

# Cabinet

10 December 2020

## Annual Infrastructure Statement 2019/20

### Recommendations

That Cabinet:

- 1) approves the Annual Infrastructure Statement and supports its publication on the WCC website prior to 31st December 2020, as required by Regulation 121A of the Community Infrastructure Levy Regulations.
- 2) endorses the approach laid out in this paper to the subsequent preparation and publication of further detail to support readers of the Annual Infrastructure Statement in future years.

### 1. Executive Summary

- 1.1 The Community Infrastructure Levy (CIL) Regulations (“the regulations”) were amended in September 2019 to increase local authorities’ reporting obligations on their income from developers. Existing reporting requirements for councils which collect or receive CIL (“CIL Reports”) were enhanced and a new reporting requirement for any council receiving developer contributions under planning obligations was introduced by the addition of Regulation 121A. The new report required from all councils is called an Annual Infrastructure Statement (“AIS”). The new reporting requirements aim to ‘help to further increase transparency and accountability and improve the quality of data available. Infrastructure funding statements can be a useful tool for wider engagement, for example with infrastructure providers.’ Likely users include housing developers, communities and public sector bodies. Appendix 1 sets out the requirements of the new AIS as per the amendment; Appendix 2 contains the AIS itself.
- 1.2 WCC is not a CIL-collecting authority, so is therefore not required to produce a full CIL Report as laid out in the amended regulations; instead WCC is required to provide more limited information on any CIL passed on by District and Borough Councils. However, in 2019/20 WCC received no CIL funding.
- 1.3 WCC does however collect developer contributions directly from S106 agreements, so is required to produce a S106 AIS as per paragraph 3 in Appendix 1. In short, the Council is required to report on specific aspects of S106 income received and spent as well as the amount of funding held at the 31st March each year.

- 1.4 Whilst Appendix 2 is compliant with the regulations, Cabinet are asked to consider whether further and additional information would be beneficial to readers. Paragraph 4.7 below explains this further and proposes specific documents for WCC to publish in future years.

## **2. Financial Implications**

- 2.1 The AIS reports on historic financial activities (e.g. receipt of monies and its subsequent expenditure).

## **3. Environmental Implications**

- 3.1 None

## **4. Supporting Information**

- 4.1 This is the first year that local authorities have been required to publish an AIS and there is likely to be much variation between the documents produced by different councils, particularly where they are at different tiers of local government and where they collect CIL rather than or as well as s106.

- 4.2 Some of the terms in the regulations (see Appendix 1) require interpretation by individual councils. In drawing up WCC's AIS, the following definitions have been used:

- “Allocated” – funds are “allocated” when they have been transferred from a holding code within the financial system to a specific capital project or revenue cost centre. This is typically promptly after receipt for revenue funds; for capital projects the transfer is triggered by the specific approval of an appropriate capital project by Portfolio Holder, Cabinet or Council. With this definition, it should be recognised that “unallocated” s106 funds will still be being held for a particular project, and potentially for quite a period of time, whilst other aspects of the project (e.g. confirmation of other funding sources, final option appraisal and design etc) are completed. This is an important distinction from CIL contributions, where specific decisions about usage are made later in the process and with more local discretion by CIL-collecting authorities. Where s106 funds remain “unallocated”, this should not be interpreted to reflect a lack of specific planning or intent.
- “Spent” – funds are spent when expenditure is incurred. However, some large capital projects draw on multiple funding sources and take multiple years to complete. In such circumstances, WCC's funding strategy uses up restricted use sources (e.g. s106 contributions) ahead of funding which is either more flexible (e.g. capital receipts) or which incurs further costs (e.g. borrowing). This will mean that in some cases the s106 contribution is reported as being used some

years before the item of infrastructure is actually completed. Furthermore the usage of S106 on major projects is not a smooth flow from year to year; the figures spent during and retained at the end of any given year may vary substantially from previous and subsequent years as major projects reach key milestones. This is expected to be borne out in future AISs.

