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<b>Subject:</b>	<b>INFRASTRUCTURE FUNDING STATEMENT 2022/2023</b>
<b>Meeting and Date:</b>	<b>Cabinet – 2 October 2023</b>
<b>Report of:</b>	<b>Sarah Platts, Head of Planning and Development</b>
<b>Portfolio Holder:</b>	<b>Councillor Edward Biggs, Portfolio Holder for Planning and Built Environment</b>
<b>Decision Type:</b>	<b>Key</b>
<b>Classification:</b>	<b>Unrestricted</b>

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**Purpose of the report:** To seek Cabinet approval of the Infrastructure Funding Statement 2022/23 for publication on the Council's website.

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- Recommendation:**
1. That Cabinet approves the Infrastructure Funding Statement 2022/23 (Appendix 1) and supporting CSV spreadsheets (Appendix 2), to be published on the Council's website by no later than 31 December 2023.
  2. That Cabinet delegates to the Strategic Director (Place and Environment), in consultation with the Portfolio Holder for Planning and Built Environment, the incorporation of any minor factual amendments to the Infrastructure Funding Statement, as required.
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## 1. Summary

- 1.1 This report seeks approval for and publication of the annual Infrastructure Funding Statement for the 2022/23 financial year (Appendix 1) and supporting CSV spreadsheets (Appendix 2). These documents set out details of all planning obligations (financial and non-financial) secured through the section 106 process from planning consents.

## 2. Introduction and Background

- 2.1 Planning obligations are legal obligations entered into to mitigate the impacts of a development proposal. The Community Infrastructure Levy Regulations 2010 (CIL Regulations) require that from the financial year 2019/2020 onwards, any local authority that has received developer obligations (either through section 106 planning obligations or the Community Infrastructure Levy (CIL)) must publish an Infrastructure Funding Statement (IFS) by 31 December each year.
- 2.2 The CIL regulations mandate exactly what information is to be provided within the IFS document, the Government's preferred format for reporting the required information and makes recommendations as to additional information local authorities could publish alongside the statement.
- 2.3 The regulations require that the IFS comprises the following three parts:
  - 1) A statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL.
  - 2) A CIL report, in relation to the previous financial year, which includes matters specified within the regulations.

- 3) A planning obligations report, in relation to the reported year, which includes matters specified within the regulations. This is referred to as the “Section 106 report”.
- 2.4 As Dover District Council does not operate CIL, the Council’s IFS reports a ‘nil return’ for parts 1 and 2. However, part 3 ‘Section 106 report’ is required to be completed.
- 2.5 In addition to the regulatory requirements above, detailed guidance published alongside the amended CIL regulations sets out recommendations of how the government would like this data formatted, labelled, and published in CSV spreadsheet form.
- 2.6 Additionally, the guidance also recommends the IFS sets out anticipated future spending priorities and the types of infrastructure that may be wholly or partly funded by planning obligations.

### 3. Identification of Options

- 3.1 The matters specified by the Regulations to be included within the section 106 part of the IFS report are:
  - The total amount of money to be provided under any planning obligations agreed within the reported year (1<sup>st</sup> April – 31<sup>st</sup> March).
  - The total amount of money under any planning obligations which was received during that reported year.
  - The total amount of money under any planning obligations which was received before the reported year, which has not been allocated to a project.
  - Summary details of any non-monetary contributions to be provided under planning obligations which were entered into during the reported year.
  - The total amount of money allocated but not spent during the reported year for funding infrastructure. This should include summary details of the items of infrastructure on which the money has been allocated, and the amount of money allocated to each item.
  - The total spent by the authority during the reported year (which includes transferring it to another organisation, such as KCC, to spend). This should include summary details of the items of infrastructure on which the money was spent, and the amount of money spent on each item. Any money spent on repaying money borrowed or on monitoring planning obligations should be explicitly identified.
  - The total amount of money that has been collected during any year and retained (held) at the end of the reported year and, where any of the retained money has been allocated for the purpose of longer-term maintenance (commuted sums), also identifying separately the total amount of commuted sums held.

