

**Open Report on behalf of Andy Gutherson, Executive Director – Place**

Report to:	<b>Councillor M J Hill OBE, Leader of the Council (Executive Councillor: Resources and Communications)</b>
Date:	<b>Between 18 December 2020 and 23 December 2020</b>
Subject:	<b>Draft Infrastructure Funding Statement</b>
Decision Reference:	<b>I021471</b>
Key decision?	<b>No</b>

**Summary:**  
 The report seeks approval for the publication of the Infrastructure Funding Statement (IFS) in the form attached at Appendix A.

**Recommendation(s):**  
 That the Leader of the Council (Executive Councillor: Resources and Communications) approves the publication of the document attached at Appendix A as Lincolnshire County Council's Infrastructure Funding Statement (IFS) for the financial year 2019/20.

**Alternatives Considered:**

1.	There are no alternatives to publication of the IFS in some form. However, officers could review part(s) of the draft IFS subject to Member views.
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**Reasons for Recommendation:**  
 To meet the obligation to publish an IFS annually as is necessary from this year: 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2020.

**1. Background**

Under Regulation 121A of the Community Infrastructure Levy Regulations 2010 the Council must not later than 31 December 2020 publish an annual infrastructure funding statement detailing:

- a) 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 Community Infrastructure Levy;
- b) a report setting out specific information about Community Infrastructure Levy, in relation to the previous financial year; and
- c) a report containing specified information about planning obligations, in relation to the previous financial year.

Planning obligations, commonly referred to as 'Section 106' or 'S106' obligations after Section 106 of the Town and Country Planning Act 1990, are most frequently used to require a sum or sums to be paid to the local planning authority and/or other signatories to the agreement. Obligations can also be used to restrict development or use of the land in any specified way; require specified operations or activities to be carried out in, on, under or over the land; and, require the land to be used in any specified way.

The Community Infrastructure Levy (CIL) Regulations 2010 were introduced following the Planning Act 2008. A development may be liable for a charge under CIL, if a Local Planning Authority has chosen to set a charge in its area. The levy is charged on eligible development and is calculated using the size and type of development that will be created.

The draft IFS attached at Appendix A provides relevant summary details of financial and other contributions Lincolnshire County Council has secured and/or spent for the year ending March 2020 and fulfils the obligations set out in the Regulations.

The document has an introduction followed by three main parts to follow the regulation requirements.

The second and third parts of the IFS are backward looking and contain factual information about money received and spent.

The first part relates to the future use of monies received. The IFS identifies the funding of the Lincoln Eastern Bypass as the purpose for which future receipts of Community Infrastructure Levy will be used. As set out in paragraph 1.6 of the draft IFS this has been a longstanding principle of Lincolnshire County Council and partner authorities' joint assessments and strategies around the Local Plan and CIL. It has also been a key part of the Lincolnshire Local Transport Plan and Lincoln Transport Strategy, as well as fitting with the objectives of the Lincolnshire County Council Corporate Plan.

For the current financial year to date, Lincolnshire County Council has received over £650,000 in CIL. This is lower than can be expected in future years primarily because there are still many developments in the relevant districts land supply which have planning permissions that pre-date CIL. It is when planning permission is given that CIL liability is generated. The annual CIL received by Lincolnshire County Council will gradually increase as more of the Central Lincolnshire land supply comes under CIL. That revenue may see more notable increases should

CIL rates be reviewed through potential new CIL schedules for the relevant districts.

No figure for future planning obligations (Section 106) is provided since the regulations do not seek such a statement. In any case, planning obligations are more site specific in nature and therefore more difficult to predict.

This is the first such annual statement because the legal obligation to publish an IFS started for the year 2019/2020.

## **2. Legal Issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

No considerations relevant to the Equality Act duty are considered to arise from the Report.

#### Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

No considerations relevant to the JSNA or the JHWS are considered to arise from the Report.

#### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

No considerations relevant to the section 17 duty are considered to arise from the Report.

### **3. Conclusion**

The IFS as drafted addresses the obligations of the Regulations and is therefore recommended for publication.

#### **4. Legal Comments:**

Under Regulation 121A of the Community Infrastructure Levy Regulations 2010 the Council must not later than 31 December 2020 publish an Infrastructure Funding Statement.

The decision is consistent with the Policy Framework and within the remit of the Leader of the Council.

## 5. Resource Comments:

Publication of the Infrastructure Funding Statement does not have any direct Resources implications, it does however report on the sources and utilisation of resources. The monies received for CIL and S106 are recorded and reconciled within our finance controls. CIL contributions are set against Lincolnshire County Council borrowing for the construction of the Lincoln Eastern Bypass (LEB) and the use of S106 deposits are managed through appropriate service delivery processes.

## 6. Consultation

### a) Has Local Member Been Consulted?

n/a

### b) Has Executive Councillor Been Consulted?

Yes

### c) Scrutiny Comments

The decision will be considered by Overview and Scrutiny Management Board at its meeting on 17 December 2020 and any comments of the Board will be reported to the Leader of the Council.

### d) Risks and Impact Analysis

See the body of the Report.

## 7. Appendices

These are listed below and attached at the back of the report

Appendix A	Draft Infrastructure Funding Statement
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## 8. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Brendan Gallagher, who can be contacted on 07500 814114 or [brendan.gallagher@lincolnshire.gov.uk](mailto:brendan.gallagher@lincolnshire.gov.uk).

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