

Report to: Leader of the Council

Date: 2 April 2020

Title: CIL Governance Review 2020

Report of: Ian Fitzpatrick, Deputy Chief Executive and Director of Planning and Regeneration

Cabinet member: Cllr Emily O'Brien, Cabinet Member for Planning and Infrastructure

Ward(s): All areas of the district outside of the South Downs National Park Boundaries

Purpose of report: To provide a review of the CIL Governance 4 years on from implementation and to seek agreement for an amendment to the apportionment of the funding process.

Decision type: Key Decision

Officer recommendation(s): To agree the amendment to CIL Governance in line with the proposal set out in this report

Reasons for recommendations: To ensure CIL Governance is aligned to best reflect the need for Infrastructure within the District

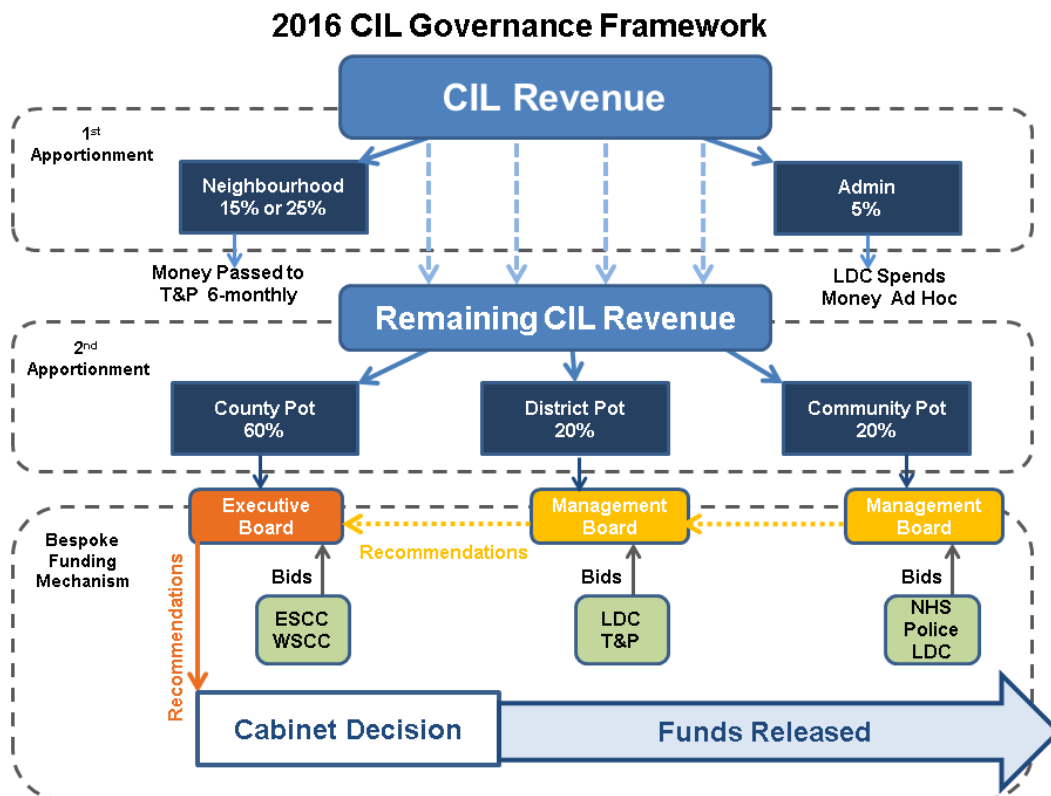
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1 Introduction

- 1.1 CIL Governance describes the way CIL income is managed and spent. Certain elements of the CIL Governance are outlined in the CIL Regulations and others the charging authority has control over.
- 1.2 The CIL Regulations legislate for: how the neighbourhood portion is calculated and when it must be passed to town and parish councils and the allowance a Charging Authority may take to cover its administrative CIL costs; how the levy will be spent; the type of infrastructure project that can be funded and what can't; our public reporting duties and those of Town and Parish Councils for reporting CIL revenue and spend.
- 1.3 The CIL Regulations stipulate that in an area where a Neighbourhood Plan has been made the town or parish council will receive 25% of all CIL revenue within

their area. Where no neighbourhood plan is in place the town or parish will receive 15% of the CIL Liability collected in its area. The regulations also stipulate that up to 5% of the CIL revenue must be allocated for administration costs such as software, staffing and legal inputs.

