



## REPORT of ASSISTANT DIRECTOR - PLANNING AND IMPLEMENTATION

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to  
PERFORMANCE, GOVERNANCE AND AUDIT COMMITTEE  
18 JUNE 2024

### INFRASTRUCTURE FUNDING STATEMENT (IFS)

#### 1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to provide Members with an update on the monitoring of Section 106 (S106) planning obligations and to seek approval of the Maldon District Infrastructure Funding Statement for the financial year 2023 / 24, in accordance with the Council's legal duties which is to publish an Infrastructure Funding Statement by December every year.

#### 2. RECOMMENDATIONS

- (i) That the Committee considers the update on Section 106 planning obligations;
- (ii) That the Maldon District Council Infrastructure Funding Statement for the financial year 2023 – 2024 be approved for publication as set out in **APPENDIX 1**.

#### 3. SUMMARY OF KEY ISSUES

- 3.1 As set out in the detail of **APPENDIX 1** the following funds were received and spent in regard to S106 planning obligations by Maldon District Council (MDC) during the financial year 2023 - 2024.

Funding received in 2023/24	£180,163.56
Funding Spent in 2023/24	£68,202.31

- 3.2 As of 31 March 2024, the Council is expecting a further £1,540,358.75 to be paid by developers for specific infrastructure requirements across the District. The triggers to collect the funding associated with the S106 agreements are being monitored in association with the function of monitoring housing commencements and completions in the District. Once these triggers are met, indexation is added to the original negotiated sum which accompanied the granting of planning permission, and the funding is invoiced to the developer.
- 3.3 During the financial year 2023 – 2024 the Council did not have to refund developers any funding because the clawback date within the S106 agreements had been met without spending the relevant funding.
- 3.4 It is important to note that S106 contributions may only be spent on new facilities or improvements to facilities where the new development has, at least in part, contributed to the need for that facility or will have an impact on existing facilities.

This means that funding will normally be invested in facilities based in the same locality or catchment area in which the contributing development is located unless it is contributing to the funding of strategic infrastructure.

- 3.5 The IFS only relates to S106 obligations for which MDC is legally responsible for ensuring compliance. It does not cover the following:
- a. Where Essex County Council (ECC) is the Local Planning Authority (LPA) (Minerals and Waste Applications); and/or
  - b. Where MDC determined the planning application, but where ECC is signatory of the S106 to the effect that it is directly responsible for compliance of its contributions; and/or
  - c. Section 278 highway work agreements between developers and ECC.
- 3.6 ECC is responsible for producing its own IFS for anything which it collects funding for and spends directly. It publishes these annually and the relevant webpage link is provided in **APPENDIX 1** for completeness.

#### **4. CONCLUSION**

- 4.1 **APPENDIX 1** attached to this report is the Maldon District Infrastructure Funding Statement for the financial year 2023/24. If approved this statement will be published on the Council's website alongside a spreadsheet of all the S106 agreements and their clauses, and any associated funding attached to them.

#### **5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2023 - 2027**

##### **5.1 Supporting our communities**

- 5.1.1 Monitoring S106 agreements ensures that financial contributions are paid in an effective and efficient way and they are then available to spend on infrastructure which will help the residents / businesses of Maldon District.

##### **5.2 Enhancing and connecting our place**

- 5.2.1 S106 agreements are a legal mechanism to secure obligations to mitigate the impact of development in the District, which could include payments that can mitigate any harm on communities with investment in related opportunities.

##### **5.3 Helping the economy to thrive**

- 5.3.1 S106 agreements are a legal mechanism to secure obligations to mitigate the impact of development in the District, which could include payments that can mitigate any harm on businesses with community investment in related opportunities.

##### **5.4 Smarter finances**

- 5.4.1 Failure to adequately monitor S106 contributions and the development that they are secured from could result in delayed payments. Failure to identify, design, consent and deliver affordable housing or infrastructure projects within timescales set in the S106 agreements could result in money needing to be returned to developers and the benefit not being realised.

## 5.5 **A greener future**

- 5.5.1 S106 agreements are a legal mechanism to secure obligations to mitigate the impact of development in the District, which could include payments that can mitigate any harm on the environment with investment in related opportunities.

## 5.6 **Provide good quality services.**

- 5.6.1 S106 agreements are a legal mechanism to secure obligations to mitigate the impact of development in the District, which could include payments that can mitigate any harm on communities with investment in related opportunities.

## 6. **IMPLICATIONS**

- (i) **Impact on Customers** – See paragraph 5.1.1 above.
- (ii) **Impact on Equalities** – None. The IFS is a legal statement, not a policy/ service. The Local Development Plan (LDP) 2017 and LDP Review are subject to the provisions of the Equality Act 2010 and the Council is subject to the Public Sector Equality Duty in its decision-making.
- (iii) **Impact on Risk (including Fraud implications)** – Failure to adequately monitor S106 contributions and the development that they are secured from could result in delayed payments. Failure to identify, design, consent and deliver affordable housing or infrastructure projects within timescales set in the S106 agreements could result in money needing to be returned to developers. Failure to publish an IFS by the end of December each year would result in the council failing its legal duties in this regard.
- (iv) **Impact on Resources (financial)** – Failure to adequately monitor S106 contributions and the development that they are secured from could result in delayed payments or monies needing to be returned to developers.
- (v) **Impact on Resources (human)** – Monitoring S106 and preparing the IFS is undertaken by the Planning Policy and Implementation Team with input from Finance. This decision does not impact on this resource.

Background Papers: None.

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