
By: Barbara Cooper
To: Scrutiny Board – 22nd April 2010
Subject: Development Contributions & Infrastructure
Classification: Unrestricted

1. Introduction

- 1.1** The provision of adequate infrastructure and facilities alongside housing growth is essential if we are to achieve aspirations in respect of sustainable communities and ultimately places where people want to live. It is the Government's expectation that development will make an appropriate contribution to the required infrastructure to deliver this objective and, therefore, make proposals acceptable in planning terms. The following paper outlines the County Council's approach, particularly with regard to 1) The process for agreeing S106s, 2) monitoring performance, 3) dealing with recession and 4) the way forward.

2. Context / Background

- 2.1** Districts as Local Planning Authorities normally establish the totality of development contributions by balancing all competing considerations. The Regional Spatial Strategy (RSS) which replaced the Kent and Medway Structure Plan in May 2009 stipulates that development shall not proceed until the relevant planning authorities are satisfied that the necessary infrastructure required to serve the development is available or will be provided in time. Circular 05/2005 (C5/05) further identifies the tests necessary to make a planning obligation acceptable:

- Relevant to planning
- Necessary to make the proposed development acceptable in planning terms
- Directly related to the proposed development
- Fair and reasonably related in scale and kind to the proposed development
- Reasonable in all other respects

3. Our Approach

- 3.1** The Development Investment Team within the Regeneration & Economy Division oversee and secure development contributions on behalf of KCC corporately (CFE, CMY & KASS) and, in this context, the following work areas have been developed:

3.2 • Development Contributions Guide

In 2001 the County Council produced its original Guide and this was later revised in 2007. The latest Guide was adopted by Cabinet in March 2007 after consultation with the development industry and partners including Kent Planning Officers Group and its sub groups (Development Control Officers, Planning Policy Officers and Housebuilders Liaison Group).

3.3 The aim of the Guide is to promote a consistent and transparent approach towards the requirement for, and calculation of, development contributions for KCC services, thus aiming to support and assist the planning process. In so doing the objective of the Guide is to help quantify the likely level of impact upon existing community facilities resulting from development and raise awareness at an early stage of the potential requirements in order to enable developers to take these matters into account when formulating their development proposals and costs.

The Development Contributions Guide, in planning policy terms, is affiliated to the 'Vision for Kent' a Sustainable Communities Strategy which is a Kent Partnership document.

3.4 On this basis, the County Council, via its appointed consultant Mouchel Parkman, consider all relevant planning applications and identify, in close liaison with KCC service providers, those proposals where development contributions are required. The Districts and developers are informed accordingly. Thereafter, progress is monitored, negotiations are undertaken and further information is provided as and when necessary. Quarterly performance reports are produced showing the performance in negotiating development contributions from minor sites (up to 500 units – see below) and from major sites (over 500 units – see paragraph 3.6) on a district by district basis (currently circulated to Chief Officers and Cabinet Members).

Outcome of Negotiations for Minor Sites (Summary):

Financial Year	Service	Sought £	Agreed £	Percentage
2007/08	CFE	1,350,548.52	1,362,923.86	100
	KASS	1,942,557.96	1,324,317.04	68
	Communities	1,281,626.80	1,061,994.51	83
2008/09	CFE	1,414,550.80	1,412,183.47	99
	KASS	3,510,381.84	3,003,009.72	86
	Communities	1,926,008.93	1,657,105.43	86
2009/10	CFE	1,858,395.87	1,451,993.67	78
	KASS	1,352,048.66	1,240,633.00	92
	Communities	789,463.75	744,528.74	94

3.5 The Development Investment Team provide representations to District

colleagues in respect of Local Development Frameworks (KCC is a statutory consultee) and other emerging policy (including Tariffs etc.). Where necessary, this includes, with KCC legal services, providing evidence at planning appeals and inquiries.

3.6 • Major Regeneration Sites

Where appropriate, and where wider regeneration objectives are to be met, the County Council deals with each major site individually. In this respect, multi-disciplinary teams are formed in order to assist the delivery of cross cutting objectives. Major sites are, therefore, monitored separately and included in the quarterly performance reports mentioned above; examples include Ebbsfleet, Eastern Quarry, The Bridge, and Aylesham. The agreements contributing to the following summary can include both 1) 'in kind/direct provision' options or 2) direct monetary contributions. Therefore, they are shown separately where distinct.

Outcome of Negotiations to 31 March 2010 (Summary):

Service	In kind/direct provision secured	Direct contributions secured (£)
CFE	<ul style="list-style-type: none"> • 9 primary school sites • 3 pre-school nursery sites • 2 secondary schools • 1 primary school extension • 3 primary schools with nursery and multi-agency space 	Min 32,506,986 Max 34,994,713 (dependant on final housing mix)
KASS	<ul style="list-style-type: none"> • 1 day care centre • 1 family centre • Respite care flats 	4,141,860
CMY	<ul style="list-style-type: none"> • 1 adult education centre • 1 library • 1 life long learning centre¹ 	Min 1,425,1987 Max £1,453,320 (dependant on final housing mix)
Pooled (KASS and CMY)		445,000

Further details of individual major sites are available on request.

