

CABINET

15 DECEMBER 2020

INFRASTRUCTURE FUNDING STATEMENT

Portfolio Holder: Councillor Jane Chitty, Portfolio Holder for Planning, Economic Growth and Regulation

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Summary

This report concerns the new requirement to publish an Infrastructure Funding Statement (IFS) providing information on developer contributions. It is a statutory duty of any authority that receives a contribution from development through section 106 planning obligations or a Community Infrastructure Levy to prepare an IFS. Councils must publish annually details of receipts, expenditure and proposed spend of developer contributions. This first IFS reports on the financial year 2019/20 and indicates the Council's priorities for investment in future years to provide for the sustainable growth of Medway.

1. Budget and policy framework

- 1.1. The Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019 require the Council to prepare an Infrastructure Funding Statement. The Council collects developer contributions in line with planning legislation and the Medway Local Plan, 2003 and the supplementary planning document, Medway Guide to Developer Contributions and Obligations, 2018. The Medway Local Plan represents the Council's Development Plan and forms part of the policy framework.
- 1.2. This report is a matter for Cabinet and is within the policy and budget framework.

2. Background

- 2.1. The timely and effective delivery of infrastructure and enhanced services is critical to sustainable growth. This is recognised in planning legislation and developers are required to address the resulting impacts of housing and commercial schemes on local services and infrastructure. The criteria for the

use of developer contributions associated with new development are defined in planning policy. All S106 agreements should satisfy the following tests:

- it must be necessary to make the proposed development acceptable in planning terms,
- it is directly related to the proposed development,
- it is fairly and reasonably related in scale and kind to the proposed development.

2.2. Local planning authorities should set out their policy on local standards, including infrastructure contributions and requirements for affordable housing in the Local Plan. Medway Council uses S106 agreements to secure contributions to infrastructure and services, in line with the requirements of the Medway Guide to Developer Contributions and Obligations, 2018. The Council collects contributions to a range of services, including Education, Affordable Housing, Waste, Greenspaces, Leisure and Transport. It also collects contributions for the Clinical Commissioning Group that it allocates to primary care health services.

2.3. As part of ongoing reforms of the Planning system, the Government has introduced some changes to legislation covering developer contributions. This has removed the 'cap' on pooling S106 contributions towards large infrastructure projects. It also requires Councils to report on developer contributions in a consistent manner, through the publication of an IFS. All local authorities that receive developer contributions whether through S106, Community Infrastructure Levy or other contribution must prepare an IFS. Government guidance states that reporting on developer contributions helps local communities and developers see how contributions have been spent and understand what future funds will be spent on, ensuring a transparent and accountable system. There will also be benefits to the Council, in that it will be able to refer to other IFS reports to benchmark developer contributions and infrastructure investment in Medway. The Council is required to publish its first IFS by the end of December 2020. The Statement must set out:

- A report relating to the previous financial year (2019-2020) on section 106 planning obligations.
- A report on the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the contributions.

2.4. This involves publishing:

- details of all S106 contributions received;
- details of all S106 expenditure; and
- proposals for future infrastructure provision to be funded by S106 contributions.

2.5. The statement should set out future spending priorities on infrastructure and affordable housing in line with up-to-date or emerging plan policies. As part of its work on the new local plan, the Council is producing an Infrastructure

Delivery Plan (IDP) that sets out how services and infrastructure will be shaped to achieve the vision for Medway's growth over the plan period. The IDP considers the capacity of existing infrastructure and what upgrades are needed to deliver sustainable development. The Council is also reviewing the Guide to Developer Contributions and Obligations, to reflect the updated evidence base of the IDP and the Viability Assessment of the Local Plan.

3. Options

- 3.1. The Council is required to publish an Infrastructure Funding Statement reporting on S106 contributions by 31 December 2020. Government has specified the data standard for the publication of the information. There are limited options on the publication and content of the IFS. The IFS indicates future spending priorities to deliver sustainable growth in Medway. Further details will be set out in the upcoming review of the Medway Guide to Developer Contributions and Obligations.

4. Advice and analysis

- 4.1. The Planning Service has produced the first annual IFS to satisfy the new duty on the local planning authority. The key reporting content is set out at Appendix 1. MHCLG has specified how the authority is to present information in relation to different stages of the S106 process, from entering into agreements, receipt of contributions, allocating funding, and then spend on projects. Headline data from the draft statement include:

- The total amount of money to be provided under any planning obligations which were entered into during 2019/20 was £6,425,504.76.
- The total amount of money received from planning obligations during 2019/20 was £6,330,667.92.
- The total amount of money received prior to 2019/20 that has not been allocated is £6,085,658.73.
- The total amount of money from planning obligations allocated towards infrastructure during 2019/20 was £878,152.21.
- The total amount of money from planning obligations spent during the reported year was £1,233,271.01.

