

From: Derek Murphy, Cabinet Member for Economic Development
Simon Jones, Corporate Director Growth, Environment and Transport

To: Growth, Economic Development and Communities Cabinet Committee - 18 January 2024

Subject: 2023 Infrastructure Funding Statement

Classification: Unrestricted

Past Pathway of report: N/A

Future Pathway of report: N/A

Electoral Division: County Wide

Summary: Kent County Council (KCC) is required by statute to provide a summary of the financial position relating to Developer Contributions for the previous financial year through publication of an annual Infrastructure Funding Statement. This report provides a summary of that Statement.

Recommendation:

The Cabinet Committee is asked to note the contents of the report.

1. Introduction

- 1.1 Through the Community Infrastructure Levy (amendment) (England) (no.2) Regulations 2019, Local Authorities have a responsibility to provide a summary of all financial and non-financial developer contributions that they have been involved with over the course of a given financial year. The Infrastructure Funding Statement (IFS) is the platform through which to do this and must include a report on Planning Obligations relating to Section 106 (S106) of the Town and County Planning Act 1990, Section 278 (S278) of the Highways Act 1980 and the Community Infrastructure Levy (CIL).
- 1.2 Along with summary information, the latest IFS also provides some examples of infrastructure projects that Kent County Council (KCC) has delivered within specific District authority areas during 2022/23. This has been included to demonstrate how developer contributions are an essential tool in unlocking and delivering growth across the county. The statement is produced by the Development Investment Team (DIT) within the Growth and Communities Division, with assistance from services across the wider Authority.

2. 2022/2023 Infrastructure Funding Statement

- 2.1 The IFS document has been attached as Appendix 1 or can be viewed online, along with previous versions, via [KCC Infrastructure Funding Statements](#).
- 2.2 Throughout the IFS there will be references to the following definitions:
Secured – Contributions that have been included within a signed legal document for a planning application. These contributions have not been collected / delivered and if the planning application is not implemented, they will never be received.
Received – Contributions received, either monetary or non-monetary (in kind), that have been transferred to KCC.
Allocated – Contributions that have been received and allocated to specific projects.
Spent / Delivered – Monetary or non-monetary contributions that have been spent or delivered.
This Financial Year - unless stated otherwise, this refers to the period 01/04/2022 – 31/03/2023.
District – unless stated otherwise, this refers to one or more of Kent’s District, City and Borough Councils.
- 2.3 S106 Contributions
- 2.4 Section 106 monies are secured for a range of infrastructure. They can only be sought where they meet the three legal tests as set out in paragraph 122 of the Community Infrastructure Levy Regulations 2010:
- they are directly related to the development,
 - fairly and reasonably related in scale and kind to the development, and;
 - necessary to make the development acceptable in planning terms.
- 2.5 KCC secures contributions towards primary and secondary education, highways and transportation, adult social care, sustainable urban drainage, strategic waste disposal services, libraries, adult education and integrated children’s services.

Table 1 below shows the total amount of S106 money secured, received and spent during the financial year 2022/2023.

Service Area	Secured	Received	Spent
Adult Social Care	£357,845	£348,708	£369,893
Community Facilities	£668,656	£1,566,122	£671,130
Education	£22,888,479	£33,449,594	£18,315,004
Highways	£3,391,089	£8,011,259	£2,290,109
Public Transport & PRow	£800,016		

2.6	Strategic Waste Services	£335,026		
	Kent Thameside	£0	£289,587	£0
	Total	£28,442,559	£43,665,270	£21,646,136

Notes

1. The "secured" total for Education includes £4.7m for school land
2. Public Transport & Public Rights of Way spent and received are included in "Highways"

2.7 CIL Contributions

2.8 Developer contributions are secured through the CIL mechanism within five Local Planning Authorities in the county: Canterbury; Dartford; Folkestone and Hythe; Maidstone; and Sevenoaks. In these areas the contributions are collected by the local Planning Authorities. **Table 2** below shows the amount of CIL provisionally secured, received, and spent during the financial year for 2022/2023.

Local Planning Authority	Secured (Provisional)	Received	Spent
	£1,830,000	£539,054	£318,551

Table 2.

- 2.9 Of the five CIL authorities, contributions were only received and spent in Folkestone and Hythe. The arrangement with Folkestone and Hythe ensures that KCC receives 35% of their CIL receipts for the previous financial year. Other authorities invite KCC to submit bids to be made towards projects determining their success through their committee systems.
- 2.10 KCC made an application to Maidstone Borough Council for CIL funding in July 2022. Bids were made towards the expansion of the Maidstone Grammar School for Girls and a number of highways schemes. The Borough Council advised that KCC had been successful in one of its highway bids. The successful bid was for £1.83m towards the upgrade of junction 7 of the M20 and all other bids were unsuccessful. The County Council will attempt to secure other funding opportunities as well as seek to work with the Borough Council to improve the rating of the failed bids. The secured figure shown in the table above is the provisional total value of the successful Maidstone bid which is conditional to terms being agreed.

