

By: Kevin Lynes, Cabinet Member, Regeneration and Economic Development
David Cockburn, Executive Director Strategy, Economic Development & ICT

To: Regeneration and Economic Development Policy Overview and Scrutiny Committee 23 September 2010

Subject: Development Contributions and Infrastructure

Classification: Unrestricted

Summary:

This paper outlines the County Council's approach regarding the provision of community infrastructure and the process for agreeing S106s including: monitoring performance, dealing with the recession, viability issues and the work currently underway to further identify service needs.

1. Introduction

- 1.1** The provision of adequate infrastructure and community facilities alongside housing growth is essential if we are to achieve aspirations in respect of sustainable communities and ultimately create 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.

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 (although now revoked) stipulated 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 (see below) necessary to make a planning obligation acceptable. The first three have been placed into law by the Community Infrastructure Levy Regulations 2010.
- 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
 - Relevant to planning
 - 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 which 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.

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 reports are produced showing the performance in negotiating development contributions from minor sites (up to 500 units) and from major sites (over 500 units) on a district by district basis.

This table gives a summary of the outcome of negotiations for minor sites:

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
2010/11 April to June Quarter	CFE	421,963.76	421,963.76	100
	KASS	743,419.00	608,294.00	82
	Communities	303,558.20	271,107.70	89

3.5

Major sites, such as Eastern Quarry, are monitored separately and included in the quarterly reports mentioned above. In this respect, multi-disciplinary teams are formed in order to assist the delivery of cross cutting objectives. Contributions can comprise both 'in kind/direct provision' options and/or direct monetary contributions. Also, attenuation measures are used where appropriate / relevant (see 3.7 & 3.8).

Further details of individual major sites are available on request.

3.6 • Planning Policy

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.) as well as providing evidence at planning appeals and inquiries.

3.7 • Economic Climate & Attenuation Measures

Housing delivery has 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, especially where viability is threatening housing delivery.

Recently KCC has been involved in negotiations on the following major sites – Newtown Works, Charter House and Templar Barracks, Ashford. Nickols Quarry, Shepway, and Westwood, Thanet. Analysis shows the variance between the contributions agreed and illustrates the difficulties due to the current economic climate whereas on previous negotiations such as Eastern Quarry Local Authorities were able to secure the majority of its requirements.

3.8 In meeting these challenges, a number of attenuation measures have been implemented for major sites (at least while the housing market remains less buoyant) in order to protect KCC's interests. These include the following:

- Seeking mitigation of financial contributions through direct provision of facilities and locally based solutions such as joint use of space. Examples include the Bridge at Dartford.
- Ensuring that an appropriate development appraisal/valuation has been undertaken to test the viability of any particular proposal as fully as possible.
- Where acceptable, retaining flexibility within the terms of the legal agreements to enable KCC funds 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.
- Using deferred payments/claw back provisions so that additional contributions

may be received if, as and when forecast sales values increase over the period of development.

- In addition alternative / more innovative funding models are being considered (TIFS etc) and will form part of the financial modelling work to support What Price Growth 2.

3.9 Whilst, major sites such as Ebbsfleet, Aylesham, Whitfield, Cheesemans Green etc, are the subject of ongoing negotiation the table below shows recent performance in respect of the sites mentioned above and although attenuation measures have been implemented where relevant it serves to demonstrate the increasing imperative to find alternative / more innovative forms of service delivery.

District/site	Service	Sought £	Agreed £	%	Other provision
<u>Ashford</u> Newtown works	Communities	377,696.00	165,532.40	44	
	KASS	1,114,528.00	499,392.32	44	
	CFE	117,276.67	37,881.00	32	
	Communities	127,421.00	35,776.50	28	
	KASS	451,821.84	136,792.50	30	
Templar Barracks	CFE	7,110,298.30	7,110,298.30	100	Primary school site with nursery
	Communities	452,500.00	0	0	
<u>Shepway</u> Nickols Quarry	CFE	1,077,037.94	1,077,037.94	100	8 wheelchair accessible affordable housing units
	Communities	400,575.00	0	0	
	KASS	1,420,398.00	0	0	
<u>Thanet</u> Westwood	CFE	2,245,894.00	2,245,894.00	100	Primary school site with nursery
	Communities	888,525.00	888,525.00	100	
	KASS	1,477,840.00	1,477,840.00	100	

4. Issues/Cabinet Sub Group

- 4.1** Although some economic forecasters believe that the housing market has begun to recover in the first and second quarters of 2010, recent reports indicate a further downturn and there is no guarantee that this can be sustained. It is felt, therefore, that any recovery will be tentative with viability remaining an issue for some time to come.
- 4.2** 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 a priority over and above other factors including infrastructure provision.
- 4.3** In this respect, and in order to take development contributions fully into account when planning the Medium Term Plan, a Cabinet Sub Group oversees 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.

4.4 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 previous Government introduced Community Infrastructure Levy (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 and is subject to further policy detail from central Government.

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 back to Cabinet for adoption as supplementary guidance. The Service Provider Packs will help inform District colleagues as Local Planning Authorities (providing infrastructure provision requirements for LDFs for example).

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.

Author Contact Details:

Name	Nigel Smith
Officer Title	Head of Development & Investment
Directorate	Chief Executives

Email:	nigel.smith@kent.gov.uk	Tel:	01622 221867
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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.