by Design standard, and where suitable the additional provisions

for specialist provision (unless otherwise agreed by Homes England and the Council).

9. Comply with the standards set out in Fact Sheet No. 6 – Design Principles for Extra Care (CSIP, 2008) or any subsequent design standards that may be adopted by the Council where extra care units are to be delivered.
10. Deliver a range of unit types, tenures and sizes as identified by local need and suitable to the location.
11. Work with the council's occupational therapists (OTs) from the initial unit design stage through to the occupation of units. This will better enable units that can be designed for clients with specialist needs to be accommodated and delivered at minimal cost to all parties. OTs can also assist with the identification of clients with specialist accommodation needs ensuring such units are ready for occupation on completion or relets thus minimising void times.
12. Deliver a minimum 5% of all new affordable dwellings as wheelchair-user housing as set out within the Housing Corporations Design and Quality Standards (April 2007). Where it can be demonstrated to the council's satisfaction that a site cannot deliver wheelchair-user dwellings an exemption will need to be sought.
13. Ensure that their practices are compliant with the council's duties towards equalities. As public bodies, local authorities are required to meet Public Sector Equality Duties (PSEDs), which are set out under Section 149 of the Equality Act 2010. Further information on PSED can be found at <http://www.equalityhumanrights.com/advice-and-guidance/public-sectorequality-duty>

These duties include the need to consider how we:
 - eliminate unlawful discrimination, harassment and victimisation;
 - advance equality of opportunities; and
 - foster good relations
14. Respond in a timely manner to requests by the Council for qualitative and quantitative information – including quarterly information on voids, re-lets, tenure conversions, decent homes standards and rent levels.
15. Be willing to meet quarterly with officers of the Housing Strategy & Partnership Team to discuss the organisation's development plan.
16. Agree to provide training to Council staff on relevant affordable housing standards and issues, which are of clear benefit to the enabling function of the Council and affordable housing providers.
17. Provide information on customer satisfaction levels to the Council on a scheme-by-scheme basis.

18. Be willing to arrange site visits for the Council's staff both prior to and on completion of schemes. The aim of this is to assist with developing local lettings plans and to better ensure the properties are correctly advertised on the Kent HomeChoice system.

8. Affordable Housing Tenure Mix

- 8.1 The social rented stock in Medway at 14.8% (17,047) is low relative to the national average of 19.3% and does not provide adequate turnover to meet the scale of need identified. The scale of need could justify the whole allocation for affordable housing being used as social or affordable rented units but a balanced approach is now the core of the strategy in Medway and this approach will be pursued.
- 8.2 The Council's preferred options are for mixed tenure schemes of social or affordable rented and intermediate tenures (usually shared ownership). It is accepted that for smaller sites there may be reasons for not mixing tenures. Therefore, where there are to be 10 or less affordable housing units provided in a scheme the Council may accept that the units can be of a single tenure. This will be determined by the Housing Strategy & Partnership Team on a site-by-site basis based on local needs.
- 8.3 Where the number of affordable units to be provided is greater than 10, a tenure mix of 60% affordable rent and 40% intermediate affordable housing (of which shared ownership is the preferred option) will be sought.
- 8.4 The Council maps the location of affordable housing by tenure and size of units, and in the interests of creating sustainable communities reserves the right to seek different tenure mixes where this improves the mix of tenures locally.

9. Affordable Housing Size Mix

- 9.1 In terms of the size mix of affordable unit on a site, the Council will generally seek to achieve the approximate following mix, where practically feasible :
 - 30% 1-bedroom properties
 - 30% 2-bedroom properties
 - 30% 3-bedroom properties
 - 5% 4-bedroom properties
 - 5% 5-bedroom properties

The Housing Strategy & Partnership Team recognises that Medway contains a wide range of development sites and not all sites will be capable of delivering the full range of unit sizes. Some sites may be unsuitable for houses and others unsuitable for apartments or bungalows. Where this is the case the Housing Development and Investment Team will expect the affordable element to be representative of the total size mix to be delivered on any given scheme.

- 9.2 The above breakdown of both housing tenure and size is to be regarded only as a guide. The exact percentages for each site will be determined following discussions between the Housing Strategy & Partnership Team, Development Management and the developer prior to the drafting of a S106 Agreement.

10. Design and Layout of Affordable Housing on s106 Sites

- 10.1 In accordance with government guidelines on sustainability, the Council favours a mix of housing types and tenures on developments. The Council expects affordable housing to be so designed that it cannot be easily distinguished from market housing however in some circumstances some differences may be accepted. The developer and affordable housing provider are advised to work together to ensure that the affordable housing forms an integral part of the overall development.

- 10.2 Developers will need to satisfy the Council that the mix of unit types will address the housing need that has been identified in the area and that the standard of construction is suitable.

- 10.3 Internal space standards should, as a minimum, comply with any current council or Homes England guidance (whichever is larger). The following table gives indicative space standards for selected dwelling types based on the current nationally described space standard

Number Of Bedrooms	Number of Bed spaces	1 storey Dwelling	2 Storey dwellings	3 Storey Dwellings
1b	1p	39		
	2p	50	58	
2b	3p	61	70	
	4p	70	79	
3b	4p	74	84	90
	5p	86	96	99
	6p	95	102	108
4b	5p	90	97	103
	6p	99	106	112
	7p	108	115	121
	8p	117	124	130
5b	6p	103	110	116
	7p	112	119	125
	8p	121	128	134
6b	7p	116	123	129
	8p	125	132	138

- 10.4 The Council requires developers as a minimum to adhere to the provisions of the technical housing standards as set out in Nationally Described Space

Standards¹, published by DCLG in 2015. As such compliance will be a consideration in the grant of planning permission and will apply to all proposals involving new units of accommodation, including affordable units.

- 10.5 Specific advice on individual sites should be sought at an early stage from the Housing Strategy & Partnership Team.
- 10.6 On sites that are large enough for there to be a choice of location for the affordable housing, the opportunity should be taken to locate it near bus routes and local facilities if these are available.
- 10.7 It is expected that developers will take part in a Considerate Contractor scheme, and where possible seek to use local contractors and suppliers whilst promoting training and career advancement opportunities

11. Affordable Housing Plan for S106 Sites

11.1 As part of s106 obligations developers will be required to provide an Affordable Housing Plan (AHP). See below for items that should be incorporated within the AHP. The AHP will need to be approved in writing by the Housing Strategy & Partnerships Team prior to the commencement of any development. For larger sites broken down by phases the AHP will need to be agreed for each phase before development can commence.