- 1.4 We, as the Charging Authority, have control over the decision making process for the remaining CIL money once the neighbourhood portion and administration costs have been applied. To reflect the infrastructure need and associated cost identified in the Infrastructure Delivery Plan (IDP), the County Pot is currently allocated 60% of the remaining funds, and the District and Community Pot 20% each.
- 1.5 As previously agreed in 2016, infrastructure providers have been able to access our bespoke CIL Revenue Pots through a bidding process.
- 1.6 A summary of the current Governance and CIL Bidding is outlined below.



- 1.7 To assist in the robust administration of CIL collection and spending, we use Exacom Monitoring Software. The software apportions the revenue per planning permission at the point the charge is calculated. The Exacom corporate module provides the 'live' overall financial situation, and provides instant and direct access to our CIL portfolio (potential, actual, allocated and spent for each Pot). The module allows us to allocate sums directly from the various income streams (Pots) to infrastructure projects, facilitating a very efficient and transparent approach to CIL funds management and monitoring infrastructure delivery.

1.8 The headings in the below table refer to the CIL collection process and the financial governance of holding and spending the money:

- **Potential** refers to Liability Notices issued against planning permissions and recorded as local land charges;
- **Due** means Demand Notices (invoices) issued and awaiting payment, a liability only becomes due if the planning permission is commenced (this includes demolition);
- **Collected** is the money we have banked;
- **Allocated** is when a project is created and funds are committed;
- **Spent** is when the money has left our account;

The table is reflective of CIL income and spending since 1st December 2015 until 7th February 2020.

Allocation	Potential	Due	Collected	Allocated	Spent
Admin	£140,849.48	£46,941.86	£328,247.91	£199,361.69	£199,369.069
Neighbourhood	£609,718.31	£175,936.11	£1,109,636.74	£848,844.20	£89,313.29
County	£1,239,853.13	£429,575.63	£3,076,244.16	£2,400,000.00	£1,200,000.00
Community	£413,284.38	£143,191.87	£1,025,414.72	£187,201.53	£33,000.00
District	£413,284.38	£143,191.87	£1,025,414.72	£417,336.22	£127,084.99
Totals	£2,816,989.68	£938,837.34	£6,564,958.25	£4,052,743.64	£1,648,758.98

1.9 Following on from the third round of CIL Bidding in 2019, a review of CIL Governance was carried out to determine if the current arrangement is still fit for purpose and to recommend improvements. This review only considered the part of CIL spending that the district has control over (i.e. the money remaining after the neighbourhood and admin funding has been allocated).

1.10 To table below shows the allocation of funds from 1st December 2015 to current date:

Allocation	Allocated	Collected	Available as of 7 th February 2020	% Allocated
County	£2,400,000.00	£3,076,244.16	£676,244.16	78%
Community	£187,201.53	£1,025,414.72	£838,213.19	18%
District	£417,336.22	£1,025,414.72	£608,078.5	40%

1.11 There are two CIL Boards. Each board is made up of Members and officers to ensure consistent assessment of bids, aligning the district's infrastructure needs with the requirements of the CIL Regulations. The bespoke governance arrangements allow Members to participate in the process of assessing the infrastructure bids. Other stakeholders as necessary may be invited to provide comments to feed into the assessment process.

1.12 The CIL Management Board assesses the bids received in the District and Community pots, based on officer's assessment, and makes recommendations for spending to the CIL Executive Board. The CIL Executive Board reviews the recommendations of the CIL Management Board, assesses the bids received in the County Pot, following officer's assessment, and makes the final recommendations for spending the CIL revenue to Cabinet.

