



## Report to Economic, Planning and Housing Committee: Community Infrastructure Levy: Approach to Governance and Spending

### Cllr Ruffell, Cabinet Member for Planning and Infrastructure

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<b>Report to</b>	Economic, Planning and Housing Committee
<b>Ward(s):</b>	All
<b>Key Decision:</b>	No
<b>Appendix 1:</b>	Assumptions for estimating CIL income
<b>Appendix 2:</b>	Regulation 123 List
<b>Appendix 3:</b>	Process for prioritising CIL spend
<b>Papers relied on:</b>	Report to Economic, Planning and Housing Committee, April 2017 Report to Cabinet, November 2017

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#### Foreword - Cllr Ruffell, Cabinet Member for Planning and Infrastructure

The Community Infrastructure Levy (CIL) will bring in much needed funding for infrastructure. Parish and Town Councils will receive a proportion of CIL funds from development which takes place in their area, to be spent on addressing local community infrastructure priorities. As such, it is necessary to focus the borough council's CIL income on strategic infrastructure priorities required as a result of incremental erosion of capacity and supporting areas impacted by major development.

As we progress towards adoption and implementation of CIL, I am keen to update members of the Committee of our proposals for prioritising the spending of future CIL receipts and to seek their views on this matter which will also be used to inform Cabinet in respect of consultation on the Annual Budget Report.

#### It is recommended that:

- **The contents of this report are noted, and views expressed to Cabinet prior to Cabinet recommendations to Council as part of the Annual Budget Report, particularly in respect of:**
  - **The passing of appropriate sums to the relevant Parish or Town Council through the Neighbourhood Fund based on 25% for those with a Neighbourhood Plan and 15% for those without a plan, capped at £100 per dwelling, including the approach for the non-parished parts of Basingstoke;**
  - **The retention of 5% of CIL income towards programme management of CIL, in line with the CIL Regulations; and**

- **The proposed approach for prioritising and spending Community Infrastructure Levy receipts in the future, including the criteria for inclusion in the Capital Strategy.**

## **Background, corporate objectives and priorities**

The Community Infrastructure Levy Regulations 2010 (as amended) introduced the opportunity for local authorities to charge a levy on new development in order to raise money to fund infrastructure and to support the delivery of development.

The considerations outlined in this report support delivery of each of the Council Plan priorities - preparing for controlled and sustainable growth, improving residents' quality of life and supporting those who need it. More directly it supports the following priorities:

- Invest in our Infrastructure.
- Enhance leisure and cultural facilities.
- Maintain and enhance our built and natural environment.
- Promote strong communities.

## **Glossary of terms**

<b>Term</b>	<b>Definition</b>
CIL	Community Infrastructure Levy
EPH	Economic, Planning and Housing Committee
IDP	Infrastructure Delivery Plan
LIF	Local Infrastructure Fund, funded by New homes Bonus
NPPF	National Planning Policy Framework
S106	Section 106 agreement
SPD	Supplementary Planning Document

## **Main considerations**

### **1 Executive Summary**

1.1 The council is in the process of introducing a Community Infrastructure Levy (CIL) charging schedule to raise funds from new development to be spent on infrastructure to support the development of the area.

1.2 This report provides a brief update on progress with CIL and the steps required to adoption and implementation. It goes on to provide:

- An update on expected CIL income levels and views expressed on spending and prioritising CIL to date;
- Details of the proposed approach to prioritising and spending future CIL receipts retained by the Borough Council;

- An approach for passing on the appropriate amount to the relevant Town or Parish Council through the Neighbourhood Fund in line with the Government's prescribed approach and proposals in the non-parished parts of Basingstoke Town; and
- Details of how the Council's Infrastructure Delivery Plan (IDP) will be updated and the manner in which this will inform the prioritisation process.

