

COMMUNITY INFRASTRUCTURE LEVY STEERING GROUP

5 October 2020



Minutes of the Community Infrastructure Levy Steering Group held remotely on Monday 5 October 2020 at 2:00pm.

Steering Group Members present: Councillors K.P. Dixon, D.B. Oliver, S.M. Prochak (MBE) and J. Vine-Hall (Chairman).

Other Members present: Councillors Mrs V. Cook (in part), C.A. Madeley and A.S. Mier (in part).

Advisory Officers present: Assistant Director Resources (in part), Head of Strategy and Planning, Planning Policy Manager, Principal CIL Officer and Democratic Services Officer.

Also present: 16 members of the public, via the YouTube live broadcast.

CIL20/07. **APOLOGIES FOR ABSENCE**

(1)

An apology for absence was received from Councillor C.A. Bayliss.

CIL20/08. **DISCLOSURE OF INTERESTS**

(2)

Declarations of interest were made by Councillors in the Minutes as indicated below:

Dixon Agenda Items 4 and 9 – Personal Interest in so far as his wife is the Clerk at Brede Parish Council.

Prochak Agenda Item 7 – Personal Interest in so far as she is Chairman of the Council's Community Grants Scheme Panel.

Vine-Hall Agenda Item 4 and 9 – Personal Interest in so far as he is the Chairman of Sedlescombe Parish Council.

CIL20/09. **MINUTES OF THE MEETING 24 JULY 2020 – MATTERS ARISING**

(3)

The Community Infrastructure Levy (CIL) Steering Group considered the list of actions and the following was confirmed / noted:

Action 1: The Instalment Policy link had been emailed to Members of the CIL Steering Group and other Members who attended the meeting.

Action 2: The Principal CIL Officer confirmed that £819,644 (Rother element) of New Homes Bonus was estimated to have been lost as a result of recent developments approved on appeal.

Action 3: The Planning Policy Manager clarified that 25% of CIL payments would only be paid to a parish or town council where planning permission had been granted after a Neighbourhood Plan had been “made”. The procedure was detailed in paragraph 145 of the CIL section of the Planning Policy Guidance.

Action 4: It was confirmed that the 72-bed care home at Rosewood Park was not liable for CIL (because it was a care home).

It was clarified there were no further matters arising.

CIL20/10.
(4)

BACKGROUND TO INFRASTRUCTURE FUNDING STATEMENTS

Amended Community Infrastructure Levy (CIL) regulations came into force on 1 September 2019. Under these regulations, the Infrastructure Funding Statement (IFS) would replace the adopted CIL Regulation 123 List as the mechanism through which projects were identified for CIL funding. It was noted that the IFS would still be informed by the Infrastructure Delivery Plan (IDP).

District councils and county councils were obligated to prepare an IFS when in receipt of a contribution from development through CIL or a Section 106 (S106) obligation. From 2019/20 onwards, any local authority in receipt of CIL or S106 contributions must publish an IFS online by 31 December 2020 and by the 31 December each year thereafter.

The IFS detailed 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. The IDP detailed the framework for infrastructure needed to support the development targets in the Council’s Local Plan which identified the current position across the district.

IFS set out the infrastructure projects or types of infrastructure that the Council intended to fund, or may fund, either wholly or partly, by the levy or planning obligations. However, inclusion in the IFS did not signify the Council’s commitment to fund, prioritise or give weight to one particular type of infrastructure. The process of governance for CIL expenditure would be carried out separately through the adopted process.

Members had the opportunity to ask questions and the following salient points were clarified / noted:

- the CIL Regulation 123 List would be replaced by the IFS;
- Councillor Prochak commented that parish and town councils (P&TCs) were not satisfied with or supportive of the CIL Regulation 123 List and would be pleased to see it replaced; and

- P&TCs were legally required to publish a financial report detailing the amount of CIL receipts received and what projects the money had been or would be spent on. This should then be either published on the Parish Council's website and/or the Rother District Council (RDC) website. The Planning Policy Manager advised that last year a reminder email had been sent to all P&TC Clerks requesting this information; an email would be sent this year.

It was agreed that a draft IFS would be considered at the next scheduled meeting on 2 November 2020.

