

Brighton & Hove City Council

Cultural, Heritage, Sport, Tourism & Economic Development Committee

Agenda Item 34

Subject: Annual Infrastructure Funding Statement 2022/23 and
Neighbourhood CIL Update

Date of meeting: 3rd November 2023

Report of: Executive Director, Economy, Environment & Culture

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context.

- 1.1 This report seeks agreement to publish the Council's annual 2022/23 Infrastructure Funding Statement (IFS) by the end of 2023 as required by Government regulations. It also updates committee members on the progress being made by the council's directorates to commit existing S106 funds on infrastructure projects in 2023/24. Lastly, the report lays out the process and timetable for the inaugural allocation of Neighbourhood CIL.
- 1.2 The Infrastructure Funding Statement sets out the Community Infrastructure Levy (CIL) and Section 106 money, secured via the planning process to mitigate the impact of development, that has been secured, received, spent and balances for the previous financial year (April 2022 - March 2023).

2. Recommendations

- 2.1 That Committee agrees the annual Brighton & Hove City Council 2022/23 Infrastructure Funding Statement (IFS), attached in Appendix 1 and the progress made in committing existing funds.
- 2.2 That Committee agrees for the interim Head of Planning to publish the updated 2022/23 annual IFS statement on the BHCC website, subject to any minor alterations (numerical, grammatical and spelling) to be agreed by the Head of Planning following consultation with the Committee Chair.
- 2.3 That Committee notes the position with Neighbourhood CIL set out in Appendix 2 and agrees for the allocation process to be undertaken in accordance with the programme outlined at paragraph 3.17 in this report.

3. Context and background information

3.1 CIL Regulation 121A states that “no later than 31st December each calendar year a Contribution Receiving Authority (CRA) must publish a document which comprises the following:

- 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 the Community Infrastructure Levy (CIL);
- A report about CIL in relation to the previous financial year;
- A report about Section 106 planning obligations in relation to the reported year”

3.2 The first annual IFS was produced in 2020 and has been published annually on the city council’s website.

3.3 The IFS includes all developer contributions from both s106 obligations together with CIL receipts secured, received, spent and held from new developments. It includes appendices which provide detail on the planning applications from which the contributions are secured and received (appendices I and II); and appendix III sets out the projects on which the contributions have been spent (by type of contribution).

3.4 Appendix 2 to this report sets out the sums held for Neighbourhood CIL broken down by ward. These sums will be allocated to invest in new council assets and other qualifying services as determined through the process agreed by the former TECC committee in June 2021.

3.5 Developer contributions financial contributions

The obligations, receipts, expenditure and balances for s106 and CIL contributions in 2022/23 are summarised by category in the table in 3.13.

3.6 Section 106 overview

The amount of s106 monies received by the council in 2022/23 has reduced from the previous year to £3.6m. This reflects the ongoing level of major development being implemented (which was granted prior to CIL implementation). Section 106 amounts secured in 2022/23 are falling following the introduction of CIL and the low number of major planning applications being submitted by developers. For the year 2022/23 it is expected that receipt of s106 payments will continue to be around £2 - £2.5m due to phased payments that are still due from a number of previous years major developments currently under construction.

Over £4.5m was spent in 22/23 on infrastructure schemes across the city, including:

£1.56M on the council affordable housing scheme at Victoria Road, Portslade

£924,000 on the council affordable housing home purchase scheme

£636,000 on the council citywide playground refurbishment programme

13 new S106 agreements were entered into during the year, which will generate £3.675M of financial contributions in future once the triggers are

reached. They will also provide 359 new housing units for affordable rent and shared ownership homes on site in the Toads Hole Valley development.

- 3.7 The s106 monies held on 31st March 2023 stood at £22.7m, a reduction from the £23.5m held at 31st March 2022, even allowing for additional money received in-year. Almost £10 million of this has now been committed to projects and the sum remaining largely a consequence of the implementation of the surge in major planning applications determined in the run up to the start of CIL in October 2020. The services are continuing their focus to prioritise and accelerate the spend of the balance.
- 3.8 Section 106 money can only legally be spent on the purpose it was collected for. Different s106 agreements have differing levels of specificity around the purpose, project and geographical location of spend. Money cannot simply be pooled and/or moved elsewhere unless that new spend directly aligns with the terms of the legal agreement.
- 3.9 It is the role of the Planning Service to collect these s106 payments, and then they belong to the service areas to spend on delivering projects. It can be challenging to spend multiple small pots of s106 contributions on projects. Where the monies contribute to existing capital projects, spend will need to fit with the project programmes and is sometimes held pending implementation.
- 3.10 Notwithstanding this, since the end of the last financial year, the various services within the directorates have been working to accelerate allocating and committing s106 funding. Workshops have been held with all teams to examine how they could commit and spend their s106 allocations quicker. With project teams shrinking under the council's budget constraints, more flexible arrangements have been agreed to resource project teams but stay within the spirit and letter of the s106 agreements and the supporting regulations. The current position is summarised in Appendix 3.
- 3.11 CIL Overview
CIL Regulations (2019 Amendment) Regulation 121A requires the council to publish 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. As CIL liable planning permissions have started to be implemented on site, the council received payments totalling just over £2M in 2022/23.
- 3.12 The majority of the CIL income shown in the table below has been generated mainly from the commencement of smaller threshold developments.
- 3.13 Summary Developer Contribution – financial contributions 2022/23
The obligations, receipts, expenditure and balances for s106 and CIL contributions for 2021/22 are summarised by category in the table below. Full details with tables are in the accompanying Appendix 1

Table 1: Section 106 Contributions to 31st March 2023

S106 Obligation	Balance Held @31/3/22	Contributions Received 22/23	Contributions Spent 22/23	Contributions Held @ 31/3/23
Affordable Housing (Commuted Sums)	£5,047,900	£1,494,535	£2,509,600	£4,032,835
Community	£114,737	£0	£0	£114,737
Local Employment Scheme	£1,532,310	£182,547	£256,959	£1,457,898
Education	£3,849,345	£443,956	£8,760	£4,284,541
Green Infrastructure/SUDS/Public Realm	£385,612	£0	£0	£385,612
Monitoring	£3,953	£0	£0	£3,953
Open Space/Recreation/Leisure	£8,685,054	£1,084,852	£1,566,755	£8,203,151
Artistic Component	£109,938	£2,796	£0	£112,734
Sustainable Transport	£3,845,720	£422,782	£170,189	£4,098,313
TOTAL S106	£23,574,569	£3,631,468	£4,512,263	£22,693,774

Table 2: Community Infrastructure Levy to 31st March 2023

Value of Demand Notices	CIL Receipts Collected 22/23	Total CIL Receipts Held 31/3/2023
£2,073,446.23	£2,011,913.51	- £2,398,094.55

3.14 Neighbourhood CIL – Sums held and allocation process

A percentage of the CIL receipts collected are ringfenced to be spent in the ward where the development has been undertaken.

3.15 As at end of August 2023, receipts currently stand at £0.436 million and at least a further £0.010 million in phased payments should be received by 31st March 2024. The breakdown across wards is shown in Appendix 2 and the key issues to note are:

- Four wards currently do not have any CIL receipts (due to either no CIL liable planning permissions being granted or any granted have not yet commenced)
- A further eight wards have less than £0.010 million in receipts, which was the initial threshold recommended to avoid communities suggesting projects where there was insufficient funding to support a consultation exercise.
- 11 wards have between £12k and £89k (total £419k) to spend on council infrastructure/services.

- 3.16 The former TECC committee agreed at its meeting in June 2021 a governance model for consulting with local communities and ward councillors deciding how these sums would be allocated to local priorities. This governance model is included for information at Appendix 4.
- 3.17 It is proposed to commence the first allocation of Neighbourhood CIL to the 11 wards and the timetable is outlined below.

Table 3: Commencement of Neighbourhood CIL

Early Jan 2024	Ward councillor briefings on neighbourhood CIL, timescale and process (including their role)
Early Jan 2024	Residents, community groups etc. PR campaign to seek suggestions on where and which BHCC assets/services the money could be spent on
Mid Feb 2024	Suggestions for spend close
Late Feb 2024	Ideas are checked for CIL Regs compliance and longlisted (ward councillors updated)
March 2024	Residents, communities etc asked to indicate which schemes they support/would want to see prioritised
April 2024	Results collated and shared with ward councillors. Ward councillors agree which schemes are to be supported and taken forward (with feedback to all on outcomes)
June 2024	CHSTED scrutinises/agrees ward recommendations (and advises Strategy, Finance & City Regeneration Committee)

3.18 Citywide CIL

The timescale for determining the inaugural bidding round for the estimated £3 million that will have been collected for investment from the Citywide CIL pot by the end of 2023/24 is being developed with Finance for further consideration by members in due course. The intention is to spend the legacy s106 money first where possible, and to allow the CIL pot to build up so it is at a level where it can fund significant city infrastructure by the time of its first bidding round.

4. Analysis and consideration of alternative options

- 4.1 The report updates and provides information on developer contributions secured through the planning application process. Not publishing the Brighton & Hove City Council IFS 2022/23 would mean the city council was in contravention of the Community Infrastructure Regulations 2010 (as amended).

5. Community engagement and consultation

- 5.1 Consultation has not been undertaken and is not required for the IFS which carries technical information. However, securing developer contributions is in accordance with the policies in City Plan Part One that was adopted following extensive public consultation. There was also consultation undertaken in relation to adopting a CIL Charging Schedule. Table 3 above

outlines a consultation process for committing the first round of Neighbourhood CIL.

6. Conclusion

- 6.1.1 The IFS is provided via this report and provides a comprehensive overview of CIL and s106 income and expenditure for 2022/23 financial year. The appendices which accompany this report provide further detail to show how each planning permission in the city has provided funding for specific infrastructure projects. This includes financial contributions as well as non-monetary provision (including affordable housing and public realm). It is therefore recommended for noting and publication in accordance with the CIL Regulations.
- 6.1.2 The report also outlines the timetable recommended and the high-level processes that will be undertaken to ensure that communities and ward councillors are central to the planning and decision-making processes involved in planning the expenditure of Neighbourhood CIL in the wards where suitable levels of funding have been accrued

7. Financial implications

- 7.1 There are no direct financial implications from the recommendations of this report. The administrative costs of managing and monitoring both Section 106 planning obligations and the Community Infrastructure Levy (CIL) are funded from the levy (CIL) or contained within existing service revenue budgets (Section 106). Developer contributions are a source of funding for the provision of infrastructure within the city.

Name of finance officer consulted: John Lack Date consulted: 20/10/2023

8. Legal implications

- 8.1 The legislative background to the report's recommendations is set out in the body of the report.

Name of lawyer consulted: Elizabeth Culbert Date consulted 24/10/23

9. Equalities implications

- 9.1 Developer contributions provide benefits through supporting infrastructure and facilities upgrades for residents and visitors to the city with the timely and effective provision of for example, affordable housing, local employment training opportunities, recreation space, improved pedestrian transportation and education facilities.

10. Sustainability implications

- 10.1 Sustainable development is a key priority for the council and developer contributions assist in ensuring a range of priorities are delivered at a local level. This includes improvement of parks and green spaces, active travel

benefits and enabling infrastructure. Full details are provided in Appendix 2.

Supporting Documentation

Appendices

1. Infrastructure Funding Statement
2. Neighbourhood Infrastructure Levy
3. S106 Progress Update

1. Background documents

1. City Plan Parts 1 and 2
2. Adopted Community Infrastructure Charging Schedule
3. Community Infrastructure Regulations 2010 (as amended)

