

Cherwell District Council

Executive

5 December 2022

Infrastructure Funding Statement 2021/22

Report of Assistant Director – Planning and Development

This report is public

Purpose of report

To seek approval of the Council's Infrastructure Funding Statement 2021/22 for publication and for an accompanying data submission to the Department for Levelling Up, Housing and Communities.

1.0 Recommendations

The meeting is recommended:

- 1.1 To approve the Infrastructure Funding Statement 21/22 at Appendix 1 for publication by 31 December 2022, subject to any final changes considered to be necessary by the Assistant Director – Planning and Development to secure accuracy in consultation with the Portfolio Holder for Planning.
- 1.2 To authorise the Assistant Director – Planning and Development to publish and submit the associated Infrastructure Funding Statement data as required by the Department for Levelling Up, Housing and Communities.

2.0 Introduction

- 2.1 The Infrastructure Funding Statement (IFS) is an annual published statement of developer contributions either secured to mitigate the impact of approved development or for which there has been a transaction during the financial year.
- 2.2 The publication of a statement is a statutory requirement for Councils arising from changes to the Community Infrastructure Regulations (the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019). The changes came into effect in September 2019 and the Council's first IFS was considered by the Executive in December 2020.
- 2.3 Planning Practice Guidance states, '*Reporting on developer contributions helps local communities and developers see how contributions have been spent and understand what future funds will be spent on, ensuring a transparent and accountable system*' (para. 029, ref. ID: 23b-029-20190901).

- 2.4 Any authority that receives a contribution from development must prepare an Infrastructure Funding Statement. The Council reports on the contributions it receives. It is for Oxfordshire County Council to report on its contributions, such as those for highways and education.
- 2.5 Local Planning Authorities continue to be required to keep a copy of any planning obligation, together with details of their modification or discharge, and make these publicly available on their planning register (i.e. the Council's public access system) and Local Land Charges register.
- 2.6 An Infrastructure Funding Statement should include a Community Infrastructure Levy (CIL) Report (where relevant), and a 'Section 106' Report – the section of the Town and Country Planning Act 1990 under which developer contributions are sought. As the Council has not introduced a CIL, the Council's IFS includes only a Section 106 report.
- 2.7 The IFS (Appendix 1) covers the period 1 April 2021 to 31 March 2022 and has been prepared to meet the regulatory requirements set out at Appendix 2. The accompanying 'raw' data the Council is required to publish, and the format of presentation, is defined by the Department for Levelling Up, Housing & Communities.
- 2.8 The process of preparing the IFS has involved close working between Finance and Planning services to provide as much clarity as possible on the latest section 106 position. The IFS is based on the most robust information available at this moment in time. The data it contains is drawn from current records, but it is important to note that those records can change as new information becomes available.
- 2.9 In particular, the IFS does not take into account allocations and transactions undertaken since 31 March 2022 and does not take into account all payments owing to services/infrastructure providers for the forward funding of infrastructure delivery and/or maintenance. There will also be some cases where the Council's records may need updating.
- 2.10 This presently 'unallocated' amount of £196,633.39 is lower than the figure of £225,512.88 for 20/21. All monies secured during 21/22 are allocated and further detailed examination of historic records for the production of this year's IFS has resulted in some further allocation of the unallocated 'legacy' funds. The total sums for unspent or unallocated funds cannot be considered to be fixed or final.

3.0 Report Details

- 3.1 The data return has been produced following national guidance. There are three broad categories of data collected:
1. developer agreements – details of those agreements entered into during the reporting year;
 2. developer agreement contributions – those individual obligations or sums within an agreement assigned to particular purposes / specified categories (e.g. community facilities, affordable housing, monitoring fees);