#### Headline and Summary data from Infrastructure Funding Statement 2022/23

- 3.2 With regards to the regulatory requirements set out above, the full details are contained within the IFS report at Appendix 1. The headline figures are summarised in the below table, which is also included within the IFS document:

<b>Section 106 monies held</b>	<b>Amount (£)</b>
Monetary contributions agreed within the financial year 2022/23 (New section 106 agreements)	£708,155.29
Non-monetary contributions agreed within the financial year 2022/23 (New section 106 agreements)	None
Monetary contributions received during the financial year 2022/23	<b>£739,380.73</b>
Total amount spent during the financial year 2022/23	<b>£458,022.96</b>
Total amount spent on repaying borrowed money during the financial year 2022/23	None
Total amount that has been collected during the financial year 2022/23 for the purpose of longer- term maintenance.	£21,322.26
<b>All section 106 monies held as of 31<sup>st</sup> March 2023</b>	<b>£7,386,728.26 *</b>

*\*Note on total monies held – we are holding some small denominations of funds (£10 or less) in various historic S106 category accounts. This is due to several minor discrepancies in the financial systems between invoice and payments out to projects. This is currently being combined into a single account by the finance department to review how this may be re categorised for future spend. For this report, the funds are included within the total.*

#### Allocated/Unallocated Funds

- 3.3 “Allocated” relates to a decision that has been made to commit the section 106 funds to a specific item of infrastructure / project. For most section 106 agreements, the decision on project allocation has been made at the planning application stage with each infrastructure or project requirement specified within the section 106 legal agreement. Some other allocated funds may be those that were initially not defined within the agreement but have been subsequently assigned to a specific project by DDC and are now awaiting spend.
- 3.4 “Unallocated” money will still be bound by the terms of the section 106 legal agreement and, as a minimum, will be required to be spent on a particular infrastructure ‘type’ specified within the agreement i.e., affordable housing or equipped play areas. The section 106 legal agreement will usually specify criteria needing to be met for “unallocated” money to be allocated to a project. For example, the section 106 legal agreement may specify that the monies may only be spent on open space projects within a certain geographical area (such as a ward), but not a specific site, so although it is clear what type of infrastructure it will be spent on, it is not yet ‘allocated’ to a specific project/play area.
- 3.5 Of the total amount of section 106 funds held at the end of March 2023 (amounting to £7,386,728.26), £3,670,855.11 is awaiting allocation to a specific project (unallocated) and £3,715,873.15 is allocated to a specific infrastructure project but awaiting spend or transfer. This is broken down further in the below table:

<b>Unallocated</b>	<b>Amount</b>
Unallocated and unspent received before 2022/23 monitoring year	£3,297,839.94
Unallocated and received during 2022/23 monitoring year	£605,283.33
<b>Total 'unallocated' balance end of 2022/23</b>	<b>£3,670,855.11</b>
<b>Allocated</b>	<b>Amount</b>
Allocated and unspent received before 2022/3 monitoring year	£3,743,862.88
Allocated and received during 2022/23 monitoring year	£127,972.53
<b>Total 'allocated' balance end of 2022/23</b>	<b>£3,715,873.15</b>

- 3.6 The breakdowns of each of these amounts are within the CSV spreadsheets accompanying the report, shown at Appendix 2.
- 3.7 A large proportion of the unallocated funds (£2.36m) is held for affordable housing provision. The Council's Housing Development Department is currently progressing several options for spend of these funds and will continue to consider the most appropriate projects to which this funding should be directed. This will be reported to members as projects arise and require allocation of section 106 funds. Delivery of affordable housing is highlighted as a priority for future spend within the IFS report at Chapter 5 (future spending priorities for the council).
- 3.8 With regards to the allocated funds, much of this is simply held by DDC until a request is received for the funds to be transferred to the relevant provider. For example, this applies to section 106 funds required by KCC for their services (such as education, libraries, or highway improvements) or the NHS for GP services or health improvement services. These monies nevertheless still require reporting within the IFS report until the point at which they are transferred out.
- 3.9 DDC is responsible for the spend of a range of infrastructure and services funded through section 106 monies – including open space, play, sports, community projects, Special Protection Area (SPA)<sup>1</sup> mitigation and affordable housing. Some of the more significant amounts currently held include (these numbers are rounded):
- £1m towards sport and play in Aylesham.
  - £200k towards sport from Whitfield Urban Expansion Phase 1 application
  - £380k towards open space (including sport and children's play) elsewhere in the district.
  - £700k towards a Demand Responsive Bus service in Aylesham
  - £200k towards SPA mitigation

