

Agenda Item No: 4

Report To: Overview and Scrutiny Committee

Date: 25th November 2014

Report Title: The use of s106 agreements and affordable housing delivery

Report Author: Richard Alderton, Head of Planning and Development
Jennifer Shaw, Housing Strategy Manager



Summary: The report responds to two sets of issues raised by the Committee – firstly, a more general set of questions on the use of s106 agreements, and secondly, more specific queries on the delivery of affordable housing, in particular through developer led section106 sites. The report highlights a range of factors that can affect the amount of affordable housing achieved against the Council's policy target, considers the impact of the recession and scheme viability and compares delivery with other Kent local authorities and the picture nationally.

Key Decision: NO

Affected Wards: All

Recommendations: **The Committee be asked to note the contents of the report**

Policy Overview: Ashford Core Strategy 2008
Ashford Housing Framework 2013-2018

Financial Implications: No direct implications for the Council's budget

Risk Assessment NO

Equalities Impact Assessment NO

Other Material Implications: None

Contacts: richard.alderton@ashford.gov.uk – Tel (01233) 330239
jennifer.shaw@ashford.gov.uk – Tel: (01233) 330451

Report Title: The use of s106 agreements and affordable housing delivery

Purpose of the Report

1. The report presents information requested by the Overview and Scrutiny Committee on two related issues. Firstly, questions on the general role and use of s106 agreements and, secondly, following the presentation of the Housing Framework Annual Report at the July meeting, where the low number of affordable homes delivered in 2013/14 was questioned.

The use of s106 agreements

2. The Committee raised the following specific questions:
 - Why we have agreements
 - What we can seek contributions for and the legal justification
 - How we work with parishes and other organisations to identify projects which could utilise contributions
 - How we obtain payments and monitor compliance
3. Section 106 agreements are legally binding agreements entered into by persons with an interest in a piece of land, in favour of the Council as local planning authority. They are required to be entered into in conjunction with planning permissions for housing development, by either the Planning Committee or the Joint Development Control Managers exercising delegated powers on behalf of the Council. In this context, they are designed to mitigate for particular impacts that would arise from the development and are usually negotiated between the local planning authority and the landowner(s)/developer in consultation with stakeholders. Planning obligations aim to offset the extra pressure created by, and needs arising from, a new development.
4. The list of typical planning obligations the Council may ask for are listed in Appendix 1. As the list shows the Council collects contributions for a variety of different items for a variety of different organisations.
5. There are, however, restrictions on the scope and use of s106 agreements. Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that:

‘A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is-

 - (a) necessary to make the development acceptable in planning terms
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.

The 3 legal tests above restrict what the council can and cannot negotiate into a section 106 agreement.

6. The Council employs an officer to monitor section 106 agreements; this post is fully funded by monitoring fees collected as part of section 106 agreements. The role of the Section 106 Support Officer is to monitor all section 106 agreements whatever their size. There are many ways that this monitoring is achieved - corresponding internally with planning officers and checking with building control records; contacting the developer or applicants; and site visits. An annual report is produced for Cabinet that outlines all section 106 agreements that have been negotiated as well as contributions received in the financial year (the most recent report is attached as an Appendix 2, 2A and 2B). The Council's section 106 process is regularly audited by the Mid Kent Audit Partnership.
7. It is equally important that once the council has successfully negotiated and collected section 106 sums that they are spent in a meaningful way that helps mitigate the negative impact of the development. This involves working with colleagues elsewhere in the Council, with KCC and with partner agencies to deliver identified projects to this end. For some planning obligation contributions the council will consult local residents and/or the local parish council. For example, the council's Culture and Environment Unit works with parishes to help identify the needs of the local people and to specify appropriate projects to respond. This dialogue often begins when sites are first allocated for development and included in the local plan. Village workshops and other events help to identify needs and suitable projects. These are a few examples of how the council is working closely with Parish Council's and other community organisations:
 - Singleton Open Space (Great Chart with Singleton Parish Council & The Conservation Volunteers)
 - Brisley Farm Open Space (two parish councils and TCV)
 - Repton Park Community Facility (A community stakeholder group has been established)
 - Lancaster Close in Hamstreet.

The delivery of affordable housing using s106 agreements

8. The Council's Strategic Housing Market Assessment 2014 identified a need for 368 affordable homes per year (213 in Ashford town). It estimated that 43% of households in Ashford are unable to afford open market housing to rent or buy without subsidy.
9. There are consistently between 1200 and 1400 applicants on the housing register each month. The most frequent reasons for needing alternative accommodation are:
 - a. Lacking 1 or more bedrooms (overcrowding)
 - b. Sharing facilities
 - c. Medical or welfare needs
 - d. Homeless

10. Affordable housing is a widely used term. For the purposes of this report it refers to social rented (approximately 60% of open market rents) affordable rented (up to 80% of market rents inclusive of service charges) and shared ownership (part buy, part rent).
11. Other government initiatives such as equity loans and mortgage guarantee schemes are offered by participating developers and lenders to assist households into homeownership. These products do not form part of the affordable housing quota delivered through the Council's affordable housing policy in the Core Strategy (CS12).
12. Affordable housing is delivered in different ways in the Borough:
 - a. The Council building its own homes on small parcels of land already in its ownership.
 - b. The Council purchasing empty properties and bringing them back into use.
 - c. Housing Associations buying development plots and building out either entirely for affordable housing, such as Latitude Walk or as a mixed tenure site.
 - d. Using s106 agreements developers provide a percentage of affordable housing on qualifying sites, as set out in the affordable housing policy, and sell these to a housing association or potentially the Council.
 - e. Local needs housing, where affordable housing is built, usually by a housing association, on land that would not normally be developed (an exception site) to meet an identified local housing need in a rural parish.
 - f. Mortgage Rescue scheme whereby a home is purchased by a Housing Association to enable the owners to remain and rent the property. This scheme has now ceased.
13. Table 1 below shows that developer led s106 sites deliver the largest proportion of affordable homes built. The table looks only at the years of the economic downturn and it is evident how volatile the figures are. Recent experience is important but a more reliable picture can be gained over a longer period. Delivery of affordable homes in the Borough has averaged at 179 per year over the last 10 years

The table below details numbers of affordable dwellings delivered over the last 3 years and projected for completions during 2014-15.

Table 1: Affordable Housing Delivery 2011 - 2015

	2011-12	2012- 13	2013-14	2014-15 (projected)	Total
Developer s106 sites	157	49	2	251	459
ABC new build/empty homes	65	0	19	100	184
HA built	0	0	0	45	45
Local Needs	12	0	0	9	21
Other	0	1	1	0	2

(Mortgage Rescue)					
	234	50	22	405	711
FirstBuy	11	18	2	Not known	31

14. Affordable housing delivery over the last 3 years averages at 102 homes per year, meeting only 28% of the identified need for 368 homes per year. Including the projected completions for 2014/15 the average delivery of affordable homes rises to 178 homes per year over the last 4 years but this still only meets 48% of the annual affordable housing requirement.