- For some items, the regulations require a breakdown between infrastructure types. These types are not clearly defined in legislation or guidance and so an interpretation has been made. Some complex projects deliver more than one of the items on the type list; in such cases the funds are shown under the main type of infrastructure.

- 4.3 The data used to compile the AIS have been drawn from the ledger and a number of supporting spreadsheets. As this is the first year for preparation of the AIS, some issues have arisen where the granularity of historic data does not meet the new requirements for reporting. The main area where judgement has been necessary relates to the identification of which specific funds are deemed to be spent in projects and cost centres which have received multiple developer contributions. The regulations require a disclosure of where funds have been allocated but not spent in a given year; where there is no clear way to determine this, a systematic “first in first out” approach has been taken. As indicated above, a further judgement has been made to position specific projects under the specified infrastructure type.
- 4.4 The regulations include an optional provision for a disclosure covering s278 funding agreements. However, since the timing of the usage of this funding is largely beyond the Council’s control, it is felt that such a disclosure would have less value for readers and it is not included in Appendix 2.
- 4.5 The government guidance also suggests the inclusion of narrative information on “future spending priorities on infrastructure and affordable housing in line with up-to-date or emerging plan policies... that demonstrates how developer contributions will be used to deliver relevant strategic policies in the plan, including any infrastructure projects or types of infrastructure that will be delivered, when, and where”. This recommendation is not a part of the formal regulations and would involve a substantial number of assumptions, while every other element of the AIS is a statement of historic fact. It is therefore felt that the Council’s future funding and investment plans are best publicised within the medium term financial strategy, annual budget and capital strategy, all of which are to be approved by full Council soon after the publication of the AIS. The approach taken in the AIS in Appendix 2 has therefore been to signpost readers to these other documents.
- 4.6 It is felt however that publishing the AIS in a form compliant with the regulations does not necessarily achieve central government’s aim of providing readers with a full picture of the Council’s receipt and usage of s106 funding. Cabinet are therefore asked to support the preparation and publication of the following further documents in future years, which will provide the missing detail and improve readers’ understanding:

- Developer agreement listing – a list of extant developer agreements, cross-referenced to planning applications
- Developer contributions – a list of obligations within the above agreements and their intended infrastructure type
- In-year transactions – a complete list of transactions during the year in relation to s106 obligations and funds
- Full-year reconciliation – a summary version of the above document that will allow readers a simple view of the overall movements on s106 contributions

- 4.7 The first three items proposed above will be prepared in line with the government's recommended data formats in relation to developer funding, which will allow WCC's s106 transactions to be included in the national dataset. This will increase government's understanding of the national position and comply with best practice guidelines. These spreadsheets are most likely to be used by industry analysts and other specialists as well as central government. They will also be relevant to community members looking to track the impact of a particular development.
- 4.8 The final document will be prepared in a user friendly format to provide a clearer summary of movements than the individual tables in the default AIS format allow. This is intended to be of more value to Members and council tax payers, and will particularly support comparisons over different years.
- 4.9 These four documents will be prepared to be published alongside the 2020/21 AIS, which will be in December 2021. Other documents could also be prepared if further useful formats are identified by stakeholders. We will review information requests received in year to identify the need for these. We will also consider AISs produced by other Councils and look to adopt any emerging best practice.

## **5. Timescales associated with the decision and next steps**

- 5.1 The AIS must be published on the Council's website by December 31<sup>st</sup> 2020. This will be carried out following Cabinet's approval of the recommendations in this paper.

### **Appendices**

1. Appendix 1
2. Appendix 2

### **Background Papers**

None

	<b>Name</b>	<b>Contact Information</b>
Report Author	Victoria Barnard	vickibarnard@warwickshire.gov.uk
Assistant Director	David Ayton-Hill	Davidayton-hill@warwickshire.gov.uk
Lead Director	Strategic Director for Communities	markryder@warwickshire.gov.uk
Lead Member	Portfolio Holder for Finance and Property	cllrbutlin@warwickshire.gov.uk

The report was not circulated to members prior to publication.