

Community Infrastructure Levy Steering Group

Date and Time - Monday 5 October 2020 – 2:00pm

Venue - Remote Meeting

Councillors appointed to the Committee:

Councillor C.A. Bayliss, K.P. Dixon, D.B. Oliver, S.M. Prochak and J. Vine-Hall (Chairman)

AGENDA

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
To receive any disclosure by Members of personal and disclosable pecuniary interests in matters on the agenda, the nature of any interest and whether the Member regards the personal interest as prejudicial under the terms of the Code of Conduct. Members are reminded of the need to repeat their declaration immediately prior to the commencement of the item in question.
3. **MINUTES OF THE LAST MEETING - 24 JULY 2020 - MATTERS ARISING** (Pages 1 - 6)
4. **BACKGROUND TO INFRASTRUCTURE FUNDING STATEMENTS** (Pages 7 - 10)
5. **STRATEGIC COMMUNITY INFRASTRUCTURE LEVY GOVERNANCE ARRANGEMENTS AND FUNDING DECISION PROTOCOL** (Pages 11 - 30)
6. **GOVERNMENT FUTURE REVIEW OF COMMUNITY INFRASTRUCTURE LEVY** (Pages 31 - 42)
7. **COMMUNITY INFRASTRUCTURE LEVY AND COMMUNITY GRANTS SCHEME CRITERIA** (Pages 43 - 50)
8. **OVERVIEW OF THE COMMUNITY INFRASTRUCTURE LEVY (CIL) POSITION AT OTHER EAST SUSSEX LOCAL AUTHORITIES AND THEIR STRATEGIC CIL AWARD PROCESSES** (Pages 51 - 56)
9. **ANY OTHER BUSINESS**

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Rother District Council's aspiring to deliver
an Efficient, Flexible and Effective Council; Sustainable Economic Prosperity;
Stronger, Safer Communities; and a Quality Physical Environment.

10. **DATE OF NEXT MEETING - MONDAY 2 NOVEMBER 2020, 2:00PM**

Malcolm Johnston
Chief Executive (Designate)

Agenda Despatch Date: 29 September 2020

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COMMUNITY INFRASTRUCTURE LEVY STEERING GROUP

24 July 2020

Minutes of the Community Infrastructure Levy Steering Group held remotely on Friday 24 July 2020 at 11:00am.

Steering Group Members present: Councillors Mrs C.A. Bayliss, D.B. Oliver and J. Vine-Hall.

Other Members present: Councillors T. Byrne, Mrs V. Cook, P.C. Courtel, P.J. Gray, K.M. Harmer, G.F. Stevens and H.L. Timpe.

Advisory Officers present: Executive Director (TL), Head of Strategy and Planning, Planning Policy Manager, Principal CIL Officer and Democratic Services Manager.

Also present: 3 members of the public, via the YouTube live broadcast.

CIL20/01. ELECTION OF CHAIRMAN

(1)

RESOLVED: Councillor J. Vine-Hall was appointed as Chairman of the Community Infrastructure Levy Steering Group.

CIL20/02. APOLOGIES FOR ABSENCE

(2)

An apology for absence was received from Councillor S.M. Prochak.

CIL20/03. DISCLOSURE OF INTERESTS

(3)

There were no disclosures of interest.

CIL20/04. AMENDED TERMS OF REFERENCE – REPORT TO CABINET

(4)

(VERBAL UPDATE)

Council approved the setting up of the Community Infrastructure Levy Steering Group (CILSG) to consider the allocation and spending of the strategic Community Infrastructure Levy (CIL) money and report back to Cabinet. Originally the membership was set as the Leader, Deputy Leader, Portfolio Holder for Strategic Planning and Portfolio Holder for Regeneration and Bexhill Affairs. However, following Councillor Dixon's appointment as Cabinet Portfolio Holder for Finance and Performance Management, with responsibility for Community Grants/CIL Awards, it was being recommended to Cabinet on 27 July that he was appointed to the CILSG as an interested Cabinet Portfolio Holder.

RESOLVED: That it be noted, that subject to Cabinet's approval on 27 July, Councillor Dixon would be added to the membership of the Community Infrastructure Levy Steering Group.

CIL20/05.
(5 & 6)

PRESENTATION – INTRODUCTION AND BACKGROUND TO COMMUNITY INFRASTRUCTURE LEVY

The Planning Policy Manager gave a presentation to the Community Infrastructure Levy Steering Group (CILSG) on the background and introduction to the Community Infrastructure Levy (CIL). The CIL was a charge that could be levied by local authorities on new development in their area and was an important tool to help deliver the infrastructure needed to support development. (It was noted that a copy of the presentation would be made available to all Members and Agenda Item 6 listed a number of links to useful documents in relation to CIL).

The presentation was delivered in 4 sections, with questions and answers after each section as follows:

What is CIL and what can it be used for? (Strategic & Local)

Rother District Council issued a Liability Notice with the grant of planning permission. An Assumption of Liability Notice must be sent to Rother District Council (RDC) by the person(s) responsible for paying CIL before the site commenced. Depending on the amount of CIL due this would either be paid in full within a set period or in phased payments, in accordance with the Council's Instalment Policy. It was calculated on the floor space of each development.

CIL monies collected by the charging authority (RDC) was divided into three 'pots'.

'Pot' one contained CIL monies retained by the charging authority for the administration of CIL equating to 5% of the monies collected.

'Pot' two contained CIL monies for 'strategic' CIL. This equated to 70/80% which was retained by the charging authority (RDC) to fund the delivery of a wide range of infrastructure – transport, flood defences, schools, hospitals and other health care facilities. This allowed the levy to be used to fund the delivery of a very broad range of facilities such as play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. Charging authorities (RDC) may not use the levy to fund affordable housing. Local authorities must spend the levy on infrastructure needed to support the development of their area, and they would decide what infrastructure was needed.

'Pot' three contained CIL monies for 'local' CIL. This equated to 15/25% which is passed to the Parish or Town Councils. The payments were paid twice a year. Where there was no 'made' Neighbourhood Plan this equated to 15% of the CIL monies collected within that parish, where there was a 'made' Neighbourhood Plan, this rose to 25%.

There was a much wider definition of 'local' CIL (that which was passed to parishes) which was:

“to support the development of the parish council’s 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”.

It should be noted that 'local' CIL passed to Parish and Town Councils (either 15% or 25% depending on whether there was a Neighbourhood Plan in place) could be spent on supporting the provision of affordable housing.

If 'local' CIL was not spent within five years, RDC could ask for the money to be repaid.

Where there was no Parish or Town Council (Bexhill for example), the charging authority retained the 'local' CIL to spend in line with the definition above.

Currently in Bexhill there was no set process for engaging with the community about how to spend the local CIL; these were the very matters that this Steering Group would be looking into.

Generally, developers honoured CIL payments however there were a number of options for the Council for non/late-payment which included mandatory charging of interest and optional surcharges. CIL liability was also placed as a land charge on the development. It was agreed to send further information to Members on the Instalment Policy.

Any development granted planning permission prior to the Council adopting the CIL was not liable. However, changes agreed to planning permission post adoption may be liable for the element that related to the amended permission only, depending on the nature of change.

Developments that required new access roads to be built as part of the development were funded by the developer as part of the overall site development costs and would not be funded from the strategic CIL.

The New Homes Bonus (NHB) was a grant from government to incentivise and reward housing building performance. CIL was a local taxation on developers. NHB was not received from the Government for any development that was approved following an appeal; however, CIL would still be payable. Information on the amount of NHB lost through recent applications approved following an appeal would be provided to Members.

There were specific requirements to qualify for an exemption under the self-build category, including the requirement for the self-builder to reside in the property for three years. The term 'self-build' also embraced custom-built properties. A self-build exemption form should be completed prior to commencement in order to claim self-build relief. On completion of the dwelling, a further form must be submitted

accompanied by supporting evidence such as a completion certificate and utility bills, for example, for the exemption to be valid.

ACTION 1: Send a link to the Instalment Policy to Members present at the meeting. (NW)

ACTION 2: Provide information on the amount of NHB lost as a result of recent developments approved on appeal. (SL)

Developing the Rother District Council CIL Charging Schedule – the Process

Developing the CIL charging schedule was a complicated, time consuming process which took over two years to complete. It involved numerous stages including evidence base gathering via consultants, two rounds of consultation culminating in an Independent Examination and approval by full Council in December 2015, with CIL coming into effect on 4 April 2016.

The rates set out in the charging schedule increased year on year in line with the regulationsⁱ.

There was no set formula for CIL across local authorities; each local authority's charging rates were set according to their own local circumstances and then tested by independent examination. It was noted that some authorities had not adopted CIL and relied on Section 106 agreements with developers to deliver infrastructure instead; the rationale for other local authorities not adopting CIL was not known and was likely a political decision.

The charging zones were informed by the consultants' reports, other planning policy documents, input by Members and approved by full Council before being submitted for independent examination. The Inspector then produced a report recommending binding changes, in order to adopt the charging schedule. These recommendations were then adopted by full Council in December 2015

It was considered that the urban Bexhill CIL rate was low and would result in lower CIL receipts. There was a balance between more houses being built at a lower rate and less houses being built at a higher rate in the rural areas. These calculations and considerations would form part of the work of the CILSG.

The position with regard to CIL payments in Neighbourhood Plan areas (draft vs made NP vis-à-vis 15 vs 25%) would be clarified as to whether higher CIL payments (25% for made NPs) related to planning applications which received planning permission after NPs were made or those schemes which commenced development after an NP was made.

ACTION 3: Verify whether higher CIL payments (25% for made NPs) related to planning applications that received planning permission after NPs were made or those schemes which commenced development after an NP was made. (NW)

When a planning permission was issued, a CIL liability notice was issued showing the full CIL liability for a scheme. Even when a development had a mix of affordable and market housing then CIL would have been calculated on the entire scheme (even though CIL was not liable for any affordable housing tenures). Before a site commenced, development relevant forms need to be filed with (and acknowledged by) RDC to claim CIL exemption for affordable housing. Once accepted the affordable housing exemption would be granted. If subsequently due to viability the affordable housing element was changed to market housing, CIL would become liable across the whole development.

There was no evidence to suggest that developers were designing schemes that qualified for CIL exemption; indeed, developers had to apply for exemptions, it was not automatic.

CIL was liable for retail developments of two different types, convenience (essentially day to day shopping including food) and comparison (larger one-off purchasing / major appliances etc). It was noted that the Marks and Spencer development at Ravenside was granted long before the introduction of CIL and a Section 106 payment was granted to go towards the provision of leisure facilities and town centre improvements. Members sought clarity on whether the 72 bed care home on Rosewood Park, Barnhorn Road that had recently been completed was liable for CIL.

ACTION 4: Verify whether the 72 bed care home at Rosewood Park was CIL liable or not. (NW)

Strategic CIL Spending

It was noted that a total of £693,000 had been awarded from the 'Strategic' CIL pot thus far in relation to London Road Improvement Project, Bexhill, Sidley Recreation Ground, Battle Health Pathway and Ticehurst Village Centre Project.

Local CIL Spending

It was a requirement of the regulations that 'local' CIL passed to a Parish and Town Council and any spending of the CIL had to be published annually on the parish website or if no website available on RDC's website. In any event, the report should be sent to the charging authority from which it received levy receipts no later than 31 December following the reported financial year. As for the non parished area of Bexhill, where a charging authority (RDC) held and spent the neighbourhood portion on behalf of the local community, it should be reported as a separate item in its own accounts.