Issues affecting the delivery of affordable homes

15. The current affordable housing policy in the Ashford Core Strategy 2008 seeks 30% affordable housing in the urban areas and 35% affordable housing in rural parts of the borough on qualifying sites, that is sites of 15 units or more or 0.5 ha or more.
16. Where non residential properties (such as offices) are converted to residential, under this Government's changes to permitted development rights, the developer does not have to meet affordable housing or other s106 obligations. Moat Housing Association are converting the Crown Building to 25 flats, all for affordable rent. But in contrast, the conversion of offices to 21 flats at Trafalgar House, by a private developer, will not yield any affordable housing.
17. On a qualifying site being built by a developer, the affordable homes will be purchased from the developer by a Registered Provider (usually a Housing Association). Public grant available to Registered Providers to assist with affordable housing delivery has significantly reduced, from a level of approximately £60,000 per unit to £20,000 per unit over the last two funding rounds (2011-15 and 2015-18). There is now an expectation of no grant on units delivered through s106 obligations, unless there are specific extenuating local circumstances when the Homes and Communities Agency may consider an application for grant.
18. Over the last couple of decades the list of infrastructure and community facilities that there is an expectation developers will contribute to has steadily lengthened. When the housing market was buoyant this approach was tenable but the downturn in the market during the recession has undermined the viability of many schemes expected to pay the full range of developer contributions. Heavy physical infrastructure, especially highway works, without which the scheme could not practicably go ahead, often 'top slices' the contributions package that the developer can reasonably afford without making the development unviable. Another major cost is often school provision where the County Council seeks to recover all costs of construction of new schools without recourse to borrowing.
19. As viability of schemes worsened developers increasingly argued – with Government policy support – that a more flexible approach to contributions was needed to make sure schemes remained viable. Developers now have a

new ability to challenge a previously-agreed s106 in respect of affordable housing provision.

20. The tension between securing contributions towards necessary infrastructure alongside housing developments, and encouraging developers to keep building housing in order to seek to achieve growth, was considered in detail by the Planning Committee on 10 February 2009. A copy of the report and minutes of that meeting are available online at: <https://secure.ashford.gov.uk/committeesystem/ViewAgenda.aspx?MeetingId=956>.
21. The response the Committee approved, and successfully piloted in its decisions where independent analysis demonstrated serious viability problems, was the 'deferred contributions' approach, whereby early concessions agreed on contributions could be 'caught up' if the value of the scheme increased as it was built out. This approach kept the housing market relatively active through the depths of the recession and as the market has risen it is becoming clear that 'deferred contributions' will in fact be secured, although principally from green field sites.
22. As developers increasingly resorted to viability cases difficult issues arose on what element of the contributions package to defer in the hope that a subsequent general rise in the market would generate deferred contributions to at least partly offset this impact. Given the impact of 'top slicing' for highway works, and also the need for basic onsite facilities such as play equipment, a significant reduction in affordable housing and other contributions, together with deferred contributions, was agreed by the Planning Committee for a number of large developments. Such monies as are received in such cases go towards a 'pool' consisting of all the unpaid contributions for that development (including the cost of providing any affordable housing not provided). An officer working group considers service provider requests to determine what infrastructure projects are affordable and should be prioritised at the time money is received.
23. Table 2 below shows a range of sites, (completed, in progress and yet to commence) and the variation on affordable housing delivery that is being experienced. Some were given planning permission under the previous affordable housing policy in the 2000 Local Plan that required 20% affordable housing to be provided on site.

Table 2: Examples of sites and affordable housing delivery in Ashford

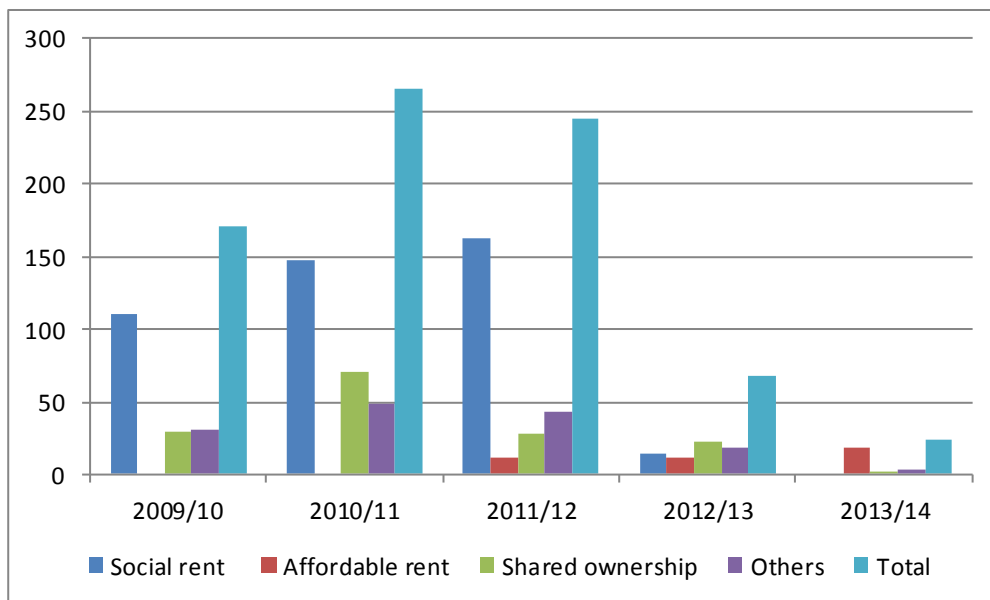
Site	Policy target	Policy achieved	Comments
Park Farm	20%	Yes	20% delivered overall on a phased basis, including purchases made by RSLs direct from the developer as agreed by Planning Committee.
Repton Park	20%	Over 19% will be achieved overall, some	Overall delivery now includes older person accommodation and flats over shops, agreed by Planning Committee so as not to stall development despite lack of viability. Some FirstBuy units

		variation between phases	provided by the developer and also some purchases made by RSL direct from the developer as agreed by Planning Committee.
Finberry (Cheesemans Green)	20%	Expected to be achieved	Currently progressing 20% overall.
The Warren (Sites A and C)	30%	Achieved (to be in an extra care scheme)	Developers reluctant to provide affordable housing on site A. Planning Committee agreed alternative provision in an extra care scheme on Site C.
Conningbrook	30%	No	No affordable housing agreed by Planning Committee, due to the general demand housing 'enabling' the creation of a Country park and viability preventing further contributions – but deferred contributions reserved.
Charter House	30%	No	No affordable housing delivered on site. Owing to lack of viability, Planning Committee granted permission subject to 'deferred contributions' policy should values rise which may contribute to off site affordable housing provision.
Evolution (Hunter Ave)	30%	Yes	30% affordable housing provided on site (28% minimum as required by Planning Committee owing to viability shortfall, plus 2% voluntarily by developer).
Newtown Works	30%	Unlikely to be achieved	Owing to lack of viability, Planning Committee granted permission subject to minimum of 20% affordable housing, plus 'deferred contributions' should values rise. Town and Country (Registered Provider) negotiated deal with developer Kier to buy out first phase of 108 units – it is believed that 89 will be affordable tenure. Remainder of site faces considerable brown field clean up costs and the restoration of the railway sheds – unlikely to be viable for affordable housing unless purchased by an RSL.
Kent Wool Growers	30%	No	No affordable housing, Planning Committee accepted that relocation costs make scheme unviable if required to provide AH. Permission granted subject to 'pay regardless' contribution towards the 'pool', plus deferred contributions should values rise or relocation costs not be spent.
Chilmington Green	30%	First phase of 1000 homes	Planning Committee agreed due to lack of overall viability of the scheme, to lower affordable housing in the first

