



Report for:	Cabinet
Date of meeting:	27 June 2017
Part:	1
If Part II, reason:	

Title of report:	Community Infrastructure Levy Governance Update
Contact:	<p>Cllr Graham Sutton, Portfolio Holder for Planning and Regeneration</p> <p>James Doe, Assistant Director (Planning, Development & Regeneration)</p> <p>Robert Freeman, Strategic Planning and Regeneration Officer (Infrastructure and Project Delivery)</p>
Purpose of report:	The report seeks authorisation to amend the governance arrangements for the Community Infrastructure Levy (CIL)
Recommendations	<p>That Cabinet recommends to Council that:</p> <ol style="list-style-type: none"> 1) Officers defer requesting project submissions for the use of CIL funding until April 2018. 2) Officers request expressions of interest for the use of CIL funds from July 2017. 3) That the amendments to the CIL submission timetable as set out in Table 2 are agreed. 4) That authority is delegated to the Assistant Director (Planning, Development and Regeneration) to adjust the timetable for CIL submissions on an annual basis in consultation with the Portfolio Holder for Planning and Regeneration as the need may arise.
Corporate Objectives:	<p><u>Affordable Housing</u></p> <p>Affordable Housing is not considered to be infrastructure under</p>

	<p>the CIL Regulations 2010 (as amended) and as such does not directly benefit from CIL funding. CIL funds can however be utilised on supporting infrastructure which would facilitate the delivery of housing sites within the Core Strategy and Site Allocations DPD including those providing affordable homes.</p> <p><u>Building Community Capacity</u></p> <p>As CIL revenues are not restricted by geography they can be targeted in areas where there are existing deficiencies and/or where needs are most acute. CIL revenues may be used on social enterprise and local community infrastructure which supports those in the most deprived areas. Local communities should feel empowered to carry out improvements within their neighbourhood by the distribution of a proportion of CIL funding to them under Regulation 59 of the CIL Regulations 2010 (as amended).</p> <p><u>Delivering an Efficient and Modern Council</u></p> <p>The amount of CIL funding is limited and needs to be targeted in order to maximise the infrastructure benefits to those working and living within the Borough. A clear and precise Infrastructure Business Plan will enable the long term planning of infrastructure improvements and facilitate the efficient delivery of infrastructure projects by the Council. The funds will enable the provision of modern facilities for the enjoyment of those living and working in the Borough.</p> <p><u>Ensuring Economic Growth and Prosperity</u></p> <p>Despite the majority of commercial developments not being liable to CIL payments, the development of the key employment area at Maylands and the Enterprise Zone is a corporate priority to which CIL funding may be allocated. It is anticipated that significant CIL funds will be committed to the development of supporting transport and ICT infrastructure to enable this area to thrive thereby increasing the prosperity of the area.</p> <p><u>A Safe, Clean and Enjoyable Environment</u></p> <p>CIL receipts may be allocated to the improvement of infrastructure which supports a safe, clean and enjoyable environment.</p>
Implications:	<p><u>Financial</u></p> <p>The Council is on target to deliver a cost neutral CIL service from 18/19. The costs of the long term delivery of CIL services will be funded from the allocation of administrative costs applied under Regulations 61 of the CIL Regulations 2010 (as amended) This allows the Charging Authority to use up to 5% of the total receipts to cover administrative expenses including staff, training, software and subscriptions.</p>

	<p>The ability of the Council to maintain a cost neutral CIL service is dependent on maintaining and increasing housing delivery from which the bulk of CIL funding is received.</p> <p>Further information is provided in Appendix 1.</p> <p><u>Value for Money</u></p> <p>The Council will be responsible for allocating CIL money for spend, and thus will have a responsibility to ensure the efficient use of funds. Requests for CIL funding will be expected to demonstrate that the infrastructure project offers value for money with such matters being considered through the submission and scoring of projects.</p> <p>The Infrastructure Business Plan and Infrastructure Delivery Plan will take an overview of infrastructure needs and provide a prioritisation of infrastructure projects enabling us to maximise the benefits of CIL funding and other sources of infrastructure funds.</p> <p><u>Staff</u></p> <p>The Council now employs two full time officers to deal with the daily administration and management of CIL and S106. These officers will be responsible for the initial consideration of CIL project submissions, the progression of the Infrastructure Business Plan, the evolution of the CIL Charging Schedule, supporting policies and strategies together with the wider infrastructure planning function of the Council.</p> <p>Other Council staff will be involved in individual projects relating to the spending of CIL funds as the need arises. Where possible such matters have been incorporated into existing work practices (for example; Resident Services are expected to work closely with Ward Councillors and Neighbourhood Action Groups over the allocation of the Neighbourhood Proportion of CIL)</p> <p><u>Land</u></p> <p>The Council has an adopted Payment in Kind policy which allows for land to be transferred to the Council upon which they can deliver infrastructure necessary to support growth. No requests have been made to date to pay CIL via this mechanism.</p>
Risk Implications	<p>Officers have implemented a number of suggestions from the CIL audit to ensure that the collection of CIL funds is as efficient and robust as possible. It is however concerning that a number of statutory requirements from the developers continue to go unmet (for example the submission of commencement notices) and to the detriment of its collection.</p>

