

**Bolsover District Council**

**Planning Committee**

**Date of meeting – 13<sup>th</sup> January 2021**

**Annual Infrastructure Funding Statement 2019/20  
and Section 106 Agreement monitoring**

**Report of the Assistant Director of Development and Planning**

**Purpose of the Report**

- To outline the requirements of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 in relation to Annual Infrastructure Funding Statements.
- To approve the format and content of the Council's Annual Infrastructure Funding Statement 2019/20 and to endorse the decision to publish the Statement in December 2020.
- To update Members on the proposed changes to the Section 106 Agreement reporting schedule for Planning Committee and the proposed internal monitoring arrangements to respond to the new national monitoring requirements.

**1 Report Details**

**Background**

- 1.1 Members will be aware that since September 2017 the compliance with planning obligations in Section 106 Agreements has been reported to the Planning Committee on generally a quarterly basis in order to provide this information to members. The two key reasons for doing this are:
- (i) if obligations required to make a development acceptable in planning terms aren't properly discharged then there is a risk of harm to the Council's reputation and public confidence in the Council's decision making; and
  - (ii) there are strict criteria on how and when Section 106 contributions received by the District Council should be spent; if these criteria aren't met then there is a risk the proposed contribution will have to be returned to the developer and the associated infrastructure will not be provided.
- 1.2 Members will also recall that the introduction of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 was reported to the Committee in January 2020. This report advised that the Council had a new duty to prepare and publish an Annual Infrastructure Funding Statement, starting formally for the financial year 2019/20.
- 1.3 The requirement to prepare and publish an Annual Infrastructure Funding Statement formed part of the Government's package of reforms to the system of developer

contributions in response to the review of the Community Infrastructure Levy. These reforms were intended to complement changes to the assessment of viability in the National Planning Policy Framework and overall aim to make the system of developer contributions more transparent and accountable by:

- reducing complexity and increasing certainty for local authorities, developers and communities;
- supporting swifter development;
- improving the market responsiveness of the Community Infrastructure Levy;
- increasing transparency over where developer contributions are spent; and
- introducing a new tariff to support the development of strategic infrastructure.

1.4 As a result of these reforms, the Council must publish an Annual Infrastructure Funding Statement that comprises the following three parts:

1. 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 (other than Community Infrastructure Levy to which regulation 59E or 59F applies) (“the infrastructure list”);
2. a report about Community Infrastructure Levy, in relation to the previous financial year (“the reported year”), which includes the matters specified in paragraph 1 of Schedule 2 (“Community Infrastructure Levy report”);
3. 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”).

1.5 As Members may be aware, the Council took the decision not to pursue a Community Infrastructure Levy as part of the preparation of the Local Plan for Bolsover District. This decision was due to the Community Infrastructure Levy not being necessary nor the best method of delivering infrastructure in Bolsover District. Underpinning this decision were the facts the District comprises a series of small and dispersed settlements, rather than a large urban area, and that the planned spatial distribution of development through the now adopted Local Plan for Bolsover District meant that the infrastructure required would be directly related to each settlement’s planned residential allocations and so more appropriately funded through planning obligations in Section 106 Agreements.

1.6 In light of the decision to not to pursue a Community Infrastructure Levy, the Council’s Annual Infrastructure Funding Statements will report a ‘nil return’ for parts 1 and 2. However, part 3, the Section 106 report, will need to set out the following information each year:

- (a) the total amount of money to be provided under any planning obligations which were entered into during the reported year;
- (b) the total amount of money under any planning obligations which was received during the reported year;
- (c) the total amount of money under any planning obligations which was received before the reported year which has not been allocated by the authority;

(d) summary details of any non-monetary contributions to be provided under planning obligations which were entered into during the reported year, including details of—

(i) in relation to affordable housing, the total number of units which will be provided;

(ii) in relation to educational facilities, the number of school places for pupils which will be provided, and the category of school at which they will be provided;

(e) the total amount of money (received under any planning obligations) which was allocated but not spent during the reported year for funding infrastructure;

(f) the total amount of money (received under any planning obligations) which was spent by the authority (including transferring it to another person to spend);

(g) in relation to money (received under planning obligations) which was allocated by the authority but not spent during the reported year, summary details of the items of infrastructure on which the money has been allocated, and the amount of money allocated to each item;

(h) in relation to money (received under planning obligations) which was spent by the authority during the reported year (including transferring it to another person to spend), summary details of—

(i) the items of infrastructure on which that money (received under planning obligations) was spent, and the amount spent on each item;

(ii) the amount of money (received under planning obligations) spent on repaying money borrowed, including any interest, with details of the items of infrastructure which that money was used to provide (wholly or in part);

(iii) the amount of money (received under planning obligations) spent in respect of monitoring (including reporting under regulation 121A) in relation to the delivery of planning obligations;

(i) the total amount of money (received under any planning obligations) during any year which was retained at the end of the reported year, and where any of the retained money has been allocated for the purposes of longer term maintenance (“commuted sums”), also identify separately the total amount of commuted sums held.

- 1.7 In essence, the Annual Infrastructure Funding Statement and the categories above are intended to show clearly and in a transparent manner the progression from the signing of a Section 106 Agreement through the Council’s receipt of the money to the spend of the money and the delivery of the required infrastructure on the ground.

