

# Cheltenham Borough Council

## Cabinet – 20 December 2022

### Infrastructure Funding Statement (IFS) Requirements

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**Accountable member:**

Cabinet Member Customer and Regulatory Services, Cllr Martin Horwood

**Accountable officer:**

Head of Planning, Liam Jones

**Accountable scrutiny committee:**

Overview & scrutiny Committee

**Ward(s) affected:**

All

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**Key/Significant Decision:**

No

**Executive summary:**

All Councils who charge Community Infrastructure Levy (CIL) and/or secure developer contributions by way of Section 106 (S106) agreements have a statutory obligation to prepare the following:

- Annual Infrastructure Funding Statement (IFS) (provided at Appendix 2) and
- CIL Rates Summary Statement (provided at Appendix 3).

**Recommendations:**

**It is recommended that Cabinet:**

1. **Approve the publication of the Infrastructure Funding Statement (IFS) relating to the financial year ending 31st March 2022 by 31<sup>st</sup> December 2022;**
  2. **Note that the Annual CIL Rate Summary Statement will be published alongside it by the 31<sup>st</sup> December 2022;**
  3. **Note that the Cheltenham Neighbourhood Panel for the allocation of the unparished borough neighbourhood element of CIL will be in place by the end of this financial year; and**
  4. **Note a further report will be presented by spring 2023 that presents the Memorandum of Understanding for the allocation of the CIL Strategic 'Infrastructure Fund'.**
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## 1. Implications

### 1.1. Financial implications

Once a development has commenced, the Council are legally entitled to Community Infrastructure Levy (CIL) monies from the developer. As a result, the Statement of Accounts is prepared on an accruals basis and the figures reported is the CIL due for all developments started on 31 March of each year, regardless of when they are actually due.

The numbers contained in this report are prepared on a cash basis – so show actual cash received and payments made against the CIL monies in the year to 31 March 2022. The cash figures have been reconciled to the CIL capital grant balance reported in the Council's Statement of Accounts for 2021/22.

**Signed off by:** Accountant Business Partner, [andrew.taylor@cheltenham.gov.uk](mailto:andrew.taylor@cheltenham.gov.uk)

### 1.2. Legal implications

'Statutory obligation as a result of the Community Infrastructure Levy (Amendment) (England) Regulations 2019'

**Signed off by:** Solicitor, One Legal, [legalservices@onelegal.org.uk](mailto:legalservices@onelegal.org.uk)

### 1.3. HR implications

'There are no HR implications'

**Signed off by:** HR Business Partner, Publica, [clare.jones@publicagroup.uk](mailto:clare.jones@publicagroup.uk)

### 1.4. Environmental and climate change implications

'None directly, this is a report predominantly on income and expenditure of CIL/S107. However, the effective use of CIL/S106 receipts has the potential to have a positive environmental impact.'

**Signed off by:** Director of Climate Change & Place, [mike.redman@cheltenham.gov.uk](mailto:mike.redman@cheltenham.gov.uk)

## 1.5. Property/asset implications

'No comment'

**Signed off by:** Head of Finance, [gemma.bell@cheltenham.gov.uk](mailto:gemma.bell@cheltenham.gov.uk)

## 1.6. Corporate policy framework implications

'The Council has a statutory function as Local Planning Authority and the statutory obligations relevant to this report link directly to that function.'

**Signed off by:** Head of communities, wellbeing & partnerships,  
[richard.gibson@cheltenham.gov.uk](mailto:richard.gibson@cheltenham.gov.uk)

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## 2. Promoting equality and reducing discrimination

'None directly'

## 3. Performance management – monitoring and review

CIL and Section 106 monies received are reviewed regularly and annually through the reports subject to this paper.

