

WAVERLEY BOROUGH COUNCIL

COUNCIL

11 DECEMBER 2018

Title:

COMMUNITY INFRASTRUCTURE LEVY – GOVERNANCE ARRANGEMENTS

**[Portfolio Holder: Cllrs Kevin Deanus & Ged Hall]
[Wards Affected: All]**

Summary and purpose:

The purpose of this report is to seek approval for the proposed governance arrangements for the allocation and spending of the Community Infrastructure Levy (CIL) in Waverley.

How this report relates to the Council's Corporate Priorities:

The adoption of robust CIL Governance Arrangements will contribute to Council's Strategic Priorities of Place and Prosperity, through the allocation of funding to enable provision of infrastructure that supports communities and economic growth in the Borough.

Equality and Diversity Implications:

There are no direct Equality and Diversity Implications arising from the CIL Governance Arrangements. There are no specific equality groups that will be directly affected the proposed arrangements. It is expected that all residents/businesses will benefit from improvements to infrastructure in their local area and the Borough as a whole.

Financial Implications:

During the CIL Examination, it was estimated that CIL has the potential to raise approximately £94m towards infrastructure development in Waverley in the period up to 2032. This report proposes a governance system to determine how to spend the receipts collected from the CIL.

Legal Implications:

The governance arrangements will be implemented in accordance with the CIL Regulations 2010 (as amended) ('the Regulations') and will also take account of Planning Practice Guidance.

Background

1. The Community Infrastructure Levy (CIL) is a charge that local authorities can impose on new development to help raise funds to deliver infrastructure that is required to support the development and growth of their area.
2. Following independent examination, the Waverley Borough Council CIL Charging Schedule ('the CIL Charging Schedule') was adopted by Full Council on 31 October 2018 and will be effective from 1 March 2019.

3. CIL will, in most cases, replace the use Section 106 contributions for securing developer funding for infrastructure investment. However, Section 106 planning obligation will remain for site-specific infrastructure and for the provision of affordable housing. CIL will be a more effective source of infrastructure funding compared with contributions negotiated under S106 agreements as the CIL is non-negotiable and apply to a greater number of developments. This provides greater certainty to both the developer and the Council.
4. Waverley's Regulation 123 List sets out the types of infrastructure that the Council may fund through CIL and those to be funded through Section 106 agreements. The Regulation 123 List, Instalment Policy, and Phasing and CIL-in-kind Policies were also adopted by Council on 31 October 2018.
5. CIL contributions are intended to fill infrastructure funding gaps and are not expected to provide the full costs associated with delivering and maintaining infrastructure. The Council must use the CIL funds for "the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area". The CIL cannot be used to resolve "historical deficits" of infrastructure provision.
6. During the CIL Examination, it was projected that Waverley's CIL income would be £94 million for the remainder of the Plan Period.
7. It should be noted that CIL is payable on the commencement of the development. This factor, alongside Waverley's adopted instalment policy, will mean there is a time lag in receiving CIL receipts and the Council is unlikely to have significant CIL receipts until 2020.
8. In order to ensure a consistent and transparent approach to future spending of CIL, which adheres to the CIL Regulations and has regard to the Infrastructure Delivery Plan (IDP), it is important that the Council adopts clear process of governance for allocating CIL funding.
9. The VFM O&S committee received a report in June 2018 setting out broad principles for spending, including: timely spend based around a periodic bidding/application cycle; decisions on spending the CIL Fund, and transparency of decision-making and reporting.
10. The Committee was keen that spending of CIL had some connection back to the geographical area in which the donor development would take place, and that decision-making was informed by Members from across the Borough, e.g. one from each Area Planning Committee.

Governance Arrangements for the CIL

11. The Regulations state that the CIL is to be allocated as follows:
 - Administrative CIL: 5% of CIL receipts to be retained by Waverley Borough Council (see paragraph 12 below).
 - Neighbourhood CIL: 15%-25% of CIL receipts to be paid to Town and Parish Councils (see paragraphs 13 to 15 below).
 - Strategic CIL: the remaining 70-80% of CIL to be allocated to infrastructure projects by Waverley Borough Council (see paragraphs 16 to 22 below).

Administrative CIL

12. The Regulations allow the Council to retain up to 5% of annual CIL receipts to be spent on the administrative expenses in relation to the administration and collection of the CIL. Administrative expenses have and will include: examination costs (upfront and possible future costs following review), staff, training, IT software and indexation subscriptions. This money is ring-fenced and has to be reported on annually.

Neighbourhood CIL

13. In line with the Regulations, 15% of CIL receipts (capped at £100 per Council tax dwelling per annum in the parish area) will be transferred to Town and Parish Councils twice a year, where development has occurred in their area, rising to 25% of CIL receipts (without any cap) for Town and Parish Councils that have made Neighbourhood Plans.
14. The Neighbourhood CIL may be spent by Town or Parish Councils on a range of infrastructure projects, as long as it meets the requirement to support:
 - the development of the area by funding the provision, improvement, replacement, operation or maintenance of infrastructure; or
 - anything else that is concerned with addressing the demands that development places on the area.
15. Town and Parish Councils must produce and publish an annual report detailing CIL receipts, balances and spending for each financial year.

