

From: Derek Murphy, Cabinet Member for Economic Development
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To: Growth, Economic Development and Communities Cabinet Committee – 22 March 2022

Subject: Developer Contributions for Education

Classification: Unrestricted

Past Pathway of report: None

Future Pathway of report: None

Electoral Division: All

Summary: Following an introductory paper on developer contributions in November 2021, members of Growth, Economic Development and Communities Cabinet Committee expressed a particular interest in further exploring how s106 and CIL contributions particularly support Education. This report, therefore, sets out an overview of the County Council's approach to securing capital funding from housing developers towards the provision of additional school places.

Recommendation(s): The Cabinet Committee is asked to note the report.

1. Overview of Funding for Additional School Places

- 1.1. Kent County Council as Strategic Commissioner of Education Provision has a key role in securing funding to provide sufficient education provision in the County, particularly in schools.
- 1.2. The cost of providing additional school places is met from Government Basic Need Grant, prudential borrowing by KCC and developer contributions. It continues to be clear through the County Council's Medium-Term Financial Plan that KCC is not in a position to undertake prudential borrowing to support new provision.
- 1.3. Basic Need funding is allocated by Government on the basis of a comparison of school capacity (not pupil admission numbers) against forecast mainstream pupil numbers from reception year to year 11 uplifted to provide a 2 per cent operating margin. Where capacity is lower than forecast, the DfE provides funding towards the gap. The allocations for financial year 2021-22 based upon the projected need for new places by September 2023 led to Kent receiving just £20.18m. This sum would barely fund the construction of a single 6FE (form of entry) secondary school. I
- 1.4. The 'lumpy' nature of establishing new school provision means that the County Council incurs the majority of the capital costs at the outset of mitigating a forecast place deficit, e.g., expanding a school by a whole FE; whereas the Basic Need formula does not account for this and provides the Council with funding for places in an incremental way over a longer period of time.

2. Funding School Places in Response to Housing Growth

- 2.1. Around 6,000 dwellings were built annually in Kent during the ten-year period up to 2010-11. This reduced to circa 5,000 new dwellings per year in period 2011-16. A significant step change in housing completions has been seen since 2015-16 with 41,575 new homes built in the five-year period 2016-21, an average of 8,315 new homes in each year. A long-term yearly average of around 10,000 new dwellings is anticipated for the period 2021-26.
- 2.2. Each of the 12 districts in Kent are planning significant housing growth. It is essential that this growth is supported by sufficient education provision that is well integrated within the areas of growth and established at the right time. The cost of providing school places in response to housing growth is significant, the County Council seeks developer contributions towards mitigating this cost.
- 2.3. Basic Need grant does not explicitly make financial provision for all new school places needed in direct response to additional housing growth at the time that they are needed. Central government basic need grant, the DfE free schools programme and other capital funding do not negate housing developers' responsibility to mitigate the impact of their development on education. Developer contributions for education are secured either through s106 agreements or through the Community Infrastructure Levy (CIL).
- 2.4. S106 agreements are secured from housing developers at the time that planning permission is granted, they are intended to ensure development proposals are acceptable in planning terms. When securing a s106 agreement KCC will outline the additional impact the development would have on local schools, where we would need to add additional provision in response and the cost of doing so. Whilst district authorities, as the relevant Local Planning Authority, are the decision maker on whether contributions towards education provision should be made or not, once a s106 agreement is in place the housing developer becomes legally obligated to pay KCC contributions at specified trigger points e.g., when pre-established number of houses occupied are reached.
- 2.5. To assess the need for education contributions an assessment of the impact of each proposed development is undertaken; the assessment determines whether existing local schools in the area of the proposed development are forecast to have sufficient surplus places to accommodate the additional pupils from the proposal, or whether additional provision would be required. Depending on the scale of development KCC may commission the establishment of a new school or the expansion of an existing school or academy.
- 2.6. To inform the process of forecasting Primary school pupil numbers, KCC receives information from the relevant Health Authority of the number of births and location of Pre-school age children. The Pre-school age population is forecast into Primary school rolls according to trend-based intake patterns by ward area. Secondary school forecasts are calculated by projecting forward the Year 6 cohort, also according to trend-based intake patterns. If the size of the Year 6 cohort is forecast to rise, the projected Year 7 cohort size at Secondary schools will also be forecast to

rise. Pupil forecasts are compared with school capacities to give the projected surplus or deficit of places in each area.

- 2.7. Pupil product rates (the expected number of pupils from new housebuilding) are calculated for the proposed development; if the forecasts described above evidence that the additional pupils could not be accommodated within schools then contributions are sought. The amount of capital sought is based on the number of pupils generated by the development and the per pupil cost of providing additional places, this cost is based on the observed outturn cost of recent construction projects and index linked to ensure contributions rise with any future increases in construction costs.

3. Future Changes and Concerns

- 3.1. Five districts in Kent have adopted a Community Infrastructure Levy (CIL), which has largely replaced s106 agreements in those areas. The levy is a tariff-based system where developers are charged a set rate per square metre of development. There is no direct link between the development's impact on local infrastructure and the amount it pays. All CIL funding is paid to the relevant district or borough, which then determines how it will be spent once it is received; there is no funding ring-fenced for education provision and KCC will usually be required to 'bid' to the Borough for a share of the funding. This provides KCC with no security that development charged CIL will contribute to the cost of new school provision at the time planning permission is granted. Under CIL the amounts collected for community infrastructure are typically lower than could be secured through s106 and the spending of CIL is entirely at the discretion of the District Authority and not KCC, which places the County Council at significant risk moving forward.
- 3.2. The reality is that in two-tier areas such as Kent, where education and planning responsibilities are not held within the same local authority, s106 agreements are the most effective mechanism for securing developer contributions for education. In a CIL charging district s106 contributions can continue to be used on the largest of developments in those areas, but KCC's ability to secure contributions directly from developers to fund additional school places is diminished on anything other than those largest individual developments.
- 3.3. On 6 August 2020, the government published a white paper, Planning for the Future, proposing that the system of charging a Community Infrastructure Levy on developments and imposing planning obligations (Section 106 agreements) should be reformed, to create a nationally set, value-based flat rate charge referred to as the 'Infrastructure Levy'. Detail is awaited alongside expected wider planning reforms; whilst simplification of the current system is welcomed, tentative concern is held that a new system could result in lower levels of funding being available to upper tier authorities, as was the case with the introduction of CIL.
- 3.4. The Basic Need Capital Programme currently assumes £68.862m of developer contributions. If the level of contribution reduces or there are delays in the receipt of the contributions, this could result in a revenue pressure in debt costs arising from the need to forward fund using prudential borrowing or switch fund to prudential

borrowing. The alternative would be a reduction in the scope of planned works, which would impact the Council's ability to fulfil its statutory responsibilities.

3.5 As this report is to note, there are no associated Financial, Legal or Equality implications.

4. Recommendation(s):

4.1 The Cabinet Committee is asked to note the report.

5. Background documents

5.1 Kent Commissioning Plan for Education Provision 2020-2024
[Kent Commissioning Plan for Education Provision 2020-2024](#)

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