

# Place and Resources Overview Committee

## 19 October 2021

### Review of Community Infrastructure Levy (CIL) Expenditure

#### For Recommendation to Cabinet

**Portfolio Holder:** Cllr D Walsh, Planning

**Local Councillor(s):** All

**Executive Director:** J Sellgren, Executive Director of Place

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**Report Status:** Public

#### Recommendation:

That members of the committee:

- (i) Review the implemented CIL governance arrangements as explained in this report.
- (ii) Recommend to Cabinet for approval the proposed changes to the governance arrangements as set out in this report including the 'minded to' recommendations from Place & Resources Scrutiny Committee 13<sup>th</sup> July 2021.

#### Reason for Recommendation:

To ensure the delivery of important infrastructure to support growth and development.

#### 1. Executive Summary

On the [23<sup>rd</sup> July 2020](#), members of Place Scrutiny Committee considered and approved governance arrangements that would enable the spend of monies

collected through Dorset Councils' four Community Infrastructure Levy (CIL) area charging schedules. The findings of that committee were subsequently considered and approved by Cabinet on the [28<sup>th</sup> July 2020](#).

These decisions paved the way for the first round of CIL spend to take place in the autumn of 2020 with funding recommendations reported to Cabinet on the [19<sup>th</sup> January 2021](#). Members of Cabinet resolved to agree approximately £3m of CIL funding across 37 infrastructure projects within the Dorset Council area.

The report looks back on the implementation of the CIL governance arrangements for the purposes of post-decision policy development which will serve to ensure the continued delivery of important infrastructure. In fulfilling this, the report looks at the local and national planning context behind the arrangements and decisions to help explain what the council is trying to achieve.

Place and Resources Scrutiny Committee reviewed the CIL arrangements at their meeting of the [13<sup>th</sup> July 2021](#). The Executive Director for Place agreed to progress the committees 'minded to' recommendations. This report largely mirrors that considered by Place and Resources Committee in July, with the 'minded to' recommendations incorporated and set out in the following report paragraphs:

- 9.5 (monitoring arrangements)
- 9.9 (scope of spend, geographical)
- 9.10 (scope of spend, infrastructure type and proportion)
- 10.2 (general communication with town and parish councils)
- 10.3 (upfront community with town and parish councils ahead of funding windows)
- 10.5 (review of scoring process)

## **2. Financial Implications**

The Community Infrastructure Levy (CIL) together with Planning Obligations (s106) represent additional sources of developer contribution funding to provide infrastructure or services necessary to enable or support development.

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.

Dorset Council recovers the cost of administering the Community Infrastructure Levy by top slicing 5% of each CIL payment. That income covers the cost of staff responsible for the collection and processing of the levy and associated systems and implementation costs. The governance arrangements require no additional corporate expenditure.

### **3. Well-being and Health Implications**

Provision of infrastructure, which, for instance, facilitate cycling or walking or provide health facilities to support development's future needs are important for individuals' and communities' wellbeing and contribute to healthier environments and support people's health and wellbeing.

### **4. Climate implications**

The use of CIL and s106 agreements 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.

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

### **5. Other Implications**

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.

Stakeholders need to be alert to the availability of developer contribution funding. They need also to be engaged going forward in the identification of future CIL and S106 needs commensurate with the Dorset Local Plan evolution.

A proportion of CIL is 'top sliced' and paid to neighbourhoods or parish councils proportionate to qualifying development in their area – details of amounts given over can be found on [dorsetcouncil.gov.uk](http://dorsetcouncil.gov.uk) . This CIL must be spent on infrastructure and reported by the spending body. This places an obligation on both the Council and these organisations in respect of the management of these funds.

### **6. Risk Assessment**

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

Current Risk: Low

Residual Risk: Low

## **7. Equalities Impact Assessment**

An Equalities Impact Assessment scoping report was undertaken to inform the governance arrangements agreed by Cabinet in July 2020. The agreed assessment criteria contained equalities questions. It is expected that funded projects will undertake an EqlA in their own right.

## **8. Appendices**

Appendix A – summary of round 1 infrastructure projects to be funded in full or part by CIL.

