

PORTFOLIO: PLANNING AND ECONOMY

PLACE AND SUSTAINABILITY OVERVIEW AND SCRUTINY PANEL – 14 SEPTEMBER

COMMUNITY INFRASTRUCTURE LEVY (CIL) - FRAMEWORK FOR CIL EXPENDITURE

1. RECOMMENDATIONS

1.1 That the Scrutiny Panel considers the report and recommends to Cabinet that they:

- Agree to the proposed introduction of a framework for CIL expenditure to align funds to identified infrastructure needs.
- Agree to release £1m of CIL in 2023/2024 to fund local infrastructure in the short term.
- Agree to the publication of the parish council CIL information note at Appendix C.
- Agree to the proposal to report back to Cabinet by the end of the calendar year 2024 with a review of the allocation of the £1m and to finalise the framework for future years.
- Agree to establishing a Task and Finish Group to review the proposed CIL allocations so that they may directly advise the Portfolio Holder for Planning and Economy. The terms of reference and composition of the Group will be agreed by the Leader of the Council in consultation with Portfolio Holder for Planning and Economy, as an Executive Advisory Task and Finish Group.

2. INTRODUCTION

2.1 A summary paper on CIL was presented to Cabinet in November 2022. The key points from this paper were:

- the Council introduced a CIL charging schedule in April 2015.
- On 1 October 2014 Cabinet agreed that, to comply with the Conservation of Habitats and Species Regulations 2010, the first call on any CIL funds would be projects to mitigate the recreational impacts of new residential development on the New Forest National Park.
- There would likely be an increase in CIL monies with the increased levels of development that will be delivered through the Local Plan 2016- 2036 Part 1: Planning Strategy
- There is a need for a mechanism for how the Council will decide which infrastructure projects those receipts will be allocated to.

2.2 This paper sets out a proposed framework for the expenditure of the CIL for the Council.

3. BACKGROUND

- 3.1 New development needs to be supported by physical, social and green infrastructure. Developer contributions are collected to make new developments acceptable in planning terms, providing mitigation that serves to minimise the impacts on the local community and infrastructure.
- 3.2 CIL provides a funding stream for this infrastructure. The finance generated from CIL is intended to be used to secure strategic and local infrastructure in the District which is required to accommodate the level of housing and employment growth proposed within the Local Development Framework. CIL provides a mechanism for ensuring that new development bears a proportion of the cost of new infrastructure.
- 3.3 CIL can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities. This definition allows the levy to be used to fund a very broad range of facilities.
- 3.4 Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed.
- 3.5 The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure if that is necessary to support development.
- 3.6 The Council adopted a CIL charging schedule in April 2014 and began charging CIL on new residential development in April 2015. A paper was presented to Cabinet in October 2014 which set out the likely levels of CIL income and a broad mechanism for the allocation of CIL funds. To date, CIL funds have only been used to deliver recreational habitat mitigation projects, with ongoing work being undertaken to ensure that all projects are fully funded for ongoing maintenance.
- 3.7 As of the end of 2022/23, the Council has received £6,891,502 of CIL funds for use on infrastructure projects, having issued Demand Notices totalling £8,377,805 for this element since the Council began charging. This figure is solely for the infrastructure element of CIL and does not include the 5% retained to administer CIL nor that passed to the town and parish councils (as a requirements of the Regulations).