It was noted that no monies had been awarded from the local Bexhill CIL pot in 2019. In accordance with the process and procedures put in place under the previous administration, currently bids for funding were considered by a CIL Officer Group, following strict criteria agreed and set by the elected Members. It was confirmed that none of the applications made in 2019 met the criteria and were declined on that

basis. The CILSG would be looking at and making recommendations to Cabinet including the process for receiving and considering bids.

Next Steps CILSG – Terms of Reference

The scope and approach to the work of the CILSG was set out and it was advised that the intention was to report to the Overview and Scrutiny Committee in November and final recommendations to Cabinet in December 2020.

It was noted that whilst the CILSG was able to look at the Charging Schedule any recommendations for change would be subject to the appropriate legal process, including external inspection and verification; the Council was not able to simply amend the charging schedule as it saw fit.

CIL20/06. **DATE OF NEXT MEETING**

(7)

The date of the next meeting was arranged for Monday 7 September 2020 at 2:00pm.

CHAIRMAN

The meeting closed at 12:31pm.

CIL200724LC

ⁱ When calculating the CIL levy, the CIL Regulations 2010 (as amended) require collecting authorities to apply an index of inflation to each relevant CIL rate to keep the levy responsive to market conditions.

From 1 January 2020, the index is the RICS CIL Index published by the Royal Institution of Chartered Surveyors. This annual index figure is published on or around 1 November each year and will apply from 1 January of the following year.

The RICS CIL Index applied from 1 January 2020 is 334.

Rother District Council

Report to: Community Infrastructure Levy Steering Group

Date: 5 October 2020

Title: Background to Infrastructure Funding Statements

Report of: Head of Strategy and Planning

Purpose of Report: To inform Members on the new requirement to produce an Infrastructure Funding Statement by December 2020.

Officer Recommendation(s): It be **RESOLVED:** That a draft Infrastructure Funding Statement be presented to the 5 October Community Infrastructure Levy Steering Group meeting in order for it then to be presented and approved at the 2 November 2020 Cabinet meeting to meet the 31 December 2020 deadline.

Introduction

1. [The Community Infrastructure Levy \(Amendment\) \(England\) \(No. 2\) Regulations 2019](#) came into force on 1 September 2019. Under these regulations, the Infrastructure Funding Statement (IFS) will replace the adopted [CIL Regulation 123 List](#) as the mechanism through which projects are identified for Community Infrastructure Levy (CIL) funding.

Infrastructure Funding Statement

2. In accordance with the [Community Infrastructure Levy Regulations](#) any authority that receives a contribution from development through CIL or Section 106 planning obligations must prepare an IFS. This includes parish and county councils. Where authorities pass funds to other bodies, this should be on the condition that the other body will provide information back to the authority on how contributions have been spent that reported year, and how they intend to spend future contributions, to inform IFSs¹.
3. Under these Regulations, whilst the IFS will replace the adopted CIL Regulation 123 List the IFS will still be informed by the [Infrastructure Delivery Plan \(IDP\)](#), and so these documents should form the basis of discussion at this meeting.
4. For the financial year 2019/2020 onwards, any local authority that has received developer contributions (Section 106 planning obligations or CIL) must publish online an IFS by 31 December 2020 and by the 31 December each year thereafter. An IFS must cover the previous financial year from 1 April to 31 March².
5. IFS must set out:
 - Part A: A report regarding CIL relating to the previous financial year.

¹ Paragraph: 173 Reference ID: 25-173-20190901 - Planning Practice Guidance

² Paragraph: 175 Reference ID: 25-175-20190901 - Planning Practice Guidance

- Part B: A report regarding Section 106 obligations relating to the previous financial year; and
 - Part C: A report on the infrastructure projects or types of infrastructure that the authority intends to fund, or may fund, wholly or partly by the levy (excluding the Local CIL which is passed to local parishes, i.e. the neighbourhood portion)³.
6. The IFS should set out future spending priorities on infrastructure and affordable housing in line with up-to-date or emerging plan policies and the needs of major infrastructure providers. This should provide clarity and transparency for communities and developers on the infrastructure and affordable housing that is expected to be delivered. The Infrastructure Delivery Plan (March 2019) sets out the framework for infrastructure needed to support the development targets set out in the adopted Local Plan and is the most up to date position of infrastructure needs in the District.
7. IFS should set out the infrastructure projects or types of infrastructure that the authority intends to fund, or may fund, either wholly or partly, by the levy or planning obligations⁴. Inclusion of any type of infrastructure in the IFS will not signify a commitment from the Council to deliver or fund, either in whole or in part, the infrastructure set out within it through CIL. Nor does the order set out within the Statement imply any order of preference or weighting of one particular type of infrastructure. It sets out the view regarding the funding of infrastructure at that point in time. The process of governance for CIL expenditure will be carried out separately through the adopted process, having regard to the IFS and IDP.

Preparation of IFS by other East Sussex Authorities

8. There is a countywide meeting of respective CIL officers due to be held in early September to share ideas, issues and best practice for production of the first IFS for each respective authority. Feedback from this meeting will be presented at the next CIL Steering Group in October.

Conclusion

9. Officers will prepare a draft IFS to be presented to the next CIL Steering Group meeting in order for it then to be presented and approved at a subsequent Cabinet meeting to meet the 31 December 2020 deadline.

Implications

Financial Implications

10. The new legislation improves the flexibility of funding future capital projects both because of the removal of the pooling restrictions and the Council's ability to now fund projects jointly with Section 106 and CIL.

³ Paragraph: 176 Reference ID: 25-176-20190901 - Planning Practice Guidance

⁴ Paragraph: 177 Reference ID: 25-177-20190901 - Planning Practice Guidance

Legal Implications

11. It is a legal requirement to publish an IFS online by 31 December each year from 2020.

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Rother District Council

Report to: Community Infrastructure Levy Steering Group

Date: 5 October 2020

Title: Strategic Community Infrastructure Levy Governance Arrangements and Funding Decision Protocol

Report of: Head of Strategy and Planning

Purpose of Report: To update Members on the current Rother Governance arrangements and Funding Decision Protocol for allocation of funds from Strategic CIL and seek the Steering Group's views on whether changes should be made to them.

Officer Recommendation(s): It be **RESOLVED:** That Members' views be sought on:

- 1) who should be on the CIL Funding Group (currently the CIL Officer Group); and
- 2) whether any amendments are required to the current Rother Governance arrangements and Funding Decision Protocol, which includes the Bid pro-forma and Assessment Criteria.

If any future changes are proposed, detailed amendments can be brought to a future Community Infrastructure Levy Steering Group meeting for discussion and recommendation/s to Cabinet.

Introduction

1. CIL became effective in Rother District from 4 April 2016 at which point the CIL [Charging Schedule](#), [Regulation 123 List](#) and CIL [Instalment Policy](#) became effective. This report seeks Members' views on whether any amendments are required to the current Rother Governance and who should be on the CIL Funding Group (Currently the CIL Officer Group), and whether any amendments are required to the Funding Decision Protocol in allocation of funds from Strategic CIL.
2. Strategic CIL (which is retained by RDC) can be used to fund a wide range of infrastructure such as transport, flood defences, schools hospitals and other health and social care facilities. However, charging authorities (RDC) may not use the levy to fund affordable housing. Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed and this is informed by the [Infrastructure Delivery Plan](#).

Current Strategic CIL Governance Arrangements

3. At its meeting on the 14 December 2015 Council, along with the adoption of CIL, approved a number of recommendations, one of which was the Governance procedure for the spending of income derived from CIL (Minute

C15/45 refers) and attached at Appendix 1 is a flowchart showing the current arrangements. At that same Council meeting it was agreed that at least £250,000 would need to be accrued before spending decisions could be made in accordance with the approved procedures.

4. At a subsequent meeting of Cabinet on the 3 December 2018, where it was revealed that the threshold of £250,000 Strategic CIL funds had been reached, a report was presented setting out that the Council was now in a position to allocate CIL contributions collected to infrastructure projects which benefit the Rother District. At that meeting it was resolved to approve the Council's Community Infrastructure Levy Funding Decision Protocol, Bid Pro-Forma, Assessment Criteria, Bid Valuation Checklist attached at Appendix 2 (Minute CB18/46 refers).
5. Following the approval process set out above, the CIL bidding process was opened in February 2019.
6. The process, once bids are submitted, is as follows:
 - a. They are validated by the CIL Officer, using the validation checklist to ascertain that the minimum requirements are reached;
 - b. They are assessed and scored by the CIL Officer, using the Assessment Criteria;
 - c. A report is drafted, with a recommendation; and
 - d. These are then debated by the CIL Officer Group and then a vote is undertaken for either approval or refusal of the bid.
7. The CIL Officer Group comprises:
 - Executive Director (Chairman)
 - Head of Planning
 - Head of Housing and Community
 - Head of Acquisitions Transformation and Regeneration
 - Head of Finance
 - CIL Officer – Advisor to the Group
 - Planning Policy Manager - Advisor to the Group
8. The Council's Community Infrastructure Levy Funding Decision Protocol, Bid Pro-Forma, Assessment Criteria and Bid Valuation Checklist are used to consider applications for Strategic CIL. Appendix 3 lists successful applications awarded funding in the Summer of 2019.

Local CIL

9. Local CIL (that is passed to the parishes) is defined as *“supporting the development of the parish council's 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”*.
10. RDC must pass a meaningful proportion of CIL to towns/parishes, either 15% or 25% if there is a 'made' Neighbourhood Plan in place and the CIL allocation must be spent within five years otherwise RDC can ask for the

money to be repaid. However, unlike strategic CIL, local CIL can be used on affordable housing delivery.

11. Where there is no parish/town council in place then RDC retain the local CIL allocation, as is currently the case for Bexhill. There is no set process for agreeing how the CIL allocation should be spent, but RDC must engage with communities in Bexhill about how to spend the local CIL and should match priorities expressed by local communities.
12. In terms of assessing applications for Bexhill Local CIL, the same process as set out in paragraph 6 above, was applied. The Decision-Making Panel considered three applications in autumn 2019. None of the three bids received were awarded Bexhill Local CIL funding.
13. Cabinet Minute CB19/71 resolved to pause CIL bids/awards until the CIL Steering Group has reviewed the current processes.

Conclusion

14. The current Governance arrangements, along with the Funding Decision Protocol, Bid Pro-Forma, Assessment Criteria, Bid Validation Checklist were introduced in 2015 and 2018, respectively. Members' views are sought on whether they wish to make any amendments to the procedures and if so, what kind of changes need to be made so that new protocols or procedures can be established and included in recommendations to Cabinet.