## **9. Background**

- 9.1 Community Infrastructure Levy is a developer contribution tool used by Dorset Council to secure financial contributions from new development. Contributions through the tool are secured by charging schedules which apply non-negotiable rates by floorspace for specific development types. Income from this process is used to assist the delivery of infrastructure needed to support development.
- 9.2 CIL has been operating within parts of the Dorset Council area since 2014 and continues to operate on an area basis via the charging schedules established by the predecessor councils. The former North Dorset area is the only area currently not operating CIL with developer contributions sourced from s106 legal agreements instead. It is anticipated that the area charging schedules will be replaced by a single charging schedule covering the entire Dorset Council area in 2023.
- 9.3 Regulations underpinning CIL require income to be split three ways.
1. Proportion to be retained by the collecting authority (Dorset Council)
  2. Proportion to be transferred to the town or parish where development takes place (15% or 25%)
  3. Proportion to recover the cost of implementing and administering the Levy (up to 5%)
- 9.4 The proportion passed to town and parish councils increases to 25% where there is an adopted neighbourhood plan. The Dorset Council website [dorsetcouncil.gov.uk](http://dorsetcouncil.gov.uk) provides details of the payments transferred to town and parish councils, in total, this transfer amounts to approximately £1.96m. Government regulation places fewer restrictions on how town and parish councils can spend their share of CIL and officers work proactively to advise how this money can be spent. Town and parishes are required to report on the spend of CIL through their websites.

Dorset Council captures this and other information in its own comprehensive developer contribution monitoring return called the Infrastructure Funding Statement, published annually each December.

**9.5 Place & Resources Scrutiny Committee ‘minded to’ recommendation**

*- To agree a method for regular monitoring of CIL performance (suggestions made – through the council’s performance framework or the Annual Infrastructure Funding Statement produced in December each year which includes performance information).*

9.6 The reason for this recommendation was to help ensure regular reporting back to members, particularly with regard to the delivery of CIL funded projects.

**10. Infrastructure within the scope of CIL**

10.1 National planning guidance requires local authorities to spend the levy it retains on infrastructure needed to support the development of their areas and to decide what infrastructure is necessary. Without controls, it can take just a couple of major infrastructure projects such as flood defence or education provision to deplete the available funding. Conversely, too many infrastructure projects can undermine the ability to deliver strategic and meaningful infrastructure. Spending of CIL that is retained by Dorset Council therefore needs to be controlled for a number of reasons, namely that the right infrastructure is delivered in the right place at the right time.

10.2 In July 2020, Place Scrutiny Committee and Cabinet considered and agreed governance arrangements for the expenditure of CIL retained by Dorset Council. Those arrangements and decisions have helped ensure that that spending decisions accord with the principles of planning guidance and legislation.

10.3 Infrastructure categories identified by the predecessor councils were the focus for spending arrangements. The categories were established through Regulation 123 lists – a requirement by government to set out priorities for CIL spend. Regulation 123 was removed on the 1<sup>st</sup> September 2019 through government reforms to the planning system but members of Cabinet agreed to honour the infrastructure categories set via these lists and ringfence CIL monies demanded (invoiced) up until that point (£5,160,040). Members also agreed to limit the spend of CIL in the charging area from which it was collected.

**10.4 Place & Resources Scrutiny Committee ‘minded to’ recommendation**  
*Under the new Dorset Council Local Plan, CIL money to be spend Dorset-wide.*

10.5 The reason for this recommendation was to ensure that CIL could adequately support the delivery of infrastructure that affects more than one charging area, e.g. rural bus services.

10.6 **Place & Resources Scrutiny Committee ‘minded to’ recommendation**  
*Re-evaluate the categories and proportions for spend set by the former councils, with the aim of ensuring best value for residents in how CIL monies are spent*

10.7 The reason for this recommendation was to ensure that Overview Committee consider changing the categories and proportions to ensure spend meets up to date infrastructure needs in light of Local Government reorganisation.

## **11 Governance arrangements as implemented**

11.1 In simple terms, the governance arrangements as implemented saw an officer-led approach in consultation with portfolio holders identify infrastructure projects in relation to available infrastructure categories. Service areas were encouraged to engage with town and parish councils on prospective expressions of interest for CIL where necessary.

11.2 **Place & Resources Scrutiny Committee ‘minded to’ recommendation**  
*- Regular communications to take place with town and parish councils to raise awareness of the CIL process and to provide advice so that they can engage in the process.*

11.3 This reason for this recommendation was to help improve awareness of how CIL operates, for example, through webinars and engagement programmes with the Dorset Association of Parish and Town Councils (DAPTC).

11.4 **Place & Resources Scrutiny Committee ‘minded to’ recommendation**  
*- An increased level of ‘up-front’ community engagement to be built into the process through working with town and parish councils in advance of the funding window to get input on their priorities for spend. Recognition of the role for town and parish councils in bringing the communities’ views forward*

11.5 Expanding on this recommendation, this was suggested in response to concerns raised over the level of engagement with town and parish councils at round one stage. Up-front engagement might include signposting town and parish councils to CIL receipts and projects which are on the DC radar in advance of the next funding window.

