

WAVERLEY BOROUGH COUNCIL

**VALUE FOR MONEY AND CUSTOMER SERVICE OVERVIEW & SCRUTINY
COMMITTEE – 18 FEBRUARY 2019**

EXECUTIVE – 12 MARCH 2019

COUNCIL – 19 MARCH 2019

Title:

CIL GOVERNANCE ARRANGEMENTS – CRITERIA AND FINANCIAL THRESHOLDS

**[Portfolio Holder: Cllr Kevin Deanus]
[Wards Affected: All]**

Summary and purpose:

On 11 December 2018, Council approved outline governance arrangements for the allocation of Community Infrastructure Levy (CIL) receipts to enable the delivery of specific infrastructure projects that will support and mitigate impact of development in the Borough over the Local Plan period.

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

The adoption of robust CIL Governance Arrangements will contribute to the 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 by 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 by Waverley's consultant that the CIL could potentially raise up to £94m towards infrastructure development in Waverley in the remainder of the Plan period up to 2032, assuming that the entire housing target is delivered during this time. The CIL Regulations 2010 (as amended) ("the Regulations") allow up to 5% of CIL receipts to be used for the administration costs of operating 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 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. Waverley's Regulation 123 List sets out the types of infrastructure that the Council may fund through CIL and those that will continue 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.
4. 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.

Governance Arrangements for CIL at Waverley

5. On 11 December 2018, Council approved outline governance arrangements for the allocation of Community Infrastructure Levy (CIL) receipts to enable the delivery of specific infrastructure projects that will mitigate the impacts of new development and support economic growth. The council agreed the establishment of a CIL Advisory Board that will consider bids for CIL in the future, but initially it was charged with developing the detailed governance arrangements, specifically:
 - drafting the detailed criteria for the spending of Strategic CIL receipts and any proposals for allocating proportions of the Strategic CIL Fund for specific purposes; and;
 - identifying a threshold for the delegation to the Executive of the approval of Strategic CIL Fund spending after consideration of the recommendations of the CIL Advisory Board.
6. Since Council, the CIL Advisory Board has been convened, with membership comprising:

Portfolio Holder for Planning (Operations)	Cllr Kevin Deanus
Portfolio Holder for Economic Development	Cllr Jim Edwards
Portfolio Holder for Finance	Cllr Ged Hall
Non-Executive Members x 4:	Cllr Brian Adams
	Cllr David Beaman
	Cllr Mary Forsyszewski
	Cllr Peter Martin
7. The Board has reviewed and agreed in principle draft Terms of Reference and these are attached at Annexe 1 to be endorsed by Council.
8. 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.
- Neighbourhood CIL: 15%-25% of CIL receipts to be paid to Town and Parish Councils. 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. This rises to 25% of CIL receipts (without any cap) for Town and Parish Councils that have made Neighbourhood Plans. 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.
- Strategic CIL: the remaining 70-80% of CIL – the Strategic CIL Fund - is to be allocated to infrastructure projects by Waverley Borough Council. In allocating CIL funds to projects it will be important to maintain the strong link with the infrastructure categories set out on the Regulation 123 List, and projects identified in the Infrastructure Delivery Plan (IDP). The Regulations require that CIL funding must be for the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area. CIL 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.

Criteria for spending of Strategic CIL Fund receipts

9. The CIL Advisory Board reviewed draft criteria and a scoring framework for evaluating bids for infrastructure from the Strategic CIL Fund. The broad criteria headings proposed are:
- i. Delivering growth (up to 45 points/120)
 - ii. Community support (up to 25 points/120)
 - iii. Project cost (up to 25 points/120)
 - iv. Deliverability (up to 25 points/120)

The draft project evaluation template is attached at Annexe 2 and is recommended for approval by Council.

10. Whilst the Board felt that a points-based evaluation framework was as helpful evaluation tool, they were reluctant to recommend a points threshold that projects would have to reach before being considered for funding, without the experience of seeing the outcomes of the process during the first year of operation.

