

BODY:	CABINET
DATE:	8 July 2015
SUBJECT:	Community Infrastructure Levy (CIL) Governance Framework
REPORT OF:	Senior Head of Regeneration, Planning & Assets

Ward(s):	All
Purpose:	To seek endorsement from Cabinet Members on the proposed CIL Governance Framework.
Decision type:	Budget and Policy Framework
Contact:	Craig Steenhoff, Strategy & Commissioning Officer (Planning Policy) , 1 Grove Road, Eastbourne Tel no: (01323) 415345 E-mail: craig.steenhoff@eastbourne.gov.uk
Recommendation:	To agree that the CIL Governance Framework set out in this report be taken forward, and form the basis upon which the Council will manage the spending of CIL receipts.

1. Introduction

- 1.1 The Community Infrastructure Levy (CIL) was introduced by Government in 2010 as a mechanism to allow local planning authorities to raise funds from liable developments in order to pay for the infrastructure that is required to support new development across the town. CIL will be used to help fund strategic infrastructure, as identified in the Council's Infrastructure Delivery Plan.
- 1.2 The levy is applied on a £'s per square metre basis. It replaces the existing tariff-based approach for collecting planning infrastructure contributions¹. From April 2015, CIL will be the only significant means by which local authorities will be able to collect and 'pool' developer contributions to deliver infrastructure improvements². Alongside CIL, S106 obligations will still exist, but generally as one-off agreements to mitigate the impacts of larger developments and to secure on-site developer requirements, such as the provision of affordable housing and local labour contributions.
- 1.3 It is estimated that total CIL receipts for Eastbourne Borough Council for CIL liable planned residential and retail development within Eastbourne Core

¹ Affordable housing will continue to be collected separately through Section 106 provisions

² It will still be legally possible to pool up to 5 S106 agreements for any 1 item of infrastructure.

Strategy Local Plan (up to 2027) is in the region of £2-3m³. CIL is just one of many funding streams that can be used to fund infrastructure projects, and will only go some way in meeting the overall infrastructure costs to support development in Eastbourne.

2. Progress

- 2.1 The Council adopted its Community Infrastructure Levy (CIL) Charging Schedule on 1 April 2015 after Cabinet (4 February) and Full Council (18 February) approval. The Charging Schedule was found sound at Examination, subject to one modification, which was to exclude residential apartments. The Council is now able to secure CIL payments on liable planning applications, which will be paid to the Council shortly after (within 60 days of) the commencement of development.
- 2.2 The purpose of this report is to set out options and recommendations on how the Council will decide to allocate money, collected through CIL contributions, to specific infrastructure projects. It will also formalise the arrangements for the transfer of money, and identify the relevant decision making bodies and groups that will be involved in the process.

3 The Council's responsibilities

- 3.1 Eastbourne Borough Council acts as the designated 'Charging Authority'. This means the Council has an obligation to:
- Prepare and publish the CIL Charging Schedule;
 - Apply the levy revenue it receives to fund the provision, improvement, replacement, operation or maintenance of infrastructure to support development in its area and;
 - Report to the local community on the amount of levy revenue collected, spent and retained each year.
- 3.2 The Council is required in the CIL Regulations to identify the types of infrastructure it wishes to use CIL monies to fund. These are outlined in the Council's Regulation 123 list (Appendix 1). CIL money collected can only be allocated to and spent on these types of infrastructure.
- 3.3 CIL does not directly relate to offsetting the implications of an individual development, but relates to the overall impact of development across the whole Borough. Under S106 arrangements, contributions were collected in line with pre-defined terms for transport, education, recreation and play space improvements and were distributed to the County or retained by the Council as necessary. This is no longer the case with CIL, with funds distributed from a single centralised pot held by the Borough Council. This arrangement will require

³ As identified in the Council's CIL Revenue Analysis.

continued close working with partners, in particular East Sussex County Council, in the identification and delivery of strategic infrastructure improvements.

- 3.4 One of the purposes of CIL is to encourage communities to support growth and recognise that development can bring clear and identifiable benefits to an area. The levy places a responsibility on the Council to pass CIL monies to local neighbourhoods. Whilst there is no obligation for the Council to do this as there are no parish councils, the Council proposes to allocate CIL monies to a neighbourhood fund from which smaller more localised infrastructure projects/items can be bid.
- 3.5 CIL funds will only go some way to meeting the overall infrastructure costs to support development. CIL will help to lever other funds to meet the total infrastructure costs. Some of these 'other funding streams' are identified in the Council's Infrastructure Delivery Plan, and others are currently being explored and confirmed by infrastructure providers.

4 Governance Arrangements

- 4.1 Experiences from those authorities that have already implemented CIL have highlighted that one of the most challenging aspects of CIL is to set up suitable governance arrangements, to ensure that CIL funds raised are allocated and spent effectively in order to secure the timely provision of infrastructure necessary to support growth. It is imperative that Eastbourne Borough Council, as politically accountable for CIL's effective use, retains control of the allocation of CIL funding raised in its Charging Area.
- 4.2 There are two stages in the operation of CIL Governance:
- A. The distribution of CIL money collected, to infrastructure funds/items;
 - B. The decision making framework (CIL Governance Framework) to determine who and what infrastructure items receive money;
- 4.3 A series of options were reviewed looking at examples from other local authorities and some early adopters of CIL. Both CMT and Local Plan Steering Group considered all of these in coming to the Council's recommended options.