11.2 The AHP should illustrate/include the following

- Meet the minimum target for affordable housing, provided across the entire site including gardens and any associated buildings such as garages.
- The size (sq_m), number of bedrooms and housing type of each affordable property.
- Clearly labelled associated parking for the affordable units.
- Tenure of the affordable housing - normally 60% affordable rented and 40% intermediate - to be shown in different colours on a layout plan (or floor plans in the case of flats).
- Where more than one type of intermediate product is being delivered these will need to be distinguishable via the use of different colours.
- Which of the affordable homes are being delivered to the Lifetime Homes standard or as wheelchair-user units.
- Which of the affordable homes are specialist units (extra care, sheltered, learning disability etc) where applicable.
- Written evidence that the scheme has been assessed and meets the required design and quality standards.

¹ Department for Communities and Local Government, 'Technical housing standards-nationally described space standard', March 2015, Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/524531/160519_Nationally_Described_Space_Standard_Final_Web_version.pdf

12. Phasing

- 12.1 The affordable housing provision to be made on a site should be an integral part of the development. Where a development is to be provided in phases, it may also be appropriate for the affordable housing element to be phased.

13. Sustainable Integrated Communities

- 13.1 On sites where an element of affordable housing is required, it should be provided on the site. This supports the creation of balanced sustainable communities. Normally the affordable housing element of a site should be of a similar size and character to the market housing on the site unless this does not reflect the local need.
- 13.2 The Council believes that to create integrated communities the affordable homes should be indistinguishable from the market housing and distributed throughout the development. However, the Council considers clusters of affordable housing to be more practical than excessive 'pepper-potting' and where it is demonstrated to be essential to ensure high standards of estate management and maintenance, larger clusters of affordable housing will be permitted.
- 13.3 On larger sites, the Council will negotiate a phased release of affordable housing to ensure a better distribution of tenure mix. This will be secured by way of the s106 Agreement that will include appropriate triggers to link the occupation of open market units to the delivery of the affordable housing

14. Building to Meet Housing Need

- 14.1 New schemes must meet the proven housing needs in Medway. The Council undertakes regular needs analysis based on its housing register, housing needs surveys and/or strategic housing market assessments to establish the housing needs of Medway.
- 14.2 The most recent strategic housing market assessment was undertaken in 2015 in line with *Practice Guidance (2007)* published by Department of Communities and Local Government.
- 14.3 The *Strategic Housing Market Assessment (2015)* identified exceptional local constraints, which a significant number of local residents face. It compared local house prices and the incomes of those seeking new accommodation.
- 14.4 This showed that average house prices had increased rapidly since 2009 and outstripped the average local households income
- 14.5 It is recognised that several housing sub-markets operate within Medway and the tenure mix sought may vary to reflect local need and existing supply within any given locality.

- 14.6 The Medway housing register indicates a significant requirement for properties that are fully wheelchair-adapted or suitable for clients with mobility problems. All suitable affordable housing schemes are to include a minimum 5% of homes that are fully adapted to wheelchair standards.
- 14.7 Further information on housing requirement can be found in the *North Kent Strategic Housing Market Assessment* which is available for download from the Council's website at:

https://www.medway.gov.uk/downloads/file/629/north_kent_shena_with_gravesham_final_report_-_2016

15. Affordability

- 15.1 The Council will insist that intermediate housing products are affordable to local people in housing need before agreeing to their inclusion within an affordable housing scheme. The Council collects data on local incomes and house prices/market rents to establish the income levels required to access the local housing market. This will be used to assess the affordability of intermediate products based on mortgage and rental costs equating to no more than 30% of the average gross income of households unable to access the open market.
- 15.2 Where service charges are to be charged, they should be reasonable so as not to render the units unaffordable once added to the rents.

16. Funding for affordable housing

- 16.1 The cost of providing affordable housing should be accounted for in the land purchase price. The Council does not accept situations where developers purchase land with the assumption that the requirements for affordable housing will be reduced in order to ensure financial viability.

17. Site Viability and Abnormal Development Costs

- 17.1 The Council recognises that requiring developers to allow part of their site to be used for non-market housing will result in a cost. In order to offset these costs, developers will be expected to take the requirement into account in negotiating realistic land values with site owners.
- 17.2 Other planning related requirements such as education, community facilities, children's play areas etc. will likewise be treated as known costs.

18. The 'Planning Gain' Requirement

- 18.1 When negotiating on sites with a requirement for affordable housing, the contribution that the Council will seek from the developer is the provision of the affordable housing land fully serviced to the site boundary for free.

- 18.2 Serviced land covers provision to the site boundary of all services (electricity, gas, water, sewerage, telephone, lighting etc) necessary for development. It also covers connection costs, demolition costs, infrastructure (roads, footpaths, boundary walls etc), decontamination, archaeological costs and site clearance where applicable. Services must be provided to the edge of the land and there must be no legal, physical or financial barrier (i.e. unencumbered access) to the serviced the land for the builder constructing the affordable housing.
- 18.3 In cases where the developer is to build the affordable homes rather than just transfer the land for free, the Council will expect the planning gain to be demonstrated by the cost that the developer charges the affordable housing provider for the built units. The price should reflect build costs (rather than the value of the dwellings) and exclude the value of the clean serviced land.
- 18.4 The Council follows an “open book” approach to valuations and development economics on affordable housing schemes where developers present schemes that do not meet the requirements of the affordable housing policy. In these cases the applicants should be prepared to discuss the various cost components of their schemes with the Council, and will be required to meet the costs of an independent assessment of these costs commissioned by the Council.

