



Council

Thursday, 2 December 2021

Community Infrastructure Levy Allocation and Spend Process

Report of the Director – Development and Economic Growth

Cabinet Portfolio Holder for Business and Growth, Councillor A Edyvean

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. Whilst calculation and collection of the levy is dictated by processes outlined in legislation, its application to infrastructure is less prescriptive. There are still some restrictions on how funds are used however much of the governance is left to be decided by the charging authority.
- 1.3. Proposals for the method of managing the allocation and spend of CIL funds has been considered by the Growth and Development Scrutiny Group on 13 October 2021 (see background papers). The Group resolved to support the referral of the allocation and spend process to Cabinet, as well as a recommendation to Cabinet to make an additional amount of Strategic CIL available to areas without a Neighbourhood Plan. Cabinet has agreed that those recommendations now be made to Council.
- 1.4. The purpose of this report is 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.

2. Recommendation

It is RECOMMENDED that Council:

- a) approves adoption of the Draft CIL Framework Appraisal document and proposed allocation and spend procedure; and
- b) delegates authority to the Director – Development and Economic Growth, in consultation with the Cabinet Portfolio Holder for Business & Growth, to make minor amendments to the Framework, as necessary.

3. Reasons for Recommendation

The levy has been in place for two years and a reasonable level of levy receipts have been collected from developments within the Borough. A process for allocating and spending CIL receipts needs to be agreed before the funds can be applied towards delivering infrastructure.

4. Supporting Information

- 4.1. CIL has, in part, replaced part of the role that S106 Planning Obligations play in securing developer contributions for infrastructure. The benefit of CIL is that it can be captured from a broader range of developments and can be applied more flexibly to fund projects across the whole Borough rather than being restricted to addressing the impact of a specific development. This flexibility comes with a requirement to adopt a procedure for how to most effectively apply CIL funds.
- 4.2. A Draft CIL Framework Appraisal document to govern the spend of CIL has been produced 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 an order of priority and an expected level of funding which will be applied towards those projects. It should also demonstrate the Borough Council's consideration of projects before committing to any CIL expenditure, as well as help forecast for longer-term infrastructure projects, which may not need immediate funding.
- 4.3. Any funds that the Borough Council collects through CIL must be used in line with the Community Infrastructure Levy Regulations 2010 (as amended). The regulations allow for 5% of CIL receipts to be retained for administrative purposes.
- 4.4. Furthermore, the regulations require that a further proportion of CIL receipts are passed to the Town/Parish Council for the area they were collected in. This Neighbourhood CIL can be used more broadly by Town/Parish Councils – it need not be used towards items in the Borough Council's Infrastructure list and can be applied to things other than infrastructure. Where there is no Town/Parish Council for an area, the Borough Council must spend the funds to support development in that area as if it were that Town/Parish Council, in consultation with the local community.
- 4.5. The remaining CIL not identified as admin or Neighbourhood CIL – the Strategic CIL – must be applied 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 the Framework Document will address.
- 4.6. The Framework Appraisal has been developed based around four main areas of assessment for specific projects/infrastructure areas, as set out below:

Justification	Why the project is required (including robust evidence demonstrating need), suitability of project, due regard to alternatives
Strategic Benefits	Links to existing and emerging Plans/Strategies and Corporate Objectives, consideration of funding gaps
Funding	Amount of CIL required/requested, estimated cost of project (including costs of maintenance/operation), other available funding sources (including unlocked match funding and time-limited funding)
Deliverability	Other approvals/consents required to bring project forward, timescales for delivery (short/medium/long term), potential impediments to delivery

- 4.7. It also includes a broader consideration of the CIL pot as a whole. The amount of CIL funding that has and will be collected is limited, and it is not anticipated that the levy will completely cover the cost of new infrastructure. Whilst some broad assumptions can be made about the amount of CIL that may be collected over certain periods, agreement of the spending programme should not constitute a commitment of specific amounts of CIL. Rather, it is to establish an anticipated level of funding and order of priority for the delivery of projects.
- 4.8. Town/Parish Councils without a Neighbourhood Plan are allocated 15% of the locally collected CIL and those with a Neighbourhood Plan are allocated 25%. The Borough Council is making an additional 10% of CIL collected available to Town/Parish Councils without a Neighbourhood Plan, in order to bring the amount of CIL receipts they can benefit from in their area up to the same level as the 25% that is automatically passed to areas with a Neighbourhood Plan. It should be noted that this additional 10% will be defined at Strategic CIL not Neighbourhood CIL in terms of how the Town/Parish Council can allocate it, in accordance with legislation.
- 4.9. Where the Town/Parish Council identify a particular eligible use of funds, this can be taken into account when considering expected levels of funding for other projects. Alternatively, a Town/Parish Council may opt to support bids from other bodies where the project will support the development of their area. As any additional CIL is subject to the narrower use of funds specifically towards infrastructure on the Borough Council's infrastructure list, it is not expected to significantly affect the ability of CIL to deliver the strategic priorities of the Borough.
- 4.10. The firm allocation of funds will be subject to further, more specific information about individual projects, similar to the current process used for S106 Planning Contributions. This is to provide certainty that the Borough Council can provide funding from levy receipts it currently holds, as well as provide an audit trail for the commitment and spend of funds.
- 4.11. In the long term, CIL should be allocated broadly in accordance with the funding gaps identified as part of the viability exercise for adoption, to ensure all infrastructure types are catered for.

4.12. The process for the application of Strategic CIL funds has been drawn up and is set out below. The first stage of this process has been undertaken, with the second step to be undertaken once the Framework has been adopted.

1. Identify priority projects through consultation with infrastructure providers
2. Assess list of projects against framework appraisal document
3. Approve spending programme based on assessment outcomes
4. Notify beneficiaries of provisional funding allocations
5. Commit funding amounts once specific project details submitted
6. Release funding upon successful project completion
7. Monitor spend programme to address any change in priorities
8. Repeat full process as required (at least every five years)

4.13. The review step is to ensure there is some flexibility in how CIL funds are used. It will allow for reallocation of funding should certain projects stall or priorities change during delivery period, as well as account for changes in funding availability should CIL receipts be higher/lower than anticipated.

4.14. It may be necessary to make amendments to the Framework Document, such as where the allocation and spend process requires refining or to account for changes in legislation. Rather than referral back to Council, it is suggested that any such changes should be made under delegated authority, in consultation with the Cabinet Portfolio Holder for Business and Growth to ensure decisions can be taken in a timely manner.

5. Alternative options considered and reasons for rejection

5.1. There is the option to not adopt the Framework Appraisal. If the document is not supported, 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.

5.2. There is also the option to not support making the additional proportion of Strategic CIL available to areas without a Neighbourhood Plan. This would allow more of the Strategic CIL collected to be applied towards infrastructure but leave CIL funds less accessible to areas with no Neighbourhood Plan.

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 CIL.

6.2. By identifying priorities from infrastructure providers early in the process, and feeding this information through the Infrastructure Funding Statement, the Council will be able to demonstrate a clear roadmap for the application of CIL.

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.

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 and will be considered on a case by case basis.

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.
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9. Recommendation

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For more information contact:	Andrew Pegram Service Manager – Planning 0115 914 8598 apegram@rushcliffe.gov.uk
Background papers available for Inspection:	Report to Growth and Development Scrutiny Group - 13 October 2021
List of appendices:	Appendix A: Draft CIL Framework Appraisal Document