

Place Scrutiny Committee

23 July 2020

Dorset Council – Community Infrastructure Levy Governance Arrangements

For Recommendation to Cabinet

Portfolio Holder: Cllr D Walsh, Planning

Local Councillor(s): All

Executive Director: John Sellgren, Executive Director of Place

Report Author: Richard Dodson / Andrew Galpin

Title: Lead Project Officer - CIL and Planning Agreements / Infrastructure & Delivery Planning Manager

Tel: 01305 228583 / 01308 838214

Email: Richard.Dodson@dorsetcouncil.gov.uk

Andrew.galpin@dorsetcouncil.gov.uk

Report Status: Public

Recommendation:

That members of the committee consider the Community Infrastructure Levy (CIL) governance arrangements laid out in this report and recommend to Dorset Council Cabinet the following:

1. To agree these specific arrangements:
 - a) To spend CIL monies within the same geographical charging area from which they were levied, pre and post 31/8/19.
 - b) The CIL infrastructure spending priorities pre 1/9/19, as laid out in appendix C.
 - c) The mechanism for prioritisation and spend of CIL funded infrastructure pre and post 31/8/19, as set out in this report and appendix A.
2. To amend the Terms of Reference for Property Management Group (PMG) to enable it to scrutinise & prioritise infrastructure projects seeking funding from the Community Infrastructure Levy and provide recommendations to

Capital Strategy and Asset Management Group (CSAMG) / the Executive Director of Place regarding which projects should receive such funding.

3. To delegate to the Executive Director of Place in consultation with the Portfolio Holder Planning, the approval of the prioritisation, of CIL spend on behalf of the Council as reported to CSAMG.

Reason for Recommendation:

- i) To provide clarity, transparency and consistency in the allocation and spending of CIL receipts.
- ii) To set out the relationship between the Council as charging authority and key stakeholders and infrastructure providers (internal and external).
- iii) To ensure CIL receipts are spent on infrastructure required to support development, in accordance with the CIL Regulations 2010 specifically as amended in September 2019 ('the CIL Regulations').
- iv) To ensure CIL serves its purpose of supporting the delivery of the infrastructure necessary to support the development in Dorset

1. Executive Summary

- 1.1. The Council needs to establish a clear CIL Governance Structure to oversee the convergence of legacy council's CIL receipts and collection, auditing and spending of this and future CIL monies. The report proposes the key governance arrangements for the delivery of infrastructure through CIL to ensure CIL serves its purpose of contributing to the delivery of the infrastructure necessary to support development in Dorset.

2. Financial Implications

- 2.1. The Community Infrastructure Levy (CIL) together with Planning Obligations (s106) represent sources of funding to provide additional infrastructure or services necessary to enable or support development.
- 2.2. Such funding normally only represents a proportion of the total cost of the infrastructure. Therefore, additional funding from other sources may be required to deliver the infrastructure necessary. These sources include Department for Transport via Highways England and Network Rail, Department for Education, and specific grants including Grant in Aid from Defra, and Local Levy funding from Environment Agency.

2.3. CIL provides for an administration fee, as a process the administration is self-financing.

2.4. There are no VAT implications (CIL is o/s for VAT)

3. Climate Implications

3.1. The use of CIL to help provide supporting infrastructure, commensurate with development is a key component in ensuring there are sustainable integrated spatial plans for housing, infrastructure, employment and the environment at the towns, suburbs and rural areas.

- This will also contribute to developing plans which bring together different sectors or local government departments to achieve shared objectives. Examples could include strategies which exploit the connections between active travel and public health.

3.2. Without the necessary supporting infrastructure development would be less sustainable thereby having a corresponding effect on Climate change.

4. Other Implications

4.1. Infrastructure which is necessary to make development acceptable in planning terms will have implications for, inter alia sustainability; property and assets; public health, community safety and physical activity depending upon the nature of the development.

4.2. Stakeholders, including statutory bodies and voluntary organisations need to be aware of the availability of CIL, funding which may available towards appropriate infrastructure provision.

4.3. They need also to be engaged, going forward, in the identification of future CIL needs commensurate with the Dorset Local Plan development.