#### Statement for 2019/20

- 1.8 As stated above, the new duty to prepare and publish an Annual Infrastructure Funding Statement starts formally for the financial year 2019/20. However, Members will recall that officers chose to review the Council’s current informal monitoring regime in readiness for the new, more formal, monitoring regime being enacted. This led to a ‘test drive’ of the new monitoring processes which resulted in the preparation of a prototype Annual Infrastructure Funding Statement for the period 1<sup>st</sup> April 2018 to 31<sup>st</sup> March 2019 which was reported to the Committee in January 2020.
- 1.9 The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 require local authorities to publish detailed information in a particular format. However, a ‘spreadsheet’ format is considered to make the information somewhat abstract to be properly informative for members of the public.

- 1.10 Therefore, in accordance with the Statement of Community Involvement’s aim for the Council’s planning service and publications to be accessible by avoiding the use of excessive technical jargon, references to legislation and the use of initials, a summary report has also been prepared to provide a more ‘plain English’ way of understanding the key information contained within required Annual Infrastructure Funding Statement.
- 1.11 The Annual Infrastructure Funding Statement 2019/20 Summary Report sets out how 2019/20 compares to 2018/19 and 2017/18 and provides case studies to showcase some of the infrastructure that the Council has delivered with the received Section 106 monies. This summary report is appended as an appendix to this report but the key headlines for the 2019/20 financial year are as follows:

Newly Secured Money	
Total amount of Section 106 monies signed up in new legal agreements during 2019/20	£1,633,694.48

Money Held by the Council	
Total amount of Section 106 monies received from developers during 2019/20	£572,636.54
Total amount of Section 106 monies held from previous years	£1,121,277.69

Money Spent by the Council	
Total amount of Section 106 monies spent by the authority (or transferred to another organisation to spend) during 2019/20	£173,784.33

#### Monitoring Arrangements Going Forward

- 1.12 As part of the review the Council’s current informal Section 106 Agreement monitoring regime in readiness for the introduction of the new national monitoring regime, it is now proposed to report updates on Section 106 Agreement monitoring to Planning Committee on the following quarterly basis: March, June, September and December.
- 1.13 This more formalised monitoring regime will involve increased site surveying of relevant housing developments to both inform Section 106 monitoring but also importantly housing delivery across the District and progress towards meeting the national Housing Delivery Test and our own Council Plan priorities.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 The preparation of an Annual Infrastructure Funding Statement is a technical exercise but one that is intended to make the system of Section 106 Agreements and developer contributions more transparent and accountable.
- 2.2 The prepared Annual Infrastructure Funding Statement 2019/20 Summary Statement is attached as an appendix to this report and provides the required factual information about the financial sums agreed, received and spent. However, it also seeks to provide some context to the financial information contained and to highlight examples of infrastructure delivered during the monitoring year 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2020.

- 2.3 Due to the absence of a meeting of the Planning Committee in December and that the Council needs to publish its Statement before the end of the 2020 calendar year, the Council published the Annual Infrastructure Funding Statement 2019/20 Summary Report prior to the meeting of the Planning Committee in January. This was done following consultation with the Portfolio Member and Chair of the Planning Committee and the Annual Infrastructure Funding Statement 2019/20 Summary Report was published on 23<sup>rd</sup> December 2020.
- 2.4 Therefore, it is proposed that Planning Committee approve the format and content of the Annual Infrastructure Funding Statement 2019/20 Summary Report and endorse the decision to publish it in December 2020 to comply with the regulations, in addition to noting the contents of the report in relation to the new statutory duty.

### **3 Consultation and Equality Impact**

- 3.1 Other Officers involved in the preparation of this report were: Planning Manager (Development Control); Principal Planning Officers, Planning Officers, Joint Housing Strategy Officer, Special Projects Officer (Leisure), Community Arts Development Officer, Senior Accountancy Assistant & Team Manager (Solicitor).
- 3.2 The Annual Infrastructure Funding Statement 2019/20 Summary Report is unlikely to have any negative impact on any person with a protected characteristic or group of people with a shared protected characteristics, although the delivery of infrastructure should have a positive impacts.

### **4 Alternative Options and Reasons for Rejection**

- 4.1 Preparation and publication of an Annual Infrastructure Funding Statement is a statutory requirement from 2020 onwards. The alternative course of action would be to not publish an Annual Infrastructure Funding Statement but this has been discounted due to it potentially leading the Council into reputational disrepute or sanctions.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

- 5.1.1 None. This relates to the Council's annual monitoring duties and is budgeted for.

#### **5.2 Legal Implications including Data Protection**

- 5.2.1 The Council has a statutory duty to prepare an Annual Infrastructure Funding Statement under the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019.
- 5.2.2 There are no specific data protection issues arising from this report.

### 5.3 Human Resources Implications

5.3.1 There are no human resources implications arising from this report.

## 6 Recommendations

6.1 That Planning Committee:

- 1) note the requirements of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 in relation to Annual Infrastructure Funding Statements;
- 2) approve the format and content of the Annual Infrastructure Funding Statement 2019/20 Summary Report and endorse the decision to publish it in December 2020 to comply with the regulations;
- 3) note the proposed changes to the Section 106 Agreement reporting schedule for Planning Committee and the proposed internal monitoring arrangements to respond to the new national monitoring requirements.

## 7 Document Information

<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>Has the relevant Portfolio Holder been informed</b>	Yes
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	All

8 **Document Information**

<b>Appendix No</b>	<b>Title</b>
A	Annual Infrastructure Funding Statement 2019/20 Summary Report
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
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