19. Off-Site Provision

- 19.1 The Council will generally expect affordable housing to be provided on the development site in order to create balanced communities. The Council will, in exceptional cases, take into account the size of the site and the type of development proposed and consider provision on an alternative site within Medway or a financial contribution towards such provision in lieu of on-site provision.
- 19.2 In the exceptional cases where off-site provision is acceptable, a developer will be expected to make the equivalent contribution of an agreed number, size and type of affordable dwellings on a different site (or sites) elsewhere in the area as agreed as part of the Planning Application.
- 19.3 Where it is agreed that it is not possible to provide an alternative site or buildings, the Council will seek a level of financial contribution that will actually result in the provision of affordable housing elsewhere in the relevant area. The sum involved must be adequate to ensure that affordable housing can be provided in that location within an agreed timescale.

20. Supported Housing

- 20.1 The Council regularly undertakes detailed needs analysis on the housing requirement of older and vulnerable client groups. The council will on occasions seek to negotiate an element of supported housing as part of the affordable requirements.

- 20.2 This reflects the government's objectives to provide high quality, value for money housing and support services to vulnerable people. Details on the identified requirement for affordable supported housing can be obtained by contacting the Housing Strategy and Partnership Team.

21. Equality Guidance

- 21.1 Medway Council recommends that all affordable housing providers wishing to operate in Medway ensure that their practices are compliant with the [Housing Corporation Good Practice Note 8: Equality and Diversity \(November 2007\)](#). It is aimed at eliminating discrimination and promoting equality through the people affordable housing providers employ in the delivery of services to the community.
- 21.2 Affordable housing providers should observe and act upon the Equality for Human Rights Commission's code on housing and associated guidance.
- 21.3 The Council also encourages affordable housing providers to give due regard to guidance produced by Habinteg Equality Centre (2007), "*Housing Association Guide to Disability Equality Schemes and Action Plans*" in the delivery of their schemes.

22. Mortgagee-in-possession clauses

- 22.1 The Council will make provision in s106 Agreements for mortgagees in possession to be exempted from covenants to use land only for affordable housing and from occupancy restrictions linked to the development of the affordable homes.

23. Pre-application Discussions

- 23.1 Negotiations where affordable housing is involved often require considerable input. Contact should be made with the Council at the earliest opportunity and well in advance of any planning application being submitted. Negotiation must be concluded before the Council decides on the planning applications or schemes will be recommended for refusal.

24. Registered Providers already operating In Medway

- 24.1 Medway Council operates a flexible approach to partnership working and does not maintain a list of preferred Registered Providers. However, a number of Registered Providers have been developing and managing affordable stock in Medway for a long period of time which has enabled them to develop a better understanding of need and operating procedures in Medway.
- 24.2 Where a developer is seeking to deliver affordable units or deliver the units in partnership with a Registered Provider not currently operating in Medway it is advised that the Housing Development & Investment Team be contacted at the earliest opportunity.

- 24.3 This is advised to ensure the organisation delivering the affordable units is fully aware of the housing need requirements of Medway and the necessary standards are achieved in terms of both build and management. Medway Council will only seek to work with organisations that can demonstrate a long-term commitment to affordable housing delivery and management in line with the Council's strategies and objectives.
- 24.4 A list of Registered Providers currently operating in Medway can be obtained from the Housing Development and Investment Team.

25. Policy/evidence base

[National Planning Policy Framework : annex 2](#)

North Kent Strategic Housing Market Assessment (2015)

https://www.medway.gov.uk/info/200149/planning_policy/519/future_medway_local_plan/2

Housing Association Guide to Disability Equality Schemes and Action Plans

<https://www.habinteg.org.uk/housing-association-guide-to-des>

Air quality

- 1.1 Poor air quality affects human health and the environment. Developments have the potential to affect local air quality significantly, through the location and design of receptor locations and through an associated increase in emissions.
- 1.2 All new developments shall have due regard to the Medway Air Quality Planning Guidance. This guidance applies to all new full or outline planning applications submitted after April 2016 and not to reserved matters applications where outline approval was consented before the adoption of the Air Quality Planning Guidance. The guidance has been developed in conjunction with the other Kent local authorities to improve air quality across the region and encourage emissions reductions to improve the environment and health of the population. The document aims to provide developers with clear information as to what the council requires and provide consistency in how the council will approach planning applications in terms of air quality. The damage costs approach set out in the document seeks to minimise the emissions impact of developments wherever practicable to sustainable levels, by securing reasonable emission mitigation while also seeking to counter the cumulative impacts arising from all developments.

2. Policy / evidence base

Air Quality Planning Guidance April 2016 (Medway Council)

https://www.medway.gov.uk/info/200140/environment/416/air_quality/2

Medway Local Plan 2003 (Medway Council) –

https://www.medway.gov.uk/downloads/file/2400/medway_local_plan_2003

National Planning Policy Framework (NPPF) March 2012 -

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Medway Air Quality Action Plan December 2016 –

http://www.kentair.org.uk/Pagesfiles/Final_Approved_Medway_AQAP_December_2015.pdf

Bird disturbance mitigation

Strategic Access Management and Monitoring Scheme (SAMMS)

- 1.1 Much of the estuary and marshes along the north Kent coast on the Thames, Medway and Swale are designated Special Protection Areas (SPA), or Ramsar sites. This is in recognition of their international significance for wintering birds, in particular waders and waterfowl.
- 1.2 Research commissioned by the North Kent Environmental Planning Group found that there have been marked declines in the numbers of birds using the SPAs, and this can be directly linked to those locations with high levels of public access. 75% of visitors to the coast have travelled from within 6km. A series of strategic mitigation measures to reduce bird disturbance caused by recreational visitors to the SPAs and Ramsar sites has been proposed. A Strategic scheme is supported by the north Kent planning authorities, and is endorsed by Natural England in addressing this aspect of potential impact to the Special Protection Areas.
- 1.4 A SAMMS contribution of £250.39 will apply to any new dwelling created within the 6km zone of influence of the protected sites. In some circumstances, the tariff will apply up to 10km. The council applies the tariff to all new residential developments within the defined zone and criteria of the strategic scheme, including those under 10 dwellings. This sum is index linked and subject to annual review. SAMMS was introduced in the autumn of 2015, and will not apply to reserved matters applications where the outline was approved prior to Autumn 2015.

