

**POLICY AND RESOURCES COMMITTEE – 13 MARCH 2023**

**ANNUAL COUNCIL – 23 MAY 2023**

**PART I**

**5. COMMUNITY INFRASTRUCTURE LEVY (CIL) - GOVERNANCE ARRANGEMENTS (DCES)**

**1. Summary**

- 1.1 This report seeks Member approval of an amended CIL Governance process. This report proposes a governance structure which will be the principal means by which CIL monies will be spent on the infrastructure necessary to support new development.
- 1.2 The protocols proposed will ensure that CIL is managed in an open and transparent way and in accordance with the Community Infrastructure Regulations (2010) (Regulations).

**2. Details**

- 2.1 Three Rivers District Council introduced a Community Infrastructure Levy (CIL) on 1 April 2015. CIL is the main way in which the Council now collects contributions from developers to pay for infrastructure that is needed to support development in the Local Plan.
- 2.2 Since the introduction of the CIL Charging Schedule in April 2015 a total of £9,937,449.<sup>1</sup> has been collected. Of this, if the Parish/Community Council has an adopted neighbourhood plan they receive 25% of the CIL pot for their area and the district receives 70%. Otherwise it is a 15%/80% split. At present, Chorleywood and Croxley Green are the only two Parish Councils that have a neighbourhood plan. The remaining 5% is set aside for administration and Exacom software costs to support the CIL in line with the CIL legislation.
- 2.3 With regards to the Neighbourhood Pot, CIL monies collected from developments in parished areas are passed directly to the Parish or Community Council twice a year. The Council retains the Neighbourhood CIL monies raised from developments in the unparished area in Rickmansworth and are responsible for spending these funds in consultation with that community.
- 2.4 A governance methodology for Strategic CIL is proposed to ensure that the money collected through the Community Infrastructure Levy is spent in the most appropriate way to support development. The Neighbourhood CIL governance methodology is also proposed to identify and engage on projects suitable for funding from the Neighbourhood Pot in relation to the unparished area.
- 2.5 The current Governance arrangements were agreed at P&R Committee in June 2022 (and subsequently Full Council). These were immediately published on the Council's website notifying of the opportunities to apply for CIL monies. Officers have monitored the arrangements and whilst we have not seen a significant volume of CIL applications it is clear more prescriptive arrangements are required to ensure CIL is

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<sup>1</sup> To date a total of £2,466,335. of these CIL monies has been approved for infrastructure projects to commence from 2023

utilised for strategic projects and prioritised. CIL applications also require staffing resource and the application and review process needs to be carefully planned to ensure resource is available and sufficient.

### 3. What can CIL be spent on?

3.1 Regulation 59 of the CIL Regulations states:

(1) A charging authority **must** apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure *to support the development of its area, and*

(2) A charging authority **may** apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure outside its area where to do so *would support the development of its area.*

3.2 The definition of infrastructure in relation to CIL is set out in section 216(2) of the Planning Act 2008 (as amended by regulation 63 of the Community Infrastructure Levy Regulations);

- a) roads and other transport facilities,
- b) flood defences,
- c) schools and other educational facilities,
- d) medical facilities,
- e) sporting and recreational facilities, and
- f) open spaces

3.3 The Infrastructure Funding List<sup>2</sup> sets out the types of infrastructure that the Council intends will be, or may be, wholly or partly funded by CIL.

- Education
- Strategic and local transport proposals
- Publicly accessible leisure facilities,
- Open Space Provision (including, children play areas and outdoor/indoor sports and leisure facilities, allotments)
- Health Care Facilities
- Other Social and Community Facilities including: - community halls, youth facilities, library services
- Emergency Services

3.4 The inclusion of a project or type of infrastructure on the Infrastructure List does not signify a commitment from the Council to fund (either whole or in part) the listed project or type of infrastructure.

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<sup>2</sup> Infrastructure Funding List was the Regulation 123 List adopted by the Council but now replaced by the Annual Infrastructure Funding Statement as a result of changes to the CIL Regulations. The Annual Infrastructure Funding Statement is published in December each year on the Council's web site <https://www.threerivers.gov.uk/egcl-page/cil-reports>

- 3.5 The levy cannot be used to fund affordable housing or for any on-going or revenue spend (such as consultancy fees, viability/feasibility studies, staff costs etc.) relating to the provision of infrastructure.
- 3.6 The emerging Infrastructure Delivery Plan<sup>3</sup> being prepared alongside the emerging Local Plan will set out the strategic infrastructure required to support planned development and once adopted will be the main consideration for the spending of CIL.
- 3.7 The Council is required to publish an Infrastructure Funding Statement setting out the amount of CIL collected and how it has been spent in the previous year and also states which infrastructure projects will be, or may be, funded wholly or partly by CIL

#### **4. Governance Arrangements**

- 4.1 CIL does not generate enough funds to cover the whole cost of infrastructure needed to support planned development as such there will be competing demands on the collected money. With this in mind there needs to be robust, transparent and accountable governance in place to prioritise spend.
- 4.2 It will be in the Council's interest to make CIL monies collected go further by availing of opportunities such as 'match funding'. Any new governance arrangements should explore such possibilities.