RESOLVED: That a draft Infrastructure Funding Statement be considered at the next scheduled meeting on 2 November 2020.

(When it first became apparent, Councillor Dixon declared a personal interest in this matter in so far as his wife was the Clerk at Brede Parish Council and in accordance with the Members' Code of Conduct remained in the meeting during the consideration thereof).

(When it first became apparent, Councillor Vine-Hall declared a personal interest in this matter in so far as he was Chairman of Sedlescombe Parish Council and in accordance with the Members' Code of Conduct remained in the meeting during the consideration thereof).

In agreement with the Community Infrastructure Levy Steering Group, the Chairman re-ordered the Agenda to consider Agenda Item 8 next.

CIL20/11.
(8) **OVERVIEW OF THE COMMUNITY INFRASTRUCTURE LEVY POSITION AT OTHER EAST SUSSEX LOCAL AUTHORITIES AND THEIR STRATEGIC CIL AWARD PROCESSES**

The Community Infrastructure Levy (CIL) Steering Group considered the report of the Head of Strategy and Planning which set-out the differences between the current CIL positions at other local authorities in East Sussex and sought Members' views on whether amendments should be made to the Council's Instalment Policy (IP).

Members noted that at present, as well as Rother District Council (RDC), Lewes and Eastbourne Councils and Wealden District Council operated CIL. Hastings Borough Council did not operate CIL and solely relied on Section 106 agreements. Brighton and Hove City Council were scheduled to commence CIL on 5 October 2020. Appendix A to the report detailed the different operating procedures for the East Sussex local authorities.

The following salient points were noted:

- Only RDC set an amount for which the bidding process would be triggered, the trigger amount was set at £250,000. In addition, only RDC applied an eligibility criteria of a minimum total project cost to bid for Strategic CIL funding which equated to £100,000.

- All authorities (except RDC – decision making panel) required Cabinet or full Council to approve bids.
- Only Eastbourne and Lewes Councils divided Strategic CIL into spending pots for different infrastructure.
- Lewes District Council had updated their IP (Eastbourne would be shortly).

The Council's IP was formally adopted in December 2015 and required payments to be made at set times following commencement of development. Failure to pay on time meant that the Applicant would forfeit their right to pay in instalments. New regulations gave local authorities discretion, for a limited period only to defer CIL payments for small and medium sized developers (SMEs) without imposing additional costs. Therefore CIL payments must be paid during the "material period" (22 July 2020 to 31 July 2021). This only related to SMEs with an annual turnover not exceeding £45m.

As a result of the COVID-19 pandemic, it was considered prudent to potentially amend the IP to assist in easing the financial pressures on SMEs during these unprecedented times and to encourage housing delivery across the district. In-line with new Government regulations, the Council had published a CIL Deferral Request (DR) Application Form on the website; to date only one form had been submitted.

A comparison of the local authorities IPs was provided, as follows:

Authority	60 days of commencement 100% payment	Instalments
Rother	£50,000	£50,000 - £300,000: 50% in 120 days, 50% in 360 days £300,000: 30% in 60 days, 35% in 420 days, 35% within 660 days (22 months)
Lewes	£50,000	Up to £15,000: total amount within 60 days £15,000 - £50,000 20% within 60 days, 80% within 180 days £50,000 - £200,000: 10% within 90 days, 50% within 270 days, 40% within 360 days Over £200,000: 10% within 180 days, 50% within 360 days, 40% within 540 days
Wealden	£500K in 30 days	£500,000- £1,500,000: 60% in 30days, 40% in 52 weeks £1,500,000+: 60% 30 days, 20% 52 weeks, 20% 104 weeks
Eastbourne	ALL	CIL must be paid within 60 days of the

		commencement of development.
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Clarity was sought on whether there was evidence that the current procedure was causing problems for existing planning applications or whether amending the IP presented more risk to the Council. The Planning Policy Manager advised that to date only one CIL DR had been submitted, only a couple of telephone enquiries had been received and that the IP could be amended without formal consultation. Some other local authorities had amended their IP as they felt it would be welcomed by developers and would help to stimulate housing delivery. It was clarified that the collection of CIL payments would be extended only, therefore there would be limited risk to the Council.