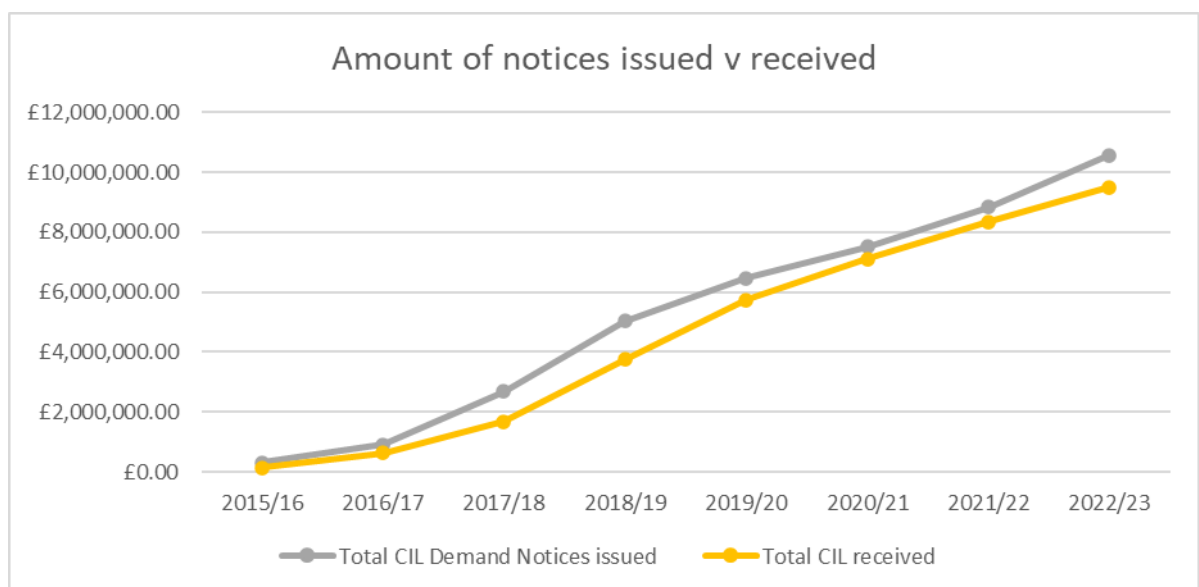


Figure 1 CIL Demand Notices issued and income received

- 3.8 The Government has recently undertaken a technical consultation on a reform to the existing system of developer contributions which the Council engaged in. This would introduce a national 'infrastructure levy' to replace CIL (and most existing planning obligations currently secured through the provisions of Section 106 of the Town and Country Planning Act). A further consultation on the drafting of future regulations for this reform will be published in due course. Until this time, the Council will continue to receive monies from CIL, and it is important to ensure that it is spent appropriately. The Government has recognised that the Infrastructure Levy will be a significant change so it will be introduced through 'test and learn' over a 10-year period.

4. OPTIONS FOR CIL EXPENDITURE

- 4.1 The October 2014 Cabinet report set out a broad mechanism for the allocation of CIL funds. Until recent years the level of CIL income has only been sufficient to cover the anticipated costs of implementing those projects identified for delivery in the first phase of delivery of the recreational mitigation projects. There is now a steady level of CIL, and this level of income is forecast to continue. Therefore, it is appropriate to consider all the options for CIL expenditure based on the current amounts held and those forecast.

- **Option 1** – Development of a framework for expenditure of CIL on a range of infrastructure. This will enable offsite infrastructure, over and above any on site requirements secured via a S106, to be delivered. The legally required recreational habitat mitigation will still be implemented across the District and this approach would enable the Council to work proactively with infrastructure providers to successfully deliver key infrastructure to support the District in a strategic and joined up way. The framework would set out who could bid and how to bid to the Council for allocation of CIL funds and establish parameters and deadlines for spend.
- **Option 2** – Transfer all receipts to the parishes where they have been collected, in addition to the 15/25% (see paragraph 8.1) already received via the regulations. This would enable a range of local infrastructure to be delivered but would remove the District Council's ability to direct where funds should be spent. It is also important for members to be aware that, as of the end of 2021/22 (the latest period for which statutory monitoring reports are required), over £820k was retained by Parishes across the District. However, due to reporting timeframes it is unknown if these monies are committed to projects for which the Parishes may be implementing at a later date.
- **Option 3** – transfer all receipts to the County Council to deliver on strategic infrastructure across the District. The County Council has not expressed a desire to receive CIL funds and continues to seek S106 contributions for obligations directly related to new development. It is important to note that the County Council are statutorily only responsible for certain infrastructure. In addition, transferring the monies to the County Council would reduce the amount of local democratic scrutiny available.
- **Option 4** – Continue as per current regime with CIL funds solely focussed on recreational habitat mitigation projects. As spend on these is likely to be in the order of £800k per annum, the CIL pot would continue to grow each year with excess funding available for other infrastructure.

- 4.2 Whilst all these options are legally sound, officers consider that option 1 is the most robust choice to allow the Council to focus on strategic infrastructure and giving more democratic accountability. As the Council are the charging authority, it is the

responsibility of this Council to ensure funds are spent appropriately. By ensuring the Council is responsible for final allocations this gives more flexibility to direct funds to the most appropriate infrastructure, be it local and/or strategic.

- 4.3 It is essential that the Council retains control of the CIL funds to ensure that monies are directed to the infrastructure identified as being required to deliver the objectives and vision of the Council's Development Plan.

5. DEVELOPING A CIL EXPENDITURE APPROACH

- 5.1 Based on the current housing trajectory, it is forecast the Council will receive a further £14m in CIL receipts specifically towards infrastructure funding in the next five years.

- 5.2 The proposed CIL expenditure framework can be seen at Appendix A. However, the main elements around drafting the framework are:

- Establishing the key principles
- Setting the processes for an expenditure framework
- Establishing the assessment criteria and prioritisation for expenditure
- Setting the governance of any such CIL expenditure framework including the scope of Member involvement and/or establishing of any Advisory Groups.
- Setting the timetable for development and implementation of the CIL expenditure framework and any review.

- 5.3 It is proposed that following approval of the framework, that up to £1m of the currently held CIL is made available to bid for by infrastructure providers. Bids would be sought to implement local infrastructure and could include bids from departments within the Council. Following this round of bidding a likely split of future allocations between strategic and local infrastructure could be considered when a final version of the framework is presented to Cabinet, with bids for strategic development likely to come forward after this. Bids will be considered from town and parishes where it is demonstrated that the CIL funds already passed to them has been spent or formally committed to projects with a firm delivery plan.

