

**London Borough of Enfield**

**Portfolio Report**

**Report of: Sarah Cary**

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**Subject: Publication of the Enfield Infrastructure Funding Statement 2020/2021**

**Cabinet Member: Cllr Nesil Caliskan**

**Executive Director: Sarah Cary**

**Ward: All**

**Key Decision: KD 5395**

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**Purpose of Report**

1. The purpose of this report is to provide an update on the collection and expenditure of community infrastructure levy (CIL) and Section 106 (s106) agreements from the last financial year (2020/2021) and intended priorities on future spending (e.g. affordable housing and infrastructure) to support the borough's growth agenda in line with the CIL Regulations. This information is outlined in the Infrastructure Funding Statement at appendix 1.
2. The borough's second Infrastructure Funding Statement has been prepared in line with the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019) (the CIL Regulations). It outlines:
  - Enfield's Community Infrastructure Levy (CIL) and section 106 income and expenditure during the previous financial year (2020/21);
  - future spending priorities on infrastructure in line with the draft Local Plan, associated Infrastructure Delivery Plan and the Capital programme
3. A separate Enfield Community Infrastructure Levy (CIL) and section 106 addendum in relation to the 2019/20 financial year is included. This was not reported in the previous Infrastructure Funding Statement (IFS). As

this is a legal requirement, we have now included this element for publication.

### **Proposal(s)**

4. To approve the publication of the Infrastructure Funding Statement 2020/2021 as set out in appendix 1 to this report.

### **Reason for Proposal(s)**

5. The Council is required to publish an annual Infrastructure Funding Statement. By publishing the statement, we provide information on how development contributes to improvements and infrastructure across the borough.
6. The spending priorities identified in the IFS will help the council determine how Community Infrastructure Levy funds will be used to support the boroughs growth and development.

### **Relevance to the Council's Plan**

7. The approach to the spending and allocation of CIL and S106 funding set out in this report has been developed to support the overarching priorities set out in the Enfield Council Plan. These are detailed as follows;
8. Good homes in well-connected neighbourhoods: CIL and S106 income will be used to effectively plan and coordinate the delivery of infrastructure and service provision across the borough to meet the demands arising from new development.
9. Sustain strong and healthy communities: CIL and S106 income will be spent in a way that supports development and the creation of sustainable, attractive and healthy communities, as set out in the Enfield Council Plan, especially in terms of the provision of new infrastructure and supporting services.
10. Build our local economy to create a thriving place: CIL and S106 income will make a significant positive contribution to infrastructure investment and place-making in the borough.

### **Background**

- 11.. Enfield, like many parts of London, is undergoing physical and social transformation, in response to rising demands from population growth (e.g. a younger and more diverse ethnic mix) and external threats (e.g. climate change and covid-19).
12. Over the next two decades and beyond, Enfield must substantially increase the supply of new homes, jobs and associated infrastructure (e.g. health facilities, schools and open space) to address the needs of its rapidly growing population and the backlog of unmet need. The pace and

scale of this growth will, in turn, place significant demands on both existing and new infrastructure.

13. Enfield is developing a new Local Plan (see the latest consultation version at <https://new.enfield.gov.uk/services/planning/draft-new-local-plan>) to shape the future planning of this growth. This plan sets out how we will work with developers, housebuilders, infrastructure providers to deliver enough new homes, jobs and supporting infrastructure at the right time and in the right location (as enshrined in the National Planning Policy Framework 2021 and planning legislation) to meet the borough's growth needs.
14. Further details of the borough's infrastructure requirements are outlined in the draft Infrastructure Delivery Plan (see <https://new.enfield.gov.uk/services/planning/draft-infrastructure-delivery-plan-lbe-and-inner-circle-2021-planning.pdf>) which accompanies the emerging Local Plan.
15. The Infrastructure Delivery Plan sets out what infrastructure will be required to support the delivery of this growth, where it will be located, how it will be funded, who will deliver it, and when it will be provided. As a working document, it will be updated regularly as development sites and new infrastructure projects come forward to support the growth targets in the emerging Local Plan (as discussed in the 2019/2020 Cabinet/Full Council report<sup>1</sup>).
16. The projects identified in the Infrastructure Delivery Plan will be funded from a range of sources, including CIL and S106 contributions, government grants, borrowing and capital receipts (based on the latest spending priorities identified in the Enfield Council Plan and capital budget programme).
17. Each year, the Council is required by the CIL Regulations to outline within its IFS how much CIL and S106 money has been collected and spent over the course of the financial year and how it will be spent to fund infrastructure over the next reporting period,<sup>2</sup>.
18. CIL is a tariff-based charge on most new developments, such as homes, retail and commercial developments, in the borough. The money raised through the levy is used to fund a wide range of infrastructure that is needed as a result of development.
19. Section 106 agreements are used to mitigate the impacts of development at the site-specific level and support the provision of services and infrastructure such as highways, recreational facilities, education, employment and skills, health and affordable housing in association with planning applications. These monies, once received, are ringfenced to spend on the projects identified under the terms of the legal agreement. In