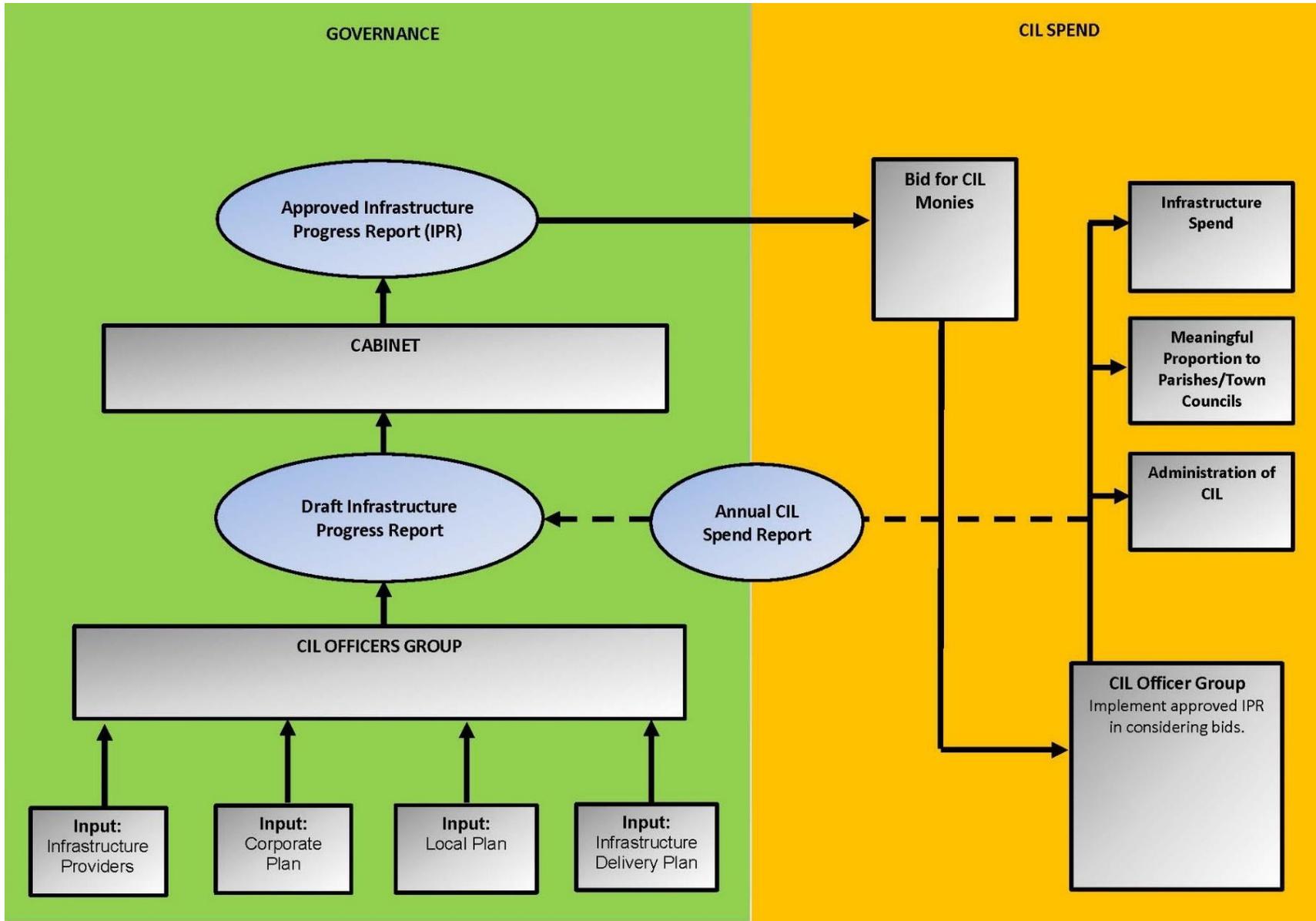
Implications

Financial Implications

15. While there is no time limit on the spending of Strategic CIL. There is an expectation that CIL monies will be spent on identified strategic infrastructure needs.

Rother District Council's CIL Governance Flow Diagram

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ROTHER DISTRICT COUNCIL'S COMMUNITY INFRASTRUCTURE LEVY (CIL) FUNDING DECISION PROTOCOL

Introduction

This Protocol has been developed by Rother District Council and outlines, on an annual basis, how the Council as the Charging Authority will allocate the CIL; ensuring that this decision-making process is consistent and transparent.

Guidance is provided on how the Charging Authority will engage with infrastructure providers, invite funding bids and make funding decisions.

To accompany this protocol, the following documents have been produced:

- a) the *Bid Pro-Forma* document which sets out how applications for CIL funding will be accepted and processed (see below);
- b) the *Assessment Criteria* document which gives guidance to applicants and the CIL Officer Group on how such bid applications will be considered (see below); and
- c) the *Bid Validation Checklist* document which sets out the criteria in which bids for CIL will be validated (see below).

A timeline has been produced within this Protocol which summarises the annual process in relation to the spending of the CIL.

Summary of Process

Prior to the opening of the bidding, in December of every year, contact will be made with key infrastructure providers outlining the intended CIL timetable for the year ahead. The key infrastructure bodies to be contacted are identified on page 16 of the 2014 Infrastructure Delivery Plan. This opportunity will also be posted on Rother's website. An estimation of the likely amount of CIL funding available for the period will also be revealed to encourage representative bids.

The process for considering CIL funding will be held on an annual basis with the bidding opening at the beginning of February each year. The Charging Authority will give infrastructure providers eight weeks from the date of opening to submit bid applications. Applications made after the closing date will not be considered but may be held for a later review.

CIL funding bids will be made using the bid pro-forma. The Charging Authority has also developed an Assessment Criteria Document which will be published to assist applicants and the CIL spending board in considering bid applications. These assessment criteria are read alongside the bid pro-forma and provide guidance on a question by question basis for applicants when preparing their bid application. The Assessment Criteria identify six key areas of consideration; the *strategic case*; *local*

benefits case; equality and fairness; delivery; financial case and timescales (please refer to Assessment Criteria Document for further details).

The CIL Officer will validate bid applications as and when they are received using the Validation Checklist. This process is required to filter out applications which are incomplete or unsuitable. For example, applications where a pro-forma has not been completed or has been completed incorrectly; proposals where the bidding organisation does not have the legal right to deliver the proposed infrastructure; proposals which are clearly inconsistent with the aims of CIL; proposals which would have no benefit to the residents and visitors of the Rother District (please refer to the validation checklist for full requirements).

For the applications which do not pass the validation stage, a written response will be provided to the applicant explaining why the bid will not be considered and may suggest a revised submission for a future review.

In the 'non-parished' areas; the communities will still benefit from the neighbourhood portion. In the Rother District, the only non-parished areas are located within Bexhill. The Government does not prescribe a specific process for agreeing on how the neighbourhood portion should be spent in this context. Therefore, the charging authority will retain the neighbourhood portion of the levy receipts accrued in the Bexhill area and applicants, such as local community groups, can apply for the Bexhill portion of the CIL in a similar way to the strategic allocation; this will be through the CIL Officer Group.

Following the validation Process, the CIL Officer will make an initial assessment of the applications in order to present the strengths, weaknesses, opportunities and threats (SWOT) of the proposal to the CIL Officer Group. These papers will then be circulated to the Group prior to the meeting.

The CIL Officer group will be responsible for agreeing the projects for CIL spend over the year ahead, noting any potential projects for funding in future years. The decisions will be made in line with the Charging Authorities Assessment Criteria. The members of the CIL Officer Group will not be involved in submitting bidding applications on behalf of their service, to avoid any conflicts of interests.

Following the CIL Officer Group's decisions, the CIL Officer will contact the successful/unsuccessful applicants and where appropriate will provide feedback on the unsuccessful bid applications.

Funding Considerations¹

The Charging Authority must be satisfied that value for money is being achieved. It is therefore advised that all bid applications should contain quotations for the proposed works and evidence provided of any other funding sources. CIL funding is conditional upon this requirement and an application may fail the validation process if the Council is not satisfied that the scheme represents value for money.

¹ This is to be read in conjunction with the Bid Assessment Criteria
CILSG201005 – CIL Arrangements

Bids for smaller projects may be more appropriately funded through alternative schemes such as the Community Grants Scheme or through the neighbourhood portion of the CIL. Consequently, bids for schemes which have a total cost of less than £100,000 will not be allocated CIL funding; this is to ensure the funds are reserved for significant strategic infrastructure. There is no minimum bid amount for schemes which have a total value in excess of £100,000.

The Charging Authority recognises that large-scale projects seeking funding that is greater than the current amount available for CIL may be an issue. However, greater weight can be given to well-prepared large-scale projects accompanied by a project plan evidencing how much CIL is needed and how much should be set aside over successive periods.

It should be noted that the value of CIL contributions available for the CIL Officers' Group to allocate is difficult to forecast and is subject to deductions and exemptions. Furthermore, CIL contributions are dependent on the commencement of the chargeable development which is also difficult to predict. Therefore, the allocation of future funding will always be considered subject to availability.

Bids for infrastructure items found on the Regulation 123 list will be prioritised.

Section 106 agreements are usually site-specific contributions which make individual planning applications acceptable in planning terms. Whereas, the CIL levy is wider and is intended to provide infrastructure to support the development of the area due to the intensity of localised development. The Regulation 123 list sets out the items that will be charged to Section 106 and to CIL to avoid 'double charging'.

It must be reasonably demonstrated in bidding applications that all other funding options have been explored. It is unlikely that CIL will be granted unless this can be demonstrated.

A scheme would not need to be located in the Rother District to qualify for funding. However, the proposal must demonstrate a clear strategic benefit to residents and/or visitors of Rother. The proposal would need to demonstrate a clear link between the proposed infrastructure and new housing or retail development in Rother.

There is a perceived risk that the CIL receipts may be spent on smaller less critical infrastructure schemes on a 'first-come' basis. However, the CIL Regulations state that funds must be spent on *'infrastructure necessary to support growth'*. Therefore, the Charging Authority is responsible for identifying infrastructure required to support strategic development and should avoid using CIL receipts to address the current insufficiencies in infrastructure provisions.

Scoring of Proposals

There are a total of 10 'scored' questions on the bid pro forma, alongside other questions which are for informative purposes only (such as the location of the proposed infrastructure). The maximum total of points which can be awarded per proposal is 36 points. The final score will fall into one of the following categories:

0 – 12 – Recommendation that no CIL is allocated

12 – 24 – Allocation of CIL is a low priority

24 – 36 – Allocation of CIL is a priority

A proposal scoring 12 or above does not signal a guarantee of funding. The scoring guidance is for internal discussion purposes only and assists the CIL Officer Group in grading and prioritising proposals. Whether a project does, in fact, receive CIL funding will depend on the Council's infrastructure priorities, the application for funding being made and the amount of CIL available at that time.

The Charging Authority recognises that whilst it may wish to secure the delivery of all infrastructure items, prioritisation is required. The Infrastructure Delivery Plan (2015) classifies infrastructure requirements into three categories: desirable, important or critical. The CIL Officer Group is advised to give extra weight to proposals that are considered important – critical.

IMMATERIAL	Proposal does not support development taking place and does not accord with the overall spatial strategy objectives.
DESIRABLE	The infrastructure proposed does not support significant development taking place but will facilitate the delivery of the overall spatial strategy objectives.
IMPORTANT	The infrastructure proposed is required to support the planned development as well as overall spatial strategy objectives but does not need to be prioritised.
CRITICAL	The infrastructure proposed is critical to the delivery of planned development as well as the overall spatial strategy objectives and should be identified as a priority at the appropriate stage in relation to the implementation of the Core Strategy.

Allocation of Funds

It is not necessary for the CIL Officer Group to allocate the entire available spending balance at any one time. If schemes are not deemed important enough, the money shall not be allocated and reserved for schemes that are.

The release of funding payments will be agreed on a case by case basis, although payments of CIL will normally be made following the substantial completion of the works. The Charging Authority recognises that for larger projects instalments may be more appropriate, or on some occasions, may agree to upfront funding. However, all funding is conditional and subject to satisfactory works.

Following the allocation of funds, the CIL Officer will continue to liaise with the infrastructure providers to ensure that the projects are delivered. The Charging Authority will require updates reflecting the key milestones of the proposal as outlined by the applicant in the bid application form, as well as every six months (end of April and October). If the Charging Authority is not satisfied with the progress, this may delay payment or see the funding withdrawn.