		required to yield 10%	phase to 10%, but with frequent viability reviews after that to seek to make up shortfall to achieve 30% overall if viability allows (up to a maximum of 40% in any one viability review phase)
Kings Avenue	30%	Expected to be achieved	Planning permission granted with 30% requirement, now under construction.
Chilham Sawmills	35%	Expected to be achieved	Orbit (Registered Provider) developing whole site and providing 35% affordable housing as required by Planning Committee.
Tent 1	35%	Expected to be achieved	Planning Committee agreed to require 35% affordable housing, but increase percentage of affordable homes in shared ownership to 56% (rented 44%) due to viability issues.
Rolvenden (Halden Field)	35%	Expected	35% proposed and required by Planning Committee.

24. In Ashford Borough, development sites have until recently delivered affordable housing as shown in Chart 1 below. In 2013/14 only 2 affordable homes were delivered on a section 106 site, although there is a considerable improvement to 251 affordable homes anticipated in 2014-15 as a result of s106 agreements.

Chart 1: Ashford affordable housing delivery



(Other = Homebuy direct, FirstBuy and mortgage rescue)

Across Kent

25. The information provided below gives a comparison of affordable housing delivery in Kent Local Authorities. The delivery of affordable housing will be influenced by local policy and the viability of sites will be dependent on local characteristics. Three authorities (Maidstone, Thanet and Tonbridge and Malling) have taken a decision to prioritise affordable housing in their section106 negotiations.
26. House prices and local incomes differ considerably across Kent, which, with a range of other factors, influences site viability and need for affordable housing. Table 4 illustrates these variances.
27. In summary, Ashford has the 6th highest average house prices and the 5th highest median earnings of Kent authorities. Using these values, house prices in the borough are almost 10 times local residents' wages – 7th position of the 13 districts in Kent.

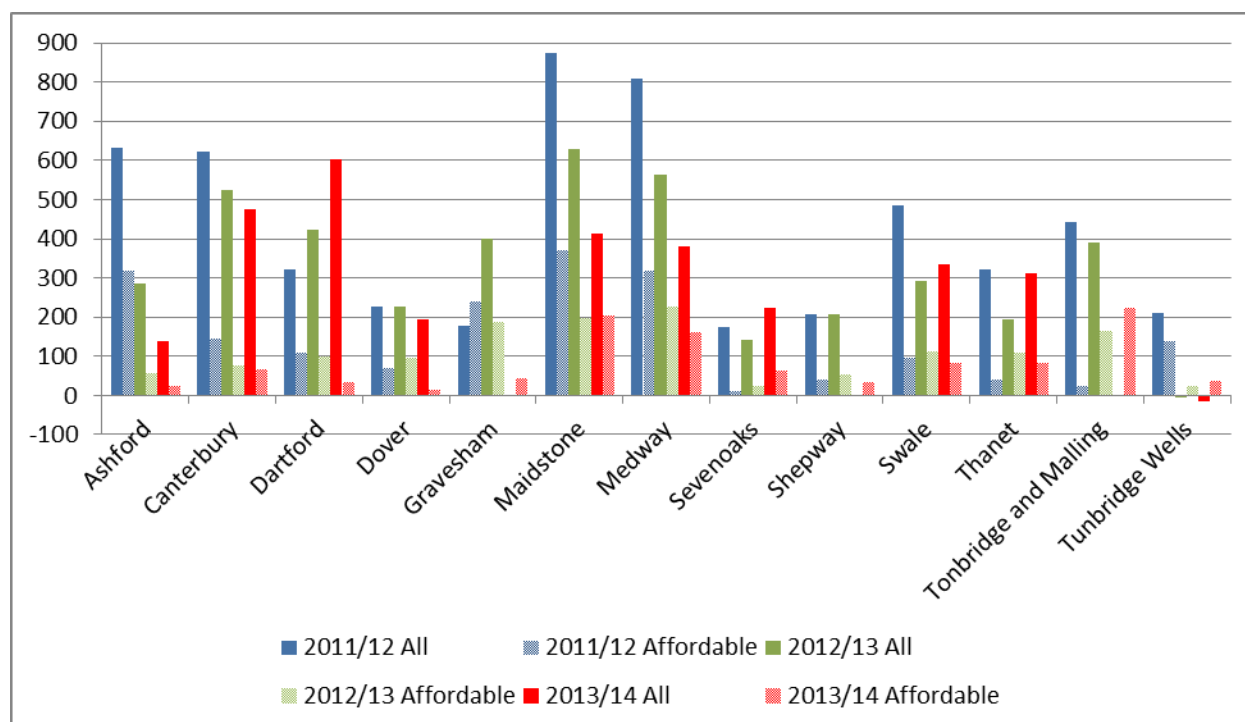
Table 3: Local Authority average house prices, median earnings and ratio

District	Ave house prices 2014 qtr 1 £	Rank	Annual median pay (gross) by place of residence (2013)	Rank	house price to Income ratio	Rank
Ashford	227,941	6	22,950	5	9.93	7
Canterbury	240,434	4	21,581	11	11.14	4
Dartford	213,697	7	25,283	2	8.45	11
Dover	209,485	9	22,655	7	9.24	10
Gravesham	212,558	8	22,345	9	9.51	8
Maidstone	237,808	5	22,335	10	10.64	5
Medway	177,204	13	22,688	6	7.81	13
Sevenoaks	406,442	1	23,487	4	17.30	1
Shepway	202,861	10	21,571	12	9.40	9
Swale	199,479	11	22,581	8	8.83	12
Thanet	181,332	12	17,499	13	10.36	6
Tonbridge & Malling	305,508	3	24,972	3	12.23	2
Tunbridge Wells	323,867	2	27,864	1	11.62	3

28. Chart 2 illustrates total net completions and affordable housing completions over the last 3 years. It is noticeable how the affordable contribution has fallen as the economic downturn continued.

29. In Ashford sites with planning permission which are either not started or under construction could potentially deliver in the region of 1200 homes in 2014/15 and 2015/16, with 579 being affordable tenures.

