

INFRASTRUCTURE FUNDING STATEMENT 2021-22

Review of Section 106 Planning Obligations



SCARBOROUGH
BOROUGH COUNCIL

Planning Services

1.0 INTRODUCTION

1.1 Section 106 of the Town and Country Planning Act 1990 allows Local Planning Authorities (LPAs) to impose restrictions or requirements on land, including the payment of monies towards infrastructure or securing affordable housing. Collectively, these are known as planning obligations and may take the form of a Section 106 (S106) agreement between a developer/landowner, the Council and possibly other parties, or alternatively, a unilateral undertaking providing a legal commitment by the developer alone.

1.2 Obligations form part of a planning permission, but are only used when planning conditions are unsuitable, because of their complexity and the delay they can add to the planning process. Since 2010 it has been a legal requirement that that planning obligations may only constitute a reason for granting planning permission for the development if the obligation is: -

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

1.3 The 2008 Planning Act made provision that most financial contributions could be secured by the Community Infrastructure Levy (CIL) and it was the government's intention at the time that this would become the usual means of securing funding for off-site infrastructure (excluding affordable housing). Scarborough Borough Council ultimately decided not to introduce CIL, since across much of the Borough it would not be viable.

1.4 The publication of this Infrastructure Funding Statement

is a legal requirement arising from the Community Infrastructure Levy Regulations 2019. All LPAs must publish an annual report covering both CIL and S106 obligations regarding the monies secured, received, held and spent, as well as provision of certain on-site infrastructure, such as affordable housing. This IFS covers the financial year 2021/22.

1.5 Although not a specific requirement of the IFS, Appendix A includes a comprehensive list of all 'live' individual S106 obligations securing infrastructure or payments in its place, together with a short commentary on the status on 31st March 2022. It also provides a partial picture of events which have subsequently taken place in 2022-23, although these will be more fully reported in the IFS for that year when it is published.

1.6 This Statement only relates to those S106 obligations for which Scarborough Borough Council (SBC) is legally responsible for ensuring compliance. In accordance with the 2019 Regulations, the data in this IFS therefore does not cover S106 obligations applying to land in the Borough in the following cases:

- (A) Where the North York Moors National Park Authority is the LPA.
- (B) Where North Yorkshire County Council (NYCC) is the LPA (e.g. mineral and waste applications)
- (C) Where SBC determined the planning application, but where NYCC is signatory of the S106 to the effect that it is directly responsible for compliance — this mainly relates to certain highway payments.
- (D) Section 278 Highways agreements between the developer and NYCC.

2.0 OVERVIEW OF PLANNING OBLIGATIONS

Financial Obligations

2.1 Table 1 below provides a summary of the key S106 obligations for the year 2021-22. These largely cover the figures which IFs are specifically required to publish. The text in this Section seeks to provide some context and a more detailed explanation.

2.2 The penultimate row of this Table covers contributions, which were the total sums secured by S106 obligation, but where development has not reached the stage when payment is triggered. Such sums are quite substantial with a potential figure of £5,881,139, which is greater than those sums paid/waiting expenditure.

2.3 The status of these untriggered monies should be treated with

Table 1 - Overview of Section 106 Financial Contributions

	Affordable Housing	Green Space	Education		Transport	Health	Other (largely community)	Totals
			Sum	Primary School Place Equivalent				
Entered into 21/22	£125,970	£422,112	£101,970	7.5	£17,000	£82,458	0	£749,510
Received 21/22	£364,740	£144,126	£366,707	25.545	£119,506	£34,069	£20,000	£1,049,148
Received before end of 21/22 & not allocated	£146,454	£400,749	£1,418,449	100.795	£370,207	£88,398	£20,000	£2,444,257
Allocated but not spent end of 21/22 (excludes maintenance)	£504,880	£83,414	0	0	£109,921	0	0	£698,215
Monies spent 21/22	£194,688	£106,423	0	0	£50,011	0	0	£351,122
Maintenance monies held end of 21/22	N/A	£30,030	N/A		£0	N/A	£11,852	£41,882
Total potential future sums not triggered end of 21/22 (see para 2.2)	£125,970	£1,789,680 (excludes £81,461 pending payment)	£2,702,771		£281,500	£550,018	£467,200	£5,881,139
Total monies held end of 21/22	£651,334	£514,193	£1,418,449	100.795	£480,128	£88,398	£31,852	£3,184,354

caution. It is likely that a proportion of these will never be collected, notably because not all planning permissions are implemented before expiring; normally after 3 years if not started. This is slightly offset by the fact that where the payment is triggered months or years later, then indexation is usually liable. On outline planning permissions it should also be noted that some of the figures are estimates at this stage.

2.4 The total amount of S106 sums held by the Borough Council at the end of 2021-22 was **£3,184,354**. This comprises the 'allocated' and 'unallocated' sums as shown in Table 1. For the purposes of this IFS it refers to cases where the Council have made a spending commitment. This is distinct from any ring-fencing of how monies may be spent as set out in the S106 planning obligation itself, relating to the type of infrastructure and the geographical location where it may be spent.

2.5 In 2021-22 the potential value of financial obligations secured was **£749,510**. This is the figure relating to sums contained in S106 agreements/undertakings when completed, normally at the same time as planning permission is granted. The figure is somewhat lower than the average of recent years and significantly lower than 2020-21, but that was skewed by agreements relating to one large site, High Mill Farm, Scalby.

2.6 A positive feature of the year was the amount of S106 contributions paid by developers. The **£1,049,148** received was the largest total since 2017-18. This reflected the fact that trigger points for payments were once again reached as the construction industry recovered from the previous year, when payments were unusually low, largely due to the impact of Covid 19.

2.7 Expenditure of S106 monies on projects reduced from 2020-21, but experience has shown that this figure fluctuates year to year. A total of £351,122 was spent, mainly by the Borough Council, on affordable housing (notably the Homelessness Strategy) and the restoration of Scarborough's South Cliff Gardens (pictured on front cover).

2.8 The upturn in monies received during the year meant that the

total S106 sums held at the end of March 2022 had a year on year increase of £651,334, contributing to the grand total of **£3,184,354** held by the Borough Council.

2.9 The CIL Regulations require the amount of money (received under planning obligations) and spent on repaying money borrowed to be reported. In the case of Scarborough Borough Council this was nil.

2.10 Table 1 also does not include Section 106 monitoring fees, to cover associated administration costs to Planning Services. In 2020-21, a balance of £3,700 was spent derived from fees previously collected. During the financial year, 2021-22, a total of £5,829.50 in monitoring fees was collected.

2.11 Full details for individual planning obligations relating to development sites across the Borough these can be found in Appendix A.

Non-Financial Obligations

2.12 Table 1 on page 3 does not provide a complete picture of all infrastructure secured by S106 obligation. In particular, it does not indicate on-site provision, such as provision of affordable housing or green space. The actual cost of providing on-site infrastructure will often exceed the monetary sums collected by S106 obligation.

2.13 The on-site obligations secured or completed in 2021-22 essentially related to the provision of affordable housing. A total of **44** affordable dwellings (as secured by S106 obligation) were completed in 2021-22. If all affordable provision at Filey Fields, Filey (pictured on front cover) is included, then the figure is 103, which is broadly in line with previous years. The homes were built across 5 sites, with Lady Edith's Drive, Newby being the other main contributor. A total **29** new affordable homes were secured by S106 obligation in 2021-22, which is a reduction on previous years. The majority of these (19) will be constructed at Green Lane Whitby.

2.14 Full details of the status of non-financial obligations may be found in Table 2a and elsewhere in Appendix A of this IFS.