Strategic CIL

16. There are a number of administrative arrangements that will need to be put in place in regards to the allocation and spending of Strategic CIL receipts. Governance arrangements for CIL do not need to be published for consultation or independent examination. The operational aspects of the Strategic CIL governance arrangements will be put in place by the appropriate internal services.
17. Strategic CIL receipts must be spent on infrastructure types identified in the Regulation 123 List. The Infrastructure Delivery Plan (IDP) will act as a framework for allocating Strategic CIL funding, in accordance with the arrangements set out in this report. The IDP sets out specific projects, relating to the identified types of infrastructure in the Regulation 123 List. There is an Environment O&S working group that is currently considering this list.
18. Officers have considered and discussed the CIL governance structures that have been introduced by other Local Authorities and have also met with Surrey County Council (SCC) as the largest value infrastructure provider in the Regulation 123 List.
19. The Council will need to set up a governance system for the allocation and spending of Strategic CIL receipts. It is recommended that a CIL Advisory Board should be established, comprising appropriate Executive Portfolio Holders and non-Executive Members (a total of 7 Members, of which non-Executive Members are in the majority). The proposed initial membership will be the Portfolio Holders for Finance, Operational & Enforcement Services, and Economic & Community Development and four non-Executive Members, to be appointed. The Board will set and review the criteria and approach to spending priorities and consider whether any of the fund should be allocated for a specific purpose. The Board will review all valid funding

applications and make recommendations to the Executive on which projects should be allocated funding.

20. It is recommended that the allocation of Strategic CIL receipts is considered on an annual basis with infrastructure providers submitting applications for an allocation of CIL funding. The allocation process will be based on CIL income from the previous financial year, together with any unallocated funds from the previous financial years, to ensure that investment of funds is timely in relation to when they are received.
21. The following stages and timescales for the Strategic CIL governance process are proposed:

Dates	Process
by 28 February 2019	CIL Advisory Board agrees criteria and spending priorities.
31 March 2020	End of 2019/2020 CIL financial year – CIL receipts totalled.
April–June 2020	Bids can be submitted for applications for an allocation of the Strategic CIL receipts
July – August 2020	Applications will be validated by the CIL officer to ensure that all information required has been provided.
September 2020	All valid applications will be reviewed by the CIL Advisory Board and recommendations for funding submitted to the Executive.
October 2020	Decisions will be made by the Executive, informed by the recommendations of the CIL Advisory Board

22. It is proposed that these governance arrangements be reviewed after 1-2 years of operation to provide an opportunity to reflect on lessons learned. However, if it is found that there is a fundamental problem with the arrangements put in place, the Council will be able to review them at any time.
23. The Council is required to prepare and publish an annual report detailing CIL receipts, balances and spending for each financial year; which will be reported to members as part of the Council’s regular financial monitoring procedures.
24. The Council has also procured a real-time ‘Public Facing Module’, as part of the CIL IT system (Exacom), which will allow the public to see details of CIL collection, management and spending in Waverley.

Comments from Value for Money & Customer Service Overview and Scrutiny Committee

25. The Value for Money and Customer Service O&S Committee considered this report at its meeting on 19 November and made the following observations:
26. The Committee noted that CIL could potentially generate up to £94m towards infrastructure in the period up to 2032 and emphasised the importance of having a robust process and governance structure in place to manage this.

27. The Committee noted that the CIL Regulations did not require CIL money to be allocated to the specific area from where the charge arose. Members recalled that at the Committee's June meeting, where this matter had previously been considered, it was felt that there should be at least some connection between area where development was taking place (causing CIL funding to arise) and where the money would be spent. The Committee recommended that the new CIL Advisory Board be asked to consider the pros and cons of this approach when drafting the allocation criteria.
28. Members also considered the proposed composition of the CIL Advisory Board, and suggested that this be geographically proportionate as far as possible, to ensure that both rural and urban areas were represented.
29. The Committee noted the ability of the Council to retain up to 5% of annual CIL receipts to be spent on administrative expenses and felt that it should be made clear that the Waverley would only spend what was needed in order to effectively and efficiently deliver CIL.
30. The Committee carefully considered the proposed recommendations that the Executive would be recommending to Council. It was felt that while the CIL Advisory Board should draft the detailed criteria for the spending of Strategic CIL receipts, the final approval of the allocation criteria should come to Council. It was also suggested that there should be a financial threshold over which decisions to spend funds would need to be approved by Council (as was currently the case with the Property Investment Strategy).
31. The Committee therefore agreed to recommend the following amendments (in bold type) to recommendations 4 and 5:

It is recommended that the Council:

4. Delegate to the CIL Advisory Board the **drafting** of the detailed criteria for the spending of Strategic CIL receipts and any proposals for allocating proportions of the Strategic CIL Fund for specific purposes, **which will then be subject to Council approval following the usual scrutiny process.**
5. **Subject to an agreed threshold to be approved by Council**, delegate to the Executive the approval of Strategic CIL Fund spending after consideration of the recommendations from the CIL Advisory Board.

Recommendation

The Executive recommends to Council that:

1. The governance arrangements for the allocation and spending of Strategic CIL receipts as set out in this report be approved.
2. A CIL Advisory Board is established, as set out in paragraph 19.
3. Strategic CIL receipts are held in a Strategic CIL Fund, to be allocated to infrastructure identified in the Infrastructure Delivery Plan, in accordance with the Regulation 123 List.

4. Delegated authority is given to the CIL Advisory Board to agree the detailed criteria for the spending of Strategic CIL receipts and any proposals for allocating proportions of the Strategic CIL Fund for specific purposes.
5. Delegated authority is given to the Executive to approve Strategic CIL Fund spending, after consideration of the recommendations from the CIL Advisory Board.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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