4.4. A proportion of CIL is 'top sliced' and is paid to neighbourhoods, town or parish councils proportionate to qualifying development in their area. This CIL must be spent on infrastructure and reported as such by the receiving body. This places an obligation on both the Council and these bodies in respect of the management of these funds.

5. Risk Assessment

5.1. Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: Medium

Residual Risk: Low

6. Equalities Impact Assessment

- 6.1. An EqIA screening has been carried out which has indicated that the governance arrangements do not require a full EqiA at this stage.

7. Appendices

- 7.1. Appendix A - CIL Prioritisation Scoring Matrix
- 7.2. Appendix B - Summary of CIL receipts and demand notices to 31 March 2020
- 7.3. Appendix C - Summary of Infrastructure Priorities pre-September 2019
- 7.4. Appendix D - Emerging Habitat Regulation Costs Chesil Beach & The Fleet

8. Background Papers

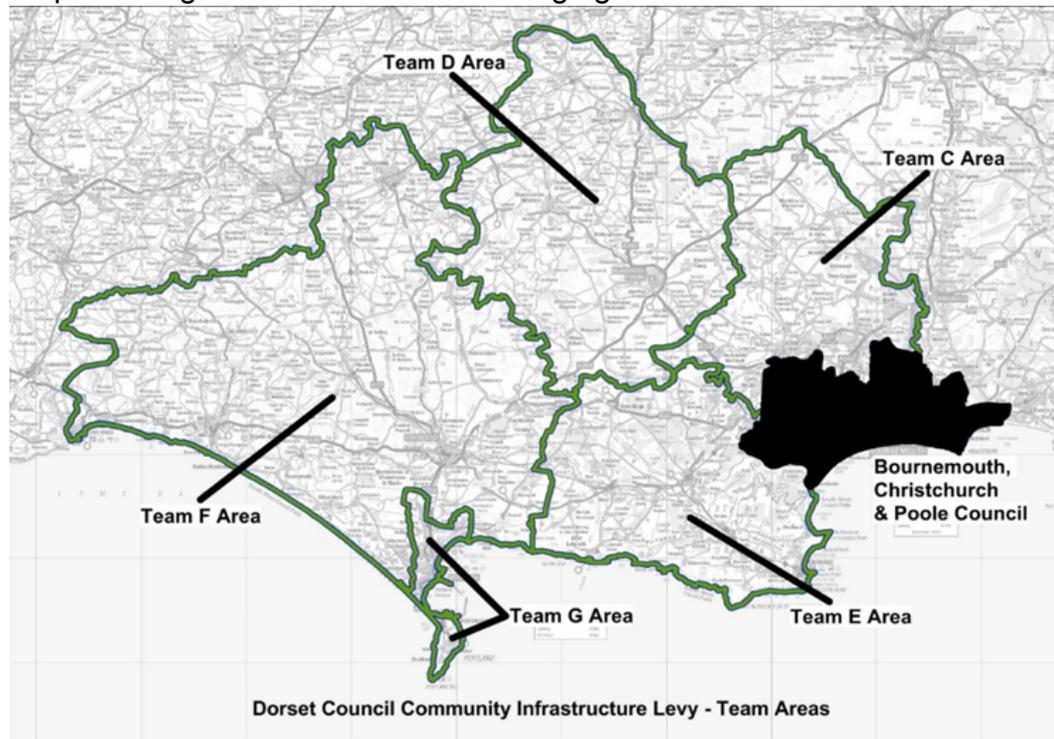
- 8.1. Community Infrastructure Regulations 1st September 2019
- 8.2. Regulation 123 lists for West Dorset, Weymouth & Portland, Purbeck and East areas
- 8.3. Chesil Beach 2019, Recreational Activity Strategy, Footprint Ecology (2019)
- 8.4. Supplementary Advice for Conservation Objectives (SACO) for Chesil Beach and The Fleet SPD, Natural England (2019)

9. Introduction and Background

- 9.1. CIL is one of three distinct mechanisms by which new development can contribute funding for the infrastructure needed to support it. Others being S106 Planning Obligations and s278 highway pre-requisites.
- 9.2. The Community Infrastructure Levy (CIL) Regulations have been amended several times since 2010. The latest amendments came into force on 1 September 2019. These latest amendments to the Regulations make a number of significant changes to the operation of CIL and Section 106 planning obligations, specifically giving councils greater flexibility over the identification of infrastructure priorities. These changes, together with LGR, are particularly relevant to Dorset Council now as a Unitary Authority.