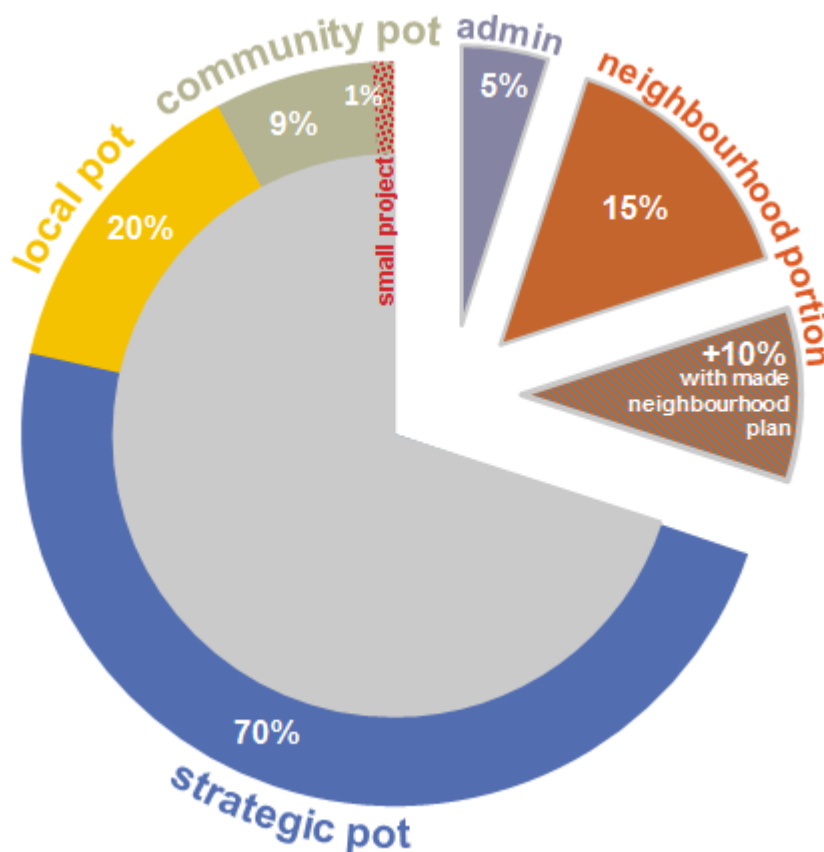
1.13 There are no proposed changes to the make up or role of the CIL Boards.

2 Proposal

2.1 The review looked at the level of demand for the three funding pots as well as the changes in priorities, including the District and County Councils' cross party declarations of climate emergency. In order to ensure that the infrastructure identified within the Council's Infrastructure Delivery Plan (IDP) can be provided in a timely manner, certain changes are being proposed to the CIL Governance.

2.2 The proposed changes are:

- Rename the current County Pot to "**Strategic Pot**" to reflect the type of Infrastructure being provided.
- **Increase** the apportionment into the newly named **Strategic Pot** from 60% to **70%** to allow more funds to be available for strategic projects.
- Rename the District Pot to "**Local Pot**". This is for Towns, Parishes and District Councils to bid into and maintain at 20%.
- Rebalance the allocation to the **Community Pot** from **20%** to **9%** of the 2nd apportionment of CIL funds to align to reflect the demand for funds. The Community Pot is available for all Infrastructure Providers other than Strategic Providers and Town and Parish Councils.
- Introduce a new "**Small Projects Pot**" to enable community groups and similar to bid for up to £5000.00 towards small Community projects. This will account for 1% of the second apportionment.



2.3 To make the process easier for applicants, it is proposed to introduce a two stage process with an initial 'Expression of Interest' Stage. It will determine if the projects are eligible to make a bid before needing to submit a full application. Expressions of interest will be assessed throughout the year, not just during a bidding window.

2.4 It is proposed to maintain the current schedule of 1 bidding round per year for submission of full applications. If required the Strategic Pot may be opened if a critical Infrastructure Project comes forward outside of the scheduled bidding window. This will be determined in consultation with the relevant infrastructure provider, CIL Officers and CIL Executive Board.

3 Outcome expected and performance management

3.1 It is expected that the changes to the CIL Governance will better reflect the need for certain types of Infrastructure within the district. The introduction of an Expressions of Interest stage, which will be open for the whole year, will assist in streamlining the bidding process for applicants.

3.2 It is proposed to review these changes to CIL Governance after 12 months of implementation to determine if the changes made are appropriate or if further review is required.

4 Consultation

4.1 No public consultation is required. Although the CIL Regulations set out that the

levy must be spent on infrastructure needed to support development in the area, it falls to local authorities to decide how the funds are spent.