Chart 2: Kent Authorities housing completions 2011/12 - 2013/14



No data available for total (all) completion for Gravesham, Shepway and TMBC 2013/14.

Further information showing comparison of delivery in Kent authorities and a summary of how their local plans are progressing with current draft proposals for affordable housing policy are presented in Appendix 3.

Conclusion

30. Historically Ashford has had a good record of affordable housing delivery. Following a period of very difficult decision-making during the economic downturn, going forward there are now a number of section 106 sites either in development, or to be developed, which may not yield the full policy requirement for affordable housing for viability reasons, but are subject to either deferred contributions or viability reviews, should the housing market allow.
31. Maximising the amount of affordable housing on qualifying s106 sites is important to ensure a range of housing is available to meet the housing needs of Ashford residents and ensure mixed, balanced communities are developed.
32. The Council's 'deferred contributions' scheme enabled the market to keep delivering housing in Ashford through the recession, albeit at reduced volumes. As market conditions and sales values improve it is reasonable to expect some deferred contributions to be received in future, and some of these may be able to be allocated to affordable housing schemes.

33. Although there are a number of other ways of providing affordable housing such as the councils own build programme, bringing empty properties back into use and local needs housing, these measures alone, whilst helpful, are not able to supply a significant proportion of the number of affordable homes required to meet housing needs.
34. When a Housing Association is developing a mixed tenure site, the affordable housing requirement is met in full e.g. Chilham Sawmills. Other development opportunities that present themselves to HA's such as the conversion of the Crown Building or small sites to develop out for 100% affordable housing can provide further affordable housing, albeit in small numbers.
35. On some developer led s106 sites, challenges to the affordable housing quota and/or other s.106 contributions continue to be put forward on grounds of viability, even in a rising market. These need to be fully tested by the Council's retained viability advisor so that the Council can secure the best solution possible for the community in terms of the infrastructure and affordable housing it needs as a result of development. The TENT 1 scheme in Tenterden is a good example of where a deferred contributions case was made but subsequently shown to be largely unfounded. Another encouraging sign is that a significant element of the 'deferred contributions' on the Bluebells scheme on Maidstone Road (Sites A & C) will be paid as a result of rising sales values.

Portfolio Holder's Views

36. "This is a very comprehensive review of the affordable homes that have been delivered in Ashford and give anticipated figures for this current year. The various charts highlight the differences in other boroughs. It may be that Ashford should review its policy when constructing the revised Local Plan and as part of this process give thought to ensuring the s106 contributions collected are appropriate to meeting affordable housing and infrastructure requirements in that locality. Members should also consider that the national planning guide lines and the national economy play an important part in the delivery of s106 sites" – Portfolio Holder for Housing.
37. "This report is a very good summary of two complicated and inter-related important areas, those of Affordable Housing, and the S106 Agreements, which are of pivotal importance in its funding.
As can be seen from the figures, although Affordable Housing is delivered by ABC in a number of ways, S106 Monies are responsible for most of the delivery. In the recent difficult economic times, developers have had viability issues with many schemes, which has restricted the amount of S106 which can be paid in total, by a given scheme, and, as a direct consequence, the amount of Affordable Housing, which is almost always the most costly thing to deliver. This has also been made worse in some schemes, by the need to deliver other infrastructure up-front, such as Highways Improvements, without which the development simply could not take place at all.
The ABC Planning Team has responded to this difficult situation in a number of ways, which can be summarised as pragmatic and commercial. Firstly, the proportion of Affordable Housing, which is supposed to be 30-35%,

depending on location, has been flexed, so that a lower percentage, that does not make the scheme unviable, is actually delivered. Secondly, a policy of deferred payments of S106 Contributions has been put in place, which claws back monies, if the selling prices achieved in practice are higher than expected, and this is then used to provide Affordable Housing off -site. Thirdly, the mix of Affordable Rented to Affordable Part- Buy has been flexed to enable the full, or near full, percentage of Affordable Housing to be delivered on a site, whilst maintaining viability. Fourthly, Chilmington Green is being used as a pilot for on very large schemes, which build out over a long time, where the viability of each phase of the scheme is reviewed quite frequently, to ensure that the Affordable Housing is delivered to the maximum extent possible, whilst maintaining viability, and upfront infrastructure investment.

As a result of applying these techniques in one form or another, ABC has been able to maintain the supply of Affordable Housing through the recession, and is in good shape to continue doing so, now that the economy is improving. It is also good to see that the Planning & Housing Teams are working closely together on this important area, as evidenced by the joint nature of this report. The whole subject of Affordable Housing is also in the process of review by the Planning Task Group, with the close involvement of both Planning & Housing Officers, and the lessons that have been learnt from recent activities, will be fed into new policies, as required, as part of the Local Plan Review.” – Portfolio Holder for Planning and Development

Contact: Richard Alderton, Head of Planning and Development
Jennifer Shaw, Housing Strategy Manager

Email: richard.alderton@ashford.gov.uk
jennifer.shaw@ashford.gov.uk

Appendix 1

Heads of Terms for Section 106 Agreement/Undertaking: Growth Area Site

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
1	<p><u>Adult Social Care</u></p> <p><i>Applies to developments of 10 dwellings or more</i></p> <p>Contribution towards enhancing community facilities in the area by making them accessible to people with disabilities and enabling telecare services to be installed in homes in the area</p>	<p>£X per dwelling</p>	<p>Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings</p>	<p>Necessary as additional social services premises required to meet the demand that would be generated pursuant to Core Strategy policy CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), KCC Guide to Development Contributions and the Provision of Community Infrastructure and guidance in the NPPF.</p> <p>Directly related as occupiers will use adult social services facilities and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings.</p>
2	<p><u>Affordable Housing</u></p>			

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
	<p><i>Applies to:</i></p> <p>(i) <i>developments of 15 dwellings or more</i></p> <p>(ii) <i>residential sites of 0.5 ha or more</i></p> <p>Provide not less than 30% of the units as affordable housing, comprising 60% affordable rent units and 40% shared ownership units in the locations and with the floorspace, wheelchair access (if any), number of bedrooms and size of bedrooms as specified. The affordable housing shall be managed by a registered provider of social housing approved by the Council. Shared ownership units to be leased in the terms specified. Affordable rent units to be let at no more than 80% market rent and in accordance with the registered provider's nominations agreement</p>	<p>X affordable rent units</p> <p>Y shared ownership units</p>	<p>Affordable units to be constructed and transferred to a registered provider upon occupation of 75% of the open market dwellings.</p>	<p>Necessary as would provide housing for those who are not able to rent or buy on the open market pursuant to Core Strategy policy CS12, any applicable site-specific policy in the Ashford Town Centre AAP or the Urban Sites and Infrastructure DPD, the Affordable Housing SPD and guidance in the NPPF.</p> <p>Directly related as the affordable housing would be provided on-site in conjunction with open market housing.</p> <p>Fairly and reasonably related in scale and kind as based on a proportion of the total number of housing units to be provided.</p>
3	<u>Allotments</u>			