2.11 Section 278 Contributions

2.12 KCC, as the local highway authority, is responsible for the maintenance and development of the local road network within its borders. If planning permission has been granted for a development that requires changes or improvements to public highways, then KCC will often enter into a Section 278 (s278) agreement with the developer. As with s106 agreements this can only take place when the requested improvements are compliant with the CIL 122 regulations listed at paragraph 2.4 of this report. A s278 agreement details and enables highway changes to be made which the developer pays for and constructs. Examples of works that may be featured in a s278 agreement include roundabouts, improved facilities for pedestrians and cyclists, and traffic calming measures.

2.13 The value of s278 agreements takes the form of a performance bond paid to KCC by the developer based on the cost of the highway works (including utility works). A performance bond protects KCC against the risk of unforeseen expenditure if the works are not completed by the developer. If the works are delivered, then the bond is repaid to the developer, generally in a series of payments based on completion stages.

2.14 S278 agreements are subject to reasonable and proportionate fees which KCC can charge as part of delivery and monitoring arrangements outlined within each agreement. These charges cover KCC costs associated with the necessary work involved, for example commissioning road safety audits.

2.15 **Table 3** below outlines the value of bonds within signed s278 agreements and fees received in the financial year 2022/2023.

S278 Contributions	Bonds	Fees
	£8,191,546	£1,299,536

Table 3.

3. Future Spending Priorities and Case Studies

3.1 During the financial year 2022/23, KCC’s position with regards to unspent s106 contributions has moved from £82,956,875 to £105,186,512. Unspent contributions are an accumulation of a number of years of developer contribution income. This year’s figure is a net increase of £22,229,637 (26.7%) as KCC has received more contributions during 2022/23 than it has spent.

3.2 It is important to note that this is not uncommon as some projects require a significant amount of starting capital and the sums are spread across 12 Districts and Boroughs. The figures shown should be placed in context of the size of the county and the costs of specific infrastructure items. For example, the current costs of delivering a two form entry primary school will be in the region of £10m.

- 3.3 The full statement demonstrates the largest planned infrastructure projects that unspent monies are allocated towards and an estimated date of expenditure. It also includes a breakdown of the funding held per KCC service area. The delivery schedule of these infrastructure projects can be influenced by a number of factors, including whether sufficient finance is available but also land availability and Central Government policy.
- 3.4 This year's IFS contains the details of seven infrastructure projects delivered through the use of developer contributions during the 2022/2023 financial year. The statement highlights the financial position of developer contributions and case studies within six of the county's Local Planning Authority areas. A detailed breakdown of funding for all 12 Districts and Boroughs can be found on an accompanying spreadsheet, via [KCC Infrastructure Funding Statements](#).

4. Financial Implications

- 4.1 The costs of producing the IFS relate to staff resources and are absorbed within the budget allocated to the KCC Developer Investment Team.
- 4.2 Since the adoption of the KCC [Developer Contributions Guide](#) in 2023, which this Committee informed, the DIT secures a £300 monitoring fee per trigger payment date. Income received will be monitored under existing financial processes and may in part be used to offset costs relating to the production of the IFS.

5. Legal Implications

- 5.1 Through the Community Infrastructure Levy (amendment) (England) (no.2) Regulations 2019, Local Authorities have a responsibility to provide a summary of all financial and non-financial developer contributions that they have been involved with over the course of a given financial year. The Infrastructure Funding Statement (IFS) is the platform through which to do this and must include a report on Planning Obligations relating to Section 106 (S106) of the Town and County Planning Act 1990, Section 278 (S278) of the Highways Act 1980 and the Community Infrastructure Levy (CIL).
- 5.2 The document must be published by the 31st December each calendar year demonstrating the financial details of the previous financial year.

6. Other Corporate Implications

- 6.1 The DIT has established strong working relationships with each of the wider KCC service areas to ensure that contributions are targeted to their needs. Work completed during the adoption of the updated Developer Contributions Guide has enabled planning responses to include greater flexibility of infrastructure project descriptions. Moving forward, this will assist KCC service areas' ability to spend the contributions they receive, helping to unlock existing

barriers, where overly prescriptive project descriptors within s106 agreements have historically made it harder for service areas to spend.

- 6.2 The level of unspent contributions has continued to rise with levels of infrastructure delivery seemingly not keeping pace. During the course of the coming year, further work will be undertaken between the DIT and the wider KCC service areas holding funding, with the objective of increasing the in-year levels of spending and infrastructure delivery.

7. Conclusions

- 7.1 The County Council continues to demonstrate good levels of success in securing financial contributions to mitigate the impact of development across the county.
- 7.2 There is a need for further work to be completed to assist KCC service areas in increasing the levels of infrastructure delivered, to reduce the current levels of unspent contributions being held and meet identified local needs.

8. Recommendation

8.1 Recommendation

The Cabinet Committee is asked to note the contents of the report.

9. Background Documents

Appendix 1, 2022/2023 Infrastructure Funding Statement

10. Contact Details

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