- 4.2. Spend on projects included waste management and education, open space, play and sports facilities, river wall maintenance, youth programmes, contributions to the expansion of schools, transport improvements, community facilities, social care, town centre improvements, training and workforce development. There were further contributions to the Birdwise Strategic Access Management and Monitoring Strategy, and a number of non-monetary contributions, such as affordable housing and transport projects. It should be noted that there can be a significant delay between the agreement of a S106 and spend on projects. The receipt of funding is dependent on the progress of the development, and then there is a lead in time for the commissioning of projects. Additionally, large projects are often dependent on multiple funding

sources, and small sums secured from specific developments may not be sufficient to commence delivery of major infrastructure and services.

- 4.3. It is important to note that data on developer contributions is not definitive. The report represents estimates at a given point in time, and can be subject to change, for example, development may not come forward as originally planned, or agreements may be revised. The figures in the IFS represent the most robust data currently available.
- 4.4. The report has been produced by officers in the Planning Service using the Exacom software module promoted by government, and S106 spreadsheets held in the Planning Service. The transfer of information into the new software has involved a significant amount of work to input details of the many S106 agreements which still have contributions to be received, or spent, and the work is ongoing. However, when this work is completed comprehensive reporting will be accessible from Exacom to provide updated information to services and for producing the annual IFS. Meetings have taken place between Planning Service officers and services within the Council to confirm the content of information and discuss proposals for future infrastructure provision supported by S106 contributions. Preparation of the second IFS that will report on 2020/21 will commence in early 2021.
- 4.5. The Council recognises the importance of delivering additional infrastructure in a timely manner and meeting the requirements for sustainable development in Medway. Local communities frequently raise their concerns about the impact of new development on existing services and infrastructure. The Council uses its planning policy to secure appropriate investment from developers. The Planning Service uses clear legal processes to secure S106 agreements and robust operational procedures to collect funding contributions on agreed triggers. This is demonstrated in the sums agreed and received from developer contributions as set out in paragraph 4.1. The Council has also reviewed its internal governance and reporting processes to improve the management of S106 resources and ensure the timely delivery of the required projects to upgrade services in line with growth needs. These strengthened internal processes include regular reporting to Directorate Management Teams. This work also provides an effective basis for the production of future IFS documents. The Council anticipates the reporting in 2021 will reflect these procedural and governance improvements. The Planning Service presents quarterly reports to Planning Committee on S106 agreements, to ensure that members are kept informed. It will build on this work with the preparation of the IFS. The Head of Planning is also arranging all Member training on the developer contribution process to take place in early 2021.
- 4.6. In addition to the Council's internal processes with services and Members, it also works with the Kent and Medway Clinical Commissioning Group in collecting contributions for investment in primary health facilities. This is generally for GP surgeries and health centres. Spend on improving health facilities has not met expectations on timing of delivery. Following restructuring in the NHS, the Council has set up new working arrangements

with the health sector, with the specific aim of improving the planning and delivery of new health infrastructure in Medway.

- 4.7. The purpose of the IFS is as a reporting tool, to improve the transparency of information about developer contributions to enhancing services and infrastructure. It is not a policy document. However, there are clear links to the Council's wider work on infrastructure planning and ensuring that the policy basis for collecting developer contributions is effective and up-to-date. As part of work on the new Local Plan, the Council is preparing an Infrastructure Delivery Plan and a Viability Assessment. The Infrastructure Delivery Plan (IDP) assesses the current capacity of services and infrastructure and identifies where improvements are needed to meet the objectives of the local plan and Medway's development needs. The IDP provides the evidence base for the review of the Guide to Developer Contributions and Obligations.
- 4.8. The Medway Local Plan and supporting Developer Contributions Supplementary Planning Document (SPD), will set out the updated contributions expected from development. This policy update will include the levels and types of affordable housing required, as well as other infrastructure, such as education, transport and open space. The Council has commissioned a Viability Assessment of the emerging draft Local Plan, to understand the potential impact of proposed policies, and the ability to deliver the preferred spatial strategy. This is to ensure that the plan is deliverable, that policies are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the plan. This evidence will inform the updated policy on developer contributions.
- 4.9. Although there is some ongoing work to complete the Infrastructure Delivery Plan and updated SPD on Developer Contributions, before these documents are published with the draft Local Plan, much information has already been collated for the Local Plan evidence base. This provides an indication of future infrastructure priorities to deliver sustainable growth in Medway. These are outlined in the IFS. The spatial strategy for Medway in coming years continues to deliver on the success of the area's urban regeneration, as promoted in Medway 2035 and the town centre masterplans approved in 2019. The £170m Housing Infrastructure Fund is investing in transport and environmental projects that facilitate growth on the Hoo Peninsula. The Council introduced proposals for how development of a rural town focused around Hoo St Werburgh may come forward in the consultation document 'Planning for Growth on the Hoo Peninsula' this Spring. This identified the need for a range of new and enhanced services and infrastructure to meet the level of services required for a town. This will include new and expanded schools, community and leisure facilities, open spaces, transport services, health facilities, waste and energy services. The Viability Assessment has tested the requirements and values around this scale of infrastructure growth.
- 4.10. Work on the Local Plan evidence base, particularly the IDP and Strategic Transport Assessment, show that the delivery of infrastructure is critical to the success of Medway's growth. Technical assessments of the transport