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
<p><i>Potentially applicable to all residential developments</i></p> <p>Contribution towards provision of or improvements to allotments and associated facilities in the area and maintenance thereof</p>	<p>£258 per dwelling for capital costs</p> <p>£66 per dwelling for maintenance</p>	<p>Upon occupation of 75% of the dwellings</p>	<p>Necessary as allotments are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Core Strategy policies CS1, CS2 and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p>Directly related as occupiers will use allotments and the facilities to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
<p>4 <u>Bus Services</u></p> <p><i>Applies to:</i></p> <p>(i) <i>residential developments of 10 dwellings or more</i></p> <p>(ii) <i>non-residential developments with a floorspace of 1000 sq m or more</i></p> <p>Contribution towards the provision of</p>	<p>£287 per 1-bed dwelling</p> <p>£543 per 2-bed or 3-bed dwelling</p> <p>£791 per 4-bed dwelling or larger</p>	<p>Upon occupation of 50% of the dwellings or upon occupation in the case of non-residential development</p>	<p>Necessary in order to meet the demand generated by the development, promote public transport and encourage a modal shift away from private car use pursuant to Core Strategy policies CS1, CS2, CS15 and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), Kent Local Transport Plan and guidance in the NPPF.</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
	or improvement to bus services and infrastructure in the vicinity	£6.42 per sq m of commercial floorspace	<p>Directly related as occupiers will travel and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has been calculated based on the scale of the development.</p>
5	<p><u>Carbon Off-Setting Contribution</u></p> <p><i>Applies to:</i></p> <p>(i) <i>developments of 10 dwellings or more</i></p> <p>(ii) <i>residential sites of 0.5 ha or more</i></p> <p>(iii) <i>non-residential developments of at least 1000 sq m gross external floorspace</i></p> <p>(iv) <i>non-residential sites of 1 ha or more</i></p> <p>Contribution for funding carbon savings based on the residual carbon emissions of the dwelling or building set out in the approved energy performance certificate and quantified over 10 years</p>	To be calculated using the shadow price of carbon set out in the Sustainable Design and Construction SPD	<p>Payable on the occupation of each dwelling or building</p> <p>Necessary in order to ensure the development is carbon neutral pursuant to Core Strategy policies CS1, and CS10 (C), the Sustainable Design and Construction SPD and guidance in the NPPF.</p> <p>Directly related as only carbon emissions from this development would have to be off-set.</p> <p>Fairly and reasonably related in scale and kind as off-setting would not be required in the absence of carbon emissions from this development and any payment is based on the amount of carbon dioxide to be offset.</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
6	<p><u>Cemeteries</u></p> <p><i>Potentially applicable to all residential developments to be built out in 2020 and beyond</i></p> <p>Contribution towards provision of or improvements to cemeteries and associated facilities in the borough and maintenance thereof</p>	<p>£284 per dwelling for capital costs</p> <p>£176 per dwelling for maintenance</p>	<p>Upon occupation of 75% of the dwellings</p>	<p>Necessary as cemeteries are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Core Strategy policies CS1, CS2, and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p>Directly related as occupiers will use cemeteries and the facilities to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
7	<p><u>Children's and Young People's Play Space</u></p> <p><i>Potentially applicable to all residential developments</i></p> <p>Contribution towards provision of or</p>	<p>£649 per dwelling for capital costs</p>	<p>Upon occupation of 75% of the dwellings</p>	<p>Necessary as children's and young people's play space is required to meet the demand that would be generated and must be maintained in order to continue to meet that</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
improvements to children's and young people's play space and associated facilities in the area and maintenance thereof	£663 per dwelling for maintenance		<p>demand pursuant to Core Strategy policies CS1, CS2 and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), Ashford Town Centre AAP policy TC27 (if applicable), Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p>Directly related as occupiers will use children's and young people's play space and the play space to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
<p>8 <u>Community Learning</u></p> <p><i>Applies to developments of 10 dwellings or more</i></p> <p>Contribution towards community learning services in the area</p>	£180 per dwelling	Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings	<p>Necessary as no adult education service space available to meet the demand that would be generated and pursuant to Core Strategy policy CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), KCC Guide to Development Contributions and the Provision of Community Infrastructure and guidance in the NPPF.</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
			<p>Directly related as occupiers will use adult education facilities and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings.</p>
<p>9</p> <p><u>Health Care</u></p> <p><i>Applies to developments of 10 dwellings or more</i></p> <p>Contribution towards healthcare services and/or facilities in the area</p>	<p>£504 for each 1-bed dwelling</p> <p>£720 for each 2-bed dwelling</p> <p>£1008 for each 3-bed dwelling</p> <p>£1260 for each 4-bed dwelling</p> <p>£1728 for each 5-bed</p>	<p>Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings</p>	<p>Necessary as additional primary care premises required to meet the demand that would be generated pursuant to Core Strategy policy CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), saved Local Plan policy CF19 and guidance in the NPPF.</p> <p>Directly related as occupiers will use primary care facilities and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
	dwelling or larger £0 for any affordable units		been calculated based on the estimated number of occupiers.
10	<p><u>Informal/Natural Green Space</u></p> <p><i>Potentially applicable to all residential developments</i></p> <p>Contribution towards provision of or improvements to informal/natural green space and associated facilities in the area and maintenance thereof</p>	<p>£434 per dwelling for capital costs</p> <p>£325 per dwelling for maintenance</p>	<p>Upon occupation of 75% of the dwellings</p> <p>Necessary as informal/natural green space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Core Strategy policies CS1, CS2 and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), Ashford Town Centre AAP policy TC27 (if applicable), Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p>Directly related as occupiers will use informal/natural green space and the space to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
<p>11</p> <p><u>Libraries</u></p> <p><i>Applies to developments of 10 dwellings or more</i></p> <p>Contribution for improving library service capacity in mobile and fixed libraries in the borough and for providing additional book stock and equipment</p>	<p>£X per dwelling</p>	<p>Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings</p>	<p>Necessary as no spare library space available to meet the demand generated and pursuant to Core Strategy policies CS8 and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), KCC Guide to Development Contributions and the Provision of Community Infrastructure and guidance in the NPPF.</p> <p>Directly related as occupiers will use library facilities and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because amount calculated based on the number of dwellings.</p>
<p>12</p> <p><u>Monitoring Fee</u></p> <p><i>Applies in all cases</i></p> <p>Contribution towards the Council's costs of monitoring compliance with the agreement or undertaking</p>	<p>£X per annum until development is completed</p> <p>or</p> <p>£X one-off</p>	<p>First payment upon commencement of development and on the anniversary thereof in subsequent</p>	<p>Necessary in order to ensure the planning obligations are complied with.</p> <p>Directly related as only costs arising in connection with the monitoring of the development and these planning obligations are covered.</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
	payment	years (if not one-off payment)	Fairly and reasonably related in scale and kind considering the extent of the development and the obligations to be monitored.
13	<p><u>Off-site Highway Works</u></p> <p>Provision of</p> <p>or Contribution towards [insert details]</p>	£X	<p>Necessary in order to meet the demand generated by the development and in the interests of highway safety pursuant to Core Strategy policies CS1, CS2, CS15 and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), Kent Local Transport Plan and guidance in the NPPF.</p> <p>Directly related as occupiers will travel and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has been calculated based on the scale of the development and the estimated number of relevant trips.</p>
14	<u>Outdoor Sports Pitches</u>		