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## 4. Background

- 4.1. Producing an Infrastructure Funding Statement (IFS) annually is a legal requirement for Councils who charge Community Infrastructure Levy (CIL) and/or secure developer contributions by way of Section 106 (S106) agreements<sup>1</sup>. This is the Borough Council's third annual IFS, which we are preparing ready for submission and publication on our website by the 31st *December 2022*.
- 4.2. The IFS (included at Appendix 2) must include reports on the previous financial year, ending on the 31st March 2022, for both CIL and S106 Planning Contributions as well as an Infrastructure List.
- 4.3. An Annual CIL Rate Summary Statement (included at Appendix 3), applying the national CIL index and setting out the charges for the following calendar year, must also be published in

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<sup>1</sup> Regulation 121A requires us, as a 'contribution receiving authority' to publish an IFS annually "no later than the 31st December" that sets out details about 'planning obligation' and 'CIL' income and expenditure, actual and anticipated for the last 'reported year' ending on the 31st March, and an 'Infrastructure List'

December<sup>2</sup> and our intention is to publish this alongside the IFS as we have done in previous years.

- 4.4. We are required to submit the IFS in the format as presented in the technical appendices to this report. The template provided by Government asks a series of purely factual questions on income and expenditure of CIL and S106 (collectively known as ‘planning obligations’ or ‘developer contributions’). In the report to Cabinet last year, a commitment was given to produce a more ‘user friendly’ summary to help those interested in the data to understand better the flow of CIL and S106 funding. We have therefore produced a summary of all income and expenditure, included as Appendix 4 from which an ‘infographic’ is being produced, which will form the public facing element to our IFS this year with the statutory template attached as an appendix.
- 4.5. The ‘Infrastructure List’<sup>3</sup> is a statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL. In last year’s Cabinet report we explained that the current Infrastructure List does not fully represent our priorities as a council. This is now being addressed and is discussed further in this section and in section 6 of this report.
- 4.6. The current Infrastructure List is shared by the three Joint Core Strategy (JCS) councils, Gloucester, Tewkesbury and Cheltenham, reflecting their co-operation on the JCS and its successor, the Joint Strategic Plan (JSP). In June 2022 Cheltenham Borough Council agreed its approach to governance arrangements for CIL in accordance with National Planning Policy Guidance that committed the council to agree a Memorandum of Understanding that will specify the proportion, or amount, of CIL each council will contribute and the strategic infrastructure projects the pooled fund will be spent on. If that Memorandum of Understanding specifies that 100% of Strategic CIL is to be pooled, then the Cheltenham Infrastructure List and the Shared Infrastructure List will be the same. If the proportion or amount is less than 100%, then the Cheltenham Infrastructure List will comprise whatever Shared Infrastructure List is agreed in addition to any proposed infrastructure spending from strategic CIL monies retained by Cheltenham.
- 4.7. Work being undertaken to review the CIL Charging Schedules of the Borough Council and that of our partners Gloucester and Tewkesbury has provided an update to the Infrastructure Delivery Plans (IDPs) of the approved Gloucester, Cheltenham & Tewkesbury Joint Core Strategy (JCS) and District Level Plans. This update informs a review of the existing Infrastructure List and the removal of schemes, which:
- no longer require CIL funding as they have been completed;
  - sufficient funds have been secured; or
  - an alternative solution has been found to the problem.
- 4.8. The remaining list has been reviewed by the County Council who have provided an update including, in some cases, the merging and renaming of existing schemes but they have not indicated any order of priority for the remaining schemes.

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<sup>2</sup> Regulation 121C (1) requires an Annual CIL Rate Summary Statement to be published “no earlier than 2nd December and no later than 31st December” each year updated in line with the CIL Index published by the Royal Institute of Chartered Surveyors (RICS) for the 1st November each year

<sup>3</sup> approved for publication in December 2020 and an update approved last year (2021)

