

Subject:	Developer Contributions – Infrastructure Funding Statement 2019/20		
Date of Meeting:	19 November 2020		
Report of:	Executive Director, Economy, Environment & Culture		
Contact Officer:	Name:	Debra May	Tel: 01273 292295
	Email:		
Ward(s) affected:	All Wards		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The Community Infrastructure Levy (CIL) Regulations 2010 were amended in 2019 and they include a statutory requirement for all planning obligation collecting authorities to prepare an annual Infrastructure Funding Statement (IFS) to report developer contributions income and expenditure from the previous financial year.
- 1.2 This is the first year whereby the new regulations apply. All collecting authorities must publish their IFS on their website no later than 31 December and submit a return to the Ministry of Housing, Communities and Local Government (MCHLG.)
- 1.3 This report seeks approval to publish the Brighton & Hove City Council 2019/20 IFS and submit the annual return to the MCHLG by the end of 2020.
- 1.4 The report also updates on the emerging advisory CIL protocol for members involvement in the negotiation and allocation of developer contributions including Section106 funding and associated deeds of variation.

2. RECOMMENDATIONS:

- 2.1 That Committee approves the Brighton & Hove City Council 2019/20 IFS attached as Appendix 1, subject to any minor alterations (numerical, grammatical and spelling) to be agreed by the Head of Planning in consultation of the Chair of TECC Committee.
- 2.2 That the Committee authorises the Head of Planning to publish the statement on the BHCC website and submits the annual return to the MCHLG in accordance with Regulation 121A of the Community Infrastructure Regulations 2010 (as amended).
- 2.3 That the Committee notes the emerging CIL Advisory Protocol for members to be further reported in 2021.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 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 developer contributions ('Section 106, Section 278 and the Community Infrastructure Levy), to prepare and publish an annual Infrastructure Funding Statement.

3.2 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 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 IFS must be published by 31 December 2020 and it must be published annually on the contribution receiving authority's website

3.3 The main aim of this change to the CIL Regulations is to make developer contributions fully transparent in a way which allows all interested parties to see how much an individual development site has contributed to infrastructure provision.

3.4 The CIL Guidance requires that Infrastructure Funding Statement data is prepared in a specific digital format (using Comma Separated Values (CSV) data 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 MHCLG. Nevertheless, this work is progressing quickly, with government guidance currently being produced.

3.5 Therefore, although this IFS is accompanied by pdf spreadsheets which support the S.106 totals reported, the publication of the IFS, subject to agreement, will be followed by 3 CSV data 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.

3.6 The practice for securing developer contributions in 2019/20 was through s106 Agreements only as further set out below in this report. In future years, the IFS will include all developer contributions from both s106 obligations together with CIL receipts that will be secured/collected from development from 5 October 2020.

3.7 Developer contributions financial contributions

The obligations, receipts, expenditure and balances for S.106 in 2019/20 are summarised by category below:

Obligation Category	New Contributions Secured	Contributions Paid	Contributions Spent	Contributions Held
Affordable Housing (Commuted Sums)	£ 828,250	£ 3,514,329	£ 821,000	£ 5,744,450
Community	£ -	£ -	£ -	£ 114,737
<i>Digital</i>	£ -	£ -	£ -	£ -
Economic Development (Local Employment)	£ 432,598	£ 656,652	£ 214,081	£ 1,048,861
Education	£ 1,144,998	£ 942,392	£ 368,376	£ 2,669,482
Flood / Water	£ -	£ -	£ -	£ -
Green Infrastructure / Public Realm (inc SUDS)	£ 757,217	£ 31,653	£ -	£ 71,523
Health	£ -	£ -	£ -	£ -
Monitoring	£ 8,524	£ -	£ -	£ -
Open Space / Leisure	£ 3,103,172	£ 2,600,827	£ 245,723	£ 5,627,948
Artistic Component	£ -	£ -	£ 48,167	£ 96,318
Sustainable Transport	£ 1,132,394	£ 1,122,329	£ 349,138	£ 3,512,398
TOTAL - 2019/20	£ 7,407,153	£ 8,868,182	£ 2,046,485	£ 18,885,717
TOTAL - 2018/19	£ 5,905,855	£ 6,635,912	£ 964,126	£12,064,020

The tables and files in Appendix 1 set out the S.106 financial contributions secured, received, spent and held in the last financial year 2019/20 together with the s106 Agreement details of the development providing those contributions.