2. Policy / evidence base

Footprint Ecology, 'Bird Disturbance Study North Kent 2010/2011, Available at: <http://www.footprint-ecology.co.uk/reports/Liley%20and%20Fearnley%20-%202011%20-%20Bird%20Disturbance%20Study,%20North%20Kent%202010-2011..pdf>

Footprint Ecology, 'North Kent Visitor Survey Results', Available at: <http://www.footprint-ecology.co.uk/reports/Fearnley%20and%20Liley%20-%202011%20-%20North%20Kent%20visitor%20survey%20results.pdf>

Footprint Ecology, 'Thames Medway Swale Strategic Access Management and Monitoring Scheme', Available at: <https://www.medway.gov.uk/downloads/file/1834/strategic-access-and-recreationmanagementplan>

Medway Council Interim Policy Statement – Strategic Access Management and Mitigation, 2015:

https://www.medway.gov.uk/downloads/file/622/strategic_access_management_and_mitigation

Further information on Bird Disturbance in north Kent:

<https://www.medway.gov.uk/downloads/file/1835/north-kent-bird-disturbance-report-2012>

Cultural services

Cultural services cover the following : community facilities, heritage and museums and libraries.

1. Community facilities

- 1.1 Community facilities such as community centres, village halls and meeting rooms are an essential part of a sustainable living environment promoting general well-being amongst members of the local community and facilitating community cohesion.
- 1.2 This element of social infrastructure is wide reaching in terms of its benefits, providing for the health, welfare social, educational, spiritual, leisure and recreational needs of the community. They enable residents to participate in community life and enable people to connect with others in their local area.
- 1.3 It is important that:
 - Community facilities are well connected to other community facilities, public transport services, open space, recreation facilities, and employment and education opportunities.
 - Corresponding services are relevant to local people and can be flexible enough to respond to changing needs.
 - Community services infrastructure should be equitably distributed so that all groups in the community are able to benefit
 - Community infrastructure is integrated well into its surroundings and the landscape and natural attributes of sites and settings.
- 1.4 Contributions will be sought for a variety of community facilities. Community facilities can be provided by many different types of community groups, community centres, village halls, churches and other places of worship, local associations etc. When major planning applications are received, community facilities of all types in that particular area will be reviewed and contributions requested for the most appropriate to the development.

Charge : **£186.84 per dwelling**

2. Heritage and Museums

- 2.1 The Heritage and Museums service of Medway Council is responsible for Medway's most iconic and historic buildings, including Rochester and Upnor Castles, Temple Manor in Strood, Eastgate House and the Guildhall Museum in Rochester and the Brook Pumping Station in Chatham. Alongside these it also manages the Medway Archives Centre in Strood, and the Visitor Information Centre in Rochester.
- 2.2 As well as operating the buildings as places to visit for the public, the service also conserves and maintains these buildings and collections, provides an educational service for local and visiting schools, and develops exhibitions, events, and activities throughout the year.

- 2.3 Heritage and Museums are major assets for the entire Medway population and demands on their fabric upkeep and maintenance and costs directly increase with local population growth. The Visiting Friends and Relatives market is particularly strong in Medway and set to grow with local population growth.
- 2.4 The Heritage and Museums contribution of **£290.28 per dwelling** in line with the defined thresholds applies to developments within 1,000 metres of the sites identified in 2.1.

2.5 Policy and evidence base

Medway Economic Impact Study 2015

http://www.visitkentbusiness.co.uk/library/Economic_Impact_of_Tourism_-_Medway_2015_FINAL_REPORT.PDF

Destination Management Plan 2014

3. The Library Service

- 3.1 Medway Council has a statutory duty to provide a public Library service that is 'comprehensive and efficient' (under the 1964 Public Libraries and Museums Act.)
- 3.2 The Library Service is currently provided by 15 static Libraries and two mobile Libraries along with Community Hubs support reading and literacy through books, spoken word CD's to borrow, to download, and through related activities.
- 3.3 The service provides access to information technology, through stand alone PCs, the Internet and Wi-Fi which supports residents learning new skills and finding employment. By providing a shared community space residents feel safe and supported which addresses loneliness and social isolation; activities also support the health and well-being agenda.
- 3.4 Charge

For investment in existing provision : **£168.40 per dwelling**

Or towards the provision of a new library : **£310.94 per dwelling**

3.5 Policy and evidence base

Public Libraries and Museums act (1964)

http://www.legislation.gov.uk/ukpga/1964/75/pdfs/ukpga_19640075_en.pdf

Education

1. Medway Council has a statutory duty to provide sufficient school places. Central government provides basic need funding to help provide extra places due to forecast need, but developers need to contribute towards the additional extra places required due to new housing. Only dwellings which are suitable for family occupation will be included for the purposes of an education request. Family dwellings are defined as dwellings with two or more bedrooms.
2. The precise number of new homes to trigger the need for new schools, and/or expansions of another local school, requires careful consideration on a case by case basis. This will depend upon dwelling mix and availability in local schools. The council also considers the wider picture, looking at a number of developments as a whole rather than in isolation, to ensure that sufficient provision is provided to meet demand from the developments, but also to consider the danger of over provision. For example, 776 homes would generate 210 pupils and raise the need for a 1FE primary school, but a request for contributions would take account of existing provision in the local area.
3. Funding from developer contributions will be utilised for providing early years, primary, secondary, 6th form, and special provision.
4. The National Planning Policy Framework states that planning policies should minimise journey lengths for education, and where practical, primary schools should be within walking distance of developments. Medway Council defines nearby schools as within walking distance (2 miles for primary and 3 miles for secondary).
5. A 5% surplus capacity is maintained to ensure that if more pupils move into the area than forecast, there will be places available. 5% is a nationally accepted surplus.

6. Charges

6.1 The charge per dwelling is :

Nursery:	£1,406.08 for extending an existing school
Primary:	£3,451.27 for extending an existing school
Secondary :	£2,734.56 for provision within existing schools
Sixth form:	£719.83 for provision within existing schools

When a new school is required to accommodate demand the following charges would apply per dwelling :

Nursery :	£1,799.76
Primary :	£4,417.62
Secondary :	£3,500.22
Sixth form :	£921.38

- 6.2 The Education service requests contributions on a pupil yield basis. At the point of agreeing the S106 agreement, this is converted into a charge per dwelling.
- 6.3 In some cases the council will accept alternatives to a financial contribution. This is at the sole discretion of the council, and would generally be on large developments. Where developments are over 776 dwellings, there is an opportunity to discuss with the local authority how best to deliver a new school. The specification of the facilities would be determined by the council, and would include all furniture, fixtures, and information technology equipment as necessary.