- 4.9. In June 2022, we reported to the cabinet and council of Cheltenham Borough Council that the existing list did not, fully represent our priorities as a council, including tackling climate change, facilitating modal shift away from the private car and changing patterns of work in the aftermath of the pandemic. Nor did it include any infrastructure provision for education, non-car transport, healthcare, open spaces and facilities for sport and recreation or flood management which are all appropriate areas of spending for strategic CIL. Although in some cases these are still being facilitated through particular S106 agreements. We expect this to inform future infrastructure lists.
- 4.10. We also said that an open and transparent bidding process will be developed for any infrastructure stakeholder to propose relevant projects for the Infrastructure List that would aid delivery of development. This will be proposed to the three JCS/JSP authorities.
- 4.11. Whilst we accept the 'point in time' of the JCS, the JCS/JSP team is working on an IDP that will be fit for purpose to support the work which is now underway on the Joint Strategic Plan (JSP). This will also inform future infrastructure lists.
- 4.12. In governance arrangements also adopted in June 2022, we set out the process for the approval of the Cheltenham Infrastructure List itself as well as the Memorandum of Understanding referred to above. The Cheltenham Infrastructure List, including any Shared Infrastructure List, will be agreed by Cheltenham Borough Council cabinet and approved by a meeting of Cheltenham Borough Council. In these governance arrangements, we also committed to member engagement throughout the process.
- 4.13. Work to implement these governance processes is ongoing and will be presented back to Council by the end of the financial year in respect of the Strategic Infrastructure CIL Fund. Further detail on the Infrastructure List is provided in section 6 of this report.
- 4.14. Work setting up the Neighbourhood Panel to enable the spending of the Borough Council's Neighbourhood CIL Fund outside areas that are parished is underway and will be in place and ready to begin the process of disbursing funds by the end of this financial year.

## 5. INFRASTRUCTURE FUNDING STATEMENT (Appendix 2)

### IFS – CIL report

- 5.1. Full details of CIL income and expenditure are presented in the IFS at Appendix 2.
- 5.2. In summary for the 'reporting year' (1st April 2021 to 31st March 2022):
- CIL Receipts = **£980,857.95**
  - CIL Expenditure by the borough council = **£9,958.79**
  - CIL Passed to Parish Councils = **£11,089.96** (**£268.63** of which raised in previous year)
- 5.3. At the end of the 'reporting year' (31st March 2022):

- CIL Receipts Retained by the Borough Council = **£1,217,702.41**; made up of the following:
  - **£49,042.90** allocated to administration (5% of total CIL receipts),
  - **£86,127.58** Neighbourhood Funding (15%<sup>4</sup> of total CIL receipts from parished areas<sup>5</sup>) collected by the Borough Council between the 1st October and the 31st March of the reported year due to Parish Councils and to be paid to them on the 28th April of the next reported year (2022/23);
  - **£77,304.28** Neighbourhood Funding for unparished areas (15% of total CIL receipts from unparished areas) made up of £48,922.83 from receipts in the reporting year and **£28,381.45** from the previous year to be prioritised for spending by the Neighbourhood Panel referred to in 4.13 above; and
  - **£1,005,227.65** Strategic Infrastructure spending (currently 80% of total CIL receipts<sup>6</sup>) made up of £785,943.31 from receipts in the reporting year and **£219,284.34** from the previous year, for infrastructure required to deliver planned development. We consulted the county council informally during 2021 on whether they were seeking to draw on these funds for any projects on the existing Infrastructure List, for which they are the delivery council as the highways authority, but it was agreed to wait until sufficient funds had accumulated so no request was received from GCC for such funds. This will also allow the review of the Infrastructure List referred to above.

5.4. The council can claim up to 5% of the CIL levy to support administration. The JCS councils currently pool their administration funding; this supports the employment of a CIL Manager and CIL Officer, together with the required computer and systems software, and membership costs such as RICS, BCIS Subscription etc. Current funding does not cover all costs incurred by the administration of CIL and the addition is funded through the JCS councils shared commitment and funding of the JCS. However, over time as the CIL pots grow, this will not be the case and Cheltenham will wish to fully recover all liable costs, both joint and those arising from Cheltenham only.

## IFS – S106 Report

5.5. At the start of April 2021, there was a balance of **£1,505,455.30**. During the 'reporting year' we received **£18,237.00** and spent **£265,122.56**. At the end of March 2022, there was a closing balance of **£1,258,569.74**.

