

Communities Overview and Scrutiny Committee

Developer Contributions Reporting – Annual Infrastructure Statement 2019/20

17 February 2021

Recommendations

1. The committee note the production and publication of the Annual Infrastructure Statement 2019/20.
2. The committee note the approach to be taken to publish developer contribution data in future years.
3. The committee is asked to provide feedback on the statement and suggestions to improve future Annual Infrastructure Statements.

1. Executive Summary

- 1.1 This report provides an update on the Annual Infrastructure Statement 2020/21.
- 1.2 The legislation governing Section 106 and Community Infrastructure Levy (CIL) developer contributions has been amended as expected to introduce a requirement for local authorities to publish an 'Annual Infrastructure Statement' ("AIS") which sets out their developer contributions for the previous financial year.
- 1.3 The amended CIL Regulations require any developer contribution collecting authority to publish details of the S106 and CIL contributions which were agreed, received, allocated to a project or spent within the previous financial year (2019/20). The full requirements are set out in Appendix 2.
- 1.4 The 2019/20 AIS was approved by Cabinet on December 10th 2020 and published on 31st December 2020 and is attached as Appendix 1. Whilst WCC is not a CIL collecting authority, there is a requirement to report on any CIL passed to WCC. WCC did not receive any CIL contributions in 2019/20. Currently only Stratford and Warwick District Councils collect CIL in Warwickshire. WCC projects are included in both District's list of infrastructure projects to be considered for receipt of CIL funding in future years.
- 1.5 The approach to producing the statement, along with a draft version was approved by Corporate Board in November and the final AIS was subsequently approved by Cabinet in December ahead of publication by 31st December 2020.

- 1.6 We will learn from production of this year's statement to reduce the burden of producing the statement in future years through improved monitoring processes. There is also a commitment to provide more data than the minimum requirements in future years in order to increase transparency of developer contributions for members and residents as discussed below, with the longer-term potential for a self-service system to reduce the burden of solicitor and developer queries on the team.
- 1.7 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. This is discussed further below.
- 1.8 As noted by the last audit of developer contributions, more work was needed to report up-to-date information on the S106 spend which was brought in to focus by the AIS requirements. The Strategic Growth and Infrastructure team will work with colleagues elsewhere within the County Council to ensure that systems are in place to clearly identify when Developer Contributions income is spent. The monitoring processes of the team have been reviewed and updated in order to reduce the work required to produce future statements and with an aim to providing more granular detail to support readers of the AIS.
- 1.9 It is felt that publishing the AIS in a form compliant with the regulations (as shown in Appendix 2) 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 therefore supported the preparation and publication of the following further documents in future years, which will provide more 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 documents that will allow readers a simple view of the overall movements on s106 contributions
- 1.10 The main area where judgement was necessary in producing the 2020/21 AIS related 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 was taken. A further judgement was made to position specific projects under the specified infrastructure type.

- 1.11 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. A desktop review of neighbouring County Councils' published AISs has identified a wide range of approaches, with some providing a statement that meets minimum requirements (i.e. the same as Warwickshire County Council), a small number providing detailed spreadsheets to support their statement and some that appear not to have published a statement at all yet despite the statutory requirement.
- 1.12 In District and Borough councils, as well as unitaries, a further key factor is the degree to which developer contributions are collected through CIL mechanisms in addition to S106. The usage of CIL contributions is much less restricted at the point of planning permission and the authority may only make meaningful decisions about its usage after collection. As a result, CIL authorities may be more likely include more forward-looking information in their AISs to support that future decision-making. Rugby Borough, Nuneaton and Bedworth Borough, Stratford District and Warwick District Councils have all published their AIS for 2019/20. All have published a similar level of detail to WCC. Stratford District (a CIL collecting authority) have provided additional detail which includes images of schemes completed utilising developer contributions. The links to the District and Borough AISs will be published alongside our AIS on the WCC website in order to give an easily accessible picture of developer contributions across Warwickshire.
- 1.13 The government guidance suggests the optional 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. As described above, this may be a more relevant recommendation for CIL collecting authorities. For Warwickshire however, it was 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 in the annual democratic cycle. The approach taken in the AIS in Appendix 1 was therefore to signpost readers to these other documents.
- 1.14 Given the learning from producing the first AIS and the resultant improved monitoring processes, the team will aim to produce future year's statements ready for approval in Autumn. The committee is asked to provide feedback on the statement and suggestions to improve future AISs.
- 1.15 The committee is asked to note the publication of the AIS 2019/20 on the WCC website, to note the approach to be taken to produce and publish the statement in the future, particularly its earlier production and aspiration for the

inclusion of greater factual detail and to provide feedback on the statement and suggestions to improve future AISs.

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 None

5. Timescales associated with the decision and next steps

- 5.1 The next AIS is due to be produced by Autumn 2021 and published by 31st December 2021.

Appendices

1. Annual Infrastructure Statement 2019/20
2. Annual Infrastructure Statement Requirements v1

Background Papers

1. February O&S report February 2020

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The report was circulated to the following members prior to publication:

Local Member(s): None