

Cheltenham Borough Council

Cabinet – 19 December 2023

Infrastructure Funding Statement (IFS) Requirements

Accountable member:

Cabinet Member Customer and Regulatory Services, Cllr Martin Horwood

Accountable officer:

Director of Communities & Economic Development, Tracey Birkinshaw

Accountable scrutiny committee:

Overview & Scrutiny Committee

Ward(s) affected:

All

Key Decision: Yes

Executive summary:

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

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

The Infrastructure Funding Statement must include an Infrastructure List (provided in Chapter 3 of the IFS, see Appendix 2), to help guide future priorities for allocation of strategic community infrastructure funding monies.

Recommendations: That Cabinet

- 1. approves the publication of the Infrastructure Funding Statement (IFS) relating to the financial year ending 31st March 2023 by 31st December 2023**

- 2. notes that the Annual CIL Rate Summary Statement will be published alongside it by the 31st December 2023**
 - 3. notes the Infrastructure List and decision to approve this by Council on 11 December 2023.**
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1. Implications

1.1 Financial, Property and Asset implications

No financial implications as a result of the recommendations.

Signed off by: Capital and Treasury Management Accountant, andrew.sherbourne@cheltenham.gov.uk

1.2 Legal implications

The production of an Infrastructure Funding Statement at least annually, including a regulation 121A Infrastructure List, is a statutory obligation as a result of amendments to the Community Infrastructure Levy Regulations 2010 by the Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019. As is the publication of the Annual CIL Rate Summary Statement.

Those amendments also revoked, as of 1 September 2019, Regulation 123 thereby removing the restrictions there had been previously, both on the pooling of monies from s106 obligations and also the spending of both CIL and s106 monies on the same infrastructure.

Signed off by: Solicitor, One Legal, legalservices@onelegal.org.uk

1.3 Environmental and climate change implications

This is a report predominantly on income and expenditure of CIL/S106. However, the effective use of CIL/S106 receipts has the potential to have a positive environmental impact. For example, the revised interim strategic 'infrastructure list' contains proposals including cycle hubs and links which will help to deliver modal shift, a contribution to better recycling facilities, developing mass transit, rail infrastructure enhancements, EV charging infrastructure and strategic green infrastructure, which all have a huge positive potential for tackling climate change.

Signed off by: Programme Director for Climate Change, ClimateTeam@cheltenham.gov.uk

1.4 Corporate Plan Priorities

The Council has a statutory function as Local Planning Authority and the statutory obligations relevant to this report link directly to that function. This report records the monies received and spent in respect of CIL and S106, it is the outcomes of this funding that contributes to the following Corporate Plan Priorities:

- Working with residents, communities and businesses to help make Cheltenham #netzero by 2030
- Increasing the number of affordable homes through our £180m housing investment plan
- Ensuring residents, communities and businesses benefit from Cheltenham's future growth and prosperity
- Being a more modern, efficient and financially sustainable council

1.5 Equality, Diversity and Inclusion Implications

None arising from this report.

1.6 Performance management – monitoring and review

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

2 Background

- 2.1 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) agreements¹. This is the Council's fourth IFS, which has been prepared ready for submission² and publication on the Council's website by the 31st December 2023³.
- 2.2 The IFS (Appendix 2) must include reports on the previous financial year, ending on the 31st March, for both CIL and S106 Planning Contributions as well as an Infrastructure List.
- 2.3 An Annual CIL Rate Summary Statement (Appendix 3), applying the mandatory national CIL index⁴ and setting out the charges for the following calendar year, must also be published in December⁵
- 2.4 We are required to submit the IFS in a format that answers 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 report attached as an appendix.
- 2.5 The 'Infrastructure List'⁶ is a list of the infrastructure projects or types of infrastructure which "the charging authority intends will be, or may be, wholly or partly funded by CIL".
- 2.6 The 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 Strategic and Local Plan (SLP). Previous reporting has highlighted that the agreed Infrastructure List is not representative of current priorities. As such the SLP councils alongside Gloucestershire County Council have prepared a new Infrastructure List. This recognises that a full reassessment of the Infrastructure Delivery Plan (upon which the agreed Infrastructure List was based) is required and

¹ 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'

² Department for Levelling Up Housing and Communities (DLUHC), formerly Ministry of Housing, Communities and Local Government (MHCLG)

³ Community Infrastructure Levy Regulations 2010 (as amended) Regulation 121A

⁴ Published by the Royal Institute of Chartered Surveyors (RICS) on the 1st November each year

⁵ 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

⁶ approved for publication in December 2020 and an update approved last year (2021)

this will take place alongside the preparation of the SLP but cannot wait until that is completed to better reflect current priorities. A separate report has been considered by Council on 11th December 2023 which sought to do the following:

- To agree the establishment of a Community Infrastructure Levy Joint Committee under s101(5) and s102 Local Government Act 1972 and under Part 1A Chapter 2 Section 9EB of the Local Government Act 2000 and pursuant to the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012.
- To agree the Community Infrastructure Levy Joint Committee Terms of Reference.
- To agree the pooling of strategic Community Infrastructure Levy monies by the three partner Councils of Cheltenham, Gloucester and Tewkesbury with governance as set out in the Community Infrastructure Levy Joint Committee Terms of Reference.
- To approve and review the Infrastructure List for those items relating to the administrative area of Cheltenham Borough, and for this list to be combined with the lists of Gloucester, Tewkesbury and Gloucestershire County Council to form the basis of the work of the Community Infrastructure Levy Joint Committee.
- To enter into engagement with wider infrastructure providers (e.g. NHS, emergency services, Environment Agency etc.) outside the local authorities to identify any wider infrastructure priorities to be considered by the Community Infrastructure Levy Joint Committee.

2.7 Further detail on the new Infrastructure List is provided in section 4 of this report. A verbal update will be provided at the meeting in respect of any changes arising following the approval and review of the Infrastructure List by Council on 11th December 2023.

3 Infrastructure funding statement (Appendix 2)

IFS – CIL report

3.1 Full details of CIL income and expenditure are presented in the IFS at Appendix 2.

3.2 In summary for the 'reporting year' (1st April 2022 to 31st March 2023):

- CIL Receipts = **£1,350,168.95**
- CIL expenditure (on administration only to date) by the borough council = **£66,560.83** plus **£2,987.38** from previous years
- CIL Expenditure by the parish councils = **£21,971.92** plus **£10,696.20** from previous years
- CIL Passed to Parish Councils = **£156,218.47** (**£85,905.58** of which raised in previous year)

3.3 At the end of the 'reporting year' (31st March 2023):

- CIL Receipts Retained by the Borough Council = **£2,335,853.74**; made up of the following:
 - **£947.62** allocated to administration (5% of total CIL receipts),

- **£81,554.59** Neighbourhood Funding (15%⁷ of total CIL receipts from parished areas⁸) 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 (2023/24);
- **£127,353.24** Neighbourhood Funding for unparished areas (15% of total CIL receipts from unparished areas) made up of **£51,534.66** from receipts in the reported year and **£75,818.58** from previous years to be allocated by cabinet on the advice of the cross-party Neighbourhood Fund panel referred to in 8.1 below; and
- **£2,127,242.67** Strategic Infrastructure funding (currently 80% of total CIL receipts⁹) made up of **£1,079,258.36** from receipts in the reported year and **£1,047,984.31** from previous years, for the “provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area”.

Administration costs

- 3.4 The council may use up to 5% of the CIL receipts to support administration. The JCS/SLP 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 the Royal Institute of Chartered Surveyors (RICS), Building Cost Information Service (BCIS), Subscription etc, it will also fund the administration of the CIL Joint Committee going forward. Current funding does not cover all costs incurred by the administration of CIL and the shortfall is met by the JCS/SLP councils shared commitment and funding of the JCS and its approach to the preparation of the SLP.
- 3.5 Appropriate administrative expenses associated with CIL that can be recovered from the 5% are broadly set out in the CIL [guidance](#), these include the costs of the functions required to establish and run a levy charging scheme. These functions include levy set-up costs, such as consultation on the levy charging schedule, preparing evidence on viability or the costs of the levy examination. There are similar costs associated with amending a levy charging schedule. They also include ongoing functions like establishing and running billing and payment systems, enforcing the levy, the legal costs associated with payments in-kind and monitoring and reporting on levy activity.
- 3.6 Over time as the CIL pots grow, Cheltenham will wish to fully recover all liable costs, both joint and those arising from Cheltenham only. This element is kept under regular review.

IFS – S106 report

- 3.7 At the start of April 2022, there was a balance of **£1,256,951.99**. During the ‘reporting year’ we received **£1,150,797.53** and spent **£0.00** S106 contributions. At the end of March 2023, there was a closing balance of **£2,407,749.52**. The payments for S106 are related to the triggers set out in the agreed Heads of Terms, a significant amount relates to the delivery of affordable housing and this

⁷ No Parish Councils in the borough currently have an adopted (made) Neighbourhood Plan which raises this to an uncapped 25%.

⁸ Subject to a cap of £100 plus indexation per existing dwelling in the parish, which no CIL payments have yet reached.

⁹ The adoption of a Neighbourhood Plan by a Parish Council or Neighbourhood Forum would lower this percentage to 70% in those areas.

falls within the councils housing enabling function that oversees delivery within the priorities set out by the Cheltenham Borough Council Housing, Homelessness and Rough Sleeping Strategy (2023 – 2028).

- 3.8 During the 'reporting year' we spent **£61,279.80** of monies held as a result of conditions imposed upon planning permissions, details of which are given in the report.
- 3.9 The S106 report also provides details of the **£502,000.00** of contributions and the 156 affordable homes secured in agreements entered into during the reporting year and the 47 affordable homes, secured in agreements entered into in previous years, delivered during the reported year.
- 3.10 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>
- 3.11 Decision making of planning decisions outside those undertaken by Planning Committee, including S106 agreements, are delegated to the Head of Planning. In negotiating S106, consultation with ward members is undertaken and the relevant officer specialisms are engaged.

