

## **Rother District Council**

**Report to:** Cabinet

**Date:** 13 December 2021

**Title:** New Community Infrastructure Levy Governance and the proposal for apportionment of Strategic Community Infrastructure Levy Funds

**Report of:** Ben Hook, Director – Place and Climate Change

**Cabinet Member:** Councillor Vine-Hall

**Ward(s):** All

**Purpose of Report:** To consider the recommendations arising from the Overview and Scrutiny Committee meeting held on 22 November 2021, regarding the new Community Infrastructure Levy Governance and the proposal for apportionment of Strategic Community Infrastructure Levy Funds. The report and recommendations arising are reproduced below and the Minutes of that meeting (Appendix 3) should be read in conjunction with this report.

**Decision Type:** Non-Key

### **Officer**

**Recommendation(s):** **Recommendation to COUNCIL:** That:

- 1) the Strategic Community Infrastructure Levy Allocations Panel be established, with a composition of Councillors supported by officers;
- 2) strategic Community Infrastructure Levy funds be distributed by the Panel in accordance with the proposed Community Infrastructure Levy Governance and Funding Protocol; and
- 3) the Council's Community Infrastructure Levy Instalment Policy be maintained (the Council's Community Infrastructure Levy Instalment Policy was considered and compared with those of neighbouring authorities).

### **AND**

It be **RESOLVED:** That:

- 1) a review of the Council's Community Infrastructure Levy Charging Scheme be delayed subject to the outcome of the Government's paused White Paper "Planning for the Future" and further investigation of future infrastructure needs as part of the Local Plan Review;
- 2) the Community Infrastructure Levy Steering Group be disbanded; and

- 3) it be noted that ‘best practice guidance’ on Community