#### Future Section 106 Funds and Projections

- 3.10 Section 5 of the IFS takes account of the emerging Local Plan policies in relation to the collection of future developer contributions from new developments and the

<sup>1</sup> As required by Thanet Coast and Rye Bay Special Area of Protection (SPA) Mitigation and Monitoring Strategy [Thanet Coast and Sandwich Bay SPA Mitigation and Monitoring Strategy \(dover.gov.uk\)](https://www.dover.gov.uk)

projects identified in the Infrastructure Delivery Plan (IDP), including the critical strategic highway mitigation projects on the A2 for which a financial tariff is proposed to collect funds towards the delivery of these key junctions.

- 3.11 The IFS report also responds to the government guidance for it to set out estimated future infrastructure income figure by broad infrastructure type. This figure has been calculated by adding all the pending section 106 payments relating to planning permissions that have been agreed but not yet triggered and amounts to circa £16m. Some of these payments are not expected for several years, depending on the expected build out rates of the development and the likely trigger points for payment. The full details of this are set out within Section 6 of the IFS report and the CSV4 spreadsheet.

#### **4. Evaluation of Options**

- 4.1 Under Government legislation, the Council is required to produce an IFS by 31<sup>st</sup> December each year with one of its key purposes being to enable transparency for members of the public to view where section 106 funds have been secured and which projects they have, or will be, spent on.
- 4.2 The recommended option is to publish the full written report (Appendix 1), which is not a legislative requirement, alongside the required CSV spreadsheets (Appendix 2), as this offers important clarity for members of the public beyond what is afforded through CSV spreadsheets.
- 4.3 The alternative option is to publish only the CSV spreadsheets. This would be the minimum required to meet the regulation requirements, but as these are complex documents and are not straightforward to understand in isolation without the associated commentary, this option is not recommended.

#### **5. Resource Implications**

- 5.1 The production of the IFS and associated section 106 contribution monitoring will be delivered within existing resources in the Planning Policy and Projects Department.
- 5.2 Once agreed by Cabinet, a copy of the IFS 2022/23 and CSV spreadsheets will be made publicly available on the Council's website on or before 31<sup>st</sup> December 2023. There are no further resource implications in relation to the IFS 2022/23.

#### **6. Climate Change and Environmental Implications**

- 6.1 There will be no environmental or climate change implications as a consequence of this decision being taken.

#### **7. Corporate Implications**

- 7.1 Comment from the Director of Finance (linked to the MTFP): Accountancy has been consulted and has no further comments. (SK)
- 7.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.
- 7.3 Comment from the Equalities Officer: 'This report regarding the Infrastructure Funding Statement 22/23 does not specifically highlight any equality implications, however in discharging their duties members are required to comply with the public sector equality

duty as set out in Section 149 of the Equality Act 2010  
[http://www.legislation.gov.uk/ukpga/2010/15/section/149'](http://www.legislation.gov.uk/ukpga/2010/15/section/149)

8. **Appendices**

Appendix 1 – Infrastructure Funding Statement 2022/23 – Main Report

Appendix 2 – Infrastructure Funding Statement 2022/23 - CSV spreadsheets 1-4

9. **Background Papers**

The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019) (amended CIL Regulations)

<https://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made>

Planning Guidance: <https://www.gov.uk/guidance/publish-your-developer-contributions-data>

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