## **2 Update on Progressing CIL**

- 2.1 The council is seeking to implement a Community Infrastructure Levy (CIL) charging schedule which will set out levy rates to be paid per square metre for relevant new development. This has been prepared in line with the Community Infrastructure Levy Regulations 2010 (as amended) and intends to set CIL rates at a level such that they do not threaten the ability to viably develop sites.
- 2.2 Consideration has been given to CIL on a number of occasions by the Economic, Planning and Housing Committee (EPH) and Full Council, particularly in respect of the proposed CIL rates, but also on possible approaches to spending CIL.
- 2.3 As a part of the process of introducing CIL, an Examination hearing session was held in September 2017. This was chaired by an independent Examiner, who considered the proposed CIL rates in light of the supporting evidence, Government guidance and views expressed on the draft rates, and from those attending the hearing session.
- 2.4 Since that time, further information has been requested by the Examiner, including sensitivity testing around the impact of changes in costs and values that inform the financial modelling. Those objecting to the proposed CIL rates were invited to comment on these findings. Having considered the views expressed, the Examiner requested a further hearing session, which took place on 9 January 2018. A verbal update will be provided to the Committee on any key issues arising. Arising from the hearing, it is expected that the following timetable will be followed for adoption and implementation of CIL:
- Expected receipt of the Examiner's Report – late February
  - Report to Cabinet – 8 May
  - Report to Full Council – 17 May
  - Implementation – Mid-June
- 2.5 It should be noted that the findings of the Examiner are not binding, but should the Borough Council wish to adopt CIL, it must make the recommended changes to the CIL Charging Schedule prior to adopting CIL.
- 2.6 Relevant reports to Cabinet and Full Council will also seek the adoption of other supporting documents, such as the Regulation 123 list (R123), Planning Obligations SPD, Instalments Policy, Payment in Kind Policy and Enforcement Policy.

## **3 Prioritising CIL Income Retained by the Borough Council**

- 3.1 In undertaking work to inform the Examination, an update was provided to the Infrastructure Delivery Plan to detail the latest costs and requirements

associated with development in the Local Plan. This included removing items which have been implemented or highlighting where funding has been identified. This identified the following overall costs, which excludes funding which may result from current bids:

<b>Issue / Funding Source</b>	<b>Total Amount (approx)</b>
Overall Infrastructure Costs	£226.8m
Infrastructure to be provided through future s106	£81.3m
Identified funding from other sources (e.g. LEP)	£53.6m
<b>Overall Infrastructure funding shortfall</b>	<b>£91.9m</b>
Funding expected from future s106 and other sources (e.g. service providers)	£24.7m
Funding gap to funded through CIL and other sources	£67.2m

Based upon a series of assumptions set out in Appendix 1 and the proposed CIL rates (which are subject to the views of the Examiner), it is anticipated that CIL will generate around £30m during the period to 2029. Of this, a proportion must be passed to the relevant Town or Parish Council through the Neighbourhood Fund, with proposals to retain an element to cover Programme Management costs.

3.2 This report builds on that previously considered by EPH committee in April 2017 to give more detail on a proposed means of prioritising and spending CIL. A summary of the points raised by EPH Committee is provided below, with these supplemented by written comments from a town based Borough Councillor in respect of the non-Parished parts of the town of Basingstoke.

- Support for prioritising items on the R123 list for funds retained by the Borough Council;
- Support for the requirement of passing 25% of CIL income to the relevant Parish / Town Council where a Neighbourhood Plan is in place, with most Members expressing the view that this should also apply to areas without a Neighbourhood Plan;
- In the non-Parished parts of the town of Basingstoke, the Neighbourhood Fund should effectively be ring-fenced and used at a ward level or directed to projects identified through a Community Plan, prior to consideration being given to spend on a town-wide basis; and
- Concern around the retention of 5% of CIL receipts to cover the cost of Programme Management around the collection and spending of the levy.

