

# Infrastructure Funding Statement



2021-2022



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# 1. Introduction

- 1.1. As part of changes in Central Government Planning Policy, as laid out in 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 in which to do this and must include a report on Planning Obligations Section 106 (S106), Section 278 (S278) and about the Community Infrastructure Levy (CIL), in relation to the previous financial year. The Legislation also requires Local Authorities to report on the infrastructure projects or types of infrastructure which it intends to wholly or partly fund by CIL.
- 1.2. Along with summary information, this IFS will also provide some examples of infrastructure projects that Kent County Council (KCC) has delivered, planned, or allocated contributions towards during 2020-21 as a means to demonstrate how developer contributions are an essential tool in unlocking and delivering growth across the county.
- 1.3. KCC is responsible for delivering and maintaining a wide range of strategic infrastructure such as roads, schools, and social care but it may not be the immediate Local Planning Authority for entering into legal agreements with developers. Thus, KCC works closely with its local District and Borough colleagues to ensure that its statutory responsibilities can be met and there is a smooth and timely transfer of developer contributions between the respective authorities. KCC will report the net result of such transfers within its IFS.
- 1.4. 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 Kent County Council.
  - **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 01/04/2021 – 31/03/2022.
  - **District** – unless stated otherwise, used to refer to one or more of Kent's District and Borough Councils.

## 2. Developer Contributions

### Section 106 Planning Obligations

- 2.1. Section 106 Agreements, commonly referred to as S106 agreements, are a legal mechanism used to fund additional infrastructure needed as a result of increased demand caused by development within a local area.
- 2.2. Section 106 monies are secured for a range of infrastructure. They can only be sought where they meet the 3 legal tests, set out in Paragraph 57 of the National Planning Policy Framework:
  - 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.
- 2.3. KCC secures contributions towards primary and secondary education, highways and transportation, adult social care, sustainable urban drainage, strategic waste services, libraries, adult education and youth and community facilities. Kent's District and Borough councils secure contributions towards infrastructure such as affordable housing, healthcare, local play areas and some aspects of further education. All of these items are essential in building and maintaining sustainable communities.
- 2.4. S106 agreements are secured on a site-by-site basis with payments typically being made in instalments as the development is built out. Contributions can only be spent against the purposes for which they are collected.
- 2.5. Unilateral Undertakings (UUs), which are a simplified version of a planning agreement entered into between the landowner and KCC will also be included within this section.

### Community Infrastructure Levy (CIL)

- 2.6. Under CIL, each District is to create a charging schedule which is applied to the floor space of the development. The funding raised from CIL is collected by the Districts, pooled into a 'pot' and can be spent on a wide range of infrastructure types.
- 2.7. The infrastructure that receives CIL funding will be determined by the local Council. Whilst KCC is not directly responsible for collecting CIL, it is heavily involved in discussions about accessing these funds in order to deliver its statutory duties and ensure that all communities, both new and existing, within Kent benefit.

### Section 278 Highway Agreements

- 2.8. Additional legal agreements that can fund infrastructure are Section 278 Agreements (S278). These are legally binding agreements made under the Highways Act 1990 between Local Highway Authorities and Developers. S278 agreements are required to secure alterations or improvements to the highway.

## Forecasting

- 2.9. National guidance recommends that Councils should consider reporting on estimated future income where possible. KCC will look at incorporating forecasting of developer contributions within future versions of the IFS, although KCC will ultimately rely on information provided by Kent's Districts and Boroughs.

### 3. S106 Contributions

#### Contributions received or invoiced before the start of 2021/22 that had not been spent

- 3.1. Table 1 below shows the total amount of S106 money held or invoiced but not spent by KCC on 31<sup>st</sup> March 2021, the end of the previous financial year (2020/21). Invoiced money has not necessarily been received.
- 3.2. It is important to note that large accumulations of contributions are not uncommon as some projects require a great deal of starting capital, plus the sums are spread across 12 Kent Districts and Boroughs.

