

Cabinet

8 November 2021

Review of Community Infrastructure Levy (CIL) Expenditure

For Decision

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:

To approve changes outlined in paragraphs 11.4, 12.5, 13.11, 13.12, and 14.5 of this report relating to governance arrangements for Community Infrastructure Levy (CIL) expenditure following examination by Place & Resources Scrutiny Committee 13th July 2021 and Place & Resources Overview Committee 19th October 2021.

Reason for Recommendation:

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

1. Executive Summary

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.

Governance arrangements for the expenditure of Community Infrastructure Funds collected by Dorset Council were approved by Cabinet in July 2020.

Those arrangements have enabled approximately £3m of CIL funds to support 37 wide-ranging infrastructure projects across the Dorset Council area. To ensure the continued delivery of important infrastructure, a review of the approach to CIL expenditure has since taken place with both [Place & Resources Scrutiny Committee](#) and [Place & Resources Overview Committee](#) reviewing the arrangements to ensure that the right information is delivered in the right place at the right time.

The recommendations to and the findings of Place & Resources Overview Committee form the basis of this report.

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. 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 EqIA in their own right.

8. Appendices

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

Appendix B – Minute extract from Place and Resources Scrutiny Committee, 19th October 2021

9. Background Papers

None

10. Background

- 10.1 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.
- 10.2 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 exclusively 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.
- 10.3 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%)
- 10.4 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 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.
- 10.5 In July 2020, Place Scrutiny Committee and Dorset Council 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.
- 10.6 In July 2021, Place & Resources Scrutiny Committee undertook a post-decision review of CIL governance. Their 'minded-to' recommendations

were considered by Place & Resources Overview Committee on the 19th October. These minded-to recommendations cover a range of aspects within the governance arrangements.

- 10.7 The following sections of the report expand on the purpose of the recommendations and the approach being proposed to address them.

11. Performance and Monitoring

- 11.1 Members of Place and Resources Scrutiny Committee sought regular performance monitoring of CIL ensuring it captured progress with the delivery of CIL funded infrastructure projects. Members of Place and Resources Overview supported this recommendation.
- 11.2 As noted in paragraph 10.4, Dorset Council has a duty to report on the collection and spend of developer contributions including CIL through an Infrastructure Funding Statement, a requirement of the Community Infrastructure Levy Regulations (as amended). The statement is published online and submitted to government at the end of each calendar year.
- 11.3 The statement provides a detailed record of income and expenditure for both Community Infrastructure Levy and planning obligations (s106) for the preceding financial year. The report covers balances held, commitments and spend. Officers will ensure that links to the published report will be shared amongst all Dorset Councillors and town and parish councils at the point of publication. The report will be easily accessible on the council's website and prepared in a format which can be easily shared and understood.
- 11.4 It is recommended to Cabinet that Dorset Council uses the Infrastructure Funding Statement to update members on progress with developer contributions. The findings could also be reported in the quarterly finance reports to Cabinet.

12. Scope of Community Infrastructure Levy CIL spend – geographical

- 12.1 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.
- 12.2 In July 2020, Dorset Council Cabinet agreed to limit the spend of CIL in the charging area from which it was collected. This decision has helped ensure that the benefit of CIL remained local, particularly in light of

predecessor council legacy infrastructure commitments which informed the scope of CIL spend.

- 12.3 It is anticipated that the area charging schedules will be replaced by a single charging schedule covering the entire Dorset Council area in 2023. With that in mind, Members of Place and Resources Overview were asked to consider the idea of removing the area boundaries on adoption of a replacement charging schedule to enable monies to have a far greater reach geographically enabling the delivery of projects which cut across the entire administrative area, for example rural bus services.
- 12.4 Members of Place and Resources Overview Committee supported this recommendation.
- 12.5 It is recommended to Cabinet that the principle of widening the scope of CIL spend beyond current geographical limits set by the charging areas is taken forward when Dorset Council adopts and implements a replacement single charging schedule across Dorset Council.