#### **4. Prioritising Items on the R123 List**

4.1 The majority of CIL receipts collected will be retained by the Borough Council and these must be used to support development of the area in line with Government regulations. The funds can be spent on 'the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area'.

4.2 In considering this matter previously, Members supported the principle of placing items on the agreed R123 list (set out in Appendix 2) into priority order and to wait until there is sufficient funding in place to implement them. In undertaking this, account would be taken of the Council's budget setting process to align CIL spending with Council Plan priorities.

4.3 Since that time, a set of criteria has been developed to help guide the process. In order to be eligible, it is proposed that projects will be judged in respect of whether they are:

- Included in the IDP and covered by the scope of the Regulation 123 list (both of which have been the subject of extensive consultation and consideration by Members in the past);
- Have a local or wider community benefit, particularly those areas which may be impacted by nearby developments;
- Linked to the delivery of homes or jobs in the borough and with clear delivery plans; and
- Able to either lever in funds that would not otherwise be available or provide funding for those that would not otherwise be delivered.

Consideration should also be given to what would happen if funding is not provided to deliver the infrastructure.

4.4 The above criteria recognise that the starting point is the R123 list with a focus on the delivery of homes and jobs, in line with the Government's requirements. However, they also recognise that there may be some impact of new development on existing residents, but who may not directly benefit from the scheme. This could include, for example, making provision for improvements in the community facilities of adjoining areas, particularly the larger sites around Basingstoke, where the relevant Parish Council will receive associated Neighbourhood Fund money. In considering this matter, account will be taken of existing sources of information, such as the Community Investment Strategy for Western Basingstoke Study, as well as emerging regeneration proposals.

4.5 In forming a view on the above, consideration must be given to the overall purpose of CIL. Members will be aware that once adopted, CIL will work alongside S106 obligations, which are used to mitigate the impact of development. S106 agreements will also secure on-site infrastructure for the larger sites, such as community centres or schools, whilst it is intended to use CIL to provide infrastructure with a strategic focus. In this respect, it is likely that the majority of CIL receipts will be used to support improvements to infrastructure around the town of Basingstoke Town which will help offset the impact of new development but also benefit existing residents, businesses and visitors.

4.6 In terms of applying the criteria, it should be noted that some matters will be a factual decision (e.g. is the project on the R123 list / IDP?), while other issues will require more detailed consideration, such as the potential impacts on a nearby area as a result of development and would need to be supported by evidence.

- 4.7 Consideration will also need to be given to the ability to provide local level infrastructure funding through the Neighbourhood Fund to local communities, which is described in more detail later in this report, in addition to other sources of funding, such as the Local Infrastructure Fund (LIF).
- 4.8 On the basis of the above, it is proposed that the bullet points in paragraph 4.3 are incorporated into the Capital Strategy and are used to inform a prioritised list of projects. The Capital Strategy sets the framework for how the Council will finance, allocate and manage future capital investment into services that are vital to supporting the development of a successful and vibrant place.
- 4.9 It is proposed that use of the criteria would result in the key strategic infrastructure projects being identified from the items set out on the R123 list, which itself consists of over 30 items, many of which are generic, covering a number of individual projects (for example, the list refers to extensions to community centres). These items would be identified for funding from CIL receipts in the first instance, unless other funding opportunities became available over the passage of time.
- 4.10 A suggested process for undertaking this was provided in the EPH report of April 2017, which has been updated and is set out in Appendix 3. The key stages of the proposed process are summarised below, which will be undertaken on an annual basis, commencing in 2018/19, with a five year time horizon given the timescales for delivery of infrastructure and the relatively long period over which CIL receipts will accumulate:
- 1) Consultation with service providers to consider infrastructure needs to support the Adopted Local Plan (also used to update the IDP), or its successor in time;
  - 2) Use of the agreed criteria to determine the proposed top five priorities from the R123 list alongside other sources of information;
  - 3) Cabinet budget setting to consider alignment with Council Plan priorities;
  - 4) Budget strategy report to Cabinet, including the identified top five priorities;
  - 5) EPH consulted on the top five priorities and notified of updates to the IDP
  - 6) Cabinet / Council endorsement of the budget including the top five priorities.