For example in lieu of a financial contribution a developer could provide their own nursery provision, or for larger developments with significant number of pupils, a new school.

7. Policy and evidence base

Pupil Product Ratios – MORI study 2005/06

Annual forecast rolls . School Organisation Plan

https://www.medway.gov.uk/downloads/file/791/school_organisation_plan

Latest annual update <https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=38033>

EBDOG Cost Benchmarking Surveys for Schools:

<http://ebdog.org.uk/>

Medway School Place Planning Strategy

Charge per pupil - National School Delivery Cost Benchmarking, Education Building and Development Officers Group

(<https://www.local.gov.uk/sites/default/files/documents/national-school-delivery--af4.pdf>)

Flood Risk Management & Sustainable Drainage

1. A number of areas within Medway are at risk of flooding, including tidal, surface water, groundwater and flooding associated with ditches and streams.
2. Flood risk in Medway is managed by a number of Flood Risk Management Authorities including the Environment Agency, Medway Council (as Lead Local Flood Authority and Highways Service), Internal Drainage Boards, and Southern Water.
3. The National Planning Policy framework requires certain sizes and locations of development to submit a Flood Risk Assessment (FRA) as part of the planning application process. These assessments identify any flood risks and mitigation measures required to make a development viable.
4. The consequences of flooding would be dependent on the nature, scale, and location of a development; therefore it is not possible to provide standardised guidance on what mitigations would be required at a typical site although further information can be sought on the Medway Council's website

https://www.medway.gov.uk/downloads/file/1831/local_flood_risk_strategy

5 Policy context

- 5.1 The NPPF emphasises the importance of meeting the challenge of climate change, flooding, and coastal change, and sets out the Government's approach within the National Planning Policy Guidance (NPPG). Local Plan policies set out the approach to sustainable drainage and flood risk mitigation.
- 5.2 A number of documents are relevant to the planning process at a local level. The Medway Strategic Flood Risk Assessment (SFRA) which assesses the risk of all sources of flooding within Medway and supports the Local Plan to help make planning decisions. The Local Flood Risk Management Strategy is a key document which identifies objectives to manage sources of local flood risk such as surface water, groundwater and ditches/streams.
- 5.3 The Environment Agency (EA) are developing the Medway Estuary and Swale Strategy (MEASS), a flood and coastal erosion risk management strategy which will determine the best economic, environmental and technically appropriate approach to managing flood and coastal erosion risk within the strategic area, and identify suitable schemes to deliver the policies set out within the Medway Estuary and Swale, and the Isle of Grain to South Foreland Shoreline Management Plans. MEASS is due to be published in summer 2018 and will contain plans for tidal frontages at risk of flooding through Medway for the next 100 years, setting out required capital funded defence works and identifying where third party partnership funding will be required. Any potential development sites should make reference to MEASS and where sites would benefit from flood defence works, a contribution for the site and/or wider strategic area may be requested.

6. Assessing the requirement

- 6.1 Flood mitigation works needed as a consequence of a development proposal are determined through completing a Flood Risk Assessment (FRA) (where required). FRA's provide an assessment of the risk of flooding from all sources including groundwater, coastal, tidal, fluvial and pluvial. FRA's identify flood mitigation measures and provide advice on actions to be taken before development commences, taking into account local policies and strategy. The FRA will be submitted with the application and reviewed by the relevant Risk Management Authorities.
- 6.2 The risk of pluvial/surface water flooding is generally managed via the use of on-site Sustainable Drainage Systems (SuDs). SuDs designs can be integrated into the layout of a site and provide an opportunity to fulfil several planning objectives via the provision of amenity and biodiversity, and can contribute towards improvements to water quality. If considered early in the design phase of a development, then both the capital costs of drainage and amenity can be reduced along with maintenance costs. Above ground systems are more economical to construct and maintain, compared with underground systems over the lifetime of a development. Medway Council Lead Local Flood Authority promotes the use of above ground systems where possible and appropriate.

7. Scope for contributions

- 7.1 Schedule 3 of the Flood and Water Management Act 2010 prescribed that major developments would need drainage approval from the Lead Local Flood Authority whom would be expected to adopt and maintain approved sustainable drainage systems. However a funding mechanism is yet to be realised for the ongoing maintenance and therefore this schedule has yet to be enacted. In the interim, the NPPF requires developers to design SuDs in accordance with the national SuDs guidance and any other local guidance where available. Under certain circumstances, the Council may consider adopting SuDs ahead of the implementation of the Act. In such circumstances, the cost of ongoing maintenance could be part of the Section 106 negotiation (or commuted sums if part of a Section 38 Highways Adoptions Agreement).

8. Summary

- 8.1 In regeneration areas, flood mitigation may be best served through strategic flood solutions that serve the wider area/collective developments. Current work is ongoing with regards to the phasing of developments/flood mitigation works to ensure that risk is appropriately managed at a strategic scale.
- 8.2 Flood risk mitigation, including the use of SuDs may in some instances be combined with other requirements and initiatives such as green infrastructure, open space provision, urban and landscape design. These wider issues should be discussed with the Council via the pre planning process to ensure that a proposal does not compromise either requirement or any other future infrastructure provision.

- 8.3 The solutions described above will normally be secured through planning conditions; however planning obligations may be required to secure elements such as the timing, adoption, maintenance and or financial contributions to offsite solutions.

Health

1. Healthcare contributions will support expansion and improvement of existing facilities, although some developments may be so significant as to warrant a new health facility in the development area.
2. Medway Clinical Commissioning Group has the responsibility for commissioning the majority of health services in Medway; Public Health (Medway Council) is also responsible for commissioning a range of services.
3. The modelling tool produced by the Healthy Urban Development Unit (HUDU) was prepared by a joint Local Authority and NHS unit. The unit based in London has been set up to assist in the infrastructure development for health and is widely used across London and nationally. The model takes full account of the demographics of the existing population, and the future predicted population growth. Using standard NHS cost and floor space requirements for the various facilities, the model is able to quantify the impact in terms of physical space and subsequent cost, and estimate a cost per dwelling based on the future expansion of the population.
4. The HUDU model was used to determine a figure for local health facilities, based on Medway demographics.
5. Charge : **£644.79 per dwelling**
6. Where a new facility is required on a large development, the building may, with the agreement of the developer, be built, developed and funded by the developer and the freehold or long leasehold interest handed over to the NHS. In these circumstances the developer can not charge a CMR for a minimum of 10 years to ensure appropriate planning gain. Where there is provision of a new facility by the developer, no financial contribution would be sought.