5.6. The S106 report also provides details of the **47** affordable homes secured in agreements entered into during the reporting year and the **73** affordable homes delivered during the

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<sup>4</sup> No Parish Councils in the borough currently have an adopted (made) Neighbourhood Plan which raises this to an uncapped 25%.

<sup>5</sup> Subject to a cap of £100 plus indexation per existing dwelling in the parish, which no CIL payments have yet reached.

<sup>6</sup> The adoption of a Neighbourhood Plan by a Parish Council or Neighbourhood Forum would lower this percentage to 70% in those areas.

reported year.

5.7. The council's constitution clearly sets out the parameters for decision-making. Negotiation of S106 is a key element of the development management process when it is considered that a development will have impacts on the local area that cannot be moderated by means of conditions attached to a planning decision. The council's constitution (at Part 3) provides the responsibility for the determination of planning applications (of which S106 negotiation forms part), except as specifically allocated to Planning Committee (under Part 3C) <https://democracy.cheltenham.gov.uk/ieListDocuments.aspx?CId=279&MId=1960&Info=1&bcr=1>.

5.8. Decision making of planning decisions outside those undertaken by Planning Committee, including S106 agreements, are delegated to the Head of Planning. In negotiating S106, the relevant officer specialisms are engaged. In addition, and as committed to in reports to Cabinet and Council this year in regards to CIL/S106, Members have asked for greater clarity and engagement in understanding the negotiation of S106 and this was agreed in the governance arrangements for S106 as well as CIL in June 2022. The following actions either have been completed or are being progressed:

1. Following review of the weekly planning application list issued to all members ward members to notify the case officer of any application of interest and identify any known demands for infrastructure in the area.
2. Where an application is expected to result in the need for S106 negotiation, the case officer to notify the relevant ward members to enable engagement early in the application process
3. Planning report templates to be updated to include a summary of S106 agreed and values negotiated.
4. Member training on S106.

## 6. INFRASTRUCTURE LIST

6.1. As detailed in 4.5-11 above, a Memorandum of Understanding specifying the proportion or amount of strategic CIL money to be pooled by Cheltenham Borough Council with the two other JSP councils and the content of the Cheltenham Infrastructure List, including any Shared Infrastructure List agreed by the three authorities for delivery of the JSP, is now subject to approval by the cabinet and full council of Cheltenham Borough Council. Work is underway to make the infrastructure list fit for purpose.

6.2. Work being undertaken to review the CIL Charging Schedules of the Borough Council and our JCS partners has provided an update to the Infrastructure Delivery Plan (IDP) of the JCS and District Level Plans. This update allowed a further review of the *existing* Infrastructure List and the removal of further schemes which no longer require CIL funding as they have been completed, sufficient funds have been secured or an alternative solution has been found to the problem.

6.3. The remaining list has been reviewed by the County Council who have provided an update including, in some cases, the merging and renaming of existing schemes but they have not

indicated any order of priority for the remaining schemes.

- 6.4. The review of the JCS, now underway via the JSP, provides the appropriate context for a full review of the Infrastructure List informed by updated evidence on infrastructure demands and delivery and by the priorities of the three councils, including our commitment to tackle climate change, achieve modal shift away from private car use and reflect changing patterns of work following the pandemic.
- 6.5. In the governance arrangements this council agreed in June 2022, we committed to an open and transparent bidding process for any infrastructure stakeholder to propose relevant projects for the Infrastructure List that would aid delivery of development and we have already begun to implement this at borough level for the Neighbourhood portion of CIL. An equally open and transparent bidding process for the strategic element of CIL will be proposed to the three JSP authorities. As part of the review of the infrastructure needs undertaken to provide the necessary evidence of a funding gap required by the Charging Schedule review, greater engagement has already begun with the National Health Service, Police and Crime Commissioner, Environment Agency and Utility Providers. We hope that, together, all these processes will result in a more diverse list from a more comprehensive and sustainable Infrastructure Delivery Plan (IDP) supporting the replacement for the JCS, by the emerging JSP, and better reflect our priorities as a council.
- 6.6. Support for proposed infrastructure projects will need to be individually reviewed within the context of the emerging JSP and the council's new Corporate Plan, including our 2030 net zero objectives.