	In relation to CIL expenditure, the Council will, where possible, oversee the delivery of infrastructure projects to ensure that they are delivered on budget and in accordance with the timescales agreed by the Infrastructure Advisory Group and set out in the Infrastructure Business Plan are delivered. The Council may withhold CIL funds in the case of slippage in the delivery of infrastructure projects.
Community Impact Assessment	The process for the submission and allocation of CIL funds should be open, fair and equitable for all applicants. The application process has been designed to be inclusive and both the application form and guidance notes will be available via the website.
Health And Safety Implications	None arising from this report
Monitoring Officer/S.151 Officer Comments	<p>Monitoring Officer:</p> <p>The recommendation to defer bid submissions until 2018 is appropriate noting the amount of CIL collected to date and will give clarity to infrastructure providers to enable bids to be prepared for April 2018.</p> <p>Deputy S.151 Officer</p> <p>The financial implications of this decision appear prudent basing the decision to limit potential funding to amounts that have already been collected and can therefore be utilised. The degree of uncertainty concerning utilising sums billed but not collected is prudent. The decision to therefore defer requesting project submissions and align the process with the budget timetable for 2018/19 will help to maximise the opportunities to target the funding at the most appropriate projects.</p>
Consultees:	<p>The governance arrangements for CIL have been discussed in detail with members of the Infrastructure Advisory Group and other key Council staff at both Hertfordshire County Council and Dacorum Borough Council including:</p> <ul style="list-style-type: none"> • Mark Brookes, Solicitor to the Council • Mark Gaynor, Director for Planning and Housing • James Doe, Assistant Director for Planning, Development and Regeneration • Chris Taylor – Group Manager, Strategic Planning and Regeneration • Nathalie Bateman – Team Leader, Strategic Planning and Regeneration (Infrastructure and Project Delivery) • Sarah McLaughlin – Principal Infrastructure Officer, Development Services, Herts County Council <p>The Infrastructure Advisory Group includes the Portfolio Holder for Planning and Regeneration and representatives of the Hertfordshire Local Enterprise Partnership (LEP).</p>

Background papers:	<ul style="list-style-type: none"> • Cabinet Report titled “Governance Arrangements of the Community Infrastructure Levy (CIL) – 29th November 2016 • Cabinet Report titled “Community Infrastructure Levy (CIL) – Adoption of Charging Schedule and associated documents” – 10th February 2015 • Cabinet Report titled “Governance Arrangements for the Community Infrastructure Levy (CIL)” – 25th November 2014 <p>These documents may be viewed at www.dacorum.gov.uk</p>
Glossary of acronyms and any other abbreviations used in this report:	<p>CIL - Community Infrastructure Levy IAG – Infrastructure Advisory Group IBP – Infrastructure Business Plan IDP – Infrastructure Delivery Plan</p>

Background

1.0 Introduction

- 1.1 The Community Infrastructure Levy (CIL) is a mechanism for collecting financial contributions from new developments to help fund the provision of infrastructure required to support housing and commercial growth in the Borough.
- 1.2 The Council started charging CIL on all new developments receiving planning permission from the 1st July 2015 and adopted both a formal structure and timetable for the consideration of expenditure at Council on the 18th January 2017. Members are requested to refer to the Cabinet report of the 29th November 2016 (CA/117/16) for full details.
- 1.3 The focus of that report was on the allocation of the bulk of CIL funds (80%) on infrastructure projects associated with three themes (East Hemel, Transport and Other) and how bids for the use of such funds would be scored and then prioritised by an Infrastructure Advisory Group (IAG) into an Infrastructure Business Plan (IBP). These CIL themes were selected having considered the content of the Council's Infrastructure Delivery Plan (IDP) and its evidence in support of the CIL Charging Schedule.
- 1.4 The IDP provides an assessment of the infrastructure required to support the existing and proposed levels of housing and employment growth within the Borough up to 2031 as set out within the Core Strategy. As such it incorporates the strategies and key infrastructure priorities of external providers.
- 1.5 The intention of the IBP is to take forward the IDP and provide a statement of the Council's intent in relation to funding and delivering infrastructure over a shorter timescale. The IBP will identify those infrastructure projects which are to be pursued in the short and medium term and how funding, CIL or otherwise, will support these projects.
- 1.6 Through the November 2016 report, Cabinet adopted a timetable for the submission of bids for CIL funding and their consideration by the IAG. A deadline of 31st May 2017 was set out for the receipt of bids for CIL funding from infrastructure providers in Table 1 thereto. This is no longer considered appropriate for the reasons set out below.