Annual Reporting

The regular infrastructure updates will then feed into the Annual CIL Monitoring Report (Regulation 62) and Infrastructure Progress Report (Rother's Governance Arrangements). These reports set out the income, expenditure and progress of the funded projects. The Infrastructure Progress Report will be presented to Cabinet to note the funded proposals and to approve the infrastructure priorities for the year ahead. The Annual CIL Monitoring Report will not be brought before cabinet but will form part of the Core Strategy Annual Monitoring Report. Both reports will be prepared and published before the 31 December each year.

Annual Timetable

The table below summarises the annual process in relation to the spending of the CIL. This timetable runs from December – December each year.

Month	Funding Protocol Key Milestones	Other CIL Responsibilities
December	<ul style="list-style-type: none"> • Consultation with infrastructure delivery partners. Send a letter advising that bidding will open early in the New Year and the accompany guidance documents will also be published in the New Year. Ask the infrastructure providers to identify any projects that may be seeking CIL funding for the year(s) ahead. This feedback will inform the Infrastructure Delivery Plan. This letter will be more weighted from a Planning Policy position. • CIL Officer Group first meeting and training session. 	Planning Policy to consider update of the IDP.
January	<ul style="list-style-type: none"> • Approved CIL Bid Pro-Forma, Validation Checklist and Assessment Criteria are published on the website. • Bidding will open for eight weeks at the end of January/ the beginning of February. • Send 'opening for bidding' letter to infrastructure delivery partners and outline timetable for year ahead. 	
February to March	<ul style="list-style-type: none"> • Bidding open. • Available CIL pot froze at the end of the financial year. • Validation to take place as and when applications 	

	<p>are received by the CIL Officer.</p> <ul style="list-style-type: none"> • Rejected applications to be agreed with CIL Officer Group Chair. • Applicants to be informed as to whether their bid has been validated and whether it will be discussed by the CIL Officer Group. • Bidding closed. 	
April	<ul style="list-style-type: none"> • Website updated. • CIL Officer to make an initial SWOT analysis for qualifying bid applications. Prepare papers to be circulated to the CIL Officer Group. • CIL Officer Group meeting scheduled for the following month. 	Neighbourhood portion of the funds released (end of April)
May	<ul style="list-style-type: none"> • CIL Officer Group meet to compare and score bid applications and make decisions in relation to funding applications. • Agree conditions to be attached to those awarded funding. 	
June	<ul style="list-style-type: none"> • CIL Officer to contact applicants and advise on the successful/unsuccessful funding decisions. • Provide feedback on unsuccessful bid applications. • Arrange funding to be released 	Bidding for Bexhill Neighbourhood portion will open.
October	<ul style="list-style-type: none"> • Contact the successful applicants and require progress updates. 	Neighbourhood portion of the funds released (end of October)
November	<ul style="list-style-type: none"> • CIL Officer to draft annual CIL Monitoring Report and Infrastructure Progress Report. 	
December	<ul style="list-style-type: none"> • Infrastructure Progress Report presented to December Cabinet. • Annual CIL Monitoring Report to be published in the Core Strategy Annual Monitoring Report (Regulation 62). 	

	<ul style="list-style-type: none">• Ask for Cabinets approval for re-opening the bidding in the following January.• The process restarts for the top.	
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Review

This Protocol is the first of its kind for the Charging Authority and thus the monitoring and review of this process will be prudent in order to apply any lessons learnt and best practice techniques in future years. An internal review will take place after two full cycles of the process. If there are significant changes proposed this will be presented to Cabinet for approval. It will not be necessary to seek Cabinet approval for minor or legislative changes.

The Charging Authority continues to engage with other local authorities in relation to the implementation and spend of the CIL in the Rother District.

The CIL Funding Decision Protocol and accompanying documents are not statutory documents and therefore have not been subject to a statutory consultation.

COMMUNITY INFRASTRUCTURE LEVY BID PRO-FORMA

Organisation

Name of organisation including any partners	
Key contact(s) and roles	
Postal address	
Phone Number	
Email Address	

Project Overview

Project name	
Brief project description (no more than 100 words)	
Location of proposed development (please provide a site location plan)	
Amount of CIL Funding Requested	

Strategic Case

No.	Question	Answer
1	Is the need for the scheme identified in any adopted strategy or plan?	
2	How does the proposal demonstrate that it supports development for the area?	
3	What is the evidence of need for the proposed infrastructure?	

Local Benefits Case

4	What are the direct and indirect benefits to the proposal?	
5	Please provide details of any consultation undertaken with the community or other stakeholders.	

Equality and Fairness

6	In regard to the project, please explain how you have given consideration to the different needs of people and describe the steps that have been taken to minimise the potential for discrimination and maximise equality of opportunity.	
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Delivery

7	Are there any risks associated with the delivery of the scheme?	
8	What would be the implications of CIL funding not being available?	

Financial Case

9	Please provide a breakdown of the project costs and provide quotes to substantiate your figures where possible. Please outline the forecasted total cost of the project.	
10	Please provide a detailed summary of the total CIL funding required, including phasing.	
11	Please indicate why CIL funding is being sought and outline the source of any additional funding that has been secured or is being sought.	

Time Scales

12	What is the delivery timescale for the project? Please outline key milestones.	
13	What are the on-going costs of the project, who is responsible for these and how have these been planned for?	

ASSESSMENT CRITERIA

Before Rother District Council can reach a decision to release funds from the Community Infrastructure Levy, it needs to be able to consider a range of information. The table below sets out the criteria in which the information provided in the Bid Form will be considered against.

Q	BID PRO-FORMA QUESTION	KEY CONSIDERATIONS
1	Is the need for the scheme identified in any RDC adopted strategy or plan?	<p>Does the proposal have regard to any of the following?</p> <ul style="list-style-type: none"> • Is the proposal identified in the Infrastructure Delivery Plan? • Is the proposal or infrastructure identified in the Regulation 123 List? • Does the proposal comply with the Core Strategy? • Does the proposal have regard to the Corporate Plan?
2	How does the proposal demonstrate that it supports development for the area?	<p>The CIL Regulations state that funds must be spent on <i>'infrastructure necessary to support growth'</i>. The CIL should not be spent to remedy current insufficiencies in infrastructure provision unless those insufficiencies will intensify through new development. Proposals will score high if the project unlocks sites to enable development and is a catalyst for further development. May be that the project enables other projects to come forward.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • Does the proposal meet the CIL Regulations? • How does the proposal reflect the aims of CIL in so far as it helps bring forward development in the area? For example, a new access road may unlock a development site which can provide housing for the area. • Is the investment required to enable or mitigate the impacts of growth? • Are there any secondary effects such as increasing foot fall to local shops or shortens journey times?
3	What is the evidence of need for the proposed infrastructure?	Does the proposal relate to any published strategies that your own organisation has in place? Proposals will score high if the infrastructure is programmed into the organisation's infrastructure plan.
4	What are the direct and indirect benefits to the proposal?	<p>Proposals that score highly will have a profound positive effect on a wide range of users.</p> <p>A scheme would not need to be located in the Rother District to qualify for funding. However, the proposal must</p>

		<p>demonstrate a clear strategic benefit to residents and/or visitors of Rother.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • Would the project lead to any income generation? • Does the project cover more than one Charging Authority and will the infrastructure serve areas beyond the local area, including neighbouring boroughs? • Does the proposal offer wider as well as local benefits? • Are there any indirect benefits? For example, a new leisure facility would provide a direct benefit to the community. However, an indirect benefit may be that obesity rates in the locality reduce.
5	<p>Please provide details of any consultation undertaken with the community or other stakeholders.</p>	<p>Proposals will score high if a range of consultation techniques have been used involving a wide range of stakeholders and end users over a sustained period of time and evidence demonstrates engagement has helped build consensus and identifying the needs of the community.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • Is there community support/objection to this project? • Provide evidence of any petitions, campaigns, fundraising initiatives, consultation responses, community engagement techniques, letters of support etc. • How have any groups with 'protected characteristics' been consulted (see next question)?
6	<p>In regard to the project, please explain how you have given consideration to the different needs of people and describe the steps that have been taken to minimise the potential for discrimination and maximise equality of opportunity.</p>	<p>The Public Sector equality duty covers the nine protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.</p> <p>The purpose of identifying equalities issues and assessing the impact is to help make sure that the project reflects the needs of the all sections of the community.</p> <p>Proposals will score high if all opportunities to promote equality have been taken and no potential for discrimination or adverse impact to equality or missed opportunities have been identified.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • Identify which groups will be affected by the proposal. • Identify any positive/negative impacts for the 'protected' groups? • Are any 'protected' groups more affected by the proposal than others, is so why?

		<ul style="list-style-type: none"> • How can any negative impacts be mitigated?
7	Are there any risks associated with the delivery of the scheme?	<p>List the key risks involved in running the project and how those risks will be managed. Proposals will be awarded greater weight if there is a strong certainty of delivery, costs identified, funding in place planning approved (where relevant) and political and community support for the proposal.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • Are there any physical and environmental impacts (e.g. flood risk, contamination, biodiversity, noise, etc.) that need to be mitigated? • Is the project dependent on other projects going ahead? • Has a risk assessment been carried out? • Does the proposal require any land to be secured? Are there any ownership, acquisition or compulsory purchase order issues? • Will the proposal require any statutory approvals or licenses such as planning permission? If so, has advice been obtained?
8	What would be the risks if CIL funding not being available?	<p>Where it can be satisfactorily demonstrated that the infrastructure would not otherwise be delivered unless CIL funding can be secured and the absence of CIL will cause significant risks, the proposal will score high.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • Would investment reduce on-going costs placed on the council and local community in the long-term? • What would be the impact if investment was delayed (additional cost)?
9	Please provide a breakdown of the project costs and provide quotes to substantiate your figures where possible. Please outline the forecasted total cost of the project.	<p>The Charging Authority must be satisfied that value for money is being achieved. It is therefore advised that all bid applications should contain more than one quote for the proposed works. CIL funding is conditional upon this requirement. Projects which are accompanied by a detailed cost plan will be awarded greater weight as it demonstrates that the project has been fully researched and considered.</p>
10	Please provide a detailed summary of the total CIL funding	<p>The charging authority recognises that large scale projects seeking funding that is greater than the current amount available for CIL may be an issue. However, greater weight can be given to well-prepared large-scale projects</p>

	required, including phasing.	accompanied by a project plan evidencing how much CIL is needed and how much should be set aside over successive plan periods.										
11	Please indicate why CIL funding is being sought and outline the source of any additional funding that has been secured or is being sought.	<p>It must be reasonably demonstrated that all other funding options have been explored. It is unlikely that CIL will be granted unless this can be demonstrated. Greater weight will be given to proposals which are only partly reliant on CIL and the majority of funding has been secured.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • What other sources of funding have been considered and applied for. Please highlight or explain where other possible funding sources have been considered insufficient. • Is the proposal expected to see any Section 106 funding? • Is there a remaining funding shortfall? If so, how much? How will the shortfalls in funding be met? <p>Present other funding secured in the following or similar format:</p> <table border="1"> <tr> <td>Source</td> <td></td> </tr> <tr> <td>Amount</td> <td></td> </tr> <tr> <td>Conditions Attached</td> <td></td> </tr> <tr> <td>Use by Date</td> <td></td> </tr> <tr> <td>Funding Confirmed</td> <td></td> </tr> </table>	Source		Amount		Conditions Attached		Use by Date		Funding Confirmed	
Source												
Amount												
Conditions Attached												
Use by Date												
Funding Confirmed												
12	What is the delivery timescale for the project? Please outline key milestones.	<p>Please outline whether the scheme is:</p> <ol style="list-style-type: none"> a) Short term – within five years b) Medium term – between five to 10 years c) Long term – more than 10 years 										
13	What are the on-going costs of the project, who is responsible for these and how have these been planned for?	<p>Things to consider:</p> <ul style="list-style-type: none"> • Can on-going costs be covered by warranties? • Are on-going costs covered by another organisation? • Does the proposed infrastructure provide opportunities to generate income to meet the future costs? 										