- 11.6 [Scoring criteria](#) to assess bids had been approved as part of the governance arrangements. The scoring criteria took into consideration many factors including the statutory functions of the council, timescales, the level of community engagement and match funding. Many of the projects submitted in round one demonstrated engagement with the community in some shape or form, for example, through the Local Transport Plan or through bespoke consultation arrangements.
- 11.7 **Place & Resources Scrutiny Committee ‘minded to’ recommendation**  
- *To review the scoring process.*
- 11.8 The reason for this recommendation was to ensure that the current scoring mechanism places greater weight on community needs as opposed to strategic needs.
- 11.9 The scoring criteria were used to assess a first round of expressions of interest in CIL submitted during November 2020. Recommendations from this process flowed through to Cabinet in January 2021 where it was agreed to commit approximately £3m of CIL to 37 projects across the Dorset Council area.
- 11.10 Since this decision, approximately £440,000 of CIL expenditure has helped deliver infrastructure projects including the purchase of land to mitigate the impacts of nutrient enrichment in Poole Harbour; new footway construction in Sherborne and improvements to clinical services at Dorset County Hospital.
- 11.11 Some of the infrastructure categories that were within scope for bids in round one contained pre-existing commitments with external stakeholders. Long-term commitments include the delivery (in part) of Weymouth Town Centre strategic flood defences. Without this commitment to using CIL, there is the potential that restrictions would be placed on development in that area.
- 11.12 Other infrastructure commitments in Dorset relate to habitat protection, (heathlands, nitrates and recreational pressures) with similar development conditions a possibility. Protected habitats are recognised by national and local planning policy and bespoke arrangements are now in place across Dorset to identify and enable mitigation projects which are reactive to change and different wildlife conditions. The arrangements have been developed through the three new mitigation steering groups who have jointly set up an agreed process. Natural England, who are represented on each steering group provide the final say on habitat mitigation delivery. A mitigation matrix and scoring criteria ensure that any project proposed provides the appropriate mitigation, details what outcomes will be achieved, any risks, the monitoring and any maintenance requirements.

The steering groups also provide ongoing advice to proposed projects on a regular basis and ensure that all final projects seeking mitigation funding meet the relevant mitigation criteria. Mitigation coordinators produce an annual report at the end of the financial year detailing the range of work and projects delivered and outlining the mitigation each project has delivered against the houses built.

11.13 Where these habitat regulation commitments exist, the distinct set funding-round nature of the approved CIL governance arrangements, i.e. twice yearly opportunities to bid for CIL funding, could compromise opportunities to secure and deliver habitat infrastructure that may be time-constrained, e.g. land purchase. In addition to the minded to recommendations within this report it is also recommended that the following pre-existing habitat mitigation commitments are removed from the scope of the general CIL spending arrangements going forward in order to resolve any future timing conflict and improve efficiency in the delivery of infrastructure leaving Habitat mitigation via CIL to be managed by the steering groups identified in para 11.12.

- Dorset Heathlands (£293,535)
- Poole Harbour Recreation (£21,932)
- Poole Harbour Nitrates (£80,686)

Total £396,153.83

11.14 Retaining control over the availability of funding in the remaining 'in-scope' categories would ensure that funding remains optimised enabling a further call for expressions of interest to take place following consideration by Cabinet on the 8<sup>th</sup> November 2021.

11.15 The further call for expressions of interest could then focus on uncommitted CIL carried over from round one (£1.75m) as well as funding to recycle, i.e. funding no longer required or in excess of target cost as expressed in a bid (£83.6k). The funding available to round two would be approximately £1.83m. The table in paragraph 11.17 sets this out further.

11.16 By focusing round two expenditure on CIL carry-forward, CIL funding demanded from September 1st 2019 onwards will have further time to accrue in to meaningful amounts. This is important given that decisions on the spend of that money will no longer be governed by the regulation 123 infrastructure categories. The need to honour the commitments as described in this report will remain in order to ensure development continues to take place in affected areas.

11.17 A summary of the financial position as set out in this report is set out below.

2020/21 round 1 actual spend	£439,901
2021/22 round 1 committed spend	£1,300,373
2022/23 round 1 committed spend	£701,686
2023/24 round 1 committed spend	£485,931
<b>Total spend (actual and committed) from round 1</b>	<b>£2,927,891</b>
Recycled (from round 1)	£83,640
Uncommitted	£1,752,354
<b>Total available for round 2</b>	<b>£1,835,994</b>
Out of scope (for round 2)	£396,153

**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.