Open space and outdoor formal sport

1. Contributions will be pro-rata where suitable on-site provision is made in accordance with local standards established in the '*Playing Pitch and Outdoor Sports Facilities Study*' (December 2012 - under review) and '*Open Space PPG17 Study*' (June 2012) excluding athletics tracks, civic spaces, churchyards and green corridors. Contributions will be requested on all developments even where on-site provision is made.
2. Quality and quantity of open space provision varies across Medway. All development will result in additional open space need and this contribution will be utilised to best meet need arising from development in the area either through provision of new facilities or improvements to existing facilities and sites to create additional capacity. The quality of existing greenspace infrastructure has been informed by the Ward Open Space Improvement Plan (2017). This document will be used to prioritise off site investments.
3. Requests will not be made on sheltered housing and special needs housing for the elderly developments. Retirement flats/housing will be expected to contribute and will be tailored to address senior parks and dementia access in nearby greenspaces.
4. Charge : **£2,601.63 per dwelling**
5. **Policy/Evidence Base**
 - Playing Pitch and Outdoor Sports Facilities Study, 2012 (under review)
 - Open Space PPG17 Study, 2012
 - Fields in Trust guidance_
<http://www.fieldsintrust.org/Upload/toolkit/pdfs/Guidance-for-Outdoor-Sport-and-Play-Oct-2015.pdf>
6. **Additional notes**
 - 6.1 The provision of open space on Employment Areas and implication on existing open space will be considered on a case-by-case basis having regard to the likely scale of the workforce that will be employed within the development.
 - 6.2 Greenspace Services will not usually accept the transfer of any land to Medway Council (playgrounds, allotments, parks, informal open space, sports pitches) which would create additional landscape maintenance responsibilities and costs to the Council. Developers should therefore ensure they make their own arrangements for the management and maintenance of landscaping associated with a development to be agreed with Greenspace Services. If the Council accepts transfer, a charge adequate to cover 15 years maintenance with annual indexation will be levied.

- 6.3 Payment of S106 contributions will be sought at the earliest possible stage of the development to enable the funding of project work associated with that development. Accordingly, the trigger for payment of the contribution will be on commencement of civil engineering works, or in exceptional circumstances on the 1st occupation. Where developments are subject to significant phasing it is acknowledged that payment of S106 contributions could be phased in accordance with progress of that development.

Environmental Mitigation

1. What is covered?

- 1.1 Where possible on site management is required to offset biodiversity loss which cannot be adequately covered by planning conditions. Off site provision will be required if on site option is not practical or available.

2. Where it applies?

- 2.1 All developments in the borough which would have a direct or an indirect impact on the natural environment through the loss of protected sites and species or priority ecological habitats, and mitigation impact of noise, light pollution or increased disturbance.
- 2.2 All built developments where the site has a biodiversity interest which would be adversely affected and which has been identified through:
- Ecological Surveys / Environmental Impact Assessment / an Environmental Statement
 - Consultation with the Kent Biological Record Centre, Kent County Council eco-advice service or site surveys by Medway Council officers, independent ecologists / and local, county and national conservation organisations

3. Requirement

- 3.1 See Medway Local Plan policies BNE35-39 as below :

Policy BNE35 : international and national nature conservation sites

Policy BNE36: strategic and local nature conservation sites

Policy BNE37: wildlife habitats

Policy BNE38: wildlife corridors and stepping stones

Policy BNE39: protected species

- 3.2 Direct loss of habitat and damage to species should be avoided where reasonably possible but mitigation and/or compensation will be sought when such loss is unavoidable.

- 3.3 The re-creation of habitat on site will always be sought as the first preference and off site compensation should only be considered when all other means have been exhausted.
- 3.4 The developer will be liable for all off site costs associated with survey, translocation, species protection, habitat enhancement and site purchase, management and monitoring where off site mitigation is required.
- 3.5 Where it can be recognised that development could lead to increased pressure on adjacent sites of nature conservation interest, due to noise, disturbance, increased predation (disturbance by domestic pets), light pollution, or through increased amenity use of the site a financial contribution will be sought to minimise these impacts.
- 3.6 The extent, nature and management of required habitat enhancement or creation will depend on the size of the development, its location in the context of designated sites and likely impact on biodiversity.

4. Charging system

- 4.1 Charge will be based upon costs identified to meet the needs of each site. It is anticipated that mitigation and subsequent management will be undertaken through 1 or more of the following mechanisms

- a) On-site mitigation

Medway Council will not normally take on management of development sites where mitigation work has taken place and the developer will need to make arrangements with a third party.

Should the Council take on responsibility an endowment charge equal to 15 times the annual cost of management works (plus indexation) will be payable based on an agreed management plan.

- b) Off-site mitigation on Council land

In instances where it is agreed that mitigation can take place on Council owned land, the developer will be responsible for meeting all capital costs associated with preparing the mitigation land together with a charge equal to 15 times the annual cost (plus indexation) of maintaining the area to an agreed management plan.

- c) Off-site mitigation on third party land

In this instance it is for the developer and the third party to agree design and payment for creation and management.

5. Formulae

- 5.1 Contributions must, at a minimum, ensure like for like provision. In accordance with established ecological standards this will normally require a 2 for 1 replacement ratio. This is to compensate for the loss of quality when creating new habitats.

5.2 Mitigation and / or compensation measures should be ecologically functioning prior to the commencement of the development – this is particularly important for the protection of protected species.