Relevant information would also be provided in the Authority Monitoring Report (AMR).

- 4.11 It is proposed that stage one of the above would provide the scope for service providers to submit funding bids for the use of CIL receipts to support infrastructure delivery in the borough. This would include external partners, such as the Local Education Authority for school extensions, and these would be considered on the basis of the agreed criteria.

## **5. Neighbourhood Fund**

- 5.1 Members will be aware that the Government's CIL regulations prescribe that:
- In parishes or areas without an adopted Neighbourhood Plan, the LPA will pass on 15% of CIL income from development in the local area, capped at £100 per council tax dwelling per year.

- Parishes or areas which have an adopted Neighbourhood Plan will receive 25% of CIL income from development in their local area with no cap on the amount of Neighbourhood Fund that must be passed on.
  - In non-parished areas, the CIL Regulations stipulate that the charging authority should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding.
- 5.2 The CIL regulations provide greater scope for the use of Neighbourhood Funds than the requirements placed on the Borough Council. This allows the Neighbourhood Fund to be spent on 'anything else that is concerned with addressing the demands that development places on an area'.
- 5.3 At the meeting of the EPH Committee in April 2017, most Members expressed a preference for passing on 25% of the CIL receipts, irrespective of whether a Neighbourhood Plan is in place or not. Whilst this option is available to the Borough Council, account should be taken of the following:
- LIF already provides a mechanism for delivering small-scale schemes across the Borough, with an agreed criteria upon which to judge funding bids;
  - The approach of using a Neighbourhood Plan is intended to incentivise a community to prepare these documents, to help provide a way of identifying local priorities in a pro-active manner and addressing these through a plan led process. Importantly, preparation of Neighbourhood Plans can assist in delivering homes in rural areas to meet local needs, and provides the opportunity for communities to shape where development takes place. Rewarding all parishes with 25% of CIL receipts removes the incentive to take a locally focussed, community led approach; and
  - It would reduce the balance available for spending on strategic projects that would offer wider benefits.
- 5.4 On this basis, Cabinet has been consulting on its Medium Term Financial Strategy, and has reflected national guidance in proposing to pass on 25% of CIL receipts to those communities with a Neighbourhood Plan in place. In areas with no Neighbourhood Plan, it states that 15% of CIL receipts is passed on, capped at £100 per dwelling per Council Tax year. A further update on this matter will be set out in the annual budget and Medium Term Financial Forecast report to Cabinet in February.
- 5.5 In terms of taking this forward, the appropriate sum will be passed to the relevant Parish or Town Council twice per year, in line with the CIL regulations. These also require Parish and Town Councils to publish annual reports each year stating how much they have received and how receipts have been spent.
- 5.6 In the un-Parished parts of the town of Basingstoke, which applies to 13 of the 15 wards, a view was expressed that the relevant Neighbourhood Fund should be utilised in the town to support ward based schemes first, prior to consideration being given to town-wide projects. In this respect, account could be taken of any Community Plans that have been prepared.
- 5.7 Initial calculations indicate that CIL income could amount to around £100,000 per year in total across the non-Parished area, reflecting the way that CIL is applied and the proposed rates. Of this amount, a total of around £15,000 will be

available for passing on in the absence of any Neighbourhood Plans. No further analysis has been undertaken of which wards are most likely to benefit from this. However, if it is simply assumed that this is spread evenly across the 13 non-parished wards, this would amount to around £1,100 per year for each ward, or just over £1,900 if Neighbourhood Plans were in place across the town.

