

Report to: Council



Date of Meeting 9th December 2020

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Infrastructure Funding Statement 2019/20

Report summary:

The Community Infrastructure Levy (CIL) Regulations 2010 were amended in 2019 and included a requirement for all planning obligation collecting authorities to prepare an 'Annual Infrastructure Funding Statement (IFS) each year to report planning obligation and Community Infrastructure Levy (CIL) income and expenditure from the previous financial year. This is the first year in which the new regulations apply and all collecting authorities must publish their IFS no later than 31 December. This report summarises the contents of the East Devon District IFS and also highlights some of the key elements of the final IFS.

Recommendation:

That Council:

1. Note the contents of this report and the requirement to provide an "Annual Infrastructure Funding Statement" by 31st December.
2. Approve the 2019/20 'Annual Infrastructure Funding Statement' based on the information detailed in this report for publication and submission to the Ministry of Housing Communities and Local Government by the 31st December 2020.
3. That the future consideration and approval for publication and submission of the "Annual Infrastructure Funding Statement" be delegated the Strategic Planning Committee and the committee's Terms of Reference within the Constitution be updated to reflect the delegation.

Reason for recommendation:

It is a legal requirement, under the CIL Regulations 2010 (as amended) to prepare the IFS before 31 December 2020.

Officer: Ed Freeman – Service Lead Planning Strategy and Development Management

Portfolio(s) (check which apply):

- Climate Action
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency

- Economy and Assets
- Coast, Country and Environment
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Financial implications:

The IFS will create an awareness of funds held and spent by the Council and may attract further scrutiny from developers, other stakeholders and members of the public.

Legal implications:

With the amendments to the Community Infrastructure Regulations this is a new legal requirement placed upon the Council. There are no other legal implications other than as set out in the report.

Equalities impact Low Impact

If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form using the [equalities form template](#).

Climate change Low Impact

Risk: Medium Risk; The risk associated with not meeting the statutory duty to publish the Infrastructure Funding Statement on the EDDC website by 31 December 2020.

Links to background information [Council Report April 2016 – Introduction of CIL S106/Community Infrastructure Levy Developer Contributions Annual Report 2016/17](#)
[S106/Community Infrastructure Levy Developer Contributions Annual Report 2018/19](#)
[South and East Devon Habitat Regulations Executive Committee 16 July 2019](#)
[S106/Community Infrastructure Levy Developer Contributions Annual Report 2019/20](#)

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

1 Background

- 1.1 The Community Infrastructure Levy (CIL) Regulations 2010 were amended in 2019 and included a number of important changes, including the requirement for those local authorities that collect planning obligations ('Section 106, Section 278 and the Community Infrastructure Levy), to prepare and publish an annual Infrastructure Funding Statement.
- 1.2 Regulation 121A states that "no later than 31st December in each calendar year a contribution receiving authority must publish a document which comprises the following:
 - A statement of the infrastructure projects or types of infrastructure which the charging authority will be or may be or partly funded by CIL;

- A report about CIL in relation to the previous financial year;
- A report about planning obligations in relation to the reported year.
- The first annual infrastructure funding statement must be published by 31 December 2020 and it must be published annually on the contribution receiving authority's website.

- 1.3 The main aim of this change to the CIL Regulations is to provide a way to make developer contributions fully transparent in a way which allows anyone to see how much an individual development site has contributed to infrastructure provision.
- 1.4 The Community Infrastructure Levy (CIL) is one of the primary mechanisms for collecting financial contributions from new developments. The Council started charging CIL from 1st September 2016. The extent of applicable charges by use and geography is set out within the Council's adopted Charging Schedule (note that a new Charging Schedule has recently been approved, and the new charges begin on 1 February 2021).
- 1.5 In addition to CIL, the Council continues to secure affordable housing, site specific infrastructure items undertakings which are not financial in nature (for example restrictions on use or management plans) through the use of legal agreements under Section 106 (S106) of the Town and Country Planning Act 1990 (as amended).
- 1.6 The CIL Guidance requires that IFS data is prepared in a specific digital format (using CSV files), so that it can be submitted to a 'digital hub' and centrally reproduced on a standardised IFS template. However, due to the Covid-19 pandemic, the process for reproducing a standardised template has not yet been finalised by the Ministry of Housing Communities and Local Government (MHCLG). Nevertheless, this work is progressing quickly, with government guidance currently being produced.
- 1.7 Recent software updates will enable the council's S.106 and CIL data to be produced in the correct file format very shortly. Therefore, although this IFS is accompanied by pdf spreadsheets which support the S.106 totals reported, the publication of the IFS will be followed by 3 CSV files, which will also be published on the council's website by 31 December 2020, and submitted to the digital hub, once processes have been established. Extracts of the data are included in Appendix 1 to this report so that Members can see the nature of the data to be submitted.