¹ Includes facilities for youth, library and non clinical adult social services

4. Economic Climate

4.1 Housing delivery has, of course, been dramatically affected by the downturn in the economic climate. Where developments are being progressed, the provision of adequate infrastructure through the planning process and, in particular, development contributions, is under significant pressure, particularly where viability issues need to be balanced against housing delivery.

4.2 Where viability is an issue or a developer seeks to renegotiate an existing S.106 agreement we will continue to negotiate a balanced and fair level of financial contributions and where appropriate apply mitigation measures, particularly when in support of the local economy and/or where wider regeneration objectives are met. These measures include:

- Through direct provision of facilities, revenue and locally based solutions, joint use of space and/or innovation, which support or compliment KCC services and help to deliver sustainable communities (moving us more towards a 'Total Place' model for the future).
- By retaining flexibility, where possible, within the terms of legal agreements to enable KCC contributions to be placed in one pot and spent on KCC services as and when we determine, rather than being pre-apportioned and ring fenced for particular services and specific uses. This will enable us to manage and prioritise our capital spend amongst services, as appropriate, along with the associated revenue implications.
- By agreeing deferred payment provisions as a means of trying to secure the balance of outstanding contributions if the profitability of the development improves (increased sales values, reduced build costs etc) over the period of development.

4.3 Where appropriate, negotiations for major sites are reported to The Informal Members' Group for Budgetary Issues and Chief Officers' Group.

4.4 • **Issues / Cabinet Sub Group**

Although some economic forecasters believe that the housing market has begun to recover in the first quarter of 2010 there is no guarantee that this can be sustained and it is felt that any recovery will be tentative with viability remaining an issue for some time to come.

4.5 In addition, at some recent planning appeals, the Government's Planning Inspectorate (ratified by the Sec of State for Communities) has considered the delivery of housing and other mitigating measures as priority over and above other factors including infrastructure provision.

4.6 In this respect, and in order to take development contributions fully into account when planning the MTP, a new Cabinet Sub Group is to be formed to oversee the impact of infrastructure provision/development

contributions on the corporate budget and, therefore identify, as necessary, any alternative funding provisions in order to mitigate financial risk.

- 4.7** Whilst the current economic climate represents a significant challenge, it also provides an opportunity to capitalise upon emerging, more innovative approaches (building upon the mitigation measures outlined above). In the future this could help to move us towards a more 'Total Place' model of service delivery. An example of this approach is The Bridge, Dartford where close partnership working has delivered a multi agency community hub, including Kent's first Primary School of the Future at the heart of the community.

5. The Way Forward / Building Upon Innovative Approaches

- 5.1** Against the background outlined above, the Government has introduced CIL regulations which are intended to be a mechanism that local planning authorities (LPAs) may use to obtain a contribution from developers towards the provision of infrastructure. It is essentially a tariff system (or 'roof tax') which seeks to standardise any existing tariff systems and encourage new ones to be brought forward. The future of CIL, however, remains in doubt subject to the outcome of the General Election.
- 5.2** In addition, and in response to the economic climate and broader need for change, the County Council (Regeneration & Economy and Finance) have started work on an 'integrated infrastructure & financial model'. This will be used to calculate the infrastructure costs of proposed growth across Kent to support the revision of What Price Growth (WPG) and delivery of the objectives of the Regeneration Framework. It is envisaged that this will be used as a lobbying document to identify the potential funding gaps and the consequent need for new funding solutions (as well as put us firmly on the front foot regarding the government's implementation of the Community Infrastructure Levy – CIL, or otherwise).
- 5.3** In response to the increasing need to provide clear evidence as to service provider requirements (for LDFs etc) the County Council has also produced Service Provider Packs to identify future service delivery requirements on a district by district basis. These were approved by Cabinet in March 2009 and following public consultation it is proposed that a summary of the responses along with any proposed changes is reported to Cabinet in July for adoption as supplementary guidance. It will then be possible to use the Service Provider Packs to help inform Districts as Local Planning Authorities.
- 5.4** It is envisaged that the completion of the above work will lead to an updated revision of the County Council's current Developers' Guide which will reflect the changes outlined above, influence emerging policy and provide a platform for delivery of the objectives of the Regeneration Framework as we move forward.

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Background Documents:

KCC Guide to Development Contributions & the Provision of Community Infrastructure 2007 (Development Contributions Guide).

The Vision for Kent.

Community Infrastructure Provision Service Strategies in Kent 2009 (Service Provider Packs).

Community Infrastructure Levy (CIL) Regulations 2010.

Circular 05/2005.