

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).