13. Scope of Community Infrastructure Levy spend – infrastructure type and proportion

- 13.1 Infrastructure categories identified by the predecessor councils have been the focus for the current spending arrangements – see Appendix A. The infrastructure categories were established through Regulation 123 lists – a requirement by government for local authorities to set out priorities for CIL spend. Government reforms which were brought into effect on the 1st September 2019 removed Regulation 123, but despite this change, members of Cabinet previously agreed to honour the infrastructure categories set via these lists and ringfence CIL monies demanded (invoiced) up until that point (£5,160,040).
- 13.2 Members of Place and Resources Overview Committee were asked to consider the principle of re-evaluating 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. This suggestion was also offered to ensure that spend meets up to date needs in light of Local Government reorganisation.
- 13.3 CIL funds collected by Dorset Council following the withdrawal of Regulation 123, i.e. after August 2019, will not be subject to the same categories or proportions as agreed by the predecessor councils, in other words, priorities will change and may become more flexible. However, some funding commitments will still need to be maintained in order to ensure development continues to take place, for example, areas affected by protected habitats and high flood risk.

13.4 Protected habitats (heathlands, Poole Harbour etc.) are recognised by national and local planning policy and bespoke arrangements are now in place across Dorset to identify and enable mitigation projects (nitrate and recreational pressures etc.) which are reactive to change and different wildlife conditions. The arrangements have been developed through 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.

13.5 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. Place and Resources Overview Committee agreed that 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 13.4.

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

Total £396,153

13.6 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 this Cabinet.

13.7 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 at paragraph 13.9 sets this out further.

13.8 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. However, the need to honour the infrastructure commitments described in paragraph 13.4 of this report will remain to ensure that development continues to take place in affected areas. In due course, officers will come back to members separately on the post September 2019 CIL balances available to spend once the commitments have been fully costed and taken into account.

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

CIL funds – Implementation to September 2019

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
Total spend (actual and committed) from round 1	£2,927,891
Recycled (from round 1)	£83,640
Uncommitted	£1,752,354
Total available for round 2	£1,835,994
Out of scope (for round 2)	£396,153

13.10 Members of Place and Resources Overview Committee supported the principle of re-evaluating the categories and proportions for spend but did not offer any changes to the infrastructure categories and proportions which are currently set.

13.11 It is recommended to Cabinet that infrastructure categories associated with habitat mitigation are removed from the scope of the next spending round.

13.12 Furthermore, it is recommended to Cabinet that the categories and proportions for the remaining in-scope infrastructure are revisited following the completion of the next spending round when further information will be presented about infrastructure needs associated with planned growth.

14. Engagement

14.1 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.

- 14.2 Members of Place and Resource Overview Committee were asked to recognise the role of town and parish councils in bringing the communities' views forward and support general improvements to the way in which officers engage with town and parish councils to raise awareness of the CIL and provide advice on how they can engage more actively in the process. In addition, members of Place and Resources Overview Committee were asked to consider increasing the level of 'up-front' community engagement into the process through working with town and parish councils in advance of the funding window to get input on their priorities for spend.
- 14.3 Members of Place and Resources Overview Committee supported the need for greater engagement with town and parish councils and awareness of the developer contribution process and sought clarification on member engagement in future spending rounds.
- 14.4 Officers are actively pursuing a programme of briefings via the Dorset Association of Parish and Town Councils to facilitate greater awareness of CIL and developer contributions. In addition, officers will engage with Town and Parish Councils and Dorset Council Members over the availability of CIL ahead of the next spending round. In doing so, officers will outline the value of neighbourhood proportions transferred, and encourage town and parishes to work collaboratively with Dorset Council and community groups as necessary to identify appropriate infrastructure projects that meet the needs of development.
- 14.5 It is recommended to Cabinet that the measures to support 'up front' engagement with town and parish councils including the measures to support greater awareness of developer contributions as set out in paragraph 14.4 are implemented as part of future spending rounds.

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.