**Table 1 – Received or invoiced contributions yet to be spent and held by the Council at 31st March 2021 (Year start position)**

Service Area	Amount
Adult Social Care s106 agreements	£2,438,505
Adult Social Care UUs	£446,462
Community Services <sup>1</sup> s106 agreements	£2,842,972
Community Services UUs	£777,529
Education <sup>2</sup> s106 agreements	£27,619,510
Education UUs	£2,741,403
Highways <sup>3</sup> s106 agreements	£13,206,977
Highways UUs	£3,459,685
Kent Thameside s106 agreements	£3,927,082
<b>Total</b>	<b>£57,460,125</b>

- 3.3. The majority of the developer contributions held are in education and highways. To give some context, the timing of developer contributions rarely matches with when the spend is incurred. On some occasions KCC gets money in before the capital project and spend is due to take place; or KCC has to await match funding from other sources; but overwhelmingly KCC are asked to bear the risk on developer contributions by delivering schemes in advance and then having to wait and get in contributions over a number of years.

#### Contributions agreed in 2021/22 through S106 Agreements

- 3.4. Table 2 outlines the financial contributions that have been secured by KCC through signed S106 agreements this financial year. The majority of this will be transferred to KCC from Kent's Districts and Boroughs.
- 3.5. Whilst money may be secured through S106, it is not a guarantee that the money will ever be received. If the development does not go ahead or planning circumstances change through appeals, renegotiations etc., then the amounts of money that KCC actually receive will be different.

<sup>1</sup> Community services includes Community Learning and Skills, Libraries and Youth Services

<sup>2</sup> Education includes Primary and Secondary Educational facilities

<sup>3</sup> Highways includes works to the road network, cycle lanes, pedestrian access, and public rights of way

**Table 2 – Contributions secured in 2021/22 through S106 Agreements**

<b>Service Area</b>	<b>Amount</b>
Community Services	£1,158,766
Education	£37,063,896
Highways	£3,185,000
Land (for Educational facilities)	£2,091,417
Social Care	£492,889
Strategic Waste Services	£337,141
Monitoring Fees	£10,000
Public Transport and Public Rights of Way	£4,157,510
Other	£2,770,209
<b>Total</b>	<b>£51,266,828</b>

**Contributions received in 2021/22 (regardless of S106 Date)**

- 3.6. Table 3 shows the total amount of money received by KCC from developer contributions this financial year. The majority of this money is transferred from Districts and Boroughs at KCC's request.
- 3.7. In many instances the money received was agreed and signed for in S106 agreements predating this financial year.

**Table 3 – Total s106 contributions received this financial year by KCC**

<b>Service Area</b>	<b>Amount</b>
Adult Social Care	£229,546
Community Facilities	£1,218,186
Education	£33,103,132
Highways	£12,420,909
Kent Thameside	£261,399
<b>Total</b>	<b>£47,233,172</b>

**Contributions spent in 2021/22**

- 3.8. Table 4 provides details on the amount of S106 contributions spent by the KCC this financial year.
- 3.9. Some of this will be money that was received and allocated in previous years but could only be spent when sufficient sums were received to pay for a project in its entirety.

**Table 4 – Total contributions spent by KCC in 2021/22**

<b>Service Area</b>	<b>Amount</b>
Adult Social Care	£181,805
Community Facilities	£481,606
Education	£18,167,303
Highways	£2,172,916
Kent Thameside	£1,131,695
<b>Total</b>	<b>£22,135,325</b>

## Contributions returned in 2020/21

- 3.10. Most s106 agreements come with a return clause where if contributions remain unspent after a certain period, then KCC is legally obliged to hand the contribution back to the developer.
- 3.11. No s106 contributions had a return clause triggered during 2020/21.

## Non-monetary contributions agreed in 2021/22 through S106 Agreements

- 3.12. Table 5 provides a summary of the non-monetary (in kind) contributions that were agreed through S106 agreements in the financial year 2021/22. Non-monetary contributions include provision of ultra-fast broadband and land transfers for the provision of Primary and Secondary schools.

**Table 5 – Non-monetary S106 contributions**

Item	Amount
Broadband	1 application
Land transfers (education)	5 applications

## Money borrowed

- 3.13. In the last financial year, no S106 money was spent repaying money borrowed.



## 4. Community infrastructure Levy (CIL) Contributions

- 4.1. As mentioned earlier, KCC is not responsible for collecting CIL. However, as part of ongoing negotiations between the County Council and those Districts and Boroughs charging CIL, governance exists or is in the process of being formed that sets out the requirements for KCC to access these funds.
- 4.2. The processes set out for KCC to access a District's CIL receipts varies between Districts. These processes may take the form of either a set percentage of CIL receipts transferred from a District to KCC annually, or a requirement to make bids against a District's CIL receipts. Further details can be found in Section 6.