VALIDATION CHECKLIST

To be completed by Community Infrastructure Levy Officer.

	REQUIREMENT	PROVIDED
1	Bid pro-forma completed with the application.	
2	Proposed infrastructure item(s) found on the Regulation 123.	
3	Bidding organisation has the legal right to deliver the proposed infrastructure.	
4	The proposal meets the requirements to be eligible for CIL funding.	
5	The proposal is not expected to see Section 106 funding.	
6	Scheme has a total value which exceeds £100,000.	
7	Quotes for the proposed works have been submitted.	
8	Site location plan with line edged in red for the location of the proposed scheme is provided.	
9	Evidence has been provided which demonstrates the six key areas of assessment have been considered in full; <i>the strategic case; local benefits case; equality and fairness; delivery; financial case and timescales.</i>	

Project	Project description	Amount requested	Amount awarded
<p>London Road Improvement project (Bexhill)</p> <p>Total cost: £1.2M</p>	<p>London Road Corridor scheme, comprising traffic management improvements at; the London Road/Beeching Road junction; the Sackville Road/Beeching Road/Terminus Road junction and along London Road from Beeching Road to Buckhurst Place.</p> <p>Pedestrian improvements in Buckhurst Place. Public realm and bus stop accessibility improvements within the scheme area</p>	£300,000	£300,000
<p>Sidley Recreation Ground project</p> <p>Total cost: £923,493</p>	<p>To improve the BMX Track and provide a new skate park, floodlighting, improved accessibility and toilets.</p>	£193,000	£193,000
<p>Battle Health Pathway</p> <p>Total cost: £332,774</p>	<p>To provide a purpose-built, all-weather path within the grounds of the Battle recreation Ground. The pathway will link all four entrances to the recreation ground and include pathway markings, a cycle skills track, an outside gym, a picnic area, planting and a sensory garden with good disabled accessibility throughout.</p>	£251,894	£75,000
<p>Ticehurst Village Centre Project</p> <p>Total cost: £339,000</p>	<p>To provide improvements comprising the provision of a pedestrian crossing and the restoration of the historic village centre. The proposed crossing would be situated on the High Street.</p>	£339,000	£125,000

Rother District Council

Report to: Community Infrastructure Levy Steering Group

Date: 5 October 2020

Title: Government Future Review of Community Infrastructure Levy

Report of: Head of Strategy and Planning

Ward(s): All

Purpose of Report: To update Members on the current Rother Community Infrastructure Levy (CIL) position, potential changes in national guidance and any future review of CIL in light of the pending new Local Plan.

Officer Recommendation(s): It be **RESOLVED:** That the Council delay any future review of Community Infrastructure Levy until the outcome of national consultation on the 'Planning for the future' – White Paper is known, and further detailed work has been undertaken to support the new Local Plan on future infrastructure needs to support development.

Current National Consultation on future changes to CIL

1. The Ministry of Housing Communities and Local Government (MHCLG) recently published (August 2020) its Planning White Paper (PWP) "[Planning for the Future](#)". The PWP sets out proposals for significant changes to the planning system, covering three 'Pillars':
 - a. Pillar 1 – Planning for development – which includes proposals to streamline the planning process with more democracy taking place more effectively at the plan-making stage; a digital-first approach to modernise the planning process and new binding housing requirements;
 - b. Pillar 2 – Planning for beautiful and sustainable places – placing a new focus on design and sustainability – including proposals to combat climate change, improve energy efficiency and place a greater focus on the creation of beautiful places in national policy, and;
 - c. Pillar 3 – improving infrastructure delivery and a reform of developer contributions.
2. This report concerns itself with Pillar 3. At present, there are two broad routes for local planning authorities to secure developer contributions, both of which are discretionary for authorities: planning obligations and the Community Infrastructure Levy (CIL). Planning obligations – through Section 106 agreements – are negotiated with developers. In contrast, the CIL is a fixed charge, levied on the area (floorspace) of new development, and secures infrastructure that addresses the cumulative impact of development in an area. The CIL is not mandatory for local planning authorities, and around half of authorities currently charge it.
3. The PWP proposes a number of draft proposals relating to Pillar 3, including:

- That CIL should be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates and the current system of planning obligations abolished.
 - The scope of CIL could be extended to capture changes of use through permitted development rights.
 - The reformed CIL should deliver affordable housing provision.
 - More freedom could be given to local authorities over how they spend CIL.
4. The consultation on the PWP is open for 12 weeks from 6 August 2020 and officers have prepared a draft response to Pillar 3 only, for the CIL Steering Group to consider (Appendix 1). A response to Pillar's 1 and 2 will also be prepared in due course and be presented to Cabinet as the Council's response to the MHCLG.

A future of CIL

5. Given that the Planning Policy Guidance advocates that charging authorities should consider linking a review of their CIL Charging Schedule to any substantive review of evidence base for a Local Plan and that there is some uncertainty about the proposed national changes to CIL outlined above and in Appendix 1, it is recommended that a review of CIL should not take place until there is a clearer position on the legislation following the MHCLG consultation outcome. This will allow for proper consideration of the outcome of the proposed national changes to CIL and further advancement of the evidence base to support the new Local Plan, therefore having a much better understanding of the infrastructure needs to support the Plan.

Conclusion

6. Officers recommend that given the uncertainty around CIL relating to the proposals set out in the PWP, that subject to the outcome of the national consultation, any future review of the Council's CIL adopted Charging Schedule should be carried out when the evidence base supporting the new Local Plan is further developed and a better understanding of the infrastructure requirements to support development in that Plan, are understood.
7. Members of the CIL Steering Group are requested to endorse the consultation responses attached as Appendix 1, to be inserted with responses to Pillar's 1 and 2 in due course and signed off by the Executive Director and Lead Member for Strategic Planning as the Council's formal response back to MHCLG.

Financial Implications

8. Should Members want to carry out a review of the Council's Charging Schedule now then there will be a cost associated with carrying out a Viability Study, plus subsequent examination, circa £30,000-£40,000 minimum.

PLANNING WHITE PAPER**PILLAR 3 – PLANNING FOR INFRASTRUCTURE AND CONNECTED PLACES****Introduction**

The Planning White Paper (PWP) was published by the Government on 6 August 2020 and is a policy document that sets out the proposals for future planning legislation. It provides the Government's planning reform proposals for England with the key aim of delivering a 'significantly simpler, faster and more predictable system' through changes to the local plan system and the improved use of digital technology to the planning process. The PWP provides opportunity for consultation and discussion with interested and affected groups and allows final changes to be made before a Planning Bill is formerly presented to Parliament. Consultation closes on the PWP on 29 October 2020.

Setting out three pillars for the future of planning, the PWP seeks to review how development is planned (Pillar 1 – Planning for Development), bring a new focus to design and sustainability (Pillar 2 – Planning for Beautiful and Sustainable Places) and reform how infrastructure associated with development is delivered (Pillar 3 – Planning for Infrastructure and Connected Places). It proposes long term structural changes to the planning system rather than more immediate amendments to the existing process.

Whilst Rother District Council (RDC) will be responding in full to the PWP, this report focuses on the proposed responses to Pillar 3, as they are directly associated with the Council's plans in relation to its existing Community Infrastructure Levy (CIL) arrangements.

The PWP intends to reform the system of planning contributions, including the abolition of the CIL and Section 106 (S106) Agreements as a means to accelerate the delivery of development whilst continuing to provide affordable housing. CIL and S106 will be morphed into a newly proposed nationally set Infrastructure Levy (IL). The principle of the IL is to capture the land value uplift created by planning approval and use this to enhance infrastructure delivery. Affordable homes delivered on-site are proposed to be off set against the proposed IL. The IL would be paid at the point of occupation, leaving councils to pay for and deliver any infrastructure needed up front. Local authorities will be allowed to borrow against future levy receipts to fund this.

At the same time as the PWP, the Government are undertaking consultation on a separate document which proposes more immediate changes to the current planning system, incorporating changes to the standard method for assessing local housing need, securing first homes through developer contributions in the short term, amending thresholds for affordable housing delivery, and extending the current Permission in Principle to include major development.

This report now moves on to summarise and discuss the main points raised in relation to planning for infrastructure and presents the Council's proposed responses to the specific consultation questions produced by the Government.

Perceived problems with the current system

The Government considers that current planning obligations are broadly uncertain and unclear, as they are subject to negotiation and renegotiation based in part on the developer's assessment of viability. This creates uncertainty for communities about the level of affordable housing and infrastructure that development will bring. In turn, this brings cost, delay and inconsistency into the planning process.

The current operation of CIL addresses many of these problems as it is a flat-rate and non-negotiable tariff, and developers and local authorities have, in general, welcomed the certainty it brings. However, as payment is set at the point planning permission is granted, and payment due once development commences, it is inflexible in the face of changing market conditions. The Government consider that payment before a single home has been built increases the developer's risk and cost of finance, creating cashflow challenges which are more acute for smaller developers. Despite early payment, the Government considers many local authorities have been slow to spend CIL revenue on early infrastructure delivery, reflecting factors including indecision, competing spending priorities, and uncertainty over other infrastructure funding streams.

In relation to affordable housing delivery, the current S106 system, means that developer contributions, whether on or off site, are vulnerable to challenge when a scheme is not viable. This creates risks for the local authority in meeting its affordable housing need as affordable housing is not currently secured as a fixed cost in the same way as CIL.

Pillar 3 – what does it cover?

Pillar 3 of the PWP is entitled 'Planning for infrastructure and connected places'. Securing necessary infrastructure and affordable housing alongside new development is central to the Government's vision for the planning system. Reforms are proposed to make sure that developer contributions are:

- responsive to local needs, to ensure a fairer contribution from developers for local communities so that the right infrastructure and affordable housing is delivered;
- transparent, so it is clear to existing and new residents what new infrastructure will accompany development;
- consistent and simplified, to remove unnecessary delay and support competition in the housebuilding industry;
- buoyant, so that when prices go up the benefits are shared fairly between developers and the local community, and when prices go down there is no need to re-negotiate agreements.

The Government has presented a series of consultation questions throughout the narrative of the PWP, and these are presented in the same way in this report.

Consultation Question

21. When new development happens in your area, what is your priority for what comes with it?

The Council prepares an Infrastructure Delivery Plan in support of its Local Plan which outlines the infrastructure requirements which are required to support

development across the District, along with their priority for delivery. If the site is allocated for development, it will have specific infrastructure on-site and potential off-site requirements listed in policy that will need to be delivered to make the development acceptable.

If liable, the Council always seek to secure on-site affordable housing from development as this is a key Council priority to meet local housing need. Transport infrastructure in support of the cumulative impact of major development is also a high priority where known junction and access improvements are required.

It is difficult to confirm the priorities generally for all forms of development, but high-quality design, the development of open space and suitable community facilities to support development, such as school places and health provision are also important.

A Consolidated Infrastructure Levy

The Government propose that S106 and CIL are replaced by a new consolidated IL under the following proposal, and alternative proposal.

