

From: **Derek Murphy, Cabinet Member for Economic Development**

Simon Jones, Corporate Director of Growth, Environment & Transport

To: **Growth, Economic Development and Communities Cabinet Committee – 10 May 2022**

Subject: **Infrastructure Funding. All Member Briefing Scoping Paper.**

Classification: **Unrestricted**

Past Pathway of report: **None**

Electoral Division: **All**

Summary: At Growth, Economic Development and Communities Cabinet Committee on 22nd March 2022 Committee Members asked that an ‘All Member Briefing’ would be arranged in the future to explain the overall background to developer contributions and our approach along with outlining some of the challenges we face and emerging issues. A commitment was made to bring back the suggested scope of that briefing to May’s Committee to ensure the briefing meets Members’ expectations.

Recommendation:

The Growth, Economic Development and Communities Cabinet Committee is asked to review and make recommendations to the Cabinet Member on the proposed scope of an ‘All Member Briefing.’

1. Introduction

- 1.1 Since 2014 KCC has secured a total of £321,177,959 in contributions from developers towards specified services. This figure represents a cumulative achievement rate of 97% against KCC’s asks for total contributions from developers (these figures are exclusive of the value of land transferred and Highways Section 278 agreements). However, this is not achieved without significant challenges.
- 1.2 Members receive quarterly performance reports to the Growth, Economic Development and Communities Cabinet Committee. Performance can fluctuate in year depending upon site specific issues.

2. Proposed Subject Areas

- 2.1 At Growth, Economic Development and Communities Cabinet Committee on 22nd March it was agreed that an ‘All Member Briefing’ would be arranged to give an overview background to developer contributions and our approach along with outlining the challenges we face and emerging issues, accepting that Districts as the Local Planning Authorities have the statutory remit to

balance competing considerations when determining individual planning applications. It is proposed the scope cover:

- **Section 106 (S106) / Developer Contributions** - to include an explanation of KCC's role, the statutory position, rationale for seeking contributions, and legal tests, and the KCC services for which contributions are secured such as Highways, Primary and Secondary Education, Adult Social Care, Libraries, Community Learning, Youth Services, Waste, and Broadband (mainly through planning conditions).
- **Financial Data** – to include the ratio of contributions agreed/sought by KCC on a District-by-District basis, and amounts agreed per service as outlined above; (in addition to the value of land transferred and Highways S278 agreements).
- **Community Infrastructure Levy (CIL)** – to include an explanation of the system and difference to S106 agreements, Districts which have adopted CIL, and how the current system is operating within each of the Districts that operate CIL.
- **Highways Section 278 (s278) Agreements** – to include an explanation of Highways S278 Agreements and how they relate to S106/CIL.
- **Challenges to Securing Developer Contributions** – to include an explanation of the overall financial parameters within which development contributions may be sought, the issue of viability and mitigation measures used where appropriate, and the challenges of increasing complex policy including the current proposals contained in the Planning White Paper (Aug 2020).
- **Infrastructure Funding Statement** - reference to the existing publication (for 2019/20) can be found at <https://www.kent.gov.uk/about-the-council/strategies-and-policies/environment-waste-and-planning-policies/infrastructure-funding-statement-2019-2020>.
- An update on the purpose of, and development of, a refreshed **Growth and Infrastructure Framework**
- An update on how **Members are sighted, briefed, and may make comment on KCC S106/CIL requirements within their division's own relevant District**

3. Financial, Legal, Equalities and Data Protection Implications

- 3.1 KCC seeks developer contributions to secure financial contributions towards increasing infrastructure capacity to support services which it has a responsibility to provide. The Development Investment Team within Growth & Communities primarily deal with S106 agreements, although this is essentially

a corporate function with significant expertise and input required across the whole authority including from service providers such as Education.

- 3.2 As stated above, since 2014 KCC has secured a total of £321,177,959 in contributions from developers towards specified services. This figure represents a cumulative achievement rate of 97%. In this context The Growth and Infrastructure Framework (GIF) has projected that by 2031 (2011 - 2031) Kent will be home to 178,600 new homes and nearly 400,000 new people.
- 3.3 The infrastructure required to support this growth is forecast (2017 – 2031) to cost over £16bn with £2.8bn attributed to infrastructure to be delivered by KCC. With regards to KCC's investment and based on total funding identified, £1.6bn is expected to be delivered by development contributions, although there remains a significant risk that such funding may not materialise to the amount or timescales required. Therefore, development contributions only form part of a bigger picture and for many services this means that the true impact of additional demand from development cannot be fully recovered through S106 agreements alone.
- 3.4 In addition to the capital cost of infrastructure provision S106 monies cannot be used towards replacement or maintenance of existing assets, running costs etc. All projects where S106 monies are applied must demonstrate that they are providing additional capacity.
- 3.5 The s106 agreement is a formal document, a deed, which states that it is an obligation for planning purposes, identifies the relevant land, the person entering the obligation; it also becomes a land charge and the relevant local authority can enforce against it as a legal contract The Community Infrastructure Levy (CIL) is a tariff-based system which is administered by the district authorities.
- 3.6 There are no identified equality issues arising from the process for securing developer contributions itself, although KCC services will have appropriate operational provision within their individual service delivery plans/strategies.
- 3.7 There is no processing of personal data within the process for securing developer contributions, although again KCC services will have appropriate operational provision within their individual service delivery plans/strategies.

4. Recommendations

Recommendation:

- 4.1 The Growth, Economic Development and Communities Cabinet Committee is asked to review and make recommendations to the Cabinet Member on the proposed scope of an 'All Member Briefing.'

5. Contact details

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