#### **5. Proposals for New Governance Arrangements**

##### **5.1 Strategic Component**

- 5.2 In order for the Council to help deliver larger, costlier infrastructure schemes, and given the relatively small scale of CIL receipts received by the Council, it is necessary to let CIL receipts accumulate. Some infrastructure schemes are estimated to cost several million pounds. Allowing CIL receipts to accumulate in this way will mean there is a larger funding pot to draw from when these important infrastructure schemes are ready to implement. It is also important to balance the delivery of large schemes with smaller schemes that will benefit the District.
- 5.3 The Strategic pot will be pooled and used for the purpose of delivering strategic improvements on a District wide basis. It is proposed that the allocation of CIL money to projects will be made twice yearly (currently it is a rolling programme).
- 5.4 Infrastructure providers will formally bid for the release of funds via a formal application process by completing and submitting a Community Infrastructure Funding Request (**Appendix 1**). Bidding rounds will open around June and January each year for a 6 week window. Limiting the application process will allow CIL applications to be fully considered by Officers with a planned resource and more importantly allow some form of prioritisation.
- 5.5 An assessment of the applications will be undertaken by a CIL Officer Working Party expected to involve the following Officers:

Senior CIL Officer

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<sup>3</sup> Infrastructure Delivery Plans are prepared alongside the Local plan in consultation with infrastructure providers to set out the infrastructure required to support planned development.

Head of Regulatory Services

Planning Policy Manager

Head of Community Partnerships

Head of Finance

Head of Community Partnerships

Solicitor to the Council

- 5.6 A formal assessment will be undertaken using a CIL Scoring Criteria (attached at **Appendix 2**). There will be a minimum requirement for which the application must reach to enable it to go to the next stage. This will allow a full scrutiny of the proposed projects ensuring they meet the Council's objectives and priorities and can be successfully delivered. This revised process will also allow proposed projects to be prioritised and considered on a more strategic basis than the current process.
- 5.7 The Scoring Criteria will be reviewed regularly to ensure it remains up to date and reflects Council objectives and priorities especially in view of the evolving Local Plan.
- 5.8 Once the Officer Working Party has reviewed and scored the proposals they will be moderated by a wider CIL Moderation Group involving the Council Leader, the Lead Member of Infrastructure and Planning Policy and the Lead Member of Resources.
- 5.9 Projects may be favoured where they lever in other funds that wouldn't otherwise be available, particularly where those funds may not be available in future years. Projects may also be prioritised where it can be satisfactorily demonstrated that the particular infrastructure would otherwise not be delivered (for example, there are no other possible sources of funding or other funding sources are insufficient).
- 5.10 Officers will then prepare a series of recommendations for the release of CIL funds. These recommendations will be reported to the most appropriate Corporate Management Team in the first instance before being reported to Policy & Resources Committee and finally to Full Council for approval. Recommendations will then be fed into the capital programme reported to Council in February and once funds have been released will be reported in the appropriate Infrastructure Funding Statement.

## **6. Relevant Portfolio Holder and Leader**

- 6.1 Where funding is agreed, the infrastructure provider will be expected to provide information until the scheme has been completed and all CIL funding has been spent. As a minimum, an annual report will need to provide information on the progress of each scheme that funding has been allocated to. A requirement to submit this information will form part of the agreement that the successful applicant is required to sign between themselves and the Three Rivers District Council.
- 6.2 If an applicant does not spend CIL money within five years of receipt or does not spend it as agreed then the Council may require the applicant to repay some or all of those funds.

## **7. Neighbourhood Component**

- 7.1 This component of CIL and its Governance arrangements remain as previously agreed.

7.2 In the unparished area the 15% Neighbourhood Allocation is held separately by the Council. In line with the CIL Regulations the levy can be spent to 'support the development of the local council's area' by funding the provision, improvement, replacement, operation, maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on an area.

7.3 The neighbourhood portion of CIL requires community engagement before spending. When funds have been received for development in this area it is proposed that the Council will consult with Ward Members who will in turn consult with their residents to identify suitable infrastructure projects. Any receipts will be reported to the Ward Members in April and October of each year in the same way the Parish Councils are informed. A Community Infrastructure Funding Request will then be completed and will be processed in the same way as those for the Strategic pot.