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
<p><i>Potentially applicable to all residential developments</i></p> <p>Contribution towards provision of or improvements to outdoor sports pitches and associated facilities in the area and maintenance thereof</p>	<p>£1,589 per dwelling for capital costs</p> <p>£326 per dwelling for maintenance</p>	<p>Upon occupation of 75% of the dwellings</p>	<p>Necessary as outdoor sports pitches are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Core Strategy policies CS1, CS2 and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), Ashford Town Centre AAP policy TC27 (if applicable), Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p>Directly related as occupiers will use sports pitches and the facilities to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
<p>15 <u>Primary Schools</u></p> <p><i>Potentially applicable to residential developments of 10 dwellings or more</i></p> <p>Contribution towards additional primary school places within 2 miles of the site</p>	<p>£X per flat</p>	<p>Half the contribution upon occupation of 25% of the dwellings and balance on</p>	<p>Necessary as no spare capacity at any primary school in the vicinity and pursuant to Core Strategy policies CS1, CS2 and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), saved Local Plan policy CF21, Developer Contributions/Planning Obligations</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
	£Y per house	occupation of 50% of the dwellings	<p>SPG, Education Contributions Arising from Affordable Housing SPG (if applicable), KCC Guide to Development Contributions and the Provision of Community Infrastructure and guidance in the NPPF.</p> <p>Directly related as children of occupiers will attend primary school and the facilities to be funded would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has taken into account the estimated number of primary school pupils and is based on the number of dwellings and because no payment is due on small 1-bed dwellings or sheltered accommodation specifically for the elderly.</p>
16	<p><u>Public Art</u></p> <p><i>Applies on allocated and other prominent sites in the town centre and for larger development schemes, especially those that create new areas of public realm</i></p> <p>Contribution towards the provision by the Council of public art on the site or within 600 metres of the site</p>	£X	<p>Upon occupation of 75% of the dwellings</p> <p>Necessary in order to achieve an acceptable design quality pursuant to Core Strategy policies CS1 and CS9, Ashford Town Centre AAP policy TC1(G) (if applicable) and guidance in the NPPF, the Ashford Borough Public Art Strategy and the Kent Design Guide.</p> <p>Directly related as would improve the design quality of the development and would be</p>

Planning Obligation				Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)		
				<p>visible to occupiers.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development.</p>
<p>17 <u>Public Art (Maintenance)</u></p> <p>Where the Council agrees to adopt:</p> <p>Submit a scheme to be approved by the Council for the maintenance of the public art, maintain the public art in accordance with the approved scheme for 12 months and then transfer the public art to the Council with a commuted sum for future maintenance</p> <p>Commutated sums will be calculated by the Environmental Services Department of the Council</p> <p>and/or</p> <p>Where the Council does not agree to adopt:</p> <p>Maintain the public art in accordance with a scheme submitted to and approved by the Council.</p>	<p>£X</p>	<p>Scheme to be approved prior to commencement</p> <p>Payment upon occupation of X% of the dwellings</p>	<p>Necessary as the public art must be maintained in order to continue to be of design value and in order to prevent the public art becoming a disamenity pursuant to Core Strategy policies CS1 and CS9, Ashford Town Centre AAP policy TC1(G) (if applicable) and guidance in the NPPF, the Ashford Borough Public Art Strategy and the Kent Design Guide.</p> <p>Directly related as only public art provided as part of the development would be maintained.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the public art.</p>	

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
[delete options as necessary]			
18	<p><u>RIF</u></p> <p><i>Applies to: Any development which generates traffic that relies wholly or in part on the capacity created at Drovers roundabout and/or junction 9 of the M20</i></p> <p>Contribution towards infrastructure and road improvement works at the Drovers Roundabout and junction 9 of the M20 and the Eureka Skyway footbridge (including the repayment of forward funding)</p>	<p>£3,961.45 per peak hour trip at Drovers roundabout</p> <p>£5,056.39 per peak hour trip at junction 9</p>	<p>Necessary in order to meet the demand generated by the development and promote walking pursuant to Core Strategy policies CS1, CS2, CS15 and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), Kent Local Transport Plan and guidance in the NPPF.</p> <p>Directly related as occupiers will travel and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has been calculated based on the estimated number of relevant trips.</p>
19	<p><u>Secondary Schools</u></p> <p><i>Potentially applicable to residential developments of 10 dwellings or more</i></p>		<p>Half the contribution upon occupation</p> <p>Necessary as no spare capacity at any secondary school in the vicinity and pursuant to Core Strategy policies CS1, CS2 and CS18,</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
Contribution towards additional secondary school places within 3 miles of the site	<p>£X per flat</p> <p>£Y per house</p>	of 25% of the dwellings and balance on occupation of 50% of the dwellings	<p>Urban Sites and Infrastructure DPD policy U24 (if applicable), saved Local Plan policy CF21, Developer Contributions/Planning Obligations SPG, Education Contributions Arising from Affordable Housing SPG (if applicable), KCC Guide to Development Contributions and the Provision of Community Infrastructure and guidance in the NPPF.</p> <p>Directly related as children of occupiers will attend secondary school and the facilities to be funded would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has taken into account the estimated number of secondary school pupils and is based on the number of dwellings and because no payment is due on small 1-bed dwellings or sheltered accommodation specifically for the elderly.</p>
<p>20 <u>South of Ashford Transport Study</u></p> <p><i>Applies to:</i></p> <p>(i) <i>Any development on the following Local Plan sites: S13 - Cheeseman's Green, S14 - Waterbrook, S16 - Bushy Royds, S17 - Park Farm</i></p>	£X	Half the contribution upon commencement of development; a quarter of the	<p>Necessary in order to meet the demand generated by the development, promote public transport and encourage a modal shift away from private car use pursuant to Core Strategy policies CS1, CS2, CS15 and CS18, Urban Sites and Infrastructure DPD policy U24 (if</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
<p>(ii) Any development within a 5 minute (off peak) isochrone centred on M20 junction 10 that would, in the opinion of the Highway Authority, either individually or cumulatively as part of a larger development on the same site, generate at least 100 two-way vehicle trips between 7a.m. and 7p.m.</p> <p>(iii) In exceptional circumstances major developments outside the isochrone</p> <p>Contribution towards cycleways and improvements to public transport and works associated with strategic highway works including junctions 10 and 10A of the M20</p>		<p>contribution on occupation of 33% of the development and the balance on occupation of 75% of the development.</p>	<p>applicable), Kent Local Transport Plan, Providing for Transport Needs Arising from the South of Ashford Transport Study SPG and guidance in the NPPF.</p> <p>Directly related as occupiers will travel and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has been calculated based on the estimated number of relevant trips.</p>
<p>21 <u>Strategic Parks</u></p> <p><i>Potentially applicable to all residential developments</i></p> <p>Contribution towards provision of strategic parks and associated facilities in the borough and maintenance thereof</p>	<p>£146 per dwelling for capital costs</p> <p>£47 per dwelling for maintenance</p>	<p>Upon occupation of 75% of the dwellings</p>	<p>Necessary as strategic parks are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Core Strategy policies CS1, CS2, CS18 and CS18a, Urban Sites and Infrastructure DPD policy U24 (if applicable), Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p>