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<sup>1</sup> KD 5029: New decision-making arrangements to spend the Enfield community infrastructure levy and section 106 agreements

most cases, a section 106 agreement specifies how the money collected from the development must be spent.

20. S106 is negotiated between the Local Planning Authority and the developer to mitigate the impacts of a development. To secure a particular contribution under S106, it needs to meet statutory tests, as set out in CIL Regulation 122. These tests are;
- **necessary** to make a development acceptable in planning terms;
  - **directly** related to the development; and
  - **fairly and reasonably** related in scale and kind to the development.
21. Unlike section 106 agreements, CIL is non-negotiable and can be levied on a much wider range of developments (although there are some exceptions, such as small-scale affordable housing and self-build projects).
22. Enfield also collects separate CIL payments on behalf of the Mayor of London (see table 1 and section 3 in appendix 1).
23. In February 2020, Cabinet/Full Council (KD 5029) gave delegated authority to the Executive Director of Place in consultation with the Cabinet Member for Strategic Planning to approve the publication of future Infrastructure Funding Statements. The same report set up governance arrangements for allocating and spending CIL and S106 in line with the regulations.

### Main Considerations for the Council

24. A summary of the key headlines from the past financial year (April 2020 to March 2021) is set out below.

**Table 1: Headline figures in 2020/2021**

Community infrastructure levy	Collection	Spend
Strategic CIL receipts	£1.6 million	Receipts from 2020/21 (£2.4 million) have been rolled forward into the 2021/22 balance (£1.6 million) to support the delivery of major infrastructure projects identified in the capital programme over the next three years.
Neighbourhood CIL receipts	£245k	Previous receipts collected from 2016/2017 to 2019/2020 have been ringfenced to fund local community projects (through the Enfield Neighbourhood Fund <sup>3</sup> ) as previously agreed <sup>4</sup> .
Mayoral CIL receipts	775k	All the money collected from the levy is transferred to the Department of Transport at the end of each quarter to help finance

<sup>3</sup> The bidding rounds (Enfield Neighbourhood Fund) are taking place in the next reporting year (2021/22).

<sup>4</sup> <https://governance.enfield.gov.uk/documents/s84686/EnfieldNeighbourhoodFundReport.pdf>

		Crossrail.
<b>S106 agreements</b>	<b>Collection</b>	<b>Spend</b>
S106 agreements (financial)	£2 million	£1.1 million has been drawn down to spend on the following priorities: <ul style="list-style-type: none"> <li>• Affordable housing and education contributions.</li> <li>• Highway and streetscape improvements</li> <li>• Safe and secure cycle routes (as part of the Cycle Enfield programme)</li> <li>• Flood alleviation infrastructure</li> </ul>
S106 (non-financial)	N/A	Jobs and apprenticeship placements

25. Overall, the total amount of S106 and CIL income collected over this period (£3.4 million) is substantially lower than the previous two reporting periods (2018/2019 and 2019/2020)<sup>5</sup>. However, this is a direct consequence of the covid-19 pandemic.
26. In response to the spread of covid-19 and lockdown restrictions, the government introduced temporary changes to the regulations (from 22 July 2020 to 31 July 2021) to allow small and medium-sized developers experiencing financial difficulties to defer affordable housing and infrastructure payments (CIL and S106) over a limited period<sup>6</sup>.
27. The IFS reports that as of end of March 2021, there are £5.2m of S106 balances, of which £2.4 is unallocated. 'Allocated' indicates that revenue or capital code has been assigned to a project and works are due to take place or are in progress. 'Unallocated' refers to funds that have not been assigned to a specific revenue or capital code but are ringfenced to a particular outcome. For example, approximately 45% of the unallocated funds are ringfenced for specific transport associated infrastructure improvements relating to specific developments.
28. Section 3 of the Infrastructure Funding Statement sets out priorities for how strategic CIL receipts may be allocated to projects or types of infrastructure, in whole or in part, on the following items of infrastructure, over the next three financial years.
- Public realm and environmental improvements within the borough's town centres.
  - Major upgrades to cultural facilities within the borough's main town centres.
  - Sustainable transport links to town centres and key gateways.

