



Cabinet

Tuesday, 14 June 2022

Community Infrastructure Levy Funding Delivery Programme

Report of the Director – Development and Economic Growth

Cabinet Portfolio Holder for Planning and Housing, Councillor R Upton

1. Purpose of report

- 1.1. On 7 October 2019, the Borough Council brought its Community Infrastructure Levy (CIL) into force. The levy is a charge applied to certain types of development to support funding infrastructure across the Borough, as set out in the Borough Council's published Infrastructure List.
- 1.2. A report was brought before Cabinet on 23 November 2021, and a further report was taken to Full Council on 2 December 2021, to outline the identified process for managing the allocation and spend of CIL against infrastructure projects, including the specific provisions for those areas without a Neighbourhood Plan. This resulted in the adoption of the CIL Framework Appraisal document (see Appendix A and background papers).
- 1.3. The CIL Framework Appraisal set out a five step mechanism for the process of identifying, prioritising, funding, and reviewing projects eligible for CIL funding.
- 1.4. Step 2 of that mechanism required an officer Working Group, together with key stakeholders to develop a proposed funding priority list to identify the order of priority in which to fund identified projects. Step 3 was then to bring the draft priority list back to Cabinet for approval.
- 1.5. Step 3 reads as follows: *“The proposed delivery programme will be presented to Cabinet to be agreed. Cabinet should be confident that the programme best supports delivery of the Development Plan and the infrastructure requirements of the Borough for the period the delivery programme covers of 5 years.”*

2. Recommendation

It is RECOMMENDED that Cabinet approves the Proposed CIL Delivery Programme document (Appendix B) as part of the previously agreed allocation and spend procedure, including the proposed rate of provisional allocation to future projects.

3. Reasons for Recommendation

The levy has been in place for two-and-a-half years and a reasonable level of levy receipts have been collected from developments within the Borough. Whilst the process for allocating and spending CIL receipts has been agreed, the funds cannot be applied towards delivering infrastructure until a priority list for directing funding has been agreed.

4. Supporting Information

- 4.1. A Draft CIL Framework Appraisal document to govern the spend of CIL has been approved previously by Cabinet and Full Council and is included as Appendix A. The Framework is intended, primarily, to identify the specific infrastructure projects the Borough Council will support through CIL, including a draft order of priority and an expected level of funding, which will be applied towards those projects. It also demonstrates the Borough Council's approach to consideration of projects before committing to any CIL expenditure, as well as helping forecast for longer-term infrastructure projects, which may not need immediate funding.
- 4.2. The Strategic CIL fund is that portion of CIL receipts not identified as admin or Neighbourhood CIL (for further detail see background paper 23 November 2021). It must be applied by the Borough Council to fund the provision, improvement, replacement, operation, or maintenance of infrastructure to support the development of its area. It is this element of CIL that is available to allocate towards identified strategic infrastructure in the delivery programme document.
- 4.3. The Framework Appraisal sets out factors which will be utilised to identify priority of funding, as set out below:

Strategic Importance	An identification of how important each project is to the delivery of infrastructure to support growth as identified within the Borough Council's Local Plan, the Infrastructure Delivery Plans that support the Local Plan, related policies, and other Council objectives.
Project Status	Information on how far progressed a project is. This may include details of what further steps need to be taken or are planned in order for the project to be confirmed as deliverable.
Delivery Timeframe	The anticipated delivery period in which the infrastructure will actually be provided. Where a project is phased, this may span multiple periods. Any more specific information on timings will be included to help inform the order of priority within timeframe brackets.

- 4.4. The draft Delivery Programme sets out the agreed upon priority order reached by the officer Working Group in collaboration with stakeholder representatives from Nottinghamshire County Council (Highways/Transport and Education), NHS CCG (Healthcare) and Rushcliffe Borough Council (Indoor Leisure and

Playing Pitches). The proposed priority order is in close alignment, but not exactly matched to, the indicative priority order included within the Framework Appraisal.

- 4.5. The second part of the request is for Cabinet to approve the rate of provisional allocation to future projects.
- 4.6. This period represents the first period for which the Council is collecting CIL contributions from developments. This means that when estimating CIL collection over the plan period we have no past data to project from. The Borough Council is also operating in economically uncertain times and the rate of collection will ultimately be linked to the rate at which developers build, which in turn is linked to the condition of the economy.
- 4.7. Some of the items on the priority list, which are longer-term in nature are also highlighted as critical components of infrastructure. Utilising all available CIL monies to fund short term projects (some of which will be of lesser strategic importance) and reserving nothing towards future schemes runs the risk that, in the event of under-collection, CIL will be unable to cover the delivery of critical projects towards the end of the plan period.
- 4.8. Conversely, allocating the full proportion expected for these projects (for example transport projects are eligible for around 20% of the total strategic CIL collected) would give certainty of delivering these projects, but would also significantly slow the rate at which monies become available for immediately deliverable projects.
- 4.9. The Working Group and stakeholder representatives agreed that in the first instance setting aside 65% of the funding due for future projects gives a reasonable compromise between maximising available funds for immediately deliverable projects, whilst also providing reasonable confidence that funding will be available for longer term critical projects.
- 4.10. Both the funding priority list and the rate of provisional allocation are subject to periodic review. Should rates of collection continue to meet expectations and economic forecasts be positive then the rate of provisional allocation could be reduced in future as appropriate.
- 4.11. The funds provisionally set aside towards future projects may also be drawn upon in circumstances where projects come forwards ahead of anticipated schedule, for example if national funding becomes available on a time limited basis and a project is progressed to take advantage of that funding. Step 5 of the agreed Framework would allow for such interim review of spending priorities as an example of how CIL has greater flexibility than the previous S.106 regime.
- 4.12. A flow chart has been provided as Appendix C to illustrate how collected CIL is broken down between admin funding, neighbourhood CIL and strategic CIL. At present £2,074,420.04 has been collected in CIL of an anticipated £12.8 million. This means that £500k is available to spend (subject to the recommended level