Planning Obligation				Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)		
				<p>Directly related as occupiers will use strategic parks and the facilities to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
22	<p><u>Town Centre Commuted Parking</u></p> <p><i>Applies to retail, leisure and office development in Ashford town centre</i></p> <p>Contribution towards car parks and park and ride facilities and associated services in Ashford and improving access to the site by public transport, bicycle and on foot</p>	£6,500 per commuted parking space	Upon first occupation	<p>Necessary as non-operational parking is to be provide in car parks and at park and ride sites and access by public transport and bicycle and on foot is to be promoted pursuant to Core Strategy policies CS15 and CS18, Ashford Town Centre AAP policies TC22 and TC25 and guidance in the NPPF.</p> <p>Directly related as occupiers and visitors will need to access the site and the facilities to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has been calculated based on a parking space that</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
			would otherwise need to be provided on-site.
23	<p><u>Travel Plan</u></p> <p><i>Applies to:</i></p> <p>(i) <i>non-residential developments that are likely to have significant transport implications</i></p> <p>(ii) <i>developments of 100 dwellings or more (subject to case-by-case assessment)</i></p> <p>Submit a travel plan to be approved by the Council which aims to reduce car use by occupiers and encourage alternative modes of transport. Implementation of the approved travel plan.</p>		<p>Travel plan to be approved prior to first occupation</p> <p>Necessary in order to promote public transport and encourage a modal shift away from private car use pursuant to Core Strategy policies CS1, CS2, CS15 and CS18, Kent Local Transport Plan and guidance in the NPPF.</p> <p>Directly related as occupiers will travel and the measures to be implemented through the travel plan will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has been calculated based on the scale of the development.</p>
24	<p><u>Travel Plan Monitoring Fee</u></p> <p>Contribution towards the cost of monitoring compliance with the travel plan and helping to ensure its success</p>	£5,000	<p>£1,000 upon first occupation and £1,000 on the anniversary thereof for 4 years</p> <p>Necessary in order to ensure public transport is promoted and the modal shift envisaged by the travel plan takes place pursuant to Core Strategy policies CS1, CS2, CS15 and CS18, Kent Local Transport Plan and guidance in the NPPF.</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
			<p>Directly related as the travel plan needs to be implemented in order to ensure the development is sustainable.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the monitoring to be carried out.</p>
25	<p><u>Voluntary Sector</u></p> <p><i>Applies to developments of 10 dwellings or more</i></p> <p>Contribution towards the building of capacity in the voluntary sector in the borough</p>	£X	<p>Upon occupation of 75% of the dwellings</p> <p>Necessary to provide additional voluntary sector capacity required to meet the demand that would be generated pursuant to Core Strategy policy CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), and guidance in the NPPF.</p> <p>Directly related as occupiers will use the voluntary sector and the additional capacity to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development.</p>
26	<p><u>Youth Services</u></p> <p><i>Applies to developments of 10</i></p>	£X per flat	<p>Half the</p> <p>Necessary as t no spare youth service space</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
<p><i> dwellings or more</i></p> <p>Contribution towards youth services in the area</p>	<p>£Y per house</p>	<p>contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings</p>	<p>available to meet the demand that would be generated and pursuant to Core Strategy policy CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), KCC Guide to Development Contributions and the Provision of Community Infrastructure and guidance in the NPPF.</p> <p>Directly related as occupiers will use youth service facilities and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings and because no payment is due on small 1-bed dwellings or sheltered accommodation specifically for the elderly.</p>
<p>Notices will have to be served on the Council at the time of the various trigger points in order to aid monitoring. All contributions to be index linked as set out on the council web site in order to ensure the value is not reduced over time. The costs, expenses and disbursements of the Council's Legal and Planning Departments incurred in connection with the negotiation, preparation and completion of the deed are also payable. The Kent County Council will also require payment of their legal costs.</p>			

Agenda Item No: 5
Report To: Cabinet
Date: 10th July 2014
Report Title: Section 106 Cabinet Annual Monitoring 2013/14
Report Author: Michael Scaplehorn – Section 106 Support Officer
Lois Jarrett – Strategic Sites and Design Manager
Portfolio Holder: Cllr Robey – Portfolio Holder for Planning and Development



Summary: This report on Section 106 activity is for the period 01/04/13 to 31/03/14. The primary purpose of the report is to show transparently how contributions are being collected and applied in a proper way and that the monitoring of section 106 contributions remains a very important resource stream. It includes details of new contributions negotiated, an accounts update, funds received from existing agreements.

Key Decision: NO

Affected Wards: None Directly

Recommendations: **The Cabinet is asked to endorse the report, so it can be made available online to provide information to the public and provide a transparent record of s106 activity over the last financial year.**

Policy Overview: This report is to inform members on the last financial year's progress of monitoring S106 obligations, and to show that measures are in place to ensure that the contributions are received and spent as efficiently as possible. This report provides full and clear details of the measures in place to ensure effective monitoring of S106 obligations and the spending of the sums received. Departments and other authorities responsible for spending contributions are routinely alerted in order that the contribution may be spent effectively without the risk of re-payment. This is in accordance with the Corporate Plan, the Community Strategy, LDFCS, Government Guidance and good practice.

Financial Implications: As the Borough grows so does the need for more and improved community infrastructure. Section 106 funding to support this growth is vital. It is important to have a robust Section 106 monitoring system ensuring the availability of capital from S106 agreements and that those contributions are collected and spent effectively on their intended purpose

Risk Assessment	NO
Equalities Impact Assessment	Spending of section 106 contributions is in line with adoption plan policy and local priorities. Decisions on expenditure involve working closely with many departments, local parishes and other organisations.
Other Material Implications:	None
Exemption Clauses:	None
Background Papers:	None
Contacts:	Michael.Scapplehorn@ashford.gov.uk – Tel: (01233) 330202

Report Title: Section 106 Cabinet Annual Monitoring 2013/2014

Purpose of the Report

1. This report updates Members on the financial contributions negotiated and secured in the financial year 2013/14 and the use and management of financial resources. The report provides details of new S106 agreements signed in the financial year and identifies the progress that has been made since the last report. There is a breakdown of payments received in this financial year, what the contributions are to be used for, and contributions currently held on account. The report also includes examples of projects delivered by the Council in the financial year and new projects that are under way or soon to commence.