network have identified a number of priority areas, such as the strategic links around the Medway Tunnel and key junctions where investment is needed to increase the capacity to meet growth needs from new development. Details of the mitigations needed are being costed and will be included in the IDP, which will form the evidence base for the updated SPD on developer contributions. This work will be published in coming months, and will be used to secure S106 contributions, based on a comprehensive and updated evidence base on the infrastructure needed to realise sustainable growth in Medway. The Council does not expect major development proposals on greenfield sites to come forward in advance of the publication of the draft plan.

- 4.11. The preparation of the Local Plan is informed by a Sustainability Appraisal which will be published with the draft plan. As the IFS is a factual report, it is not appropriate to carry out a Diversity Impact Assessment.

5. Risk management

- 5.1. There is much concern from residents and Members about pressures on services and infrastructure resulting from development. The IFS is intended to provide clarity on how developer contributions have been and will be used to increase the capacity of services and infrastructure. The statement includes a projection of anticipated receipts from S106 agreements in future years. It is important to clearly understand this projected funding is subject to review, and may not come forward as currently anticipated. The projected funding is dependent on development coming forward in line with the original planning consent associated with the S106 agreement. It is common for some development schemes to progress slowly to delivery, and particularly for large schemes to be reviewed during different development phases. S106 agreements can be re-negotiated, for example where the development proposal changes, or viability issues prevent the scheme coming forward. Government is intending to reform many aspects of the planning system, including developer contributions and infrastructure funding. Policy changes could result in variation in developer contributions paid in future years. Developers do challenge and will continue to challenge the Council's requests for S106 agreements if there is any uncertainty in the justification of the evidence for the contribution. This reinforces the need for a robust evidence base supporting the new local plan.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Projected developer contributions are reduced on viability grounds.	Reduced funding to deliver sustainable growth, increasing pressures on services.	A Viability Assessment provides evidence on the local plan policies and proposed allocations.	C2

Risk	Description	Action to avoid or mitigate risk	Risk rating
Services and infrastructure are not upgraded to meet needs arising from growth.	Increasing pressure on services resulting from unsustainable growth.	Corporate and service level governance and project planning support timely investment in improved services.	C2
Developers challenge S106 requests.	Reduced funding to deliver sustainable growth, increasing pressures on services.	Robust evidence base through IDP and updated policy in Local Plan and Developer Contribution Guide SPD.	C2
Developer contributions are insufficient to deliver major service improvements.	Delay in services being upgraded to support sustainable growth.	Service planning for key services, ie schools, seeks to secure and coordinate funding sources.	C2

6. Consultation

6.1. As a factual report, there is no requirement to consult on this document.

7. Climate change implications

7.1. There are no direct climate change implications from the publication of the Infrastructure Funding Statement. The IFS provides a factual report on developer contributions. However, it is noted that the contributions to services align with corporate strategies and there are a number of projects that make positive contributions to addressing and mitigating climate change. These include sustainable transport projects, waste management and tree planting.

8. Financial implications

8.1. The report provides information on the value of financial contributions to Council services from developer contributions. These represent important income streams for upgrading services in response to development in the local area. The IFS process should improve the transparency of information. The IFS has been produced using the resources of the Planning Service.

9. Legal implications

9.1. The Council collects developer contributions through S106 agreements, in accordance with the Town and Country Planning Act, 1990, and the Community Infrastructure Levy (Amendment) (England) (No.2) Regulations

2019. The collection of developer contributions through S106 agreements is subject to legally defined criteria. The Council collects contributions in line with the Medway Guide to Developer Contributions and Obligations, 2018. This is an adopted Supplementary Planning Document, which is a material consideration in determining planning applications.

10. Recommendation

10.1. The Cabinet is asked to approve the publication of the Infrastructure Funding Statement, 2020 as set out at Appendix 1.

11. Suggested reasons for decision

11.1. To satisfy the requirement to publish an Infrastructure Funding Statement by 31 December 2020.

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Appendices

Appendix 1: Medway Council Infrastructure Funding Statement 2019 - 2020

Background papers

Medway Guide to Developer Contributions and Obligations, 2018:

https://www.medway.gov.uk/downloads/file/2746/medway_guide_to_developer_contributions_and_obligations_2018

Planning Practice Guidance:

<https://www.gov.uk/guidance/community-infrastructure-levy#monitoring-and-reporting-on-cil-and-planning-obligations>