

COMMUNITY INFRASTRUCTURE LEVY STEERING GROUP

24 July 2020

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

Committee Members present: Councillors 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 in attendance: 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.

CIL20/1 **ELECTION OF CHAIRMAN**

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

CIL20/2 **APOLOGIES FOR ABSENCE**

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

CIL20/3 **DECLARATIONS OF INTEREST**

There were no disclosures of interest.

CIL20/4 **AMENDED TERMS OF REFERENCE - REPORT TO CABINET (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.

PRESENTATION - INTRODUCTION AND BACKGROUND TO COMMUNITY INFRASTRUCTURE LEVY BY NICHOLA WATTERS

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.

CIL20/6 **DATE OF THE NEXT MEETING - MONDAY 7 SEPTEMBER 2020, 2.00PM**

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

CHAIRMAN

The meeting closed at 12:31pm.

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.