- 5.8 Given that this represents a relatively small level of funding in both scenarios (15% or 25% Neighbourhood Fund), it is unlikely that this alone would provide a sufficient incentive for communities to prepare a Neighbourhood Plan. Furthermore, the cost of providing infrastructure is such that the likely funding will not be sufficient to support a meaningful amount of physical infrastructure. In addition, it should be noted that given the strategic nature of CIL, it is likely that the majority of CIL receipts retained by the Borough Council will be spent on key infrastructure in Basingstoke town.
- 5.9 It is proposed that in un-parished town areas, the 15% of CIL receipts are used alongside money associated with the Local Infrastructure Fund (LIF) for projects in the town. This would need to be ring-fenced to ensure that it is not spent outside of the town area. CIL receipts would be broken down by ward to provide clear accountability of how these have been generated, but will be available for projects within the wider town area. This approach would utilise the existing processes in place for considering LIF applications in order to avoid creating duplication and would be subject to sign-off from the Portfolio Holder for Finance, Service Delivery and Improvement.

#### Programme Management Costs

- 5.10 Under the CIL regulations, the Government allows local authorities to retain 5% of CIL income to cover the costs of the Programme Management for administering the collection, monitoring and the spending of CIL. This charge is adopted by the vast majority of authorities with CIL in place and is also a generally accepted cost of managing a service or function by the Government.
- 5.11 Members expressed a desire to understand more about the expected administration costs of CIL and details of this were circulated to members of the EPH committee on 25 July 2017. This outlined that the Borough Council expected to incur costs of around £126,000 (or 6.3% of the CIL income based upon £2m) following the initial introduction of the charge. This includes costs associated with the purchase, maintenance and training linked to the software package to administer CIL and staff resource associated with collecting and managing CIL, together with the prioritisation process for spending CIL receipts.
- 5.12 It is proposed that this cost is kept under review as the collection and management of CIL becomes established and more is understood about the associated resources required.

#### Corporate implications

### 6 Legal Implications

- 6.1 Part 11 of the Planning Act 2008 ('the Act') provides for the imposition of a charge known as the Community Infrastructure Levy (CIL). It specifies who may charge CIL (known as 'charging authorities') and includes outline provision on



other aspects of the charge including how liability to pay CIL is incurred, how CIL is charged and collected and the application of CIL to infrastructure and enforcement.

- 6.2 The Community Infrastructure Levy Regulations 2010 (as amended) ('the CIL Regulations') implement the detail of CIL using powers provided in Part 11 of the Act. The CIL Regulations allow for differential rates of CIL to be applied. Part 7 of the CIL Regulations and regulation 59C require the charging authorities to apply the CIL in accordance with regulations 59A and 59B to support the development of the council's areas, or any part of it.
- 6.3 Regulation 59A imposes a duty on charging authorities to pass a proportion of CIL to local councils. Subject to paragraph (12) and regulation 59E(5) the charging authority, must pass to every local council within its area a proportion of CIL receipts calculated in accordance with this regulation and regulation 59B.

## **7 Financial implications**

- 7.1 It is proposed to start charging CIL late in mid-June 2018 (subject to the timetable outlined in paragraph 2.4), and CIL income from 2018-2029 is estimated to be approximately £30 million. CIL will take a while to build up and will largely replace S106 receipts, but once established is expected to raise £2m - £3m per annum.
- 7.2 The borough council does not retain control of all CIL receipts, as a proportion is passed to the parish council or the local community, and this can be up to 25% where a neighbourhood plan is in place. In addition to this, 5% of CIL receipts are proposed for retention to cover the cost of Programme Managing CIL, including software to manage the process and staffing resources for the cost of administering and monitoring CIL receipts and spend.
- 7.3 In accordance with Government regulations on CIL, the remaining balance must be spent on "the provision, improvement, replacement, operation, or maintenance of infrastructure to support the development of its area". This could therefore be either capital spend on infrastructure or revenue costs of maintenance but if used to finance revenue the expenditure should be time limited as no on-going funding is available from CIL.
- 7.4 A policy on allocation of CIL funds has recently been the subject of consultation through the budget strategy. Should this policy be agreed by Council in February, the allocation of funding will be included as part of the annual budget strategy process, when it can be considered alongside other resources potentially available to fund expenditure on priority areas. The final decision on allocation will then be agreed as part of the annual budget by Cabinet and Council.
- 7.5 At the end of each financial year, the council is required to report an annual summary of the use of CIL funds, which will be referred to in the Authority Monitoring Report.