4 Infrastructure list

- 4.1 The 'Infrastructure List' identifies projects which may need wholly or partly funding from CIL individually and those which the Joint Core Strategy partners share.
- 4.2 The preparation of the SLP now underway 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, the council's Corporate Plan, including our 2030 net zero objectives.
- 4.3 Council considered an updated Infrastructure List at its meeting on 11th December 2023. Chapter 3 provides a list of all relevant items identified by Cheltenham, Gloucester, Tewkesbury, and the County Council. Gloucester and Tewkesbury will be reporting on their priorities for the infrastructure list through their reporting procedures.
- 4.4 There is a larger piece of engagement work ongoing with infrastructure providers outside the local authorities to identify any wider infrastructure priorities.

5 Annual CIL rate summary statement

- 5.1 The Annual CIL Rate Summary Statement (Appendix 3) must be 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.

6 Neighbourhood funding

6.1 Though not falling within this year's IFS 'reported year' (01/04/2022 to 31/03/2023), Cheltenham conducted a very effective allocation of the Borough Council's Neighbourhood CIL held for non-parished areas this year. This was a competitive exercise and generated 26 projects identified by community groups and stakeholders. A total of £128,355.00 was allocated across 16 projects. I would like to take this opportunity to thank all those that participated, the CIL Neighbourhood Panel and supporting officer team. Some of these projects have already been delivered and I look forward to seeing the remainder come forward as planned. A summary of the successful awards are noted below.

Applicant	Project	Agreed allocation
SPJARA (St Philip and St James Area Residents' Association)	Bath Road Utility Box Decoration	£1,000.00
Borough Councillor Tony Oliver	Bournside Safe Crossing Campaign	£12,000.00
Friends of Sandford Parks (FOSP)	Safer Sandford	£13,000.00
Friends of Pittville	Sensory beds in Pittville Park	£1,000.00
Vision 21 Gloucestershire	Planet Cheltenham	£17,000.00
Benhall Residents' Association	Benhall Air Quality Survey	£3,500.00
Public Hearts Defibrillator Campaign	Public Hearts Defibrillator Campaign	£9,000.00
Hester's Way Partnership	Springbank Creative Youth Space	£12,000.00
Hesters Way Forum	Fiddlers Green Park Play Area Improvement Project	£12,000.00
Friends of King George V (KGV) Playing Field	KGV Perimeter Path Phase 1	£9,855.00
Councillor Garth Barnes, Cheltenham Borough Council	Regent Street Outdoor Café Culture Project	£10,000.00
Cheltenham Borough Council	Rowena Cade playground improvements	£10,000.00
Fairview Community Association	Cheltenham Cricket Club Disability Ramp	£3,000.00
We Create Cheltenham CIC	Honeybourne Honey	£2,500.00
Cheltenham Paint Festival	Cheltenham Paint Festival	£7,500.00
Springbank Community Group CIC	Reroofing the Ron Smith Pavilion – Phase 1	£5,000.00
	TOTAL	£128,355.00

7 Next steps

- 7.1 Publication on the Council's website and submission and notification of the location of data to the Department for Levelling Up, Housing and Communities by end December 2023.
- 7.2 Alongside the preparation of the SLP ensure the infrastructure needed to accommodate planned future development is fully considered through on-going engagement with a full range of infrastructure providers, including running 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 future Infrastructure List to support the new plan.

8 Reasons for recommendations

8.1 Statutory obligation to prepare and publish:

- 8.1.1 Regulation 121A requires the Council, 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’; and

- 8.1.2 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.
- 8.1.3 Regulations referred to are the Community Infrastructure Levy Regulations 2010 (as amended).

9 Alternative options considered

9.1 Not relevant as statutory requirement.

10 Consultation and feedback

10.1 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. Full engagement with Cllr Martin Horwood, Cabinet Member Customer and Regulatory Services.

11 Key risks

11.1 See Appendix 1.

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Appendices:

- i. Risk Assessment
- ii. DRAFT Borough Council Infrastructure Funding Statement 2023
- iii. DRAFT Borough Council Annual CIL Rates Summary Statement 2023
- iv. DRAFT Summary 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
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

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

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	Director Communities & Economic Development	1	1	1	Close	Cabinet report	CIL Manager	20.12.23
CIL/SLP	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/Cheltenham	Director Communities & Economic Development	5	2	10	Reduce	Governance arrangements of CIL agreed. Review of Infrastructure Delivery Plan as part of preparation of SLP. Put in place clear and transparent governance	Council report Cheltenham, Gloucester and Tewkesbury: Community Infrastructure Levy Joint Committee CIL Manager/SLP Task Group & Steering Group	11.12.23 In line with SLP programme and picked up via SLP risk register

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
	Plan/SLP.								