2 The Infrastructure Funding Statement

- 2.1 As mentioned above, the IFS must report on the Council's infrastructure list (discussed further below) and a report on CIL and S.106 income and expenditure.
- 2.2 It should be noted that the IFS is based on the previous financial year (2019/20).
- 2.3 A further point to note is that East Devon District Council has responsibility for receiving and spending S.106 obligations on matters such as affordable housing, play space, leisure facilities, public open space, public art, sports pitches etc. However, Devon County Council (DCC) is also a contribution receiving authority and collects S.106 for infrastructure such as education and highways. It is also required to prepare an annual IFS. Therefore, it is important to note that when reviewing the East Devon IFS, that it should be read together with the DCC IFS to get a complete picture of infrastructure delivery in the district. At the time of preparing this report, DCC's preparation of its IFS is ongoing and unavailable at the time of writing (it will be published by 31 December 2020 at the latest).

3 Infrastructure list

- 3.1 Members may be aware of the previous requirement for a 'regulation 123' list setting out how we may want to spend our CIL receipts. 'Regulation 123' lists have now been abolished, and replaced by an 'Infrastructure list' – such lists must be included in the infrastructure funding statement. The Infrastructure list is defined as “the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL”.¹ This list will not dictate how funds must be spent, but will set out the local authority's intentions.
- 3.2 Officers originally drafted a list that mostly comprised types of infrastructure, similar to the previous 'regulation 123' list. Devon County Council (DCC) were consulted on this first draft, and responded by saying they preferred a more targeted approach that identified specific transport and education infrastructure projects on the list, rather than general types (i.e. identify projects rather than just stating “transport, education”). DCC felt this would provide greater clarity when thinking about how to spend CIL; is clearer as to whether CIL or s106 contributions should be requested in delivering transport and education projects; and is clearer to developers on how infrastructure may be funded. In response to the last two points, it should be noted that CIL and s106 can be used to fund the same project.
- 3.3 We have sought to address DCCs comments by giving specific examples of infrastructure projects within the categories relating to education and transport. The projects in the list are those suggested by DCC that are also top priority in the Infrastructure Delivery Plan. The proposed final Infrastructure list is set out below:
- Education, including 420 place primary school at land north of Black Horse/Redhayes (Tithebarn Green/Mosshayne); additional secondary capacity serving the West End; and additional primary capacity serving Axminster (specifically at Axminster Community Primary School and St Mary's, Axminster)
 - Exe Estuary habitat mitigation
 - Pebblebed Heaths habitat mitigation
 - Clyst Valley Regional Park
 - Health care facilities
 - Emergency service facilities
 - Library facilities
 - Community and Youth facilities
 - Sports and leisure provision
 - Open space/recreation provision
 - Transport, including Clyst Valley Way; Cranbrook cycle link; Cranbrook to Exeter city centre bus priority; Axminster relief road; and Dinan Way extension, Exmouth
- 3.4 The inclusion of a project or type of infrastructure in this list does not signify a commitment from the district council to fund it from CIL receipts; and the order of the list does not imply any order of preference for funding.

4 S.106 Income/Expenditure

- 4.1 Overall in the reported year, East Devon District Council received £853,916 from all planning obligations (signed during and prior to 2019/20). The Council also entered into planning obligations which will provide £368,948.79 in the future, if development triggers are reached.

¹ CIL Regulation 121A(1).

- 4.2 Together the council now holds a total of £5.729M was held in the s106 account in S.106 money, to be spent on specifically defined projects (note that a proportion of this is based upon invoices raised and outstanding at year end).
- 4.3 Some S.106 income is not spent due to the fact that it is held by the council for long term maintenance on public open space.
- 4.4 Some developer contributions are non-monetary, such as the obligation to provide affordable housing units and public open space on-site. In the reported year, the Council secured a total of 55 affordable housing units.
- 4.5 The IFS also provides details regarding how S.106 was spent last financial year. In total £553,469 was spent including on numerous Habitat Mitigation projects and 8 community infrastructure projects across the district.

