

**Report Reference Number: E/21/34**

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**To:** Executive  
**Date:** 6 January 2022  
**Status:** Key Decision  
**Ward(s) Affected:** All Wards  
**Author:** Caroline Skelly, Planning Policy Manager  
**Lead Executive Member:** Cllr Richard Musgrave, Lead Councillor for Place Shaping  
**Lead Officer:** Dave Caulfield, Director of Economic Regeneration and Place

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**Title:** CIL/S106 Infrastructure Funding Statement

### **Summary:**

In September 2019 changes were made to the Community Infrastructure Regulations which require Local Planning Authorities to publish an Infrastructure Funding Statement from December 2020. This report sets out the details of how much monies have been collected from CIL and S106 obligations receipts over the course of the latest monitoring period and seeks approval for the publication of the 2021 Infrastructure Funding Statement.

### **Recommendations:**

That Members;

- a) Approve the Draft Infrastructure Funding Statement as attached at appendix 1 for publication.

### **Reasons for recommendation**

To meet the requirements of The Community Infrastructure (Amendment) (England) (No.2) Regulations 2019.

## **1. Introduction and background**

- 1.1 The Community Infrastructure Levy (CIL) was formally adopted by Selby District Council on 1st January 2016, following public examination. The CIL has established 3 housing development charging zones of £10/£35/£50sqm with £110sqm for supermarkets and £60sqm for retail warehouses. The rates were based on a detailed analysis of up-to-date viability evidence.
- 1.2 Funds raised via the Levy can only be spent on 'strategic infrastructure' which includes transport, flood defences, health care facilities, schools, social care facilities, cultural and sport facilities as well as the maintenance and improvement of facilities

affected by development. CIL is being reviewed alongside the preparation of a new Local Plan.

- 1.3 Section 106 obligations are private agreements made between the local authority and developers to make development acceptable. Unlike CIL, S106 planning obligations must be directly relevant to the proposed development. Until recently there were restrictions, which meant that S106 obligations could not be “pooled” from more than 5 developments for one piece of infrastructure. This pooling restriction was lifted when the CIL Regulations came into force on the 1st September 2019.

## 2. CIL and Section 106 Income

- 2.1 Although a slow process to begin with CIL receipts are building up year on year with the total CIL receipts received as of 30<sup>th</sup> November 2021 is £3.9m as set out in the table below:-

Table 1 CIL Receipts

CIL received to date	<b>80% Share (Strategic Infrastructure to be utilised by Selby District Council)</b>	15% Meaningful Portion (for our Parish/Town Councils)	5% Administration Fee (covers cost of CIL/S106 Officer and software)
£3,912,214.93	<b>£3,129,771.94</b>	£587,832.24	£195,610.75

- 2.2 S106 payments are usually paid in instalments and once the final payment is received, we have 5 years in which to spend the funds or they will need to be returned to the developer. At present we have no funds which will be required to be paid back to the developers.

## 3. CIL Regulation Requirements

- 3.1 Under the previous guidance CIL receipts had to be in accordance with the published CIL 123 list. As it takes some time to build up the infrastructure funding pot Officers had not sought approval from Members on how CIL income should be prioritised.
- 3.2 New CIL Regulations came into force on the 1<sup>st</sup> September 2019 which removed the S106 pooling restrictions and allow local authorities to use both the Levy and S106 planning obligations to fund the same item of infrastructure, (S106 contributions must still directly relate to the development). In addition, the new Regulations removed the provisions relating to the 123 list and introduced a requirement for all local authorities (not just CIL charging ones) to publish an annual Infrastructure Funding Statement. The Infrastructure Funding Statement replaces the Regulation 123 list.
- 3.3 Regulation 121A of the Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019 requires that no later than 31<sup>st</sup> December each calendar year a contribution receiving authority must publish an Annual Infrastructure Funding Statement which comprises the following: -

- 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 CIL (other than CIL to which regulation 59E or 59F applies) (“the infrastructure list”);
- b) a report about CIL, in relation to the previous financial year (“the reported year”), which includes the matters specified in paragraph 1 of Schedule 2 (“CIL report”);
- c) a report about planning obligations, in relation to the reported year, which includes the matters specified in paragraph 3 of Schedule 2 and may include the matters specified in paragraph 4 of that Schedule (“section 106 report”).