- 9.3. The Community Infrastructure Levy is a charge which can only be implemented by a planning authority. In two tier authorities this would be a District or Borough Council – for CIL purposes these are known as ‘Charging Authorities’.
- Prior to LGR, except in North Dorset, all the Dorset district councils introduced CIL between 2014 and 2017.
 - It is proposed to develop a single charging Schedule for Dorset Council by 2023 in parallel with the Dorset Council Local Plan.
- 9.4. Prior to LGR for each Charging Authority the infrastructure to be funded from CIL was identified in a schedule known as the ‘Regulation 123 List’ (being Regulation 123 of the CIL Regulations). These lists also identified development which would be funded from s106 as, until September 2019, the CIL Regulations:
- did not allow s106 and CIL to be used for the same infrastructure
 - nor did it allow more than five s106’s to be ‘pooled’ for the same infrastructure.
- 9.5. This therefore required the separation of both funding streams and associated infrastructure. These Regulation 123 lists were specifically linked to infrastructure and development in each of the District Council areas and the corresponding charging schedules.
- 9.6. Since LGR, Dorset Council has become the CIL Charging Authority. The implications for this are:
- There is now one Charging Authority area - Dorset Council, rather than 4 areas - East, Purbeck, West and Weymouth & Portland.
 - There are four Charging Schedules and four Regulation 123 lists each corresponding to the former district areas.
 - CIL does not operate in the former North Dorset District Council area. s106 agreements are the sole obligations mechanism so there are different considerations here and will be reviewed as part of the development of a single charging schedule.

Map showing Dorset Council CIL Charging Areas



- 9.7. Following the regulation changes in September 2019, it is necessary to establish a mechanism for those CIL liabilities where a Demand Notice has been issued so that the receipts recovered are spent in accordance with each of the former District Councils' charging schedules and Regulation 123 lists. Thereafter it is necessary to establish a similar mechanism for Dorset Council CIL prioritisation and expenditure, recognising the changes in infrastructure needs.
- 9.8. This has corresponded with increasing pressure to further 'top slice' the CIL receipts for protected habitat mitigation and health, in addition to the previously identified priorities. Appendix D sets out some emerging habitat mitigation costs in respect of Chesil Beach and The Fleet where recent research and publication of updated Natural England advice has shown that new development in the vicinity would have an adverse impact on the integrity of the site. Using CIL as a mechanism for recovering the cost of this mitigation provides Dorset Council with an interim strategy that ensures that planning applications affecting this protected area can be appropriately assessed, in turn, helping to ensure the delivery of sustainable development. Moving forward, these emerging costs will be refined through the collection of further evidence and the CIL governance process itself.

- 9.9. Evidence around the cost of healthcare mitigation is currently in development with partners in the NHS and will similarly feed into the CIL governance process when complete.
- 9.10. The purpose of this report is thus to suggest, for recommendation to Cabinet, a clear CIL Governance Structure to oversee the collection, auditing and particularly spending of CIL monies for the following:
- Spending CIL liabilities recovered from Demand Notices issued until 31 August 2019, in each of the former district charging areas where the levy was predicated on each districts' infrastructure, charging schedule and Regulation 123 list.
 - Prioritising and spending CIL receipts recovered from Demand Notices after 1 September 2019, where each of the former district areas' charging schedule applies but the Regulation 123 list is deleted.