Section 106 Agreements negotiated 2013-14

2. Between 1 April 2013 and 31 March 2014, 51 planning permissions have been issued that have been subject to a Section 106 agreement – these are listed below. The total projected financial contributions arising from these agreements are £3.56million; this figure is down considerably on the previous year's figure of £18.5million. The agreements also provide for "payments in kind" in the form of various works – mainly highway related as well as restrictions on land use.
3. The following points should be noted: if a planning permission is not implemented, the associated Section 106 benefits will not be paid. There is often a period of time between the issue of the planning permission and the payment of contributions as the timing of payments will be linked to the phasing of the development and when the need for the facility arises.

Financial Overview

Overview	13/14	12/13
Number of Agreements Signed	51	15
Value of Agreements Signed	£3.56m	£18.5m
Payments Received	£0.95m	£7.18m
Section 106 money Spent	£3.04m	£5.27m
End of Year Balance	£2.94m	£4.97m

- A detailed breakdown of all figures can be provided on request.

4. The above table highlights the financial breakdown in the section 106 accounts for 2012/13 with a comparison of the year before. In summary:

- The number of section 106 agreements has risen due to the adoption of the Public Green Spaces SPD, as all new dwellings constructed are required to contribute towards borough wide open spaces.
- Several factors have caused the drop in payments received, firstly there has been no 'big ticket' infrastructure payments towards the payback of Junctions 9 or 10 this year. There is also a time lag between the post-recession construction upturn and the receipt of section 106 contributions as many section 106 triggers are geared towards occupation figures not completed figures, it is therefore expected that 2014/15 income figures to be well in excess of 2013/14.

5. End of year Balance (Breakdown)

End of Year Balance (Breakdown)		
Account	13/14	12/13
General S106 Account	£2,150,000	£1,780,000
Supplementary Planning Guidance (SPG6) main fund	£70,000	£707,000
Reserved Infrastructure Fund (sub fund of SPG6)	£723,000	£713,000
Regional Infrastructure Fund	£0.00	£1,700,000

- The general section 106 account is used to hold all section 106 contributions that are Ashford Borough Council spend. This includes contributions towards open space, community halls & play areas.
- SPG6 main fund contributions are used to pay back the forward funded work for the J10 Interim scheme. When an SPG6 contribution is received, 80% of the figure will go into this pot and will be paid back to the developer until the council has paid back the entire sum. The total outstanding to pay back is down to around £1.3m.

Spending of s106 income in 2013-14

6. Between 1 April 2013 and 31 March 2014 the council spent around £2.94 million on a variety of section 106 projects. These projects include funding towards bus services, improving the efficiency of council buildings and improvements open space areas. Below are two examples of projects that have been completed this year and have been funded fully or in part by section 106 contributions.

- **Hythe Road Recreation Ground Refurbishment**
Section 106 funding: £126k

A recent official launch in April saw the Mayor and children from Willesborough Infant School open the play space, funded by the developer through a Section 106 agreement, together with Ashford BC Community Grants funding through Willesborough Community Forum and both KCC and Ashford BC Ward Members funding.

The total spent was £136k and paid for new equipment, refurbishment of some existing pieces and new surfacing as well as new bins and seats. All was purchased and installed

following consultation with residents. Boulders placed at the entrance of the Park, engraved with designs from the children provide a welcome addition together with signs on the play space designed by local children.

The star of the show is the new seating particularly for young people, which has been designed and constructed by a local artist to provide a feature wooden sofa and TV!

- **Goat Lees Youth Play Space**

Section 106 funding: £46k

Following consultation with resident young people and their families, equipment which met local need was identified. Funded by Ward Homes together with funding from Boughton Aluph and Eastwell Parish Council and a grant from Ashford Youth Forum as well as a grant from Ashford BC Community Grants Fund, new equipment was placed on the site off Trinity Road, adjacent to the new primary school

The equipment includes a basket swing, ball wall and outdoor fitness equipment. The area was launched by the Mayor and ward member in April 2014 supported by young people from the youth club.

Consultation for phase 2 will take place in 2014 in partnership with Goat Lees Primary School and the nursery and will see improvements to the existing children's play space for toddlers and juniors.

CIL & the future of Section 106

7. In future most strategic, off site infrastructure will be provided through the Community Infrastructure Levy. The Government have recently consulted on further reforms to the Levy, with the most noticeable proposal being the extension on the deadline which would limit the use of Section 106 agreements (from April 2014 to April 2015). As highlighted in this report, the Council has been successful in using the s106 process; further reforms to CIL regulations currently proposed may have implications on the council's ability to use S106.
8. CIL will ultimately come from the same 'economic headroom' from rising land values through development that currently funds S106. While CIL does provide a more 'flexible' funding stream than s106, proposed reforms are eroding this to some extent, with a greater emphasis on delivering infrastructure needed to implement a local plan. Proposals for an Ashford CIL will be brought forward alongside the new local plan.

Risk Assessment

9. Failure to monitor Section 106 agreements in an efficient and timely manner would lead to the possibility of Section 106 contributions being missed and infrastructure not being constructed at the correct time. Another problem that may arise if Section 106 agreements were not monitored is that any payments

collected or sent in by developers may not be spent within the allotted time limit. This could lead to a scenario where the council would be forced to pay back the contribution to developers and the local community would receive no benefit.

10. The Section 106 working group which meets quarterly was created to monitor the collection and spending of Section 106 contributions. The Section 106 working group comprises of officers and managers from planning, finance, legal, cultural, environmental, the project team & housing. Any officer who wants to spend a section 106 contribution must complete an audit form before they will receive any money. The audit form makes sure that the officer has completed the required steps and received the correct approval before the money is transferred. Once completed the form is sent to finance, legal and the officer involved as well as planning an electronic file and a paper file.

Conclusion

11. It is vitally important that the council continues to monitor the collecting and spending of Section 106 contributions to ensure that the necessary community and transport infrastructure is constructed and maintained to support the boroughs growth. The process of monitoring and spending 106 contributions is always being adapted and improved to make sure that any problems or challenges that arise can be dealt with quickly and efficiently

Portfolio Holder's Views

12. *As Portfolio Holder I am happy to endorse this report. Ashford has a strong record of securing section 106 contributions from developments. While levels of section 106 income have been lower in 2013/14 than in previous years it is important that the council maintains a transparent section 106 process to ensure that no contributions are lost due to the inability to collect and then expend them. I am satisfied that the procedures in place from collection of contributions to expenditure on projects across the borough are robust and that business at Ashford BC is conducted in an open and accountable way.*

Contact: Michael Scaplehorn (01233 330202)
Lois Jarrett (01233 330246)

Email: Michael.Scaplehorn@ashford.gov.uk