Automatic Distribution of CIL monies from a CIL Revenue Account

- 4.4 It is considered that the Council should adopt an automatic distribution approach of overall CIL revenue to specific infrastructure funds, as this will save on time and resources and will allocate CIL monies fairly, based on priorities. This will remove the burden of determining on a case by case basis, the amount of money that should be proportioned/allocated.
- 4.5 In the first instance, all CIL monies collected could be transferred to a CIL revenue account or fund as soon as they are received by the Council. They will

stay in this account until they are further allocated to specific funds at specific timeframes. CIL monies from the Revenue account could be automatically transferred to four specific funds at the end of every sixth month period, on (or as near as possible to) the following specific dates:

- 1 April;
- 1 October.

4.6 Based on the Council's Regulation 123 list, there are four main funds that CIL money could be allocated to:

- **County Council Fund** – *for infrastructure that will be delivered by the County Council, e.g. education provision, transport;*
- **Other Infrastructure Providers Fund** – *for infrastructure that will be delivered by external partners, e.g. flood storage provision;*
- **Eastbourne Neighbourhoods Fund** – *to be retained by Eastbourne Borough Council for localised spending on specific capital neighbourhood projects.*
- **Administration Fund** – *to be retained by Eastbourne Borough Council to meet the costs of administering CIL, e.g. software and maintenance costs;*

4.7 The proposed CIL Governance Framework (Appendix 2) identifies the percentage of CIL revenue that could be automatically transferred to each fund at relevant timescales. These percentages reflect the desire to:

- Use CIL Revenue to recoup administration costs incurred by the Council in setting up, monitoring and maintaining CIL processes;
- Spend a meaningful proportion of CIL revenue on local neighbourhood infrastructure;
- Allocate a high proportion of CIL monies to the County Council and Other Infrastructure Funds, in order to pass monies externally so that they can be spent on strategic infrastructure identified as a high priority in the Council's Infrastructure Delivery Plan.

4.8 **County Council Fund** – East Sussex County Council are a key infrastructure provider for Eastbourne. Transport and education infrastructure is a key priority for the Council and these are specifically mentioned in the Council's Regulation 123 list and Infrastructure Delivery Plan. The Council will therefore need to allocate a high proportion of its CIL revenue to this fund so that a significant amount of money can be accumulated to help meet the costs of strategic infrastructure. The Council propose that up to 80% of CIL revenue can be allocated to the County Council Fund. It is proposed that money can be transferred between the County Council and Other Infrastructure Funds based on specific priorities at the time. Based on short term infrastructure needs it is likely that 80% will be transferred into the County Council Fund as a starting point. It is proposed that East Sussex County Council will bid for money to deliver

identified projects (contained in the Council's Infrastructure Delivery Plan) and that these are considered by the CIL Governance body before they are allocated and funds transferred. It is likely that East Sussex County Council will bid for CIL funds from both Eastbourne Borough Council and Wealden District Council to assist in the delivery of cross-boundary infrastructure (potentially transport and education), which is required to cater for growth in both Eastbourne and South Wealden.

- 4.9 **Other Infrastructure Providers Fund** – The purpose of the 'Other Infrastructure Providers Fund' is to safeguard money that will need to be passed on to other external infrastructure providers (such as the Environment Agency) for spending on strategic infrastructure. It is proposed that external infrastructure providers will bid for money to deliver identified projects (contained in the Infrastructure Delivery Plan) and that these are considered by the CIL Governance body before they are allocated and funds transferred.
- 4.10 **Neighbourhoods Fund** – The purpose of the neighbourhood fund is to collect CIL monies so that they can be spent on small scale local infrastructure projects and improvements. This money will not be necessarily linked to the neighbourhood in which the site was developed as a starting point, as this will result in a further 14 neighbourhood funds with generally small levels of money allocated to them, which would be difficult to spend on anything significant. In addition, infrastructure delivered could benefit the neighbourhood in which it is located along with adjoining neighbourhoods. It should be noted that only a total of approximately £450,000 (15% of total CIL revenue) is forecast to be collected in this fund over the Plan period to 2027. It is therefore recommended that spending from the neighbourhood fund (especially the neighbourhood location that benefits from the spending) is effectively monitored. The Council will use its existing Capital Programme Steering Group to identify neighbourhood projects which could be delivered wholly or partly through CIL monies, which is then reported to Cabinet for approval. The Council will ensure engagement has taken place with ward Councillors and the local community on specific priorities. Neighbourhoods receiving the highest CIL revenue will be monitored to ensure that future spend is spread appropriately across all the Borough's neighbourhoods.
- 4.11 **Administration Fund** – CIL Legislation allows local authorities to use up to 5% of CIL income received to recoup administration costs. The Council will allocate 5% of money received to this fund so that it can be used to set up and provide for the annual maintenance costs of specific software to manage CIL payments. The Council will be able to spend money from the administration fund whenever it is required.
- 4.12 **Bidding Process** – It is proposed that bidding can be undertaken by external infrastructure providers for the County Council and Other Infrastructure Providers Funds. It will follow the process of completing a bidding form (to be prepared) which details:

- the piece or items of infrastructure required;
- why it is required (justification statement);
- its relevance and conformity with the Council's Infrastructure Delivery Plan;
- the total estimated cost of the infrastructure;
- how much is being bid from the infrastructure fund;
- other identified funding sources that will be utilised/explored (important if CIL money will be used to leverage other funding streams);
- when the money is required;
- contact details for notification of the outcome of the bid.

4.13 **Bidding Timeframes** – It is proposed that bids will need to be submitted to Eastbourne Borough Council , every six months, with the deadlines for bids being midday on the following dates:

- 31 March;
- 30 September.

4.14 **Bidding Criteria and Parameters** – Pending Cabinet approval of the recommendations set out in this report, further work will be undertaken to finalise the bidding process.

CIL Governance Framework

4.15 It is essential that a CIL Governance Framework is created, outlining the process by which bids are submitted and determined, and confirming the decision making stages in that process. The Governance Framework needs to ensure that Eastbourne Borough Council maintains control of the decision making process and that current groups are utilised to avoid unnecessary administrative burdens and resource implications.

4.16 It is recommended that Cabinet (who already have delegated authority as a decision making body) are given a further specific remit to ultimately determine CIL bids, based on the advice and recommendations of the Local Plan Steering Group (as a CIL Advisory Board). The process of decision making is illustrated in Appendix 2. A separate process will operate for the Neighbourhood Fund as identified in paragraph 4.11, where the Council's Capital Programme Steering Group will identify neighbourhood projects which could be delivered wholly or partly through CIL monies, which would then be reported to Cabinet for approval.

4.17 Governance arrangements for CIL do not need to be published for consultation or independent examination. It is recommended that arrangements should be set up on the basis that they are reviewed after 12 months. This will provide the opportunity to reflect on any lessons learnt. However, if it is found that there is a

fundamental problem with the arrangements put in place, then the Council can review them at any stage.

4.18 The proposed governance arrangements are consistent with the CIL regulations and will allow the Council to move forward and effectively implement CIL, further to its adoption on 1 April 2015.

4.19 A Members Training session to explain the CIL process in full was undertaken on 24 February 2015, along with a Developers and Agents Forum session with local developers and planning agents on the same date, so that they are clear on the implications and timescales.

5.0 Resource Implications

5.1 Financial

The Council has an agreed budget to cover the implementation and monitoring of CIL.

5.2 Legal

The proposed Governance Arrangements are consistent with the CIL Regulations 2010 (as amended) and takes account of best practice guidance.

5.3 Human Resources

The Council has identified that an additional resource is required to cater for the administration and monitoring of CIL cases along with other monitoring roles. This is being addressed and options are currently being investigated.

6.0 Conclusion

6.1 The proposed CIL Governance Framework will allow the Council full control of the allocation and spending of CIL monies towards strategic infrastructure. The distribution of money to specific funds allows money to be proportioned in line with infrastructure priorities. The framework will allow infrastructure providers to bid for strategic infrastructure and the Council's Capital Programme Steering Group will determine local projects which would benefit from CIL funding.

6.2 The Council seeks endorsement from Cabinet Members on the proposed CIL Governance Framework and that it can be taken forward, forming the basis upon which the Council will manage the spending of CIL receipts.

Craig Steenhoff

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Background Papers:

The Background Papers used in compiling this report were as follows:

Community Infrastructure Levy Regulations (2010) [as amended]

National Planning Policy Framework CLG (2012)

Eastbourne Infrastructure Delivery Plan (December 2014)

Appendices (Appendix 2 attached separately):

Appendix 1 - Eastbourne Regulation 123 Infrastructure List (April 2015)

Appendix 2 – CIL Governance Framework

To inspect or obtain copies of background papers please refer to the contact officer listed above.

Appendix 1

Regulation 123 List

Infrastructure currently considered to benefit from the application of CIL funding

- Strategic and Local Transport Infrastructure and facilities, excluding specific improvements needed to make the development acceptable in planning terms. These exclusions can include (but are not limited to):
 - × Highways crossovers to access the site and local junctions;
 - × Deceleration and turning lanes;
 - × Measures to facilitate pedestrian, public transport and cyclist improvement and access;
 - × Lighting and street furniture needed to mitigate impact of development;
 - × Mitigation works remote from the development where the need for such works is identified in a Transport Assessment.
- Education Provision;
- Library Facilities;
- Children's Play Space, Open Space and Sports Playing Fields;
- Flood Storage Infrastructure Provision and Surface Water Management Infrastructure;
- Police Facilities.

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