5 CIL Income/Expenditure

- 5.1 The headline totals in regard to CIL held by the Council are: -

Total CIL held as at the end of the reporting period of 31 March 2020	£4,251,229.63 (less spent amount and amount paid over to PC)
Total CIL within reporting period	£3,249,069.08 (collected)
The total value of demand notices issued in the reported period	£2,514,335.05

- 5.2 The Council has spent £147,152.43 directly on the provision of Habitat Mitigation infrastructure. It has allocated 8.6% of all collected receipts to Habitat Mitigation, the Exmouth Community College expansion has been awarded £1.5M and the Dinan Way Extension has been awarded £400,000 subject to a successful match funding bid. The Neighbourhood Proportion allocations are treated as separate to EDDC held monies and are distributed directly to the parish councils bi-annually.

Appendix 1: Extracts of the data sets to be submitted with the Infrastructure Funding Statement

developer-agreement	organisation	entry-date	start-date	end-date	planning-application	document-url	developer-agreement-type
10/0641/MOUT-da	local-authority-eng:EDE	2020-11-09	2019-04-23		10/0641/MOUT		S106
18/0089/FUL-da	local-authority-eng:EDE	2020-11-09	2019-05-24		18/0089/FUL		S106
18/2272/MFUL-da	local-authority-eng:EDE	2020-11-09	2019-06-14		18/2272/MFUL		S106
10/0816/MOUT-da	local-authority-eng:EDE	2020-11-09	2019-06-24		10/0816/MOUT		S106
18/2558/OUT-da	local-authority-eng:EDE	2020-11-09	2019-06-26		18/2558/FUL		S106
18/1094/MOUT-da	local-authority-eng:EDE	2020-11-09	2019-07-11		18/1094/MOUT		S106
19/0784/FUL-da	local-authority-eng:EDE	2020-11-09	2019-07-22		19/0784/FUL		S106
14/0330/MOUT-da	local-authority-eng:EDE	2020-11-09	2019-08-21		14/0330/MOUT		S106
19/0412/FUL-da	local-authority-eng:EDE	2020-11-09	2019-09-09		19/0412/FUL		S106
18/2021/VAR-da	local-authority-eng:EDE	2020-11-09	2019-09-11		18/2021/VAR		S106
16/0218/OUT-da	local-authority-eng:EDE	2020-11-09	2019-10-03		16/0218/OUT		S106
19/2088/FUL-da	local-authority-eng:EDE	2020-11-09	2019-11-06		19/2088/FUL		S106
19/2694/FUL-da	local-authority-eng:EDE	2020-11-09	2019-12-23		19/2694/FUL		S106
18/2376/MFUL-da	local-authority-eng:EDE	2020-11-09	2020-01-14		18/2376/MFUL		S106
18/0524/MFUL-da	local-authority-eng:EDE	2020-11-09	2020-01-22		18/0524/MFUL		S106
18/1064/FUL-da	local-authority-eng:EDE	2020-11-09	2020-02-04		18/1064/FUL		S106
18/1681/MOUT-da	local-authority-eng:EDE	2020-11-09	2020-02-05		18/1681/MOUT		S106
17/2904/OUT-da	local-authority-eng:EDE	2020-11-09	2020-02-06		17/2904/OUT		S106
18/2589/MFUL-da	local-authority-eng:EDE	2020-11-09	2020-02-14		18/2589/MFUL		S106
19/1320/FUL-da	local-authority-eng:EDE	2020-11-09	2020-02-25		19/1320/FUL		S106

developer-agreement-contribution	developer-agreement	contribution-purpose	amount	units	entry-date	start-date	end-date
10/0641/MOUT-da-con1	10/0641/MOUT-da	green-infrastructure	25000			2019-04-23	
18/0089/FUL-da-con1	18/0089/FUL-da	affordable-housing		6		2019-05-24	
18/2272/MFUL-da-con1	18/2272/MFUL-da	affordable-housing		30		2019-06-14	
18/2272/MFUL-da-con2	18/2272/MFUL-da	monitoring-fees	6358.5			2019-06-14	
18/2272/MFUL-da-con3	18/2272/MFUL-da	green-infrastructure	24193.2			2019-06-14	
18/2272/MFUL-da-con4	18/2272/MFUL-da	open-space-and-leisure				2019-06-14	