## **8 Risk management**

- 8.1 A risk assessment has been completed in accordance with the council's risk management process and has identified no significant (Red or Amber) residual risks that cannot be fully minimised by existing or planned controls or additional procedures.

## **9 Equalities implications**

- 9.1 An Equality Impact Assessment (EIA) was undertaken to consider the implications of allocating CIL funds towards strategic projects for the Public Sector Equality Duty and the impact on the protected characteristics groups (Equality Act 2010). No differential impact was identified on any groups and it was noted that all residents will benefit from improvements to infrastructure in their local area and the borough as a whole.
- 9.2 The future allocation of CIL funds will include monitoring to consider and identify any unforeseen issues for the protected characteristics groups. It is also noted that actions arising from the allocation of CIL funds to specific infrastructure projects may require further assessment of the specific equalities implications.

## **10 Consultation and communication**

- 10.1 Members will be engaged through the proposed annual process of reviewing CIL prioritisation as a component of the budget setting process, as well as more specific engagement through an annual report to EPH Committee where views will be sought on the identified priorities.
- 10.2 Engagement will take place with Parish and Town Councils in the Borough to ensure an understanding of the process for passing on CIL receipts and the various requirements around how the Neighbourhood Fund can be spent and required reporting of this.

## **11 HR implications**

- 11.1 There are no HR implications.

## **12 Summary and reason for the decision**

- 12.1 It is recommended that the council takes forward an approach to spending CIL whereby the main CIL income (that which remains after the neighbourhood fund and programme management costs have been allocated) is focused on strategic infrastructure projects, in line with the proposed criteria set out in this report used to identify the key strategic priorities from the R123 list. This will help to support the delivery of homes and jobs in the borough, whilst providing some scope to benefit existing communities who may be impacted by major new development.
- 12.2 The prioritisation process will be considered through annual budget-setting and will be consulted on through the established approaches. In doing this, account will be taken of needs arising from local service providers in respect of infrastructure required to support development in the borough.

12.3 In accordance with the Government’s regulations, 25% of the CIL receipts will be passed on to the relevant Parish or Town Council where a Neighbourhood Plan is in place for development that has taken place in the relevant area. This figure will be 15% in those areas without a Neighbourhood Plan, capped at £100 per Council Tax dwelling per year. This approach will help to incentivise local communities to prepare Neighbourhood Plans to shape their local area in the future.

12.4 In the unparished parts of the town of Basingstoke, it is proposed that the relevant amount will be retained by the Borough Council for use within the town area, in conjunction with the LIF, with amounts expressed annually, recorded by ward.

12.5 5% of CIL income is put into the revenue budget in order to cover the costs of CIL implementation software and staffing resource in Planning and Exchequer.

### 13 The options considered and rejected

13.1 Consideration has been given to the potential to pass 25% of all CIL income received to the relevant Parish or Town Council, irrespective of whether a Neighbourhood Plan is in place or not.

13.2 This approach is not recommended, as this will not provide the necessary incentive to local communities to prepare Neighbourhood Plans, the development of which is supported by the Borough Council. Passing on 25% of CIL income to communities without Neighbourhood Plans will not assist in providing homes in rural settlements in a pro-active, plan led manner, as envisaged by the Government.

**Date: January 2018**

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<b>Confidentiality</b>	It is considered that information contained within this report (and appendices) do not contain exempt information under the meaning of Schedule 12A of the Local Government Act 1972, as amended, and therefore can be made public.