Allocating proportions of the Strategic CIL Fund for specific purposes

11. The Board recognises the frustration that many councillors feel in relation to the significant level of development that has already been permitted prior to the implementation of CIL. The fact that this development has been concentrated in certain parishes, has exacerbated feelings of 'missing out' on funds that could have

made a real contribution to infrastructure locally that would mitigate some of the impacts of contentious development.

12. The Board also recognised that it is likely that projects scoring highest for allocation of funds will be those from the County Council, for highways and education. There is a risk that the majority of CIL funds will be allocated to major, high value, projects and lower value – but still desirable – projects will not be funded.
13. In order to provide the opportunity for Town and Parish Councils to bid for lower value, locally desirable projects, the CIL Advisory Board recommends that the Strategic CIL Fund is 'bottom-sliced' to create a 'Communities CIL Fund' amounting to 10% of the Strategic CIL Fund. This will have a separate application process to the main Strategic CIL Fund, and as part of the assessment of bids consideration will be given to the amount of Neighbourhood CIL Funds the parish council has received over the past 2 years.
14. Whilst the projects to which the Communities CIL Fund may be allocated are more restricted than for the Neighbourhood Funds held by Town and Parish Councils, it will provide an opportunity for local communities to access funds for local infrastructure projects that can be completed quickly and deliver direct benefits to local residents.

Threshold on the delegation to the Executive

15. The CIL Advisory Board considered what would be an appropriate upper limit on the delegation to the Executive to approve individual allocations of CIL, and agreed to recommend a threshold of £2.5m. Any individual project with a total cost in excess of £2.5m will need to be referred from Executive to Council for approval.

Overview and Scrutiny Comments

16. The Value for Money and Customer Service O&S Committee considered this item at its meeting on 18 February 2019 and made the following observations.
 - The Committee agreed that it was important to have robust governance arrangements in place ready for when CIL money started to be received following 1 March 2019.
 - The Committee felt that the scoring matrix was a good starting point, and acknowledged that the ultimate test would be putting it into practice. A suggestion was made that the 'deliverability' section should come first in the matrix as any project would inevitably depend on this.
 - Members acknowledged that some flexibility was necessary, as it was likely that some tweaks would be needed during the first year.
 - The Committee noted that the report proposed that delegated authority be given to the CIL Advisory Board to make revisions to the governance arrangements, and was concerned that this would give the Board too much freedom to alter the financial thresholds.
17. The Committee considered the proposed recommendations from Executive and Council. It endorsed recommendations 1 – 4 as set out in the report and recommended the following amendment to recommendation 5.

5. Delegated authority is given to the CIL Advisory Board to **propose** revisions to the governance arrangements **that would be subject to the usual scrutiny process and** an annual report to the Executive and Council.

Conclusions

18. In making its recommendations on the Terms of Reference of the CIL Advisory Board, the detailed evaluation criteria for assessing bids for funding, the creation of a Communities Fund within the Strategic CIL Fund, and setting a threshold of £2.5m for Executive approval of individual allocations, the Board recognised that there would need to be an annual review of the arrangements and the ability to revise them in the light of experience. The Terms of Reference therefore include responsibility for reviewing the CIL governance arrangements on an annual basis, and delegated authority is sought from Council for the CIL Advisory Board to make changes to the arrangements.

Recommendation

Subject to the consideration and comments of Value for Money & Customer Service Overview & Scrutiny Committee, that the Executive recommends to Council:

1. The CIL Advisory Board Terms of Reference as set out at Annexe 1 are endorsed.
2. The draft evaluation and scoring framework for assessment of bids for funding from the Strategic CIL Fund as set out at Annexe 2, are agreed.
3. The Strategic CIL Fund is 'bottom-sliced' to create a Community CIL Fund of 10% of the Strategic CIL Fund receipts, for funding low-value but desirable community infrastructure projects on application from parish councils, with priority being given to bids from parish councils with relatively low Neighbourhood CIL Fund receipts.
4. The delegation to the Executive to approve bids for allocation of Strategic CIL Funding, on the recommendation of the CIL Advisory Board is subject to an upper limit of £2.5m, above which approval reverts to Council.
5. Delegated authority is given to the CIL Advisory Board to make revisions to the governance arrangements, subject to an annual report to the Executive and Council.

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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