<sup>5</sup> <https://new.enfield.gov.uk/services/planning/infrastructure-funding-statement-planning.pdf>

<sup>6</sup> CIL Coronavirus Regulations (further details can be found at [www.gov.uk/guidance/coronavirus-covid-19-community-infrastructure-levy-guidance](http://www.gov.uk/guidance/coronavirus-covid-19-community-infrastructure-levy-guidance)). In Enfield, 9 deferment requests were authorised in the last financial period, amounting to £1.1 million.

- Community facilities within estate regeneration schemes and main town centres.

**Table 2: Enfield CIL allocations (2021/2022 to 2023/24) – projects and infrastructure items**

Type of strategic infrastructure	Where	Why	Source	Examples of potential projects
Public realm & environmental improvements within the borough's town centres	All town centres (as identified in the existing Local Plan)	<ul style="list-style-type: none"> <li>• Respond to the ongoing impact of the pandemic on existing town centres (e.g. higher shop vacancies &amp; reduced footfall)</li> <li>• Secure match funding and build on momentum of previous bids (e.g. good growth fund, liveable neighbourhood fund, local implementation plan (LIP))</li> <li>• Improve quality of the public realm &amp; buildings, especially within local centres such as Hertford Road, Freezy Water, Ponders End &amp; Enfield Highway along eastern corridor where investment is urgently needed to improve the high street environment</li> <li>• Improve accessibility to hard-to-reach / vulnerable groups</li> </ul>	<ul style="list-style-type: none"> <li>• Enfield Town Masterplan Framework</li> <li>• Town centre action plans (forthcoming)</li> </ul>	<ul style="list-style-type: none"> <li>• Redevelopment of civic spaces (e.g. market squares)</li> <li>• Grey-to-green schemes (e.g. rain gardens)</li> <li>• Road junction upgrades / pedestrian crossings to facilitate safer access</li> <li>• Pedestrianisation of shopping streets</li> <li>• Pocket parks</li> </ul>
Major upgrades to cultural and learning facilities within the borough's main town centres	<ul style="list-style-type: none"> <li>• Enfield Town</li> <li>• Edmonton Green</li> <li>• Angel Edmonton</li> <li>• Southgate</li> <li>• Palmers Green</li> </ul>	<ul style="list-style-type: none"> <li>• Support the evening &amp; creative economy</li> <li>• Secure match funding &amp; build on momentum of previous bids (e.g. good growth)</li> </ul>	<ul style="list-style-type: none"> <li>• Cultural Strategy: Culture Connects</li> <li>• Heritage Strategy</li> <li>• Economic Development Strategy</li> </ul>	<ul style="list-style-type: none"> <li>• Refurbishment/redevelopment of existing theatre venues</li> <li>• Training venues / hubs</li> <li>• New museums / galleries / dance studios</li> <li>• Conversion of underused buildings into art exhibition &amp; studio space</li> <li>• Film business hubs to supports links between film production studios &amp; local businesses &amp; employment</li> </ul>
Sustainable transport links to town centres & key gateways	<ul style="list-style-type: none"> <li>• All centres (as identified in the existing Local Plan town centre hierarchy)</li> <li>• Key gateway nodes (as identified in the Blue &amp; Green Strategy)</li> </ul>	<ul style="list-style-type: none"> <li>• Facilitate a modal shift from the car to walking &amp; cycling, especially over short distances</li> <li>• Improve links between town centres/existing urban communities &amp; areas of open space &amp; nature conservation value, including Lee Valley Regional Park &amp; Enfield Chase (east-west links are poor &amp; fragmented due to physical severance)</li> </ul>	<ul style="list-style-type: none"> <li>• Transport Plan</li> <li>• Blue &amp; Green Strategy</li> <li>• Local Plan</li> </ul>	<ul style="list-style-type: none"> <li>• New or improved walking &amp; cycling routes (as part of the strategic route network)</li> <li>• Highway improvements within neighbourhood centres (e.g. new parking arrangements, traffic calming etc)</li> <li>• New bus stops, routes &amp; lanes</li> </ul>
Community facilities within estate regeneration schemes	<ul style="list-style-type: none"> <li>• Council-owned sites and buildings</li> </ul>	<ul style="list-style-type: none"> <li>• Overcome delivery constraints within council-owned sites &amp; deficiencies through the provision of new social infrastructure to facilitate development</li> </ul>	<ul style="list-style-type: none"> <li>• Housing and Growth Strategy</li> <li>• Housing Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>• Play equipment</li> <li>• Public realm and open spaces</li> <li>• New surgeries / health centres</li> <li>• Youth facilities</li> </ul>