2.0 Purpose of report

- 2.1 The primary purpose of this report is to request that bids for CIL funding are deferred for a year until April 2018 because of the limited funds available. Officers are also proposing amendments to the timing and role of the IBP in order to provide greater guidance on the appropriateness of CIL submissions and infrastructure priorities. This will form a base against which to evolve our infrastructure funding programme.
- 2.2 The report does not seek to amend the processes set out for the expenditure of funds allocated to local councils under Regulation 59 of the CIL Regulations 2010 (as amended) nor those funds allocated for administrative purposes. The Council continues to pass CIL receipts onto Town and Parish Councils in accordance with the timescales set out in legislation and holds money on behalf of ward councillors for use in neighbourhood areas.

3.0 Changes to the Infrastructure Delivery Plan

- 3.1 A number of projects within the IDP are of a long term nature. Because of their reliance on external funding sources, some may be delayed and may be unlikely to materialise within the lifetime of the Core Strategy.
- 3.2 Although it may be desirable for these projects to be included in the IDP and aspirations of infrastructure providers, to give a full picture of infrastructure needs in the Borough, their inclusion detracts from the strategic planning value of this document and its worth for allocation of CIL funding.
- 3.3 A new settlement based version of this document – focusing on the needs of Hemel Hempstead, Berkhamsted and Tring in particular - will shortly be published. This will illustrate the infrastructure requirements for each place and those in the process of being delivered and those funded by CIL or other Council funds. It will also include a schedule of all infrastructure requirements per settlement.

4.0 Changes to the Infrastructure Business Plan

- 4.1 In preparing the IBP, a stronger focus is required to ensure that bids for strategic infrastructure items are not lost in favour of ‘quick wins’. CIL funding is limited and the IBP is now needed to guide the Council priorities for infrastructure, and be proactive in setting the infrastructure agenda.
- 4.2 An IBP will now be produced in advance of CIL submissions to advise the Council on the allocation of CIL funds.

5.0 Changes to the CIL Submission Programme.

- 5.1 The current programme for the submission of CIL projects on an annual basis is set out in Table 1 below:

Table 1 – The CIL Submission Timetable

April	Invite CIL project submissions
May	Deadline for receipt of CIL project submissions (6 weeks)
July	First consideration of CIL submissions by the IAG
September	Final consideration of CIL submissions by the IAG (including questioning of applicants) for input into the IBP
October	IAG agree IBP for submission to Overview and Scrutiny and Cabinet
November-January	IBP considered by Overview and Scrutiny and Cabinet
February	IBP approved by Council and successful CIL bids included in the budget
April	Release of CIL funds.

- 5.2 The IBP will set out the Council’s short/medium term infrastructure priorities and details of those essential infrastructure projects which it would strongly support through the use of CIL or other funding. As per the original timetable this IBP will be developed by officers for consideration by the IAG in September 2017. In subsequent years the IBP will be updated to incorporate information on the success or otherwise of CIL project submissions under the direction of the IAG.

- 5.3 An additional stage is now anticipated in advance of encouraging CIL submissions and to encourage early engagement with the Council as Charging Authority. Expressions of interest in the use of CIL will now be encouraged from July 2017 to gauge the extent to which our infrastructure priorities align with those of external infrastructure providers and to explore the likely scope of bids for funding. Formal expressions of interest will be requested each financial year between November and February with the objective of facilitating a productive CIL submission stage. The amended timetable is set out below in Table 2.