5 Corporate plan and council policies

- 5.1 The corporate plan 2020-2024 supports the improvement of infrastructure including infrastructure required to both mitigate against and adapt to climate change.

6 Business case and alternative option(s) considered

- 6.1 None

7 Financial appraisal

- 7.1 The CIL governance procedures outlined in this report are intended to ensure that decisions about CIL are transparent and linked with the council's strategic priorities including those on the Council's Capital Programme. CIL is intended to support the strategic infrastructure that is required to support the development of the local area and there is greater flexibility in how it might be applied.

8 Legal implications

- 8.1 Section 216(2) of the Planning Act 2008 and regulation 59 of The Community Infrastructure Levy Regulations 2010 provide that a Council that charges CIL must apply it, or cause it to be applied, to supporting development by funding the provision, improvement, replacement, operation or maintenance of infrastructure. In this context, "infrastructure" is defined as:-

- (a) roads and other transport facilities,
- (b) flood defences,
- (c) schools and other educational facilities,
- (d) medical facilities,
- (e) sporting and recreational facilities, and
- (f) open spaces

- 8.2 Planning Practice Guidance states that this definition allows the levy to be used to fund a very broad range of facilities such as play areas, parks and green spaces, cultural and sports facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. Charging authorities may not use the levy to fund affordable housing.

- 8.3 Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed. The levy is intended to focus on the provision of new infrastructure and should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development.

- 8.4 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.

- 8.5 There are no detailed legal requirements as to how the funding decisions are to be made, however a CIL Governance Framework for Lewes District Council was approved by Cabinet in November 2016.

9 Risk management implications

- 9.1 The risk of not proceeding with the proposed changes is that the pots remain imbalanced which could result in certain types of infrastructure project from being successfully delivered.

10 Equality analysis

- 10.1 It is assessed that an Equality Analysis is not required for this report, however there could be positive impacts for all groups as it is anticipated that the proposed changes will better facilitate the release of CIL funds for the improvement or introduction of Infrastructure which could better assist in equal opportunity for all and help foster good relations amongst the community. Information around the bidding and spending process and the proposed changes in alternative formats will be provided upon request.

11 Environmental sustainability implications

- 11.1 The proposed changes are not anticipated to directly have any negative Environmental Impacts. Each bid submitted to any of the CIL Pots is required to complete a CIL Bidding Form requesting details on Environmental Sustainability with regard to positive impacts and measures towards reducing the carbon footprint and providing a biodiversity net gain if applicable. Each bid will be assessed on its own merit and projects which are deemed a major risk to the environment or cannot show adequate mitigation measure shall not proceed to the next stage of the bidding process.

12 Appendices

None

13 Background papers

The background papers used in compiling this report were as follows:

- Lewes District Council CIL Spending Web-Page <https://www.lewes-eastbourne.gov.uk/planning-policy/community-infrastructure-levy-cil/community-infrastructure-levy-bidding-and-spending/>
- Lewes District Local Plan Part 1: Joint Core Strategy 2010-2030, May 2016 http://www.lewes-eastbourne.gov.uk/_resources/assets/inline/full/0/257159.pdf
- Infrastructure Delivery Plan, November 2019 https://www.lewes-eastbourne.gov.uk/_resources/assets/inline/full/0/286459.pdf
- Regulation 123 List, November 2015 <http://www.lewes->

- eastbourne.gov.uk/resources/assets/inline/full/0/255393.pdf
- Cabinet report – Community Infrastructure Levy Governance. November 2014 <https://democracy.lewes-eastbourne.gov.uk/Data/Lewes%20District%20Council%20Cabinet/201411201430/Agenda/2b1KknllKm8nnObiQYSSm4byT9Tw3.pdf>
 - Cabinet report – Community Infrastructure Levy Governance Review, November 2016 report <https://democracy.lewes-eastbourne.gov.uk/Data/Lewes%20District%20Council%20Cabinet/201611161430/Agenda/Jt6ocM0Ahw2ARi0bHWorFUuca5QKZK.pdf> and appendices <https://democracy.lewes-eastbourne.gov.uk/Data/Lewes%20District%20Council%20Cabinet/201611161430/Agenda/iFRRDudBfLOzln2qMmlg7lhIMUpFo1.pdf>