



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

Report to:	Executive
Date:	07 December 2021
Subject:	Draft Infrastructure Funding Statement
Decision Reference:	I025202
Key decision?	No

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 Executive approves the publication of the document attached at Appendix A as Lincolnshire County Council's Infrastructure Funding Statement for the financial year 2020/21.

Alternatives Considered:

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.

Reasons for Recommendation:

To meet the obligation to publish an annual IFS for 1 April 2020 to 31 March 2021.

1. Background

Under Regulation 121A of the Community Infrastructure Levy Regulations 2010 the Council must, no later than 31 December 2021, publish an annual infrastructure funding statement detailing:

- a) a statement of the infrastructure projects or types of infrastructure which the 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. Both these monetary and non-monetary aspects of planning obligations must be reported upon for the relevant year.

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 the CIL Charging 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, along with other factors related to the development.

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 2021 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 information about money received and spent.

The first part relates to the future use of monies received. The IFS identifies the return of forward funds for the Lincoln Eastern Bypass from future Community Infrastructure Levy. As set out in that section of the draft IFS, this has been a longstanding agreement of Lincolnshire County Council and partner authorities. It has been included in joint assessments and strategies around the Central Lincolnshire Local Plan and CIL in the three Central Lincolnshire district areas. 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 Council's Corporate Plan.

For the reported financial year, Lincolnshire County Council has received £668,244 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 is expected to gradually increase as the entire land supply comes under CIL. It should be noted that CIL rates can be changed under potential new CIL schedules by the relevant districts and that this would impact monies received by Lincolnshire County Council.

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 second such annual statement because the legal obligation to publish an IFS started for the year 2019/2020. Any comparison would be challenging because of the unprecedented economic impacts of the global pandemic. Comparisons in future years might be more meaningful.

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 2021 publish an Infrastructure Funding Statement.

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

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 financial control systems. CIL contributions are set against Lincolnshire County Council borrowing which was incurred for the construction of the Lincoln Eastern Bypass (LEB) with the expectation of future CIL receipts. The use of S106 deposits are managed through appropriate service delivery processes.

6. Consultation

a) Has Local Member Been Consulted?

Not applicable – the report relates to the whole county.

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 25 November 2021 and the comments of the Board will be reported to the Executive.

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
Appendix B	Draft text for internet page

8. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Infrastructure Funding Statement 2019/20	www.lincolnshire.gov.uk/directory-record/65713/infrastructure-funding-statement
Draft Infrastructure Funding Statement – Decision on 29 December 2020	https://lincolnshire.moderngov.co.uk/ieDecisionDetails.aspx?ID=653
Community Infrastructure Levy Guidance	Community Infrastructure Levy - GOV.UK (www.gov.uk)

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