### Unallocated receipts from previous years

- 4.3. KCC has no unallocated CIL receipts from previous years.

### Total CIL receipts

- 4.4. Table 6 outlines the CIL monies that KCC has received during 2021/22.

**Table 6 – CIL Monies received during 2021/22**

Item	Amount
Folkestone and Hythe CIL transfer	£394,681

### CIL retained at end of year

- 4.5. Table 7 below outlines the CIL monies that KCC has retained at the end of year (31<sup>st</sup> March 2022). This relates to CIL monies received in 2021/22 that were allocated towards Highways projects in Folkestone and Hythe.

**Table 7 – CIL Monies retained at end of year**

Item	Amount
KCC Highways- Folkestone and Hythe	£388,902

### CIL receipts allocated and spent in the year 2021/22

- 4.6. KCC has spent £5,779 of CIL received from Folkestone and Hythe and the CIL monies it received previously for improvements to Swanley Train Station.

**Table 8 – CIL Monies allocated and spent during 2021/22**

Item	Amount
Swanley Train Station	£750,000
KCC Highways- Folkestone and Hythe	£5,779

### Amount of CIL spent on administrative expenses

- 4.7. No CIL receipts were spent on administrative expenses by KCC in 2021/22.

## 5. S278 Contributions

- 5.1. KCC, as the local highways 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, or S278, Agreement with the developer. This agreement details and enables these changes to be made which the developer pays for and constructs. Examples of works that may be featured in a S278 include roundabouts, improved facilities for pedestrians and cyclists; and traffic calming measures.
- 5.2. 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 parts based on completion stages.
- 5.3. KCC can also request a commuted sum payment from the developer. A commuted sum covers the maintenance and renewal costs (for 30 years) of assets built by the developer as part of an S278 agreement and then adopted into public ownership by KCC.
- 5.4. 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.

### Bonds agreed in 2021/22 through S278 Agreements

- 5.5. Table 9 outlines the value of bonds within signed S278 agreements this financial year.

**Table 9 – Total value of S278 bonds signed in 2021/22**

Item	Amount
S278 bonds signed with KCC	£8,543,326

### Fees received in 2021/22 (regardless of S278 Date)

- 5.6. Table 10 outlines the total value of fees that have been paid to KCC as part of S278 agreements this financial year.

**Table 10 – Total value of S278 fees received in 2021/22**

Item	Amount
S278 fees received by KCC	£1,388,984

## Case Study: Station Road, Staplehurst; Sainsburys Entrance

**S278 bond value: £243,768**

- C3.1 The scheme relates to a new Sainsburys store and comprised of a new access, mini roundabout, bus stop, footway works, pedestrian refuse island, traffic signals, pedestrian crossing, and a new delivery entrance on Station Approach.
- C3.2 The traffic signals were implemented to facilitate pedestrian movements to and from the new store, which included carriageway resurfacing and application of a high friction surface on each approach to the crossing point. At the entrance to the Sainsburys store an access was created with a mini roundabout to maintain flows through the new junction and assist with movements into the car park. Alterations to the location of an existing bus stop was made which included changes to the kerb heights on both sides of the road to facilitate the new layout.
- C3.3 A pedestrian refuse island was also installed which, along with footway works fronting the new store, help to encourage sustainable travel to and from the site.
- C3.4 The design and technical approval process took place throughout 2020 and works were completed in 2021.



## 6. CIL Spending Governance

- 6.1. KCC's process for receiving CIL is determined at District level. It is important to note that not all Districts have adopted a CIL. Table 11 below summarises the current position of local planning authorities with regards to a CIL charging regime; and how these funds can be accessed.