## **8. Next Steps**

8.1 Once adopted the amended CIL Governance process will be published online.

8.2 The Infrastructure Delivery Plan will be updated alongside the new Local Plan to identify infrastructure projects needed to support the growth identified.

## **9. Options and Reasons for Recommendations**

9.1 This report recommends an enhanced approach that would see clear and robust governance arrangements that will ensure the Council is then in a position to prioritise projects and allocate CIL money in accordance with the CIL Regulations.

## **10. Policy/Budget Reference and Implications**

10.1 The recommendations in this report are within the Council's agreed policy and budgets.

## **11. Equal Opportunities, Environmental, Community Safety, Public Health, Customer Services Centre, Implications**

11.1 None specific.

## **12. Financial Implications**

12.1 None specific. The 5% of total CIL receipts collected each year cover the costs of the administration of CIL as allowed in the Regulations.

## **13. Staffing Implications**

13.1 The revised process will require further Senior Officer input. Whilst this will be contained within existing resource the additional demands on these roles should be noted. In addition, further CIL resource is expected as the number of CIL applications increases. It is anticipated this will be delivered within the 5% of total CIL receipts allowed for administration detailed above.

## **14. Legal Implications**

14.1 There are no legal implications arising from this report. The governance arrangements will be implemented in accordance with the relevant legislation.

## **15. Communications and Website Implications**

15.1 Once adopted the amended CIL Governance process will be published online.

**16. Risk and Health & Safety Implications**

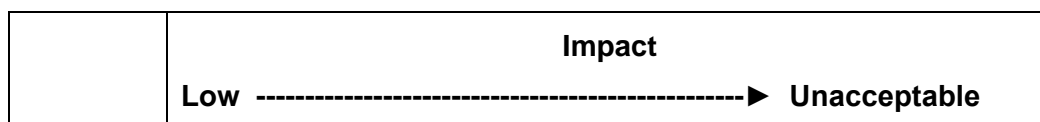
16.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council’s duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

16.2 The subject of this report is covered by the Regulatory Services Service Plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this plan.

<b>Nature of Risk</b>	<b>Consequence</b>	<b>Suggested Control Measures</b>	<b>Response</b> <i>(tolerate, treat, terminate, transfer)</i>	<b>Risk Rating</b> <i>(combination of likelihood and impact)</i>
Failure to progress/manage and maintain Community Infrastructure Levy income and expenditure.	Council could be challenged on CIL expenditure	Governance Arrangements	Tolerate	4

16.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

<b>Very Likely</b> Remote ----- <b>Likelihood</b> ----- ▼	<b>Low</b> 4	<b>High</b> 8	<b>Very High</b> 12	<b>Very High</b> 16
	<b>Low</b> 3	<b>Medium</b> 6	<b>High</b> 9	<b>Very High</b> 12
	<b>Low</b> 2	<b>Low</b> 4	<b>Medium</b> 6	<b>High</b> 8
	<b>Low</b> 1	<b>Low</b> 2	<b>Low</b> 3	<b>Low</b> 4



**Impact Score**

4 (Catastrophic)

3 (Critical)

2 (Significant)

1 (Marginal)

**Likelihood Score**

4 (Very Likely (≥80%))

3 (Likely (21-79%))

2 (Unlikely (6-20%))

1 (Remote (≤5%))

16.4 In the officers’ opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

**17. Recommendation**

17.1 That the Committee recommend to approve:

- (i) the draft CIL Governance arrangements as set out in paragraphs 5.3 to 6.2 of this report
- (ii) final details on the implementation of the amended Governance arrangements are delegated to the DCES in consultation with the Lead Member with an anticipated commencement date of June 2023.

Report prepared by: Kimberley Rowley, Head of Regulatory Services

**Data Quality**

Data sources: Exacom (Planning Obligations Software)

Data checked by: Debbie Wilson, CIL Officer

<b>1</b>	<b>Poor</b>	
<b>2</b>	<b>Sufficient</b>	
<b>3</b>	<b>High</b>	<b>x</b>

**Background Papers**

The Community Infrastructure Regulations (2010) (As amended) <https://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>

Section 216(2) of the Planning Act 2008 (as amended by regulation 63 of the Community Infrastructure Levy Regulations);

Infrastructure Funding Statement <https://www.threerivers.gov.uk/egcl-page/cil-reports>

Policy & Resource Committee Report CIL Spending Request <https://www.threerivers.gov.uk/download?id=51350>

**APPENDICES**

**Appendix 1** Community Infrastructure Funding Request

**Appendix 2** CIL Scoring Criteria