Government Proposal

IL proposed to be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally set rate or rates (a single rate country wide or area specific rates) and the current system of planning obligations abolished. IL payments to be made on occupation of dwellings

The Council consider the following issues arise with this proposal:

- **The IL would be payable on occupation of dwellings** – This could lead to possible delays to the delivery of key infrastructure and affordable housing purchases. Whilst local authorities can borrow money against the levy, this is risky.
- **Creating a threshold by which low value developments do not pay the IL to prevent viability issues, and where the value of development is above the threshold then a proportional charge is required** – it is difficult for the Council to comment on this until the specific threshold information is consulted upon.
- **The Government consider that the proposal provides greater certainty for communities/developers about what contributions are expected alongside development** – The Council consider that existing CIL charges are published and clear and that the new proposal does not lead to greater certainty.
- **Aim to increase revenue when compared to the current system with the IL charge based all land use classes** – It is currently difficult for the Council to understand how the nationally defined IL would strike a balance on viability terms for all land uses.
- **The proposed IL would be more sensitive to economic downturns** – Whilst true, this would also mean that economic downturns will result in a longer timeframe to collect the levy as it would relate to the completions of development.
- **To allow for the timely delivery of infrastructure, would allow local authorities to borrow against revenue to forward fund infrastructure** – the Council consider this to be a high-risk strategy for local authorities. There will be additional borrowing costs and it is not clear if this can be easily recovered by the IL.

- **Uncertainty how other on-site facilities and off-site mitigation will be secured** - The Council are currently uncertain how other on-site facilities/services be secured through the proposed IL including play space, open space, community facilities and local employment opportunities. There is the same uncertainty regarding the means of delivering off-site mitigation such as Biodiversity Net Gain and Sustainable Drainage Systems.

The Government consider that there is an alternative proposal in maintaining a locally set IL which would address issues around transparency, responsiveness to local needs and consistency. The opportunity to capture land value considerations are however less strong under this proposal with levy rates being determined at the local level.

Government Alternative Proposal

As an alternative option, a levy could remain optional and would be set by individual local authorities. However, as planning obligations would be consolidated into the single IL, the Government anticipate that there would be a significantly greater uptake. The aim of the de minimis threshold would be to remove the viability risk, simplifying the rate setting process, as this would remove the need for multiple charging zones within an authority. It would be possible to simplify further – for instance, for the Government to set parameters. There would be a stronger incentive for local authorities to introduce the new IL, as they would not be able to use S106 planning obligations to secure infrastructure or affordable housing. In addition, some local authorities have chosen not to introduce the CIL out of concern for the impact on viability of development. Because the new IL would only be charged above a set threshold, these impacts would be mitigated.

Consultation Questions

22(a). Should the Government replace the CIL and S106 planning obligations with a new consolidated IL, which is charged as a fixed proportion of development value above a set threshold?

The Council is uncertain of the benefits of doing this as there is the potential that the opportunity to deliver some on-site and off-site mitigation through existing S106 arrangements would be lost. Clarification is required from government as to how all developer contributions will be able to be secured through the infrastructure levy and if not, what other mechanisms are available for their delivery. Such examples include existing arrangements for S106 contribution towards local labour agreements, and off-site mitigation for air pollution.

However, the Council do consider that a levy based on development value is an appropriate mechanism in principle subject to other comments raised. This will ensure that value can be more fairly apportioned between infrastructure and affordable housing, rather than affordable housing being left to negotiation on a case by case basis.

22(b). Should the IL rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?

The Council are uncertain of how nationally set rates can practically work as values

are very different spatially, and local circumstances cannot necessarily be reflected through these proposals. The term 'area-specific' will need to be defined as there is a greater deal of variation in viability across areas in a local authority.

The Council would support locally defined rates, but closely monitored against area and national specific rates to ensure there are no disproportionate benefits for buying land and developing in Rother District.

22(c). Should the IL aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?

There is concern that through including affordable housing delivery as part of the IL, then the opportunity to fund other important infrastructure will be significantly reduced. Therefore, the levy should aim to capture greater value than before to support investment in infrastructure. It is commonplace that through the development of existing local authority CIL charging schedules, the current CIL charge and resulting potential revenue will by no means meet the entire 'infrastructure gap' that exists between current ringfenced funding and the cost of delivering the infrastructure. The ability to capture greater value through the IL, subject to viability, is therefore supported in principle.

22(d). Should we allow local authorities to borrow against the IL, to support infrastructure delivery in their area?

Whilst it is considered that this will help developer cashflow, local authorities will be exposed to a significant level of risk, putting pressure on councils to consider borrowing money without the certainty of knowing when it will be paid back through the IL.

Extending the Scope of the Infrastructure Levy

Government Proposal

The scope of the IL could be extended to capture changes of use through permitted development rights

In making this change to developer contributions for new development, the scope of the IL would be extended to better capture changes of use which require planning permission, even where there is no additional floorspace, and for some permitted development rights including office to residential conversions and new demolition and rebuild permitted development rights. This approach would increase the levy base and would allow these developments to better contribute to infrastructure delivery and making development acceptable to the community. However, the Government propose to maintain the exemption of self and custom build development from the IL.

Consultation Question

23. Do you agree that the scope of the reformed IL should capture changes of use through permitted development rights?

Yes, as change of use and permitted development do not currently capture CIL payments or affordable housing provision but do contribute to development. The Government will need to be clear about how permitted development changes will be enforced and how the levy can be captured and monitored.

Affordable Housing Provision

Developer contributions currently deliver around half of all affordable housing across the country, most of which is delivered on-site. It is important that any reformed approach will continue to deliver on-site affordable housing at least at present levels. Affordable housing provision is currently required through robust and evidence based policies in Local Plans and is secured by the legal mechanism of S106 agreements. However, the CIL cannot currently be spent on delivering affordable housing. S106 agreements ensure the appropriate types of homes are delivered and stipulate how they will be managed in the future.

Government Proposal

The reformed IL should deliver affordable housing provision.

With S106 planning obligations removed, government propose that under the IL, authorities would be able to use funds raised through the levy to secure affordable housing. This could be secured through in-kind delivery on-site, which could be made mandatory where an authority has a requirement, capability and wishes to do so. Local authorities would have a means to specify the forms and tenures of the on-site provision, working with a nominated affordable housing provider.

Under this approach, a provider of affordable housing could purchase the dwelling at a discount from market rate, as is currently required. However, rather than the discount being secured through S106 planning obligations, it would instead be considered as in-kind delivery of the IL. In effect, the difference between the price at which the unit was sold to the provider and the market price would be offset from the final cash liability to the Levy. This would create an incentive for the developer to build on-site affordable housing where appropriate. First Homes, which are sold by the developer direct to the customer at a discount to market price, would offset the discount against the cash liability.

This approach transfers risks to the planning authority. The Government consider that this can be mitigated through policy design in order to maintain existing levels of on-site affordable housing delivery. In particular, in the event of a market fall, the policy could allow local planning authorities to 'flip' a proportion of units back to market units which the developer can sell, if Levy liabilities are insufficient to cover the value secured through in-kind contributions.

Alternatively, the Government could require that if the value secured through in-kind units is greater than the final levy liability, then the developer has no right to reclaim overpayments. The Government could provide standardised agreements, to codify how risk sharing would work in this way. The Government would also need to ensure the developer was incentivised to deliver high build and design quality for their in-kind affordable homes. Currently, if S106 homes are not of sufficient quality, developers may be unable to sell it to a provider or have to reduce the price. To

ensure developers are not rewarded for low-standard homes under the Levy, local authorities could have an option to revert back to cash contributions if no provider was willing to buy the homes due to their poor quality.

It is important that any approach taken maintains the quality of affordable housing provision as well as overarching volumes and incentivises early engagement between providers of affordable housing and developers. Local authorities could also accept IL payments in the form of land within or adjacent to a site. Through borrowing against further IL receipts, other sources of funding, or in partnership with affordable housing providers, they could then build affordable homes, enabling delivery at pace.

The Government consider that there is an alternative proposal for delivering affordable housing through the IL, by using funds received along with other funding streams to purchase a proportion of units on the site at development build costs.

Government Alternative Proposal

The Government could seek to introduce further requirements around the delivery of affordable housing. The proposal would create a 'first refusal' right for local authorities or any affordable housing provider acting on their behalf to buy up to a set proportion of on-site units (on a square metre basis) at a discounted price, broadly equivalent to build costs. The proportion would be set nationally, and the developer would have discretion over which units were sold in this way. A threshold would be set for smaller sites, below which on-site delivery was not required, and cash payment could be made in lieu. Where on-site units were purchased, these could be used for affordable housing, or sold on (or back to the developer) to raise money to purchase affordable housing elsewhere. The local authority could use IL funds, or other funds, in order to purchase units.

In answering the following specific consultation questions, initial thoughts have been gathered from the Housing Services team. It will be necessary for more detailed discussions to take place between the Housing Services and Planning Policy teams before these specific consultation questions are finalised.

Consultation Questions

24(a). Do you agree that we should aim to secure at least the same amount of affordable housing under the IL, and as much on-site affordable provision, as at present?

Yes. There is significant unmet need on the housing register and increasing housing need across Rother District for all forms of affordable tenure, especially affordable and social rent. Affordable housing remains a key corporate priority for this Council as it is for many local authorities. Minimum planning policy requirements cannot always be met due to the viability of development and resulting reduction in overall contributions. On-site delivery is critical on all sites in the District to ensure a continuous pipeline of new homes is available to meet growing demand.

The benefits and importance of the S106 system should not be forgotten by the Government, in that it provides a positive legal mechanism to secure a home to the land, protects future nomination rights, and ensures the delivery of the type of affordable local housing units required. Change in market conditions and values can

be accommodated through renegotiation with an open book approach. This provides certainty to the developer, rather than the uncertainty and complexity of in-kind/right to purchase.

24(b). Should affordable housing be secured as in-kind payment towards the IL, or as a 'right to purchase' at discounted rates for local authorities?

The Council consider that it is not sufficiently clear how the in-kind contributions and offsetting will work in practical terms. In principle, the unit would be sold to a registered provider at build cost and the difference between this and market price would be the in-kind payment offset against the total levy. This may result in a much lower contribution of affordable housing to that currently delivered, along with a possible reduction in on-site delivery where there is no robust legal mechanism requiring the completion and transfer of the affordable homes before the wider scheme is completed. The ability to use the IL to deliver/fund additional affordable housing could also limit the funding allocated to other infrastructure items.

A right to purchase approach is similar in its approach in that a unit will be bought at build cost and the proportion that could be bought will be determined nationally. However, the fact that the developer has control which of the units are sold in this way does not give scope for the local housing needs of the area to be addressed. The removal of negotiation through a S106 approach results in loss of influence by the local authority to ensure we are meeting local housing need and securing it in perpetuity. This approach is also likely to undermine other important planning policies such as the requirement of pepper-potting affordable and market homes to achieve sustainable and balanced communities.

24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?

The PWP states that the Government could require that if the value secured through in-kind units is greater than the final levy liability, then the developer has no right to reclaim overpayments. Government could provide standardised agreements, to codify how risk sharing would work in this way.

The Council is not clear how this risk can be mitigated, and it is suggested by the Government that the developer shall have no right to reclaim overpayments.

24(d). If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?

The Council is unsure why the approach taken would result in poor quality houses. Local plan policies (or replacement national policies) should be clear on what is expected from development and this should be considered at the planning application stage and secured by an appropriate legal agreement.

There should be a clear expectation from the Government for developers to meet design standards in planning policy. The Council do by no means accept financial contributions over quality of build and would not support any policy that allows a negative precedent to be set in this regard.

Increased Freedom in the Spending of the Infrastructure Levy

Government Proposal

More freedom could be given to local authorities over how they spend the IL.