As only one formal enquiry had been received and there was limited risk to the Council, the CIL Steering Group agreed that no amendments be recommended to the Council's IP at this time, however the policy would be kept under review.

RESOLVED: That no amendments be recommended to the Council's Instalment Policy but kept under review.

CIL20/12.
(5)

**STRATEGIC COMMUNITY INFRASTRUCTURE LEVY
GOVERNANCE ARRANGEMENTS AND FUNDING DECISION
PROTOCOL**

Consideration was given to the report of the Head of Strategy and Planning on the Council's governance arrangements and Funding Decision Protocol (FDP) for allocation of funds from Strategic Community Infrastructure Levy (CIL).

Strategic CIL retained by the Council could be used to fund a wide range of infrastructure such as transport, flood defences, schools, hospitals and other health and social care facilities, but not affordable housing. The Council must spend CIL on infrastructure needed to support the development of the district which would be informed by the Infrastructure Development Plan (IDP).

Appendix 1 to the report detailed the current governance arrangements and it was noted that up to £250,000 would need to be accrued before spending decisions could be made. In December 2018, Members were advised that the threshold of £250,000 strategic CIL funds had been reached and the Council's CIL FDP, Bid Pro-forma, Assessment Criteria, Bid Valuation Checklist as detailed at Appendix 2 was formally approved. The CIL bidding process was opened in February 2019. The report detailed the current bidding process and composition of the CIL Officer Group.

Members noted the successful strategic CIL applications funded since the summer of 2019, as detailed at Appendix 3 to the report.

Local CIL was proportioned to the parish or town councils, either 15% or 25% if a Neighbourhood Plan was "made". The Local CIL allocation must be spent within five years otherwise the District Council could ask

for the funding to be returned. It was noted that Local CIL could be used on affordable housing delivery. Communities without a parish or town council still benefited from the neighbourhood portion. However, there was not a set process for agreeing how the funding should be spent. The Council would engage with the local community to agree how to spend the Local CIL.

Bexhill Local CIL was assessed using the same method. Three applications were considered in autumn 2019; none of the bids received were awarded Bexhill Local CIL funding.

The Chairman shared a number of proposals on how he felt the Council should allocate the strategic portion of CIL, as follows:

1. CIL funds be used primarily to provide infrastructure improvements to directly offset the impact of adjacent development and improve the overall infrastructure of the District.
2. To prioritise improvement or long-term maintenance of existing strategic Rother District Council (RDC) owned public realm assets. To prioritise high speed and ultra-fast broadband in towns, villages and rural areas prioritising areas with current speeds below 20Mbps download. To prioritise traffic calming and speed reduction in villages and the use of cycle and walking infrastructure in both towns and villages.
3. The allocation of strategic CIL be applied only to areas with allocated housing sites which generate CIL (with the exception of 'exception housing sites' of six or more houses).
4. To ensure fairness in the allocation of strategic CIL funding by separating the strategic funding generated from the significant development in Bexhill and those of rural areas and applying each separately.
5. To create a prioritised long list of projects that would be funded by strategic CIL generated by RDC Members and officers, infrastructure providers and parishes and towns through a consultation with proposed projects supported by a short outline rationale.
6. A final list of CIL projects to be recommended once a long list had been created and assessed and this to form the IDP.
7. The final list of projects and timings of projects to be funded based on the analysis of receipts currently being undertaken and prioritised to ensure 'must do' projects take priority over 'would like/be good to do' projects.
8. Projects be funded as CIL was received (for the avoidance of doubt not to take loans against the Council's reserves or borrowings).
9. For infrastructure projects in towns and villages where the project was specific to that location that the town or village part funds a meaningful share of the project through either their own CIL fund or through other funding sources (this would include for example, sporting facilities, footpaths). Note: Infrastructure on roads with 2,000 car movements a day or more or on a main trunk road be eligible to attract full strategic CIL funding for traffic calming/management improvements.