3.4 In addition to the requirement for Selby District Council to publish information, Parish Councils and North Yorkshire County Council are also be required to report details on CIL income and spend.

3.5 These requirements will help to provide transparency in how CIL and S106 obligations are being used to support the provision of new infrastructure. The first Annual Infrastructure Funding Statement was approved by Executive in December 2020.

#### **4. Infrastructure Funding Statement**

4.1 The Council's draft Infrastructure Funding Statement confirms that between 1<sup>st</sup> April 2020 and 31<sup>st</sup> March 2021 £281,992 was collected in CIL receipts, from this a total of £13,096 has been passed onto Parish Councils.

4.2 At the present time only £198,687 of the Council's total strategic infrastructure delivery fund has been allocated for spend, which is to provide the roundabout on Bawtry Road, Selby, in association with the development of the LIDL store. This contribution was agreed by Executive in August 2017 in order to improve the wider traffic issues on Bawtry Road. Although this has been allocated, the payment will not be made until the requirements of the S278 agreement have been met.

4.3 As Members will be aware the Council is preparing a new Local Plan which will allocate sites to support the growth of the District up to 2040. As part of this process an Infrastructure Delivery Plan is being prepared which will identify the improvements required to local infrastructure to support future development. As the Publication version of the plan is being finalised Officers are continuing to work with partners to identify the infrastructure and associated costs required to support new development. The Infrastructure Delivery Plan will be used as the basis for future discussions with Members about how CIL receipts should be prioritised. At this stage it is anticipated that CIL receipts will be used to fund strategic projects such as highways, healthcare and flood defences.

4.4 Parish Councils are also required to publish an annual statement which sets out how CIL receipts have been spent. Examples of how funds have been utilised include, a vehicle activated sign, a 'road' across a village green, MUGA fencing, bus shelters, streetlighting and (with additional 3rd party monies) a replacement adventure playground.

4.5 The Infrastructure Funding Statement also reports on S106 receipts. During the monitoring year £125,402.50 was received in S106 contributions. This includes: -

- Education - £74,778
- Highways and transport - £17,968.50
- Off -site Recreational Open Space - £12,883.00
- Waste and Recycling - £19,773.00

- 4.6 S106 receipts have been used to bring seven Empty homes back into use, using Affordable Housing contributions with monies being used by the Selby District Housing Trust or the Council to provide 24 units for Affordable Housing stock. There are remaining funds allocated to Affordable Housing provision but not yet spent which will be used to deliver the Council's Housing Delivery Programme.
- 4.7 Money we have transferred to other organisations such as NYCC and NHS for use in Education, Highways and Health infrastructure will be reported on in detail through those organisations respective Infrastructure Funding Statements.
- 4.8 At present, £199,999.82 is allocated and has been passed on to the NHS, for the enhancement of Health facilities in Sherburn-in-Elmet, but not yet spent.

## **5. Alternative Options Considered**

There are not considered to be any alternative options as the publication of the Infrastructure Funding Statement is a requirement of the CIL Regulations.

## **6. Implications**

### **6.1 Legal Implications**

CIL must be operated in line with the new CIL Regulations which came into force on 1<sup>st</sup> September 2019.

### **6.2 Financial Implications**

The ability to seek both CIL and S106 contributions should increase the income generated to provide infrastructure across the District.

### **6.3 Policy and Risk Implications**

The risks are that the Council would not fulfil the requirements of the CIL Regulations.

### **6.4 Corporate Plan Implications**

CIL and S106 contributions help the Council to deliver its Corporate Plan objectives to make Selby a great place to do business and to enjoy life.

### **6.5 Resource Implications**

The application of CIL and monitoring of CIL/S106 income will continue to be managed by the CIL/S106 monitoring Officer post, which is funded through the 5% element of CIL income.

## **6.6 Other Implications**

None

## **6.7 Equalities Impact Assessment**

None

## **7. Conclusion**

- 7.1** The publication of an Infrastructure Funding Statement is a requirement of the Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019 which came into force last year. The Infrastructure Funding Statement at Appendix 1 fulfils the requirements of the regulations.

## **9. Background Documents**

None

## **10. Appendices**

Appendix 1 – Draft Infrastructure Funding Statement

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