It is important that there is a strong link between where development occurs and where funding is spent. Currently, the Neighbourhood Share of the CIL ensures that up to 25% of the levy is spent on priorities in the area that development occurred, with funding transferred to parish councils in parished areas. There are fewer restrictions on how this funding is spent, and we believe it provides an important incentive to local communities to allow development in their area. The Government propose that under this approach the Neighbourhood Share would be kept, and they are interested in ways to enhance community engagement around how these funds are used, with scope for digital innovation to promote engagement.

The Government is seeking views about whether to increase local authority flexibility, allowing them to spend receipts on their policy priorities, once core infrastructure obligations have been met. In addition to the provision of local infrastructure, including parks, open spaces, street trees and delivery or enhancement of community facilities, this could include improving services or reducing council tax.

The balance of affordable housing and infrastructure may vary depending on a local authority's circumstances, but under this approach it may be necessary to consider ring-fencing a certain amount of Levy funding for affordable housing to ensure that affordable housing continues to be delivered on-site at current levels (or higher). There would also be opportunities to enhance digital engagement with communities as part of decision making around spending priorities.

Alternatively, the permitted uses of the Levy could remain focused on infrastructure and affordable housing, as they are broadly are at present. Local authorities would continue to identify the right balance between these to meet local needs, as they do at present.

Consultation Questions

25. Should local authorities have fewer restrictions over how they spend the IL?

The Council generally supports the removal of restrictions regarding the spending of IL funds, notwithstanding comments regarding affordable housing. However, the Infrastructure Fund will not meet the whole infrastructure costs to support development, therefore we should not heighten the expectation to infrastructure providers that all infrastructure items will be met through the levy.

25(a). If yes, should an affordable housing 'ring-fence' be developed?

The Council believe that there should be an opportunity to ring fence a proportion of the IL for affordable housing, but flexibility may be required for changing circumstances over time and to protect other important planning policy requirements on a scheme by scheme basis (for instance market housing helping facilitate commercial development on a site). It is not clear how this ringfencing would be determined and how it would link to the strategy for either in-kind or discounted rate approaches to securing affordable housing advocated by the Government.

Conclusion

The PWP has proposed some significant changes to the way that developer contributions and infrastructure are delivered. The Council considers that many of the proposals require greater thought and detail regarding their implementation, specifically the impact of the proposed changes on securing affordable housing. It will therefore be necessary to engage further with departments within the Council, especially Housing Development Services, to consider wider strategic impacts.

The proposed responses to the consultation should be considered by the CIL Steering Group and any further thoughts or issues raised by the Group can be addressed and reflected in future amendments to these responses.

The Council will be replying to the complete set of consultation questions related to the entire PWP, including the other two pillars, and any issues of relevance brought up at this stage will be fed into these additional responses.

Rother District Council

Report to: Community Infrastructure Levy Steering Group

Date: 5 October 2020

Title: Community Infrastructure Levy and Community Grants Scheme Criteria

Report of: Head of Strategy and Planning

Purpose of Report: Information Report: To advise Members on the differences between the Strategic Community Infrastructure Levy and Community Grants Scheme Criteria

Officer Recommendation(s): It be **RESOLVED:** That Members' views be sought.

Introduction

1. As part of the Community Infrastructure Levy (CIL) Steering Group's Terms of Reference (ToR), the Group was tasked to consider CIL in the context of the Council's Community Grant Scheme (CGS). The current Community Grant Programme has been operating since 2008 and has an annual budget of £130,000 drawn down from Earmarked Reserves.

Rother Community Grants Scheme

2. Rother District Council's (RDC) CGS supports the development of community facilities, community activities and sustainable local action. Applications are welcomed from voluntary or community organisations for services and activities which benefit the residents of Rother.
3. There are three types of grants that may be funded:
 - **Small value projects** – Grants of under £500 can be applied for and are considered all year round and authorised by the Grant Panel delegation. The maximum amount of funding for small grants in any one year is £5,000.
 - **Medium Grants Scheme** – £30,000 per year is ring-fenced for one-off grants of up to £5,000 each.
 - **Large Grants Scheme** – The maximum grant for any project is £30,000.

Medium and Large grant applications are considered twice yearly as per the procedure set out in paragraph 4, with applications closing on the 15 July and 15 January.

4. Grant applications are initially assessed using a Grant Assessment Sheet against agreed criteria as set out in the [Community Grants Scheme Guidance Details](#). A Grants Criteria table is then prepared for the Grants Panel meeting with an officer recommendation being made to either approve or reject applications. The Panel then discuss and make recommendations to the

March and September Cabinet meetings who ratify the recommendations or otherwise.

5. Panel Membership is comprised of:
 - Two Members of the Cabinet appointed by the Leader.
 - The Chairman of Overview and Scrutiny Committee.
 - A representative from Rother Voluntary Action (RVA).
 - A representative from Action in Rural Sussex (AiRS).
 - The Chairman or appointed deputy from Rother Association of Local Councils (RALC).
 - Two RDC officers appointed by Executive Directors, to include one officer from Finance.
6. A report was presented to Cabinet on 7 September 2020 detailing some minor changes to the existing ToR, to evidence support from Ward Members on applications in their area.

Rother Strategic CIL criteria

7. Strategic CIL (that which is retained by RDC) can be used to fund a wide range of infrastructure such as transport, flood defences, schools, hospitals and other health and social care facilities. However, charging authorities (RDC) may not use the levy to fund affordable housing. Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed and this is informed by the [Infrastructure Delivery Plan](#).
8. Elsewhere on the agenda is the Governance Arrangements, Funding Protocol and Assessment Criteria for determining bids for Strategic CIL above £100,000.00 to support significant strategic infrastructure.

Rother Local CIL

9. Where all or part of a chargeable development is within the area of a parish council, the charging authority (RDC) must pass a proportion of the CIL receipts from the development to the parish council. This Local CIL figure equates to 15% of the CIL collected within the parish, except where there is a 'made' Neighbourhood Plan, where this rises to 25%. The Parish Council must use the CIL receipts passed to it to support the development of the Parish Council's 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.
10. Communities without a parish or town council still benefit from the neighbourhood portion. Where there is no parish or town council, the charging authority (RDC) retains the levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the Local CIL.
11. The Local CIL can be spent on a wider range of projects than the Strategic CIL, provided that it meets the requirement to 'support the development of the area'. The wider definition means that the neighbourhood portion can be spent on projects other than infrastructure (as defined in the regulations)

provided it is concerned with addressing the demands that development places on the parish's area. For example, the pot could be used to fund affordable housing.

12. While parish and town councils (P&TCs) are not required to spend their Local CIL in accordance with RDC priorities, the Planning Practice Guidance advises that P&TCs should work closely with the District Council to agree priorities for spending the Local CIL.
13. The spending of Local CIL has a much wider remit than that of the Strategic CIL, which must be spent on infrastructure, meaning it can be spent on anything else concerned with addressing demands that development places on an area. Such examples may include environmental improvement (landscaping, open space improvements) public art, street furniture, equipment for a community group. These types of local projects are similar to the those which fall within the scope of the CGS.

Conclusion

14. It is apparent that the Strategic CIL and Community Grants are very different and fulfil different funding functions. However, the Local CIL is more akin to the local community projects that may potentially overlap with the Community Grants.
15. Members will be aware that the finances of the Council are under strain and that it may not be feasible in future to continue funding Community Grants of £130,000 per annum from Earmarked Reserves. Therefore, Members may wish to consider options for the Community Grants criteria that seeks to avoid duplication/overlap with the Local CIL.
16. Members will note the differences between the CGS and the Strategic and Local CIL funding thresholds and criteria. Views are sought from the CIL Steering Group as to whether there should be any amendments to the current Rother CGS to minimise duplication with the Local CIL.

Implications

Financial Implications

17. The Community Grant of £130,000 is currently funding from Earmarked Reserves that will not be sustainable into the future.

ASSESSMENT CRITERIA

Before Rother District Council can reach a decision to release funds from the Community Infrastructure Levy, it needs to be able to consider a range of information. The table below sets out the criteria in which the information provided in the Bid Form will be considered against.

Q	BID PRO-FORMA QUESTION	KEY CONSIDERATIONS
1	Is the need for the scheme identified in any RDC adopted strategy or plan?	<p>Does the proposal have regard to any of the following?</p> <ul style="list-style-type: none"> • Is the proposal identified in the Infrastructure Delivery Plan? • Is the proposal or infrastructure identified in the Regulation 123 List? • Does the proposal comply with the Core Strategy? • Does the proposal have regard to the Corporate Plan?
2	How does the proposal demonstrate that it supports development for the area?	<p>The CIL Regulations state that funds must be spent on <i>'infrastructure necessary to support growth'</i>. The CIL should not be spent to remedy current insufficiencies in infrastructure provision unless those insufficiencies will intensify through new development. Proposals will score high if the project unlocks sites to enable development and is a catalyst for further development. May be that the project enables other projects to come forward.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • Does the proposal meet the CIL Regulations? • How does the proposal reflect the aims of CIL in so far as it helps bring forward development in the area? For example, a new access road may unlock a development site which can provide housing for the area. • Is the investment required to enable or mitigate the impacts of growth? • Are there any secondary effects such as increasing foot fall to local shops or shortens journey times?
3	What is the evidence of need for the proposed infrastructure?	Does the proposal relate to any published strategies that your own organisation has in place? Proposals will score high if the infrastructure is programmed into the organisation's infrastructure plan.
4	What are the direct and indirect benefits to the proposal?	<p>Proposals that score highly will have a profound positive effect on a wide range of users.</p> <p>A scheme would not need to be located in the Rother District to qualify for funding. However, the proposal must demonstrate a clear strategic benefit to residents and/or visitors of Rother.</p>

		<p>Things to consider:</p> <ul style="list-style-type: none"> • Would the project lead to any income generation? • Does the project cover more than one Charging Authority and will the infrastructure serve areas beyond the local area, including neighbouring boroughs? • Does the proposal offer wider as well as local benefits? • Are there any indirect benefits? For example, a new leisure facility would provide a direct benefit to the community. However, an indirect benefit may be that obesity rates in the locality reduce.
5	Please provide details of any consultation undertaken with the community or other stakeholders.	<p>Proposals will score high if a range of consultation techniques have been used involving a wide range of stakeholders and end users over a sustained period of time and evidence demonstrates engagement has helped build consensus and identifying the needs of the community.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • Is there community support/objection to this project? • Provide evidence of any petitions, campaigns, fundraising initiatives, consultation responses, community engagement techniques, letters of support etc. • How have any groups with 'protected characteristics' been consulted (see next question)?
6	In regard to the project, please explain how you have given consideration to the different needs of people and describe the steps that have been taken to minimise the potential for discrimination and maximise equality of opportunity.	<p>The Public Sector equality duty covers the nine protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.</p> <p>The purpose of identifying equalities issues and assessing the impact is to help make sure that the project reflects the needs of the all sections of the community.</p> <p>Proposals will score high if all opportunities to promote equality have been taken and no potential for discrimination or adverse impact to equality or missed opportunities have been identified.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • Identify which groups will be affected by the proposal. • Identify any positive/negative impacts for the 'protected' groups? • Are any 'protected' groups more affected by the proposal than others, if so why? • How can any negative impacts be mitigated?
7	Are there any risks associated	List the key risks involved in running the project and how those risks will be managed. Proposals will be awarded

	with the delivery of the scheme?	<p>greater weight if there is a strong certainty of delivery, costs identified, funding in place planning approved (where relevant) and political and community support for the proposal.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • Are there any physical and environmental impacts (e.g. flood risk, contamination, biodiversity, noise, etc.) that need to be mitigated? • Is the project dependent on other projects going ahead? • Has a risk assessment been carried out? • Does the proposal require any land to be secured? Are there any ownership, acquisition or compulsory purchase order issues? • Will the proposal require any statutory approvals or licenses such as planning permission? If so, has advice been obtained?
8	What would be the risks if CIL funding not being available?	<p>Where it can be satisfactorily demonstrated that the infrastructure would not otherwise be delivered unless CIL funding can be secured and the absence of CIL will cause significant risks, the proposal will score high.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • Would investment reduce on-going costs placed on the council and local community in the long-term? • What would be the impact if investment was delayed (additional cost)?
9	Please provide a breakdown of the project costs and provide quotes to substantiate your figures where possible. Please outline the forecasted total cost of the project.	<p>The Charging Authority must be satisfied that value for money is being achieved. It is therefore advised that all bid applications should contain more than one quote for the proposed works. CIL funding is conditional upon this requirement. Projects which are accompanied by a detailed cost plan will be awarded greater weight as it demonstrates that the project has been fully researched and considered.</p>
10	Please provide a detailed summary of the total CIL funding required, including phasing.	<p>The Charging Authority recognises that large scale projects seeking funding that is greater than the current amount available for CIL may be an issue. However, greater weight can be given to well-prepared large-scale projects accompanied by a project plan evidencing how much CIL is needed and how much should be set aside over successive plan periods.</p>
11	Please indicate why CIL funding	<p>It must be reasonably demonstrated that all other funding options have been explored. It is unlikely that CIL will be</p>