During the discussion, the following points were noted:

- It was noted that the Infrastructure Funding Statement (IFS) would be informed by the current IDP (March 2019).
- The IFS detailed which projects would or might be funded by CIL.
- That Members and Parishes be consulted to create a long list of potential projects that could be funded through CIL and those be prioritised against expected receipts of CIL to ensure CIL was allocated to the highest priorities first. (A detailed projection of CIL receipts was currently being undertaken).
- Joint working on specific infrastructure projects would be essential, particularly where projects overlapped with neighbouring authorities.
- Significant countywide strategic CIL projects should be included within the Council's IDP e.g. superfast broadband and high-speed rail etc.
- Consideration be given to the County Council's infrastructure projects and how they might influence / effect CIL receipts received by the Council. It was important that all projects were prioritised within the IDP and that the Council only funded appropriate projects. The Planning Policy Manager advised that the Council would be liaising with a large number of infrastructure providers to ascertain the critical infrastructure requirements. These would be detailed within the new Local Plan, future IDPs and future IFSs.
- It was suggested that the composition of the CIL Officer Group consist of no more than seven members. For complete transparency, it was suggested that the Group consist of three Councillors and four officers.

It was agreed that officers considered the Chairman's proposals as detailed above and the composition of the CIL Officer Group be reconsidered to include Members and reported at the next scheduled meeting to be held on 2 November 2020.

RESOLVED: That officers considered the Chairman's proposals and reconsidered the composition of the CIL Officer Group to include Members and reported at the next meeting scheduled to be held on 2 November 2020.

CIL20/13.
(6)

GOVERNMENT FUTURE REVIEW OF COMMUNITY INFRASTRUCTURE LEVY

In August 2020, the Ministry of Housing Communities and Local Government (MHCLG) published a White Paper on "Planning for the Future" which detailed significant changes to the planning system, which covered three specific areas (known as pillars) namely: planning development; planning for beautiful and sustainable places; and improving infrastructure delivery and a reform of development contributions.

At present, the Council secured funding through Community Infrastructure Levy (CIL) and Section 106 (S106) contributions. S106 contributions were negotiated with developers, whereas CIL was a

fixed charge levied on the area (floorspace) of new development. CIL was not mandatory and currently only half of local planning authorities in the UK applied it.

The following proposals/changes were noted:

- CIL be charged as a fixed proportion of the development value, with a mandatory national set rate(s) and the current system be abolished.
- The scope of CIL be extended to capture changes of use through permitted development rights.
- Deliver affordable housing provision.
- Local authorities be given more freedom to spend Infrastructure Levy.

The White Paper was subject to public consultation (scheduled to close on 29 October 2020) and a draft response (Pillar 3) had been prepared and was attached at Appendix 1 to the report. The Planning Policy Manager led the Steering Group through the responses and confirmed that a briefing had been organised for Members at 3:30pm on Thursday 15 October 2020 to consider/discuss the wider White Paper in more detail.

The CIL Steering Group agreed that a review of the Council's Community Infrastructure Levy Charging Scheme be delayed subject to the outcome of the national consultation on the Government's White Paper "Planning for the Future" and further detailed work had been undertaken to support the new Local Plan on future infrastructure needs to support development.

RESOLVED: That a review of the Council's Community Infrastructure Levy Charging Scheme be delayed subject to the outcome of the national consultation on the Government's White Paper "Planning for the Future" and further detailed work had been undertaken to support the new Local Plan on future infrastructure needs to support development.

CIL20/14.
(7)

COMMUNITY INFRASTRUCTURE LEVY AND COMMUNITY GRANTS SCHEME CRITERIA

Since 2008, the Council had operated a Community Grant Scheme (CGS) with an annual budget of £130,000 drawn down from Earmarked Reserves. The CGS supported the development of community facilities, community activities and sustainable local action and applications were welcomed from voluntary or community organisations.

The report detailed the process for the Council's CGS; as follows:

- Three types of grant namely small – up to £500; medium – up to £5,000; and large – up to £30,000.
- Medium and large grant applications were considered twice yearly in January and July.

- All applications assessed using a Grant Assessment Sheet against agreed criteria as detailed at Appendix 1 to the report.
- Applications were considered by a Panel consisting of two Cabinet Members; Chairman of Overview and Scrutiny Committee; Rother Voluntary Action Representative; Action in Rural Sussex Representative; Chairman of Rother Association of Local Councils and two Council officers (one finance).