- 3.8 Over the last 23 years since the inception of the city council in 1997, the Local Planning Authority (LPA) has secured in excess of £57M of obligations and received over £40 M in contribution payments that council services have invested in the city's infrastructure.

CIL Advisory Protocol

- 3.9 Developer contributions secured via s106 Planning obligations (as set out in the table above) are restricted by the rules in the Community Infrastructure Levy (CIL) Regulations. These rules are tests for being necessary and directly site-related in mitigating the impacts of development. The contributions secured are required to be spent on the specific measures identified in the each s106 Agreement, which once signed, forms part of the planning permission.
- 3.10 A CIL Advisory Protocol is being developed, subject to consultation, for elected members to provide clarity and a common understanding of how:
- councillors can be involved prior to the planning application being determined in identifying new infrastructure requirements and local priorities;
 - how to present community views on changes in the demand for local infrastructure for existing S.106 obligations already signed; and
 - the process and criteria that will be followed to inform members and local communities when developers seek a deed of variation to an existing S.106 agreement.

- 3.11 Governance arrangements for the spending of future CIL receipts is being progressed and will be subject to future approval at Committee in June 2021. The protocol will be updated to reflect this, particularly regarding the arrangements for the administration of the spend of the 15% Neighbourhood Portion in local communities.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The report updates and provides information on developer contributions secured through the Planning application process.
- 4.2 The alternative would be for this committee not to approve the Brighton & Hove City Council IFS 2019/20 in contravention of the Community Infrastructure Regulations 2010 (as amended.)

COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Securing developer contributions is in accordance with the policies in City Plan Part One that was adopted following extensive public consultation. The charges for CIL contributions (now being secured) were subject to formal consultation on a Draft CIL Charging Schedule enabling adoption of a CIL in October 2020. Consultation has not been directly undertaken in respect of this report but the community and all interested parties are encouraged to comment on all planning applications that are published and available to view on the council website.

6. CONCLUSION

- 6.1 The Infrastructure Funding Statement provides a comprehensive overview of S.106 income and expenditure with the aim to show that the income received was spent on specifically defined projects related to the specific planning obligation and was spent on projects that benefit the local community, in line with development. The appendices, which accompany the IFS provide further detail to show how each planning permission in the city has provided funding for specific infrastructure projects including financial contributions as well as non-monetary provision (including affordable housing and open space).

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The administrative costs of managing and monitoring both Section 106/278 planning obligations and the Community Infrastructure Levy (CIL) are funded from the levy (CIL) or contained within existing service revenue budgets (Section 106/278).
- 7.2 Developer contributions are a source of funding for the provision of infrastructure within the city.

Finance Officer Consulted: Name Jess Laing

Date: 06/10/2020

Legal Implications:

- 7.3 Regulation 121A of the Community Infrastructure Levy Regulations 2010 provides that no later than 31 December in each year, starting in 2020, contribution receiving authorities must publish an “annual infrastructure funding statement”. This statement must comprise an “infrastructure list” setting out the infrastructure projects or types of infrastructure that the charging authority intends will be wholly or partly funded by CIL. The statement must also include reports containing certain prescribed information about CIL and planning obligations in relation to the previous financial year. “Contribution receiving authorities” are defined as CIL charging authorities and LPAs receiving financial or non-monetary contributions under s106 planning obligations.
- 7.4 The annual infrastructure funding statement must be published on the contribution receiving authority’s website.

Lawyer Consulted: *Name Hilary Woodward* *Date: 2/10/2020*

Equalities Implications:

- 7.5 Developer contributions (including S106 planning obligations) provide benefits for residents and visitors to the city with the timely and effective provision of community infrastructure for example, affordable housing, local employment training opportunities, recreation space, improved access and education facilities.

Sustainability Implications:

- 7.6 Sustainable development is a key priority to the council and developer contributions assist in ensuring necessary obligations are secured towards appropriate enabling infrastructure for instance to help provide long-term sustainable transport in the city.

- 7.7 Brexit Implications:
None identified

- 7.8 Any Other Significant Implications:
None

- 7.9 Crime & Disorder Implications:
None

- 7.10 Risk and Opportunity Management Implications:
None

- 7.11 Public Health Implications:
Developer contributions contribute to the creation of healthy communities for example recreation and open space provision for the wellbeing of physical and mental health.

Corporate / Citywide Implications:

The provision of infrastructure upgrades secured through developer contributions supports the corporate objectives for being a healthier and safer city

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix 1 – Infrastructure Funding Statement 2019/20

Background Documents

1. City Plan Part 1
2. Developer Contributions Technical Guidance June 2020