3. developer agreement transactions – those that are ‘secured’, ‘received’, ‘allocated’, ‘transferred’, ‘spent’ or ‘returned’ with the amount specified.
- 3.2 Planning Practice Guidance advises that local authorities should monitor data in line with the government’s data format; that the data should include details of the development and site, what infrastructure is to be provided and when developer contributions are received, spent or transferred.
- 3.3 There is not a requirement to republish historical data other than for contributions previously received which remain unspent.
- 3.4 Where authorities pass funds to other bodies, this should be on the condition that the other body will provide information back to the authority on how contributions have been spent that reported year, and how they intend to spend future contributions, to inform Infrastructure Funding Statements.
- 3.5 The information in the Infrastructure Funding Statement should feed back into reviews of plans to ensure that policy requirements for developer contributions remain realistic and do not undermine the deliverability of the plan.
- 3.6 The guidance recommends that authorities report on the delivery and provision of infrastructure where they are able to do so. This will give communities a better understanding of how developer contributions have been used to deliver infrastructure in their area.
- 3.7 It acknowledges that data on developer contributions is imperfect, represents estimates at a given point in time, and can be subject to change. However, the data published should be the most robust available at the time.
- 3.8 The Infrastructure Funding Statement has been prepared to provide as much clarity as possible, elaborating on the raw data where achievable.
- 3.9 The key messages from this year’s report are as follows:
 - the total for developer contributions secured by way of legal agreement in 21/22 was £3,152,537.71 - a higher figure than £2,400,257.78 in 20/21
 - total contributions received during the reporting year were £2,929.691.23 compared to £629,187.03 in 20/21.
 - of this, £2,157,465.14 was received towards open space and leisure provision, such as outdoor or indoor sports provision, public open and amenity space management, the provision of play spaces and their management.
- 3.10 The rigour of IFS process is supporting closer working between planning and finance and increasing transparency.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The publication of an Infrastructure Funding Statement (IFS) is a statutory requirement that provides transparency and accessibility of information about s.106 developer contributions required for the grant of planning permission. The proposed IFS encapsulates the data that officers propose to publish and submit for

2021/22 to DLUHC to meet that requirement. The information is considered to be the most robust available at this time. Officers will prepare a statement annually and continue to develop monitoring systems on an on-going basis.

5.0 Consultation

5.1 Councillor Colin Clarke – Portfolio Holder for Planning

6.0 Alternative Options and Reasons for Rejection

6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not to bring forward an Infrastructure Funding Statement

This is not a lawful option as it would mean that the Council would be in breach of its statutory duty

Option 2: Seek review of the key statistics and proposed Infrastructure Funding Statement.

Officers consider that this is not required as the information is the most robust available at this time.

7.0 Implications

Financial and Resource Implications

7.1 There are no direct financial implications identified. The work on the IFS is being completed using existing budget.

The IFS indicates that £196,633.39 s.106 monies have not yet been spent or allocated. This is historical money that was received and still needs investigation to allocate these to the correct projects that they were intended for.

Comments checked by:

Leanne Lock, Strategic Business Partner
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Legal Implications

7.2 There is a statutory requirement to publish an IFS that meets prescribed requirements and officers consider that the information presented to meet those requirements is, in accordance with guidance, the most robust available at this time.

Comments checked by:
Matthew Barrett, Planning Solicitor
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Risk Implications

- 7.4 Within the IFS, it is explained that the statement has been produced on the basis of the best information available at this moment in time. The data it contains is drawn from current records which may change or be updated. Failure to publish an IFS, and therefore to meet statutory requirements, could cause reputational harm to the Council. This and any other risks that may arise will be managed accordingly by the services and escalated as and when necessary to the Leadership Risk Register.

Comments checked by:

Shona Ware, Assistant Director - Customer Focus, Performance & Transformation
Tel: 01295 221652, Shona.Ware@cherwell-dc.gov.uk

Equality & Diversity Implications

- 7.5 There are no implications arising from the gathering and publication of the data.

Comments checked by:

Shona Ware, Assistant Director - Customer Focus, Performance & Transformation
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Sustainability Implications

- 7.6 There are no implications arising from the gathering and publication of the data.

Comments checked by:

Ed Potter, Assistant Director - Environmental Services
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8.0 Decision Information

Key Decision

Financial Threshold Met: No

Community Impact Threshold Met: No

Wards Affected

All

Links to Corporate Plan and Policy Framework

Business Plan Priorities 2022-2023:

- Housing that meets your needs
- Supporting environmental sustainability
- An enterprising economy with strong and vibrant local centres
- Healthy, resilient and engaged communities

Lead Councillor

Councillor Colin Clarke – Portfolio Holder for Planning

Document Information

Appendix number and title

- Appendix 1: Infrastructure Funding Statement 2021/22 – Summary Report
- Appendix 2: Section 106 Report – Prescribed Matters

Background papers

None

Report Author and contact details

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