Strategic Community Infrastructure Levy (CIL) retained by the Council could be used to fund a wide range of infrastructure such as transport, flood defences, schools, hospitals and other health and social care facilities, but not affordable housing. The Council must spend CIL on infrastructure needed to support the development of the district which would be informed by the Infrastructure Development Plan.

Where all or part of a chargeable development was within the area of a Parish Council, the Council would need to pass on a proportion of the Local CIL receipts. The local figure equated to 15%, except where a Neighbourhood Plan was “made” which would rise to 25%. Communities without a parish or town council still benefited from the neighbourhood portion; the Council would engage with the local community to agree how to spend the Local CIL. Therefore, this money could be spent on funding affordable housing. It was noted that Planning Practice Guidance advised that parish and town councils should liaise with the Council to agree priorities for spending the Local CIL.

During the debate the following key issues were noted:

- Applications received through the CGS were predominantly specific non-strategic projects (e.g. sport pitches/pavilions, kitchen equipment etc.) for the parishes, towns, villages and Bexhill.
- £130,000 from Earmarked Reserves was not sustainable and not good financial management; overspent during 2019/20. Suggestion that a small pot of Strategic CIL funding could be utilised to fund smaller CGS infrastructure projects. Flexibility in the current regulations were strict, therefore clear parameters would be required.
- Reduce CGS by £50,000 and use CIL money to make up the difference.
- Ideas were sought on how additional funding could be achieved. One suggestion was to investigate the opportunity of establishing a Rother District Council Lottery; advice would need to be sought from the Gambling Commission.
- Members were reminded that organisations would need to match-fund CGS grants; ensures community involvement.

The Steering Group agreed that the Principal CIL Officer should carry out a comparison exercise on how many projects (£) from CGS over the last two years could have been funded from CIL receipts and report the findings at the next meeting scheduled to be held on 2 November 2020. It was also agreed that the Community Grant Scheme officers investigate the option of establishing a Council Lottery and

acknowledged that the current CGS funding from Earmarked Reserves was not sustainable.

RESOLVED: That:

- 1) the Principal CIL Officer to carry out a comparison exercise on how many projects (£) from CGS over the last two years could have been funded from CIL receipts and report the findings at the next meeting scheduled to be held on 2 November 2020;
- 2) the Community Grant Scheme officers investigate the option of establishing a Council Lottery; and
- 3) it be noted that the current Community Grant Scheme funding from Earmarked Reserves was not sustainable.

(Councillor Prochak declared a personal interest in this matter in so far as she is the Chairman of the Council's Community Grants Scheme Panel and in accordance with the Members' Code of Conduct remained in the meeting during the consideration thereof).

CIL20/15.
(9)

ANY OTHER BUSINESS

Community Infrastructure Levy (CIL) Receipts – it was noted that approximately £163,000 had been distributed to the parish and town councils.

Climate Emergency – an opportunity to stipulate that the Council's Community Grant Scheme would provide funding for "climate change" environmentally friendly projects only. It was suggested that this be raised / discussed at the Parish Conference scheduled to be held on Wednesday 21 October 2020 at 3:00pm on Zoom.

CIL Workshop – a suggestion was proposed that the Council hosted a workshop for parish and town councils to advise how they should spend CIL receipts, account for it and remind them that any monies unspent after five years could be clawed back by the Council.

ACTION 1: To discuss CIL / CGS at the Parish Conference scheduled to be held on Wednesday 21 October 2020 at 3:00pm. (Councillor Prochak)

ACTION 2: Consideration be given to hosting a CIL Workshop for parish and town councils. (SL)

(Councillor Dixon declared a personal interest in this matter in so far as his wife is the Clerk at Brede Parish Council and in accordance with the Members' Code of Conduct remained in the meeting during the consideration thereof).

(Councillor Vine-Hall declared a personal interest in this matter in so far as he was Chairman of Sedlescombe Parish Council and in accordance with the Members' Code of Conduct remained in the meeting during the consideration thereof).

CIL20/16. **DATE OF NEXT MEETING**
(10)

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

CHAIRMAN

The meeting closed at 15:45pm.

CIL201005jh