Table 2 – Amended CIL Submission Timetable and Programme for Adoption of IBP

July 2017	Invite expressions of interest for the use of CIL
September 2017	Consideration of the IBP by the IAG
October 2017	IAG agree IBP for submission to Overview and Scrutiny and Cabinet
November 2017- January 2018	IBP considered by Overview and Scrutiny and Cabinet
November 2017- February 2018	Formal expressions of interest for the use of CIL funds requested.
February 2018	IBP approved by Council
April 2018	Invite CIL project submissions
May 2018	Deadline for the receipt of CIL project submissions (6 weeks)

6.0 The Limitations of CIL Funding

- 6.1 It appears prudent to attempt to further rationalise and prioritise those infrastructure items within the IDP and differentiate between those that are essential to meet the needs arising from development and those which are more 'visionary' or desirable for the infrastructure provider in view of limited CIL funds.
- 6.2 A summary of CIL income and expenditure is set out in Table 3 below. Members should note that these figures differ from those held for accounting purposes, as they do not include sums for which a Demand Notice has been raised and for which there is currently an outstanding debt or instalment. This shows that from the total CIL monies received, the Borough Council would be left with some £453,501.53 towards the provision of new infrastructure once its administration costs and Regulation 59 payments have been made.

Table 3 – Summary of Income and Expenditure

	<i>Financial Year</i>		
	<i>2015/16</i>	<i>2016/17</i>	<i>Total</i>
<i>Income</i>			
CIL Receipts	£65,119.53	£498,673.38	£562,792.38
<i>Expenditure</i>			
Administration (5%)	£3,255.96	£24,933.67	£28,189.63
Neighbourhood CIL	£9,767.90	£72,333.67	£81,857.42

(15%)			
Balance	£52,095.49	£401,406.04	£453,501.53

6.3 Town and Parish Councils were passed the latest instalment of CIL funding in April. A breakdown of funds available for Town/Parish Councils and those councillors within Hemel Hempstead is published on the CIL pages of the website.

6.4 These receipts, whilst providing a useful source of infrastructure funding, fall significantly short of the required £4.3m per annum¹ identified in the Infrastructure Funding Gap Assessment (see document CD/13 from the CIL examination library) and the estimated cost of key items of infrastructure (for example the costs of a 2 f/e primary school incorporated in the IDP is some £7.43m). Although CIL was never intended to fully plug the infrastructure funding gap we had anticipated a more significant contribution (some 15%-20%) towards the shortfall in infrastructure funding. The reasons for this shortfall can be summarised as follows:

- There are now a range of exemptions from payment under the CIL Regulations 2010 (as amended) is greater than anticipated.

The Council's representations to the Government's CIL Review identified that only 30% of those applications being identified as liable for CIL payments had resulted in a charge being levied. The outcomes of the CIL review are anticipated to be subject to a formal response from government in the autumn and further consultation. Officers would advocate the removal of some exemptions to the payment in the interest of fairness and to supplement funding.

- the Borough Council has been relatively successful in regenerating previously developed land: CIL is only payable on the net increase in floorspace, so developers of sites with existing buildings will pay less CIL than on a greenfield site..

These schemes generate lower CIL receipts as the existing floor area may be subtracted from the chargeable floor area.

- the Borough Council has a successful new build affordable housing programme.

Affordable homes built under the new build programme are generally exempt from the payment of CIL charges.

- that the CIL process is still relatively new and in some cases, not fully understood by developers.

CIL is only payable when development starts. The Council has a significant number of sites for which the recorded CIL stage is "awaiting Commencement Notice" Despite the submission of a Commencement Notice being a requirement under the CIL Regulations 2010 (as amended) these are seldom received. The checking of sites is resource intensive

¹ The Council's housing trajectory is not uniform with larger sites being delivered later in the housing programme and from 2021. The demand for new infrastructure and associated funding will reflect growth and fluctuate to reflect trends in housing supply.

and inevitably has resulted in a lag in securing payments against individual schemes. Further delays are often caused as a result of the CIL process as surcharges are levied, insufficient funds are available for payment and/or appeals are lodged.

7.0 Conclusions

- 7.1 Given the relatively low level of CIL receipts to date, as set out above, the extent of infrastructure work in progress and potential changes in national infrastructure funding it is recommended that no new CIL submissions will be sought until 2018. Further work is considered necessary to prioritise the current projects in the IDP and bring in new priorities emerging from both the South West Hertfordshire Growth and Transport Plan and studies in support of the emerging Local Plan Review, which looks ahead to 2036. This will provide a stronger framework against which to judge CIL project submissions, maximise the use of CIL funding and support bids for any available external funding.
- 7.2 In the interim period, and prior to the adoption of the IBP, expressions of interest for the use of CIL funding should be sought. These expressions of interest will assist in finalising the IBP and should be requested on an annual basis.
- 7.3 The IBP will still be considered and prepared in accordance with the initial CIL timetable by members of the IAG and under the direction of the Strategic Planning and Regeneration team. This will provide a starting point for future discussions on the content and funding allocations to be made via this process.