## **7. ANNUAL CIL RATES SUMMARY STATEMENT**

- 7.1. The Annual CIL Rates Summary Statement (included as Appendix 3) is based on the Royal Institute of Chartered Surveyors (RICS) CIL Index, published in November each year. Indexation is required so that the rates we charge are adjusted to take account of the costs of development and inflation. Whilst the most common index is the Retail Prices Index (RPI), published by the Office for National Statistics, the CIL Regulations require us to use an index published by RICS.

## **8. NEXT STEPS**

- 8.1. Publication on the Borough Council's website and submission and notification of the location of data to the Department for Levelling Up, Housing and Communities by end December 2022.
- 8.2. Alongside the preparation of the JSP ensure the infrastructure needed to accommodate planned future development is fully considered through on-going engagement with a full range of infrastructure providers, including an open and transparent bidding process with the aim of producing a comprehensive IDP, from which schemes which meet not only the needs of new development but also the priorities of the Council may be selected for inclusion on a deliverable Infrastructure List to support the new plan, with this list being brought to full council for approval.
- 8.3. Preparation and agreement of the Strategic Infrastructure CIL Memorandum of Understanding specifying the proportion or amount of Strategic CIL to be pooled by Cheltenham Borough



Council with the two other JSP councils

## 9. Reasons for recommendations

9.1. Statutory obligation to prepare and publish.

## 10. Alternative options considered

10.1. N/A

## 11. Consultation and feedback

11.1. Building on the commitments made in the IFS report to Cabinet (2021) a summary infographic is being prepared to enable a more user friendly representation of the key data.

## 12. Key risks

12.1. See Appendix 1.

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### Report Author(s):

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### Appendices:

- i. Risk Assessment
- ii. DRAFT Borough Council Infrastructure Funding Statement 2022
- iii. DRAFT Borough Council Annual CIL Rates Summary Statement 2022
- iv. DRAFT Summary for Infographic

### Background information:

1. Cabinet – 21st December 2021 Infrastructure Funding Statement (IFS) Requirements  
[https://democracy.cheltenham.gov.uk/documents/s38868/2021\\_12\\_21\\_Infrastructure%20Funding%20Statement%20IFS%20Requirements\\_report.pdf](https://democracy.cheltenham.gov.uk/documents/s38868/2021_12_21_Infrastructure%20Funding%20Statement%20IFS%20Requirements_report.pdf)

2. Cabinet – 5th April 2022 Community Infrastructure Levy Governance & Section 106 engagement  
[https://democracy.cheltenham.gov.uk/documents/s39870/2022\\_04\\_05\\_CIL%20governance%20and%20s106%20engagement\\_report.pdf](https://democracy.cheltenham.gov.uk/documents/s39870/2022_04_05_CIL%20governance%20and%20s106%20engagement_report.pdf)
3. Council 20th June 2022 Community Infrastructure Levy Governance & Section 106 engagement  
[https://democracy.cheltenham.gov.uk/documents/s40680/2022\\_06\\_22\\_CIL%20governance%20and%20s106%20engagement\\_COUNCIL%20report.pdf](https://democracy.cheltenham.gov.uk/documents/s40680/2022_06_22_CIL%20governance%20and%20s106%20engagement_COUNCIL%20report.pdf)

## Appendix 1: Risk Assessment

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
CIL	Failure to publish the required statements would be a breach of Government Regulations	Head of Planning	1	1	1	Close	Cabinet report	CIL Manager	20.12.11
CIL/ JSP	Not having a clear CIL prioritisation of infrastructure projects may risk receipts not being targeted towards the most critical infrastructure needed to deliver development and fulfil our requirements in the delivery of the JCS/JSP and Cheltenham Plan.	Head of Planning	5	2	10	Reduce	Review of Infrastructure Delivery Plan as part of JCS review. Put in place clear and transparent governance	CIL Manager/JSP Task Group & Steering Group	In line with JSP programme and picked up via JSP risk register