	<p>is being sought and outline the source of any additional funding that has been secured or is being sought.</p>	<p>granted unless this can be demonstrated. Greater weight will be given to proposals which are only partly reliant on CIL and the majority of funding has been secured.</p> <p>Things to consider:</p> <ul style="list-style-type: none"> • What other sources of funding have been considered and applied for. Please highlight or explain where other possible funding sources have been considered insufficient. • Is the proposal expected to see any Section 106 funding? • Is there a remaining funding shortfall? If so, how much? How will the shortfalls in funding be met? <p>Present other funding secured in the following or similar format:</p> <table border="1" data-bbox="539 763 1377 954"> <tr> <td>Source</td> <td></td> </tr> <tr> <td>Amount</td> <td></td> </tr> <tr> <td>Conditions Attached</td> <td></td> </tr> <tr> <td>Use by Date</td> <td></td> </tr> <tr> <td>Funding Confirmed</td> <td></td> </tr> </table>	Source		Amount		Conditions Attached		Use by Date		Funding Confirmed	
Source												
Amount												
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Use by Date												
Funding Confirmed												
12	<p>What is the delivery timescale for the project? Please outline key milestones.</p>	<p>Please outline whether the scheme is:</p> <ol style="list-style-type: none"> a) Short term – within five years b) Medium term – between five to 10 years c) Long term – more than 10 years 										
13	<p>What are the on-going costs of the project, who is responsible for these and how have these been planned for?</p>	<p>Things to consider:</p> <ul style="list-style-type: none"> • Can on-going costs be covered by warranties? • Are on-going costs covered by another organisation? • Does the proposed infrastructure provide opportunities to generate income to meet the future costs? 										

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Rother District Council

Report to:	Community Infrastructure Levy Steering Group
Date:	5 October 2020
Title:	Overview of the Community Infrastructure Levy (CIL) position at other East Sussex Local Authorities and their Strategic CIL Award Processes
Report of:	Head of Strategy and Planning
Purpose of Report:	To advise Members on the differences between the current CIL positions at other local authorities in East Sussex and consider any amendments to the Council's Instalment Policy

Officer Recommendation(s): It be **RESOLVED:** That the report be noted and Members' views be sought as to whether any amendments are required to the Council's Instalment Policy

Introduction

1. At present, there are two broad routes for local planning authorities to secure developer contributions, both of which are discretionary for authorities: planning obligations and the Community Infrastructure Levy (CIL). Planning obligations – through Section 106 agreements – are negotiated with developers. In contrast, the CIL is a fixed charge, levied on the area (floorspace) of new development, and secures monies to contribute towards the funding of infrastructure that addresses the cumulative impact of development in an area. The CIL is not mandatory for local planning authorities, and around half of authorities currently charge it. Rother District Council (RDC) began charging CIL on liable developments from 4 April 2016.

CIL positions at other East Sussex Local Authorities

2. At present RDC, Wealden District Council (WDC), Eastbourne and Lewes Councils are operating CIL in East Sussex. Hastings Borough Council do not operate CIL and rely solely on Section 106 agreements and Brighton and Hove City Council is to commence with CIL on the 5 October 2020.
3. The table attached at Appendix A illustrates the different operating procedures at the four local councils in East Sussex, comparing a number of key elements of CIL and how strategic CIL funding is allocated towards infrastructure projects. Key points to note are:
 - Trigger for commencement of strategic CIL spending – only RDC has set a trigger amount which is £250,000. All other authorities have not sought a threshold for commencing strategic CIL spending.
 - Threshold for minimum CIL Project to be considered Strategic – RDC is the only authority in East Sussex which applies a minimum total cost of a project to be considered eligible for Strategic CIL.

- Use of a decision-making panel to approve submitted strategic CIL bids – other than RDC, Members are involved in the decision making of bids, which then require Cabinet or Council sign off.
- Do bid awards require Cabinet sign off – out of the four local authorities it is only RDC who does not currently require Cabinet/Council sign off of strategic CIL bids awards.
- Do other Councils divide strategic CIL into spending pots for different infrastructure – RDC and WDC do not, whereas Eastbourne and Lewes do. See Appendix A for further details.
- Do other Councils automatically transfer monies to other infrastructure providers – no for all four.
- Are other councils looking to amend their Instalment Policy (or is it likely to be amended) in light of the Coronavirus Amended Regulations 2020 - Only Lewes District Council (LDC) has updated their Instalment Policy and Eastbourne Borough Council is updating theirs.

Instalment Policy

4. The Council adopted an [Instalment Policy](#) on the 7 December 2015 (Minute CB15/52 refers) which requires for payments to be made at set times following commencement of the development. Failure to pay on time means the applicant will forfeit their right to pay in instalments, where applicable, and will be required to pay the full liability immediately.
5. The Government has amended the CIL Regulations 2010 through the [Community Infrastructure Levy \(Coronavirus\) \(Amendment\) \(England\) Regulations 2020](#) to give authorities discretion, for a limited period, to defer CIL payments for small and medium sized developers without having to impose additional costs on them. A CIL payment must be due during the “material period” – which is the period starting on 22 July 2020 (i.e. when the regulations came into force) and ending at midnight on 31 July 2021.
6. The Planning Policy Guidance states that the CIL payment deferral provisions apply, temporarily, to small and medium sized developers (SMEs) with an annual turnover not exceeding £45m. Any such SME who is (i) experiencing financial difficulties because of the effects of coronavirus and (ii) having difficulty paying an amount of CIL (whether by instalment or otherwise) which is due (required to be paid) during the material period, may ask the CIL collecting authority to defer that CIL payment. This may include payments that became due before the start of the ‘material period’ and are still outstanding (such that the CIL amount is required to be paid during the material period).
7. LDC has amended their Instalment Policy to reflect feedback from developers in relation to cashflow issues to pay the levy within the expected timeframe and to ease financial pressure on developers in the current COVID-19 pandemic. In line with the Regulations set out above, RDC officers have published a “CIL Deferral Request Application Form” which is available on the RDC website and to date there has been one form submitted for consideration.

8. Member's view are sought as to whether amendments should be made to the Rother Instalment Policy to ease the financial impact on developers in order to potential simulate housing delivery in the District.

Conclusion

9. Members will note the differences between the four local authorities in East Sussex with regard to how they operate CIL. Views are sought from the CIL Steering Group as to whether they wish to make any amendments to the procedures and the Council's Instalment Policy and if so, what kind of changes need to be made so that a further report can be brought back to the CIL Steering Group setting out any new protocols or procedures. It is noted that the Executive Director along with the Portfolio Holder for Strategic Planning have delegated authority to make variation to the Instalment Policy in light of the operation of the Policy (Minute CB15/52 refers).

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East Sussex Local Authority CIL Comparisons

Appendix A

Local Authority	CIL in place Yes/ No	Trigger for commencement of CIL spend	Spend thresholds	Decision Making Panel to approve bids? If yes who on it?	Do bid awards require Cabinet sign off	Does your Council divide strategic CIL into spending pots for differing infrastructure?	Do you automatically transfer monies to other infrastructure providers, such as ESCC? If so, how is this allocated?	Please provide links to your adopted CIL protocols.	Instalment Policy position	Instalment Policy amended (or to be amended in light of CIL (Coronavirus) (Amendment) (England) Regulations 2020
Rother DC	Yes	£250,000 in Strategic CIL pot – annual welcoming of bid applications	Bids for schemes which have a total cost of less than £100,000 will not be allocated CIL funding.	Panel of RDC Officers only	No	No	No – only currently accept applications through the bidding process.	Governance - Council Minute C15/45 refers. Funding Decision Protocol - Cabinet Minute CB18/46 refers	https://www.rother.gov.uk/wp-content/uploads/2020/03/CIL_Instalment_Policy.pdf	No decision yet made.
Wealden DC	Yes	No trigger - Bidding applications invited annually	None	Officer assessment on applications made, and recommendation formed. Recommendation considered as PFH Decision, subject to Full Council referral.	Full Council	No	No – only currently accept applications through the bidding process	https://council.wealden.gov.uk/ieDecisionDetails.aspx?ID=2248	https://www.wealden.gov.uk/UploadFiles/CIL_Adopted_Charging_Schedule_November_2015.pdf Page 5.	https://www.wealden.gov.uk/planning-and-building-control/planning-advice/community-infrastructure-levy/paying-for-cil-and-covid-19/
Eastbourne	Yes	Not yet received sufficient CIL receipts to warrant opening the strategic pot for bidding (£392,000).	None	Local Plan Steering Group (Member group) makes recommendations to Cabinet on strategic pot bids. Capital Programme Steering Group makes recommendations to Cabinet on spending the Neighbourhood Pot (no bidding process)	Yes	Yes – in theory. Strategic CIL distributed between County Council Fund and Other Infrastructure Providers Fund. Money transferred between these two funds based on specific priorities at the time.	No – only via application through bidding process and agreement on funding projects from Cabinet	https://democracy.lewes-eastbourne.gov.uk/mgAs.aspx?ID=2026	Instalments policy prepared and currently awaiting sign off	New instalment policy awaiting sign off
Lewes DC	Yes	Bidding applications invited on annual basis	None	CIL Management Board assesses bids received in the Local and Community pots, taking into account officer assessment. CIL Management Board makes recommendations for spending to the CIL Executive Board. CIL Executive Board reviews the recommendations of the CIL Management Board and assesses the bids received for the County pot, following officer assessment. CIL Executive Board makes final recommendation for spending to Cabinet, who approve the recommendations.	Yes	After 1 st apportionment (i.e. 5% admin / 15%/25% neighbourhood), the 2 nd apportionment splits into 70% Strategic Pot, 20% Local Pot, 9% Community Pot and 1% Small Projects pot.	No – only via application through bidding process and agreement on funding projects from Cabinet	Attached	https://www.lewes-eastbourne.gov.uk/planning-policy/community-infrastructure-levy-cil/community-infrastructure-levy-charging-schedule-and-related-policies/	Instalment policy updated 12 June
Brighton & Hove	Due to commence with CIL on the 5 October 2020									
Hastings BC	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

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