**Table 11 – District CIL regimes and access to CIL funding**

District	CIL Position	Process for accessing CIL funds
Ashford	No CIL	-
Canterbury	Adopted Apr 2020	Bidding process under development
Dartford	Adopted Apr 2014	Representation within Leader's Advisory Group and projects within Dartford's Infrastructure Delivery Plan
Dover	No CIL	-
Folkestone and Hythe	Adopted Jul 2016	Set proportion of funds passed to KCC annually to spend on CIL infrastructure priorities
Gravesham	No CIL	-
Maidstone	Adopted Oct 2017	Application to annual bidding process
Sevenoaks	Adopted Feb 2014	Application to CIL Spending Board
Swale	No CIL	-
Thanet	No CIL	-
Tonbridge and Malling	No CIL	-
Tunbridge Wells	No CIL	-

- 6.2. Future IFS publications will update this CIL information. Given ongoing consultations by Central Government on reforms to the planning system including CIL, this is subject to change.
- 6.3. KCC has created a CIL working group which includes representation from all of KCC's infrastructure services that make use of developer contributions including Highways, Education, Adult Social Care, Libraries, Youth Services, Community Learning and Skills, Sustainable Urban Drainage; and Strategic Waste Services. The role of this group will be to consider how to bid for and spend any CIL receipts it receives.

## 7. Future Spending Priorities

**Table 12 – Received or invoiced contributions yet to be spent and held by the Council at 31st March 2022 (Year-end position)**

Service Area	Amount
Adult Social Care	£2,932,708
Community Facilities	£4,367,082
Education	£45,296,742
Highways	£27,303,557
Kent Thameside	£3,056,786
<b>Total</b>	<b>£82,956,875</b>

- 7.1. During the financial year 2021/22, KCC's position with unspent contributions has moved from £57,460,125 to £82,956,875. This is a net increase of £25,486,750 (+44.3%). i.e., KCC has received more contributions during 2021/22 than it has spent.
- 7.2. The largest planned infrastructure projects that monies are allocated towards are summarised in Table 13. The delivery schedule of these infrastructure projects is down to a number of factors, including whether sufficient finance is available but also land availability and Central Government policy.

**Table 13 – Largest planned infrastructure projects with unspent contributions**

Project	Unspent Monies (Allocated) £m
Chilmington Green Secondary	£8.4
Maidstone Integrated Transport	£4.5
A228 and B2160 junction Improvements with B2017 Badsell Road Paddock Wood	£4.0
Hermitage Lane Primary	£3.8
Dartford Bridge Primary	£3.6
Garrison Primary	£3.3
Strategic Transport Infrastructure Programme (formerly Kent Thameside Strategic Transport Programme)	£3.1
Herne Bay Primary	£2.7
Herne Relief Rd	£2.2
Faversham - new Primary School	£1.9
Cornwallis Academy	£1.7
Barton Manor	£1.6
Kingsnorth, Ashford - new Primary School	£1.4
Sturry Link Rd	£1.2
Bearsted Rd (formerly Kent Medical Campus)/M20 Jct 7	£1.1
Headcorn Primary	£1.0
Marden Primary	£1.0
Pilgrims' Way Primary	£1.0
<b>Total</b>	<b>£ 47.5</b>

## 8. Future Funding Priorities

- 8.1. KCC remains committed to seeking developer contributions across the County to ensure that development pays a fair proportion for its impact on Kent's infrastructure, both existing and new.
- 8.2. Kent County Council emphasises the importance on taking an 'Infrastructure First' approach, reflected in our Council's Strategy- Framing Kent's Future (2022-2026):
  - 8.2.1. *"Kent is experiencing rapid growth to accommodate our rising population. Housing growth that comes without the necessary social and physical infrastructure that new and existing communities need brings unacceptable damage to quality of life. We firmly believe that meeting nationally set housing targets, without the correct infrastructure, is not right or acceptable for Kent. An 'Infrastructure First' approach is critical before further housing growth and we must be increasingly ready to challenge developments where this is not the case.*
  - 8.2.2. *We are committed to building our capacity to drive strategic planning and regeneration at a countywide level, using our perspective and position to provide a strategic overview of the development and infrastructure needs of Kent as a whole. It is important that we are bold in our communication and negotiation with Government and its agencies about housing and economic growth ambitions, and work with Local Planning Authorities and our partners to clearly articulate and secure the subsequent investment required to ensure new development is properly embedded into thriving, connected and supported communities."*
- 8.3. Districts' Infrastructure Delivery Plans (IDP) provide a long-term plan of infrastructure requirements arising from the allocation of housing within their Local Plans. These IDPs set out what is needed, where it is needed and when it is needed. These plans include KCC services.
- 8.4. KCC will continue to work in partnership with those Districts that are CIL charging authorities and set out governance arrangements in order to comply with their bidding processes. Regardless of the bidding requirements, KCC will prioritise the infrastructure projects that should be delivered first given the possible CIL monies available for KCC to bid for or spend.