5.3 Long-term management costs will be based on annualised costs set out in a site-specific management plan.

6. Policy/evidence base

Natural Environment White Paper: implementation update, October 2014
Biodiversity 2020: A strategy for England's wildlife and ecosystem services
Kent Biodiversity Action Plan. <http://www.kentbap.org.uk/>
Medway Wildlife, Countryside and Open Spaces Strategy 2008-2016

Public Health

1. An estimated 30% of Medway's adult population and over 20% of children (at the age of ten) are classified as obese. The cost of overweight and obesity to NHS Medway is estimated as £77.4 million by 2015, of which £45 million is attributed to obesity alone.
2. There are, as of March 2017 252 registered hot food takeaways in Medway – equating to 1 per 1,097 people. The majority of these premises are located in town, local and neighbourhood centres. It has been shown that there is a correlation between areas of multiple deprivation and where hot food takeaways locate.
3. In an effort to reduce childhood obesity in particular, Medway Council has produced a guidance note that seeks to decrease the prevalence of hot food takeaways in the area. New hot food takeaways of 100m², where they are deemed appropriate development, would be charged a fixed fee of £1,135.15.
4. Working with local stakeholders to implement a bespoke initiative with the school (s) or the local community within 400m of the development to address the impact of high energy food has on Medway's population. These initiatives could include nutritional resources for the school, community food growing and commissioned physical activities
5. Charge : £1,135.15 or new hot food takeaways of at least 100m².
6. Policy/Evidence

FEAT <http://www.feat-tool.org.uk/map/>

The National Planning Policy Framework (2012) and the National Planning Practice Guidance (2014) advocate the need for planning to consider health implications and has made an explicit link between the two.

PHE's Healthy people, healthy places briefing on [obesity and the environment: regulating the growth of fast food outlets](#).

LGA's ([Tipping the Scales: Case studies on the use of planning powers to limit hot food takeaways](#) February 2016)

Hot Food Takeaways in Medway: a Guidance Note, 2014:

https://www.medway.gov.uk/downloads/file/625/hot_food_takeaways_in_medway_-_a_guidance_note

Sports Facilities

1. The projected increase in the population of Medway will create demand for additional indoor sports facilities which reflect modern customer requirements and align with the Medway Sports Facilities Strategy assessment of needs.
2. Charge : **£248.25 per dwelling**
3. Policy and evidence :

Medway Sports Facilities Strategy – available on the Local Plan Evidence Base

https://www.medway.gov.uk/info/200149/planning_policy/519/future_medway_local_plan/2

Travel

- 1.1 The majority of new developments generate the need to travel and these movements place additional demand on local and regional transport infrastructure. In accordance with the National Planning Policy Framework (NPPF), developments generating significant movements should be located where the need to travel will be minimised and the use of sustainable modes can be maximised, giving priority to pedestrian and cycle movements and creating safe and secure layouts that minimise conflicts between traffic and cyclists or pedestrians.
- 1.2 All developments generating a significant amount of movement should be supported by a Transport Assessment or Transport Statement. These demonstrate that:
 - The opportunities for sustainable transport modes have been taken up, depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - Safe and suitable access to the site be achieved for all people; and
 - Improvements can be undertaken within the transport network that limits the significant impacts of the development, in a cost-effective way.
- 1.3 Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the Strategic Road Network, in the case of Medway, the A2 west and M2.

2. Policy Context

National Planning Policy Framework (NPPF) March 2012

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

<https://www.gov.uk/guidance/national-planning-policy-framework/4-promoting-sustainable-transport>

<https://www.gov.uk/guidance/national-planning-policy-framework/4-promoting-sustainable-transport> , para 36

Medway Local Plan 2003 (Medway Council)

Planning Practice Guidance: Travel plans, transport assessments and statements, March 2014

<https://www.gov.uk/guidance/travel-plans-transport-assessments-and-statements>

Medway Local Transport Plan 2011-2026

https://www.medway.gov.uk/info/200161/travel/545/transport_plans_and_policies/2

DfT Circular 02/2013 the Strategic Road Network and the Delivery of Sustainable Development (2013),

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/237412/dft-circular-strategic-road.pdf

Planning for the future – A guide to working with Highways England on planning matters (2013)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/461023/N150227 - Highways England Planning Document FINAL-lo.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/461023/N150227_-_Highways_England_Planning_Document_FINAL-lo.pdf)

3. Requirement

3.1 This policy context shapes Medway Council's approach in respect of transport contributions, which will be sought for off-site mitigation in respect of the following :

- Sustainable travel: accessible and connected communities
- Highway safety
- Highway capacity

3.2 The highway works deemed necessary as a result of a development proposal may include any works for improving the existing highway network, providing new highways, accommodating public transport, pedestrians and cyclists, associated engineering works and necessary legal and administrative costs. Highway works will normally be undertaken by the developer through a Section 278 agreement, which will include a charge for future maintenance. These works will be taken in to consideration when determining the level of developer contributions.

4. Sustainable Travel: accessible and connected communities

4.1 New developments will require access to key services by non-car modes and should promote walking, cycling and the use of public transport for employment, leisure and health purposes. Linkages between new developments and local facilities and community infrastructure, the public transport network and established walking and cycling routes are fundamental to achieving more sustainable patterns of movement and reducing reliance on the private motorcar.

4.2 Where necessary, improvements to non-car accessibility will be sought in the form of stand-alone measures or a contribution towards schemes that Medway Council has identified as providing wider benefits. A contribution towards public transport service provision and associated infrastructure may also be sought in order to enhance the sustainable credentials of the development.

- 4.3 Medway Council places high value on initiatives that reduce the impact of the school run on the highway network and promote 'active travel' to schools and other educational establishments. Development proposals may therefore be required to provide a contribution towards educational and promotional initiatives local to the site, including route improvements and the development of School Travel Plans.
- 4.4 Developments will often impact on the existing Public Rights of Way (PRoW) network and improvements may be required to facilitate additional use. Improvements to the existing PRoW network required as a result of a development may also necessitate the provision of new routes linking existing rights of way. In each case, the required improvements will be determined in relation to the scale of development, with a view to providing access to strategic facilities, including green infrastructure.

5. Highway Safety

- 5.1 For proposed major developments, a Transport Assessment is required to assess road safety data (available from Medway Council) within an agreed area. If the additional movements generated by the development are likely to increase the risk of crashes (all road users) in the vicinity of the site, either directly or indirectly through the diversion of traffic along other routes, a contribution towards mitigation measures may be required. This could be in the form of stand-alone improvements or a contribution towards a scheme that Medway Council has identified would provide wider safety benefits to the local highway network.