10. Community Infrastructure Levy Governance

- 10.1. The Community Infrastructure Levy is one way in which the Council collects contributions from developers for infrastructure provision to support development.
- 10.2. The legacy Councils did not have comprehensive, or consistent, governance arrangements. This is not however an issue since there were conscious decisions to allow the funding to accrue before significant expenditure was incurred. The money collected has now built to a meaningful amount to allow the Council to now apply the funding to projects. Appropriate governance arrangements, however, need to be established.
- 10.3. The Council has the responsibility for prioritising the spending of CIL. The overarching rule is that CIL must be spent on infrastructure to support the overall development of the area. Infrastructure includes transport improvements, roads, pedestrian and cycle routes, sports and community facilities, libraries, schools, flood mitigation and coast protection. CIL can be spent on both capital projects and revenue projects such as the maintenance of infrastructure.
- 10.4. On receipt, CIL payments are divided into three parts in line with the CIL regulations thus:

Neighbourhood Portion:

- 10.5. For communities without a 'made' Neighbourhood Plan 15% of CIL receipts are passed twice a year to those Parish Councils where development has taken place to be spent on local priorities (capped to a maximum of £100 (index linked) per existing council tax dwelling).
- 10.6. Communities with a 'made' Neighbourhood Plan (or in areas where there is a Neighbourhood Development Order) will receive 25% of the levy revenues arising from the development that takes place in their area. This amount will not be subject to a maximum limit.
- 10.7. Unparished areas will still benefit from the relevant neighbourhood portion however, in line with Government guidance, the charging authority will retain the CIL receipts and consult and engage with the community where development has taken place to establish how to spend the Neighbourhood funding.

Administration

- 10.8. 5% of the total amount of CIL collected in that year will be applied to administrative expenses incurred in that year. In line with government guidance, any unspent funds at the end of a year from the administrative portion will be treated as general funds.

Infrastructure Funding

- 10.9. The remaining funds (70% or 80% of the levy) be prioritised and committed to infrastructure identified in accordance with identified needs see Appendix C. CIL expenditure and infrastructure delivery is reported to Central Government under the CIL Regulations.
- 10.10. The former district councils CIL charge is supported by their respective Infrastructure Delivery Plans derived from their Local Plans which in turn set out the infrastructure required to support development. The CIL receipts are further indicatively apportioned as a percentage, or as a cost per dwelling to various infrastructure types and vary between each former district. The amount of CIL demanded (invoiced) and collected at the end of March 2020 is shown in Appendix B. Applicants are able to claim relief from CIL either in full or in part if a proposal includes affordable housing, is for a charitable purpose or is to be classed as self-build. The values shown in Appendix B take account of known claims for relief. A summary of infrastructure priorities pre-September 2019 is shown in Appendix C together with the value of Demand Notices issued at that time.

10.11. It is proposed that application of CIL funds to projects should remain as identified and prioritised as:

1. Receipts demanded to 31 August 2019 by type and percentage.
2. Receipts demanded post 1 September 2019 reassessed having regard to more up to date needs including those identified in Appendix D.

10.12. To this end the following Annual scrutiny and allocation process is suggested:

1. CIL value apportioned to each typology and relevant stakeholder advised of the value
2. Each stakeholder to provide (in a time scale) a case identifying specific projects to which the service would use CIL to fund (partially or fully). The case would include Proposal details, how the project supports development, Costs / Expenditure / sources of funding, Consents, Delivery Timescale
3. All cases are scored in line with the scoring criteria by the CIL Team and PMG, to ensure compliance with the CIL Regulations, fit to purpose of supporting development and Corporate priorities. If there is more than 1 project in each infrastructure type these will be assessed / scored against each other to optimise the benefit within the typology. (Scoring Matrix – Appendix A) The amount of money apportioned to a single project will be capped for fairness and balanced spend. Scored projects will be considered annually by this gives wider corporate sight and context and opportunity for combining projects.
4. Final selection reported to CSAMG
5. CSAMG makes recommendations to Dorset Council Cabinet
6. Operational decisions delegated to CIL team / Executive Director
7. Funds transferred to project for delivery.
8. Delivery agency reports back October each year for IFS timing to ensure project is delivered on time and budget. This information would be needed as part of the Infrastructure Funding Statement.

11. Conclusion

11.1. The Community Infrastructure Levy (CIL) is one important source of funding which can contribute to the cost of infrastructure needed to support development across the Council area.

11.2. To ensure consistent and equitable application of the money collected, we need to establish a clear CIL Governance Structure to oversee the convergence of legacy council's CIL receipts and collection, auditing and spending of this and future CIL monies. The report proposes the key

governance arrangements for the delivery of infrastructure through CIL to ensure CIL serves its purpose.

Footnote:

Issues relating to financial, legal, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report