



Serving You

Regeneration, Culture and Environment Overview and Scrutiny Committee

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Infrastructure Funding Statement

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Summary

This report provides information on Section 106 (S106) legal agreements including information on funding agreed, received and spent through developer contributions, and proposed spend on infrastructure, as set out in the Annual Infrastructure Funding Statement and reports to Planning Committee.

1. Recommendations

1.1. The Committee is asked to note the content of the report.

2. Budget and policy framework

2.1. 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, as updated 2023. The Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019 require the Council to prepare an Infrastructure Funding Statement (IFS).

3. Background

3.1. 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.

- 3.2. 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 NHS Kent and Medway Integrated Care Board (formerly the Clinical Commissioning Group) that it allocates to primary care health services.
- 3.3. The Government requires Councils to report on developer contributions in a consistent and transparent manner, through the publication of an Infrastructure Funding Statement (IFS). All local authorities that receive developer contributions whether through S106, Community Infrastructure Levy or other contribution must prepare an IFS. The Council is required to publish the IFS reports annually, setting out:
- A report relating to the previous financial year (2022-2023) 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.
- 3.4. 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.
- 3.5. In addition to the IFS, Planning Committee get regular reports on the details of S106 received and agreed. Once a year, this report will also include the details of S106 expenditure.

4. Options

- 4.1. The Council is required to publish an Infrastructure Funding Statement reporting on S106 contributions annually. Government has specified in regulations 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. The IFS went to Cabinet on 19 December 2023. The Council also report at Planning Committee, this year on 2 August 2023 and 20 December 2023.

5. Advice and analysis

- 5.1. The total amount of money received from planning obligations during the reported year was £7,678,430.70. The total funding agreed to be provided under any planning obligations which were entered during the reported year was £5,781,989.54. The total amount of S106 contributions retained for delivering infrastructure projects at the end of the reported year was

£21,014,150.17. The total amount of money from planning obligations spent during the reported year was £2,400,443.39. S106 funding was used to develop a range of services in Medway to address the impacts of growth. These included investment in schools; waste education; transport schemes; parks, including Great Lines Heritage Park (GLHP), play areas and environmental projects; community facilities; town centre improvements; river wall infrastructure; and affordable housing. 178 affordable homes were agreed under planning obligations entered into in 2022/23. 172 dwellings were delivered in the past year with 104 of these forming part of S106 obligations directly, with the remainder delivered via other means. A full breakdown of contributions spent in 2022/23 is set out in the Infrastructure Funding Statement at Appendix 1 to this report.

- 5.2. The report to Planning Committee is usually every quarter and reports on the specifics of funding agreed and received within a three month period. Details of the last two reports are at Appendices 1 and 2.
- 5.3. 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. The Council anticipates a reduction in funding receipts this year due to a slowdown in the wider development industry in a challenging economic context. A number of sites will be slower to start and build out, and therefore triggers for payment of S106 will be delayed.
- 5.4. 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. The Statement outlines areas for future infrastructure investment.

6. Risk management

- 6.1. 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 details of the total amount of money agreed within S106 agreement in the reported year and the amount available to be spent from previous years. It is important to clearly understand the funding agreed in S106 agreements 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. During 2022/23, more than £7.5 million was collected in developer

contributions but the Council expect to collect a significantly lower amount next year. There are signs that the delivery of housing has slowed, and this will directly impact the amount of S106 contributions that can be collected. The Council continues to work with developers to ensure they meet their S106 obligations.

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.	CII
Projected developer contributions are collected more slowly due to a slowdown in the housing market.	Reduced funding in the short to medium term to deliver sustainable growth, increasing pressure on services.	Continued monitoring of development activity and working with developers to ensure contributions are collected as they become due.	BIII
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.	CII
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.	CII
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.	CII

Likelihood	Impact:
A Very likely	I Catastrophic
B Likely	II Major
C Unlikely	III Moderate
D Rare	IV Minor

7. Consultation

- 7.1. The Infrastructure Funding Statement is a factual report and there is no requirement to consult. The documents are web published to inform the public and users of the planning system, and to meet statutory requirements.

8. Climate change implications

- 8.1. The IFS and S106 reports provide factual reports 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 nature conservation projects and sustainable transport projects.

9. Financial implications

- 9.1. The report provides information in the IFS on the value of financial contributions received by Council from developer contributions towards improvement of services to mitigate the impact of development. It also reports on the sums agreed in S106 agreement within the reported year. These represent important income streams for upgrading services in response to development in the local area. The IFS has been produced using the resources of the Planning.

10. Legal implications

- 10.1. 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.

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Appendices

Appendix 1 - Medway Infrastructure Funding Statement, 2022/23
Appendix 2 - Report on Section 106 Agreements April to June 2023
Appendix 3 - Report on Section 106 Agreements July to September 2023

Background papers

None