6. Highway Capacity

- 6.1 Developments that reduce the capacity of the highway network within an agreed area may be required to provide a contribution towards mitigation measures, with a view to ensuring a 'nil detriment' impact. This may be in the form of stand-alone measures or a contribution towards a scheme that Medway Council has identified would provide wider benefits to the local highway network. Developments that generate a significant number of HGV movements may be required to provide a contribution towards measures identified in Medway Council's Network Management Plan, or measures to reduce the impact of HGV parking on the highway network.

Waste and Recycling

1. Medway Council is responsible for the collection and disposal of household municipal solid waste. The complexity of managing Medway's waste has steadily increased over these millennia as improved procedures using this waste as a resource rather than landfill are achieved. Waste services continue to build on past successes in order to maintain a comprehensive set of recycling options for all Medway residents.
2. Charge : **£176.45 per dwelling**
3. **Policy/evidence base**

Environmental Protection Act 1990

<http://www.legislation.gov.uk/ukpga/1990/43/contents>

Waste Minimisation Act 1998

<http://www.legislation.gov.uk/ukpga/1998/44/contents>

EU Landfill Directive

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69347/pb13563-landfill-directive-100322.pdf

Waste and Emissions Trading Act 2003

<http://www.legislation.gov.uk/ukpga/2003/33/contents>

Household Waste and Recycling Act 2003

<http://www.legislation.gov.uk/ukpga/2003/29/contents>

Clean Neighbourhood's and Environment Act 2005

<http://www.legislation.gov.uk/ukpga/2005/16/contents>

EU WEEE & Batteries Directive

<https://www.gov.uk/government/publications/environmental-permitting-guidance-waste-batteries-and-accumulators-directive>

4. Additional notes

- 4.1 Developers are invited to work alongside the council by making sure each new home is provided with adequate information relating to the council's waste provision. Printed information can be made available to developers or their agents for onward distribution to new residents. Developers are required to reference and adhere to the guide '*Waste and recycling requirements for new residential developments in Medway*' available from Waste Services or Medway Council's website, www.medway.gov.uk

Youth facilities

- 1 The full contribution will apply where no provision is made on site and a deficiency in youth provision, which includes sports and games, exists in the area. Pro-rata contributions will be requested where on-site provision is made.
2. Charge : **£79.86 per dwelling**
3. **Policy/evidence base**
Resourcing Excellent Youth Facilities
<http://www.mywf.org.uk/uploads/policy/REYSDec2002.pdf>

Appendix 1 : Summary Chart and Checklist for Applicants

Planning application process	Actions for applicants	Notes
1. Pre-application stage	<ul style="list-style-type: none"> Consult contributions guidance and download standard S106 legal agreement template and relevant standard legal clauses_ https://www.medway.gov.uk/info/200147/applying_for_planning_permission/127/developer_applications/4 Refer to any other relevant policy document e.g. Local Plan/LDF/development brief Identify potential requirements Consult with Council's planning officer if necessary Commence "without prejudice" negotiations with planning officer if 'standard' contributions approach not accepted or applicable Information on pre-application advice service_ http://www.medway.gov.uk/planningandbuilding/applyforplanningpermission/pre-applicationadvice.aspx 	<ul style="list-style-type: none"> The Council is committed to supporting the pre-application process. Early research and discussions can save time and expense later in the planning process If clarification on any matter is required this should be through the planning officer and not an individual service For larger schemes the Head of the Planning Service will appoint a planning officer(s) to facilitate discussion and negotiation, with the intention that this officer would be appointed as case officer to any future related planning application. There will be a charge for this
2. Submission of application	<ul style="list-style-type: none"> Provide contact details for legal representative if standard agreement not acceptable Set out findings from pre-application research and submit alongside planning application 	<ul style="list-style-type: none"> In straightforward cases it may not be necessary for a legal representative to be appointed

Planning application process	Actions for applicants	Notes
<p>3. Technical appraisal of application</p>	<ul style="list-style-type: none"> • Seek to agree Heads of Terms for S106 agreements with the Council's planning officer at as early a stage as possible • Submit reasons if standard contributions not accepted, together with financial details of development costs where relevant • If agreement not reached the case officer will refer the matter to the Council's Head of the Planning Service. If necessary this matter can then be referred to the Assistant Director and then as necessary to the Council's Director • Complete full draft agreement ASAP (on a 'without prejudice' basis) 	<ul style="list-style-type: none"> • For cases where the Council's standard formulae are disputed on the basis that they would undermine the viability of the development, comprehensive evidence must be submitted to justify any departure from the normal process • If there is a need to adjudicate between different service demands and this cannot be resolved by the case officer the matter will be referred to the Head of the Planning Service. • Assessments are generally valid for six months from the date issued and should any circumstances change a new assessment will be required. Assessments are a 'snapshot' of requirements at a given time and variable factors may require regular reviews, particularly over the longer term
<p>4. Determination of application</p>	<ul style="list-style-type: none"> • The draft S106 legal agreement should be completed prior to a delegated decision on the application being made, or a report being submitted to the Planning Committee • Full Heads of Terms will be included in all officer report 	

Planning application process	Actions for applicants	Notes
5. Post determination	After a resolution to approve the planning application has been made, the S106 legal agreement should be signed and engrossed without delay. Medway Council reserves the right to refer all cases which have not been completed within six months of the decision back to committee with a recommendation for refusal, unless special circumstances have been clearly identified	The applicant and the Council should work to a target signing and engrossing the agreement/undertaking within one week of the decision
6. Post decision	<ul style="list-style-type: none"> • It is the applicants' responsibility to comply with the terms of the S106 legal agreement in a timely manner, including respecting 'trigger points' which may occur some time after a development has commenced • The Council will continually review all 'live' agreements and monitor against progress on site • It is the applicant's responsibility to complete the commencement notice and forms attached to the agreement, and post or email (to S106@medway.gov.uk) so that the council is made aware of when contributions become due. 	<ul style="list-style-type: none"> • Invoices, which include BACS details, will be raised by the S106 Officer.

Appendix 2 : SPA and Ramsar 6 km buffers