of provisional allocation), over the life of the plan there should be approximately £9 million available for Strategic CIL infrastructure list projects.

5. Alternative options considered and reasons for rejection

- 5.1. There is the option to not approve the Delivery Programme. If the document is not supported, or significant changes to the document are required then this will need to return to seek agreement of stakeholders, this will delay the Borough Council's ability to apply CIL funding towards relevant infrastructure and may push back, or even prevent delivery of, certain projects including some works which are already underway.
- 5.2. There is also the option to change the rate of provisional allocation; however, the 65% proposed seems a reasonable balance between making funds available today and having some certainty that funds will be available for future projects.

6. Risks and Uncertainties

- 6.1. The allocation and spend of CIL will form part of the Annual Infrastructure Funding Statement. This is a public document containing details of planning contributions collected through S106 and CIL, which the Borough Council is required to publish each year. There is therefore a reputational risk around how the Borough Council is seen to be spending, or not spending, CIL it has collected.
- 6.2. By identifying priorities for funding and feeding this information through the Infrastructure Funding Statement, the Council will be able to demonstrate a clear roadmap for the application of CIL as well as being able to predict and plan when funds might be requested against priority projects.
- 6.3. There is a balance in terms of funding immediate projects and ensuring there is sufficient funding available to meet future projects and therefore CIL scheme priorities. Appendix C details the funding mechanism that is proposed to address this challenge.
- 6.4. Funding is not provided until there is certainty in terms of project delivery and costs. The usual route is to provide funding after expenditure has been defrayed (i.e. incurred) and reimbursed afterwards. Cashflow issues for third parties may result in alternative funding mechanisms such as stage payments, subject to the receipt of appropriate documentation and validation of spend. This mitigates the risk of fraud or error.

7. Implications

7.1. Financial Implications

There are expected costs associated with the implementation of the allocation and spend procedure. Any costs of administering the process should be covered through the proportion of CIL receipts that the Borough Council is

allowed to retain for such purposes. Projected receipts are covered at paragraph 4.12.

7.2. Legal Implications

7.2.1. The management and spending of CIL receipts sits within a legislative framework as defined by the Planning Act 2008, the Community Infrastructure Regulations 2010, and the Community Infrastructure Levy (Amendments) (England) (No.2) Regulations 2019. Any policies or procedures for the management and spending of CIL will be in accordance with the legislative framework.

7.2.2. There is an appeal process for the allocation of CIL prescribed in the regulations. The Framework documents provides clarity on considerations for allocation so that the process is clear and transparent.

7.2.3. Exemptions or relief from the levy may be subject to subsidy control.

7.3. Equalities Implications

There are considered to be no particular equality implications that need addressing from matters arising from this report.

7.4. Section 17 of the Crime and Disorder Act 1998 Implications

There are considered to be no direct community safety implications arising from matters covered in this report.

8. Link to Corporate Priorities

Quality of Life	Adoption of the allocation and spend process will facilitate the provision of education, healthcare, leisure, and transport infrastructure, which will in turn benefit the quality of life of local residents.
Efficient Services	A clear and transparent process for assessing CIL projects will help Councillors and officers navigate the complexities of the CIL regime and speed up the delivery of infrastructure projects.
Sustainable Growth	The proposed process will need to be in place before CIL receipts can be applied towards the infrastructure required to support the sustainable growth of the Borough.
The Environment	Any impacts of new or improved infrastructure, such as impacts on ecology, will be considered through the Framework process when assessing infrastructure projects. Delivery of Bus Priority Measures in West Bridgford and Park & Ride facilities along the A52 corridor will also promote greener, more sustainable travel within the area.

9. Recommendation

It is RECOMMENDED that Cabinet approves the Proposed CIL Delivery Programme document (Appendix B) as part of the previously agreed allocation and spend procedure, including the proposed rate of provisional allocation to future projects.

For more information contact:	James Bate Principal Planning Officer – Monitoring and Implementation 0115 914 8483 jbate@rushcliffe.gov.uk
Background papers available for Inspection:	Report to Growth and Development Scrutiny Group - 13 October 2021 Report to Cabinet – 23 November 2021 Report to Full Council – 2 December 2021
List of appendices:	Appendix A: Adopted CIL Framework Appraisal Document Appendix B: Draft CIL Delivery Programme Appendix C: Flow Chart of CIL distribution