

Ashford Borough Council

RIF Repayment Contributions for Developments Generating Additional Traffic at Drovers Roundabout and/or M20 Junction 9



ASHFORD
BOROUGH COUNCIL

Update Note, October 2024

1. The Note entitled as above was produced by the Council in April 2014. It set out the justification for requiring development proposals, which generate traffic that relies wholly or in part on capacity created by the forward-funded improvements to Drovers Roundabout and/or M20 Junction 9, to make contributions towards the repayment of that funding. It also set out a methodology for calculating the required contributions, which the Council had agreed with Kent Highway Services (part of Kent County Council, the local highway authority).
2. The purpose of this Update Note is to provide information on the application of the agreed methodology during the 10½ years since the date of the Note.
3. RIF Table 1 identified three s.106 agreements which provided contributions towards each of the Drovers and J9/Bridge infrastructure projects, namely from the Repton Park, Sainsbury's and Sites A & C developments. All of these agreements were entered into on or after 6 April 2010.
4. RIF Table 2, updated October 2024, identifies a further two s.106 agreements which provided contributions towards each of the Drovers and J9/Bridge infrastructure projects, namely from the Eurogate Business Park and Chilmington Green developments.
5. Once it was clear to the Council that the s.106 agreement for the Chilmington Green development would be the fifth s.106 agreement entered into on or after 6 April 2010 which provided contributions towards each of the Drovers and J9/Bridge infrastructure projects, it was appreciated that Reg. 123 of the Community Infrastructure Regulations 2010 would prevent any further such contributions being secured through s.106 agreements relating to other sites.
6. Therefore, while the Council finalised negotiations for the very substantial contributions towards the Drovers and J9/Bridge projects to be contained in the Chilmington Green s.106 agreement, it ceased to require such contributions from other smaller development proposals¹. The Council also notified Homes England, as statutory successor to SEEDA in respect of the funding agreements, of the legal restriction on its ability to secure such contributions from new developments granted planning permission at that time.

¹ For example, an application for industrial units and depots off Carlton Road, granted planning permission in July 2016.

7. The Ashford Local Plan 2030 was also adopted in February 2019 while Reg. 123 was in force. Its chapter 8 (para. 8.14) and chapter 11 (paras. 11.5 – 11.6) had to acknowledge the legal difficulties caused by Reg. 123 for the securing of justified ‘pooled’ contributions towards strategic infrastructure projects through s.106 agreements.
8. Nevertheless, the Plan still committed the Council to seek contributions towards infrastructure where it is justified to do so under the CIL Regulations (para. 11.6 and Policy IMP1). In this context, paras. 8.18 – 8.19 specifically highlight the need to secure contributions towards the repayment of forward-funding of the Drovers and J9/Bridge infrastructure projects.
9. During this time, in June 2019 planning permission had to be granted for retail warehouse development on Site B off Fougères Way without its related s.106 agreement requiring any contributions towards the Drovers and J9/Bridge projects.
10. On 1 September 2019, Reg. 123 was repealed, thus bringing to an end the legal restriction on further s.106 agreements requiring contributions towards the Drovers and J9/Bridge projects. This repeal was not specifically foreseen by the Ashford Local Plan 2030, and is a material consideration which indicates that those references in the Plan (referred to above) that acknowledge difficulties with securing further contributions towards the Drovers and J9/Bridge projects should now be ignored and not applied. Para. 8.19 of the Plan, requiring proportionate financial contributions from “significant development proposals that would rely on the capacity at Junction 9 and / or the Drovers roundabout”, is accordingly strengthened.
11. The approach set out in the Council’s Note dated April 2014 was thus reinstated in late 2019, following the hiatus created by Reg. 123. As referred to in footnote 3 of the updated RIF Table 2, previously-secured s.106 contributions towards the Drovers and J9/Bridge projects from Eurogate Business Park were preserved when a renewal planning permission was granted, by means of a deed of variation dated 6 November 2019.
12. Within a few months of the above, the Coronavirus pandemic caused a general slowdown in planning applications and permissions, and no “significant development proposals that would rely on the capacity at Junction 9 and / or the Drovers roundabout” came forward for decision until 2023².

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² See report to Planning Committee, 13 December 2023, Land north of Possingham Farmhouse.

RIF Table 2³, as updated by Ashford Borough Council October 2024

Developments with S.106 signed			Drovers		J9 and Bridge		Total Contributions secured
Site	Planning Ref.	S.106 Dated	PM Peak Trips	Contribution secured	PM Peak Trips	Contribution secured	
Eurogate Business Park	12/00530/AS ⁴	9/1/14 ⁵	6	£24,898	10	£52,594	£77,492
Chilming-ton Green	12/00400/AS	27/2/17	635	£2,635,250	568	£2,987,399	£5,622,649 ⁶
TOTALS			641	£2,660,148	578	£3,039,993	£5,700,141

³ The original version of RIF Table 2 was attached to Ashford Borough Council's Note entitled "RIF Repayment Contributions for Developments Generating Additional Traffic at Drovers Roundabout and/or M20 Junction 9" dated April 2014, doc. ref. JBAKER / DS31-51 / 221361.

⁴ Renewed under ref. 16/01722/AS.

⁵ Varied by a Deed of Variation dated 6/11/19.

⁶ The calculations for Chilming-ton Green's RIF contributions were provided to Ashford Borough Council in an email from Mr. Ian Dix, Director, Vectos on 26/6/14. Mr. Dix's email contained a mathematical error which was overlooked at the time; as a result, the "Total Contributions" secured in the S.106 dated 27/2/17 are £5,622,589 (i.e. £60 too little).