- 5.4 After the initial round of bids, and their analysis by officers and consideration by a Advisory Group of elected Members, a report would be presented to the Portfolio Holder for Planning and Economy, as set out in the draft Framework, for approval. Approval for future years will be considered when the framework is returned to Cabinet.

- 5.5 To assist Town and Parishes spend the CIL monies passed to them, it is proposed that the Council publish a guidance note setting out information in relation to how they can spend CIL and how they should engage with their residents. It is proposed to publish this at the same time this framework is approved. Officers also propose to provide a briefing to town and parish councils on the various aspects of the framework.

6. SUMMARY

- 6.1 The implementation of a framework for CIL expenditure for consideration and adoption is required as there is no approach for CIL expenditure prescribed either by Central Government or through the CIL Regulations 2010 (as amended). As such, all Councils

across the country where a CIL charging regime has been adopted and is being implemented have brought in their own schemes for how CIL monies are spent.

- 6.2 The CIL Regulations stipulate however that CIL monies which are collected must be spent on infrastructure. Each Council is required to publish a list of infrastructure that they will put the CIL towards annually as part of an Infrastructure Funding Statement (IFS)
- 6.3 The development and adoption of a CIL expenditure framework is therefore critical to support inclusive growth and sustainable development.
- 6.4 Any framework for CIL expenditure will need to be legally sound and robust and thereby not at risk of challenge. It is therefore important that any CIL framework be endorsed as being sound and legally compliant prior to its consideration and adoption.

7. RISKS

- 7.1 There are a number of risks in relation to the spending of CIL. The risks identified closely align with Strategic Risk No.1 – Supporting Communities of the Strategic Risk Register 2020-2024.
- 7.2 The key risks are set out below:

Risk Description	Likelihood	Impact	Risk	Mitigation Measures
Failure to allocate expenditure such that if we do not secure investment in infrastructure (schools, health, broadband, transport etc.), then development is stifled and/or unsustainable.	Unlikely (2)	Major (3)	Medium (6)	Adopted Community Infrastructure Levy (CIL) in 2014 to secure investment on infrastructure via planning process (e.g. S106). Production of Infrastructure Delivery Plan as part of the Local Planning processes, with an associated Infrastructure delivery Strategy will ensure that infrastructure across the Council is addressed.
Failure to produce a Regulation 121A report (Infrastructure Funding Statement) would result in non-compliance with the CIL Regulations 2010 (as amended) and may mean that Members and the public are not aware of CIL income and expenditure activities.	Highly Unlikely (1)	Moderate (2)	Low (2)	The Implementation and Monitoring Team Leader produces the required report which is checked and verified by Senior Management. Reminders are set to ensure the report is published by the statutory date. The format of the Regulation IFS is laid out in the CIL Regulations, so there is no risk in relation to the way the information is

				presented
Failure to monitor expenditure such that CIL expenditure is not effective.	Unlikely (2)	Major (3)	Medium (6)	The software which supports CIL collection will be used to support CIL expenditure. In addition, the Council's CCB will received details of all allocated and proposed CIL expenditure and this together with the software will be used for effective monitoring.

8. FINANCIAL IMPLICATIONS

- 8.1 CIL is collected and allocated in accordance with the CIL Regulations 2010 (as amended). The Council retains 5% of the total CIL income for administration of CIL. From the remainder, 15% is allocated to Parish or Town Councils but where there is a Neighbourhood Plan in place this figure rises to 25%. At the time of this report there are two neighbourhood plans in place, with both New Milton Town Council and Hythe and Dibden Parish council having adopted plans.
- 8.2 One of the key aspects when reviewing allocations for CIL spend is that it is based on actual monies held, therefore avoiding any direct cost to the Council. Whilst it is possible to project further than this, with the unknown position with regards to a replacement for CIL then at this time the 5 year position is prudent.

9. CRIME & DISORDER IMPLICATIONS, EQUALITY & DIVERSITY IMPLICATIONS

- 9.1 None

10. ENVIRONMENTAL IMPLICATIONS

- 10.1 The introduction of a framework for CIL expenditure will bring forward proposals environmental benefits as well as health and well-being and climate change benefits through the provision of new public open space, improving and enabling greater use of existing open space and the creation of new of sustainable walking routes

11. DATA PROTECTION IMPLICATIONS

- 11.1 None

12. PORTFOLIO HOLDER COMMENTS

- 12.1

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Background Papers:

Appendix A: CIL Expenditure Framework
Appendix B: CIL Expenditure Framework
Communication Strategy

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Appendix C: Information for Parish Councils
on CIL expenditure

[Cabinet Paper 2 November 2022 - Update
on Community Infrastructure Levy](#)

[Cabinet Paper 1 October 2014 - Community
Infrastructure Levy](#)