29. In order for project bids to be recommended for strategic infrastructure funding they must comply with the terms of the CIL Regulation 59 which states .... Priority will be given to infrastructure projects (as per type of strategic infrastructure listed in table 2 above) that:
- can be delivered within the latest timescales of the capital programme (i.e. at least within the next five years);
  - are identified in the Local Plan, Infrastructure Delivery Plan and/or benefit from planning permission;
  - address / overcome capacity shortfalls and spatial inequalities, especially within areas of deficiency;
  - open up major development / investment opportunities within the borough's growth areas (including town centres and transport gateways);
  - unlock match funding from other sources and/or plug existing funding gaps; and
  - align with statutory policies (e.g. Local Plan) and corporate strategies and programmes
30. The current non-strategic CIL (also known as neighbourhood CIL or NCIL) spending priorities are outlined in a previous portfolio holder report (as agreed in January 2021 – KD:5236).

### **Safeguarding Implications**

31. The collection and allocation of CIL and S106 funding does not have any safeguarding implications but implementing the projects through this process will need to be considered from a safeguarding perspective.

### **Public Health Implications**

32. Better and more effective coordination of infrastructure delivery and financing is vital to the future health and well-being of the borough. CIL and S106 income will be used to address the impact of development (e.g. carbon offsetting) and secure adequate provision of infrastructure (e.g. schools, open space, green-grid connections and community facilities) to support the future needs of the borough.

### **Equalities Impact of the Proposal**

33. The Council has a public-sector duty under the Equality Act 2010 to have due regard to:
- tackle discrimination and victimisation of persons that share the characteristics as protected under the act: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation;

- advance equality of opportunity between people who share those protected characteristics and people who do not; and
  - foster good relations between people who share those characteristics and people who do not.
34. All infrastructure projects funded from S106 and CIL monies will be reported on an annual basis through the infrastructure funding statement. Each project will be subject to a separate equality impact assessment to demonstrate how it will meet the aims of the Public Sector Equality Duty to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
35. Future spending decisions on infrastructure will be geared towards meeting the priorities set out in the Council Plan and making sure the council complies with the Public Sector Equality Duty

### **Environmental and Climate Change Considerations**

36. The Infrastructure Funding Statement sets out how contributions have been used to mitigate and adapt to the effects of climate change, as well as minimise emissions of carbon dioxide from major developments through design measures such as renewable energy infrastructure, loft insulation, and innovative heating and cooling systems. Where it is not possible to meet the zero-carbon standards on site, financial contributions will be required. These contributions are pooled into a carbon fund and ringfenced towards the delivery of carbon reduction projects across the borough. In 2020/21, this fund contributed towards a new retrofit project at Naylor Grove and wetland creation at Albany Park.
37. CIL and S106 funding will be focussed on meeting the priorities of the council set out in the Council Plan and other relevant strategies, including action on climate change (adaptation and mitigation).

### **Risks that may arise if the proposed decision and related work is not taken**

38. Several risks have been identified:

<b>Risk category</b>	<b>Risks</b>	<b>Mitigation</b>
Accountability and transparency	If the infrastructure funding statement is not published before the end of this calendar year, Enfield will be in breach of the CIL regulations (as	Prepare the infrastructure funding statement and DAR report well in advance of the publication deadline.



	amended). This is a statutory requirement.	
Rising backlog of unused CIL and S106 monies	There will be no steer on how CIL and S106 funding should be allocated during the next reporting period.	The infrastructure delivery team have been in discussions with Project Managers and have identified a potential large infrastructure project that meets several of the council's priorities and should be progressed to the next stage for approval. This should reduce the unallocated balance in line with priorities and further discussions with the capital programme team and senior officers to support the allocation process and alleviate this risk.

### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

39. Several risks have been identified:

<b>Key risk</b>	<b>Action to mitigate</b>
Reputational: CIL and S106 funding is not spent in the required timeframe	Monitoring of development growth and infrastructure projects (Infrastructure Delivery Plan) and spend (Infrastructure Funding Statement) will ensure the funds are allocated and spent in accordance with the CIL regulations (as amended).
S106 expenditure is subject to challenge from developers	S106 agreements will be carefully checked to ensure projects and expenditure meet the respective clauses. Legal advice will be sought when in doubt.
Unable to allocate CIL to priorities	Having an approved governance process, as set out in KD 5029.

### **Financial Implications**

40. The Infrastructure Funding Statement sets out Enfield's performance (income and expenditure) during the previous financial year (2020/21) on:

- community infrastructure levy receipts;
- section 106 planning obligations; and
- an indication of future spending priorities on infrastructure in line with the draft Enfield Local Plan and associated Infrastructure Delivery Plan.

41. The information within the statement relates to all new activity in the year as well as unspent income from previous years.
42. As at 31 March 2021, there is over £10 million of unspent CIL (£4,784,466) and S106 (£5,575,884.61) monies carried over into 2021/22. However, around £2 million of S106 funding has been allocated towards schemes within the existing ten-year capital programme and pipeline schemes.
43. The statement also sets out priorities that will guide/inform the future spending of CIL and S106.
44. The Director of Finance (section 151 officer) has a duty to ensure that decisions relating to the expenditure of the borough's CIL and S106 obligations accords with the annual budget. CIL and S106 funding will be used as a resource to help finance the capital programme based on priorities set out in the Enfield Council Plan and Infrastructure Delivery Plan in line with the regulations.

### **Legal Implications**

45. Regulation 121A of the CIL Regulations 2010 (as amended by the CIL Regulations 2019) requires that any authority that receives a contribution from development through CIL or S106 funding must publish an annual Infrastructure Funding Statement
46. The annual Infrastructure Funding Statement replaces the previous "Regulation 123" list, which set out a list of those projects or types of infrastructure that the LPA funded through CIL.
47. Enfield has a statutory duty to publish an 'infrastructure funding statement' before the end of each calendar year to:
  - provide a summary and details of income and expenditure of the borough's Community Infrastructure Levy and section 106 agreements over the previous financial year; and
  - provide a statement of the infrastructure projects or types of infrastructure which will be, or may be, wholly or partly funded through this levy.
48. The Infrastructure Funding Statement must include the details prescribed in schedule 2 of the CIL Regulations.
49. The Infrastructure Funding Statement attached at appendix 1 includes information on:
  - the total value of CIL set out in all demand notices issued in the reported year;

- the total amount of CIL receipts for the reported year;
- the total amount of CIL receipts we collect before the reported year, but which have not been allocated;
- the total amount of CIL receipts we collect before the reported year and which have been allocated in the reported year;
- the total amount of CIL expenditure over the reported year, including:
  - summary details of the items of infrastructure on which CIL (including land payments) has been spent, and the amount of CIL spent on each item;
  - the amount of CIL 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);
  - the amount of CIL spent on administrative expenses pursuant to regulation 61 (expressed as a percentage of CIL collected in that year);
  - the total amount of CIL receipts, whenever collected, which were allocated but not spent during the reported year; and
  - summary details of the items of infrastructure on which CIL (including land payments) has been allocated, and the amount of CIL allocated to each item. The statement also addresses CIL collection and spend, governance/sign-off arrangements, identification, and allocation of infrastructure projects and S106 collection and spend.

50. The Infrastructure Funding Statement 2020/2021 therefore accords with both the requirements contained in the CIL Regulations and the guidance set out in the current National Planning Practice Guidance.

### **Workforce implications**

51. There are no workforce implications arising from the publication of the Infrastructure Funding Statement

### **Property Implications**

52. There are no property implications directly arising from the contents of this report, however there does remain the strong likelihood that property implications will arise on some of the types of project to which CIL will fund.

53. The property implications of those projects will be addressed within their related individual covering reports as they come forward.

### **Other Implications**

54. None

### **Options Considered**

55. The requirement to produce an annual Infrastructure Funding Statement is set out in the amended CIL regulations (see parts 9 and 10A)<sup>7</sup>.
56. Local authorities must prepare an Infrastructure Funding Statement on an annual basis and publish it online before the end of the calendar year (i.e. 31 December).
57. For these reasons, no alternative options have been considered.

### **Conclusions**

58. The ability of the council to effectively deploy its resources is essential to the delivery of the aims of the Enfield Council Plan as well as achieving the vision of being 'a modern council'.
59. The statement (see appendix 1) provides up to date information to the public and other stakeholders on how CIL and section 106 contributions are supporting new development and infrastructure provision in Enfield.

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### **Appendices**

Appendix 1. Infrastructure Funding Statement 2020/21

Appendix 2. Infrastructure Funding Statement Addendum

### **Background Papers**

The following documents have been relied on in the preparation of this report:

- Emerging Local Plan June 2021
- Draft Infrastructure Delivery Plan

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<sup>7</sup> <https://www.legislation.gov.uk/ukxi/2019/1103/regulation/9/made>

- KD 5029 – New decision-making arrangements to spend the Enfield community infrastructure levy and section 106 agreements