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<b>Subject:</b>	<b>INFRASTRUCTURE FUNDING STATEMENT 2023/2024</b>
<b>Meeting and Date:</b>	<b>Cabinet – 7 October 2024</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>Executive Key Decision</b>
<b>Classification:</b>	<b>Unrestricted</b>

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**Purpose of the report:** To seek Cabinet approval of the Infrastructure Funding Statement 2023/24 for publication on the Council's website.

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- Recommendation:**
1. That Cabinet approves the Infrastructure Funding Statement (IFS) 2023/24 (Appendix 1) and supporting CSV spreadsheets, (Appendix 2) to be published on the website no later than 31 December 2024.
  2. That Cabinet delegates to the Head of Planning and Development, in consultation with the Portfolio Holder for Planning and Built Environment, the incorporation of any minor factual amendments to the IFS and CSV files, 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 2023/24 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<sup>st</sup> 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 the ‘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.
- 2.7 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, or internally to relevant DDC departments 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.

### **3. Content of the Infrastructure Funding Statement**

- 3.1 The structure of the IFS report is based on the required data from the Regulations set out above, and each chapter contains detailed tables of all the relevant S106 financial contributions, which planning consent they are linked to and summary totals of funds

agreed, held, received and spent by the relevant infrastructure type/category, along with the reporting years closing balance.

- 3.2 Following feedback on the 22/23 IFS report, the policy team have been working on a number of new internal processes to enable more detailed reporting of the S106 financial contributions and which specific infrastructure projects the funds are collected, held and spent for, including working more closely with the relevant internal departments in relation to project delivery such as housing, open space, communities and major projects teams.
- 3.3 The 23/24 IFS report includes this additional detail of what S106 contributions DDC are responsible for spending, with specific projects now listed where they are known. The tables in each chapter now set out which development (by application references) the S106 contributions have been secured from, and the type of infrastructure they are to be spent on. In addition, there are now summary diagrams throughout which show the financial contributions broken down by infrastructure categories and types. Each chapter contains the following:
- Chapter 2 sets out all new obligations agreed in S106 agreements signed in the reporting year (1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2024)
  - Chapter 3 sets out all the S106 funds which the council are holding – these are broken down to show those received in previous years that was not spent, those received during this reporting year and then breaks these down into those funds held for ‘allocated’ projects or ‘unallocated’ funds. (see more detailed explanation below about these terms)
  - Chapter 4 details all expenditure of S106 funds during the reporting year from the S106 accounts. This is broken down to show where these funds have been spent by transfer to a relevant organisation or internally within DDC to the relevant department responsible for specific project delivery where the project has been agreed. Where it is known how the DDC held funds have been spent or are to be used, there is now a ‘DDC Headline Projects’ section which highlights these specific items.
  - Chapter 5 is a final summary of all S106 funds held as the balance at the end of March 2024 by infrastructure type and whether funds are ‘allocated’ or ‘unallocated’ to a specific project (see more detailed explanation below about these terms).
  - Chapter 6 includes commentary of the Councils future spending priorities and projects. This reflects the latest position of the new Local Plan and the supporting Infrastructure Delivery Plan (IDP).
  - Chapter 7 sets out estimated future income from S106 agreements signed before and during the reporting year. These are calculated by reviewing all S106 agreements where site triggers have not yet been met. The total estimated future income is over to £12 Million. When added to the new S106 agreements signed in the reporting period, the total estimated future income is close to £14 Million.

## Allocated/Unallocated Funds

- 3.4 The IFS defines S106 contributions that are held by DDC as either 'allocated' or 'unallocated'. '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 or the delivery organisation and are now awaiting spend.
- 3.5 'Unallocated' S106 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.

### Headline Data from Infrastructure Funding Statement 2023/24

- 3.6 The headline figures for the 23/24 year are summarised in the below table, which is also included within the IFS document. It is important to note that due to the improved internal processes discussed earlier in the report, the total 'spent' funds of over £3.4million are significantly higher than the 22/23 spent amount which was just under £500k. It is important to note that some of this 'spent' funds are transfers to the relevant provider of the infrastructure, such as Kent County Council or internally to the relevant department. Where money has been transferred internally but the project is yet to be delivered, the IFS now highlights these.

Table 1: Headline Data

<b>Section 106 contributions agreed during 2023-24</b>	<b>Amount (£)</b>
<b>Monetary contributions agreed</b> within the financial year 2023-24	£1,531,003.86
<b>Non-monetary contributions agreed</b> within the financial year 2023-24.	20/01068 & 22/00652 – providing on site Affordable Housing
<b>S106 Transactions up to 2023-24</b>	<b>Amount (£)</b>
Monetary contributions <b>retained</b> from previous financial years	£7,383,858.43
Monetary contributions <b>received</b> during the financial year 2023-24	£1,570,950.34
Total amount <b>spent</b> during the financial year 2023-24	£3,450,889.13
<i>For the purposes of this report, the definition of 'spent' includes all S106 fund that have been transferred out of</i>	(of which, £1,904,109.98 was internally transferred,

<i>the S106 account, and either transferred externally to Kent County Council (or other parties) or transferred internally for DDC teams to use for the projects which have been agreed. For further details please see Table 6 in Chapter 4.</i>	and is still to be spent on project delivery)
Total amount spent on <b>repaying borrowed money</b> during the financial year 2023-24	£0
Total amount that has been collected during the financial year 2023-24 for the purpose of <b>longer- term maintenance</b> .	£0
<b>Balance of all S106 monies held as of 31<sup>st</sup> March 2024</b>	<b>£5,503,919.64<sup>1</sup></b>

Internal transfer of funds, still to be spent

3.7 Of the total amount of S106 funds, that have been internally transferred, and still to be spent, amounting to £1,904,109.98:

- £693,292.95 - Community Public Realm – Aylesham
- £20,000.00 - Green Infrastructure/Ecology – Kingsdown and Walmer Beach Local Wildlife Site (LWS)
- £319,999.59 - Affordable Housing – Military Road Project
- £859,837.12 - Sport and Leisure - Aylesham Sports Hall and Facilities

Total funds held at end of March 2024

3.8 Of the total amount of section 106 funds held at the end of March 2024, amounting to £5,503,919.64:

- £2,662,817.84 is awaiting allocation to a specific project (unallocated).
- £2,840,429.524 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 and received before 2023-24 monitoring year	£2,249,286.68
Unallocated and received during 2023-24 monitoring year	£428,165.99
Unallocated and spent during 2023-24 monitoring year	£14,634.83
<b>Total 'unallocated' balance end of 2023-24</b>	<b>£2,662,817.84</b>
<b>Allocated</b>	<b>Amount</b>
Allocated and unspent and received before 2023-24 monitoring year	£5,134,571.75
Allocated and received during 2023-24 monitoring year	£1,142,784.35
Allocated and spent during 2023-24 monitoring year	£3,436,254.30

<sup>1</sup> Please note this balance does not include the additional 3% interest rate for the SPA/SAMMS contribution, which brings the total balance held to £5,510,679.75.

<b>Total 'allocated' balance end of 2023-24</b>	<b>£2,841,101.80<sup>2</sup></b>
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- 3.9 The breakdowns of each of these amounts are within the CSV spreadsheets accompanying the report, shown at Appendix 2. *(Please note for the purposes of this Cabinet report, the CSV files as in PDF format. The CSV format allows for filtering).*
- 3.10 A large proportion of the unallocated funds (£1.87m) is held for Affordable housing delivery. 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 6 (future spending priorities for the council).
- 3.11 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 to that provider. External providers have the duty to report on the project delivery and spend of the S106 funds after they have received them, but the council as part of implementing an improved monitoring process, is intending to include more detail of project delivery in future IFS reports. Details of funds that are 'allocated' to specific projects are set out in more detail in Appendix 1 of the IFS.
- 3.12 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>3</sup> mitigation and affordable housing. Some of the more significant amounts currently held include (these numbers are rounded):
- £228k towards sport and play in Aylesham (in addition to £859k for the Sports Centre)
  - £193k towards sport from Whitfield Urban Expansion Phase 1 application
  - £632k towards open space, sport and play in the district.
  - £261k towards SPA mitigation<sup>4</sup>

#### Future Section 106 Funds and Projections

- 3.13 Chapter 6 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 projects identified in the Infrastructure Delivery Plan (IDP), including the critical strategic highway mitigation projects on the A2 for which a financial tariff is now in

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<sup>2</sup> Please note this balance does not include the additional 3% interest rate for the SPA/SAMMS contribution, which brings the total allocated balance held to £2,847,861.91

<sup>4</sup> As required by Thanet Coast and Sandwich 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). Please note this balance does not include the additional 3% interest rate for the SPA/SAMMS contribution, which is £6,760.11, bringing the total SPA/SAMMS contribution held to £258,851.84.

place to collect funds towards the delivery of these key junctions, and projects such as Tides Leisure Centre and Affordable Housing Delivery, in addition to improved sustainable travel projects and sports facilities.

- 3.14 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 £13.9m. 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 Chapter 7 of the IFS report and the CSV4 spreadsheet.

#### **4. Identification of Options**

- 4.1 Under the CIL Regulations, 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 developer obligations have been secured and which projects they have, or will be, spent on.
- 4.2 The minimum required to meet the regulation requirements is publication of the CSV spreadsheets (shown as PDFs in Appendix 2).

#### **5. Evaluation of Options**

- 5.1 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.
- 5.2 The alternative option is to publish only the CSV spreadsheets. These are complex documents and are not straightforward to understand in isolation without the associated commentary, this option is not recommended.

#### **6. Resource Implications**

- 6.1 The production of the IFS and associated section 106 contribution monitoring will be delivered within existing resources in the Planning Policy and Projects Department.
- 6.2 Once agreed by Cabinet, a copy of the IFS 2023/24 and CSV spreadsheets will be made publicly available on the Council's website on or before 31<sup>st</sup> December 2024. There are no further resource implications in relation to the IFS 2023/24.

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

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

#### **8. Corporate Implications**

- 8.1 Comment from the Director of Finance (linked to the MTFP): Accountancy has been consulted on the report and have no further comments to add. (SK)
- 8.2 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.

8.3 Comment from the Equalities Officer: This report seeking approval of the Infrastructure Funding Statement 2023/24 for publication on the Council website 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>

8.4 Comment from the Climate Change Officer: No Comment

## 9. **Appendices**

- Appendix 1 - Infrastructure Funding Statement 2023/24 – Main Report and Appendices
- Appendix 2 – Infrastructure Funding Statement 2023/24 - CSV spreadsheets 1- 4 (these have been converted to pdf for the purpose of this cabinet report but will be published as CSV files)

## 10. **Background Papers**

The Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019 (amended CIL Regulations) [The Community Infrastructure Levy \(Amendment\) \(England\) \(No. 2\) Regulations 2019 \(legislation.gov.uk\)](http://www.legislation.gov.uk/ukpga/2019/2/section/1)

Planning Guidance [Publish your developer contributions data - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/publish-your-developer-contributions-data)

Contact Officers: Carly Pettit, Team Leader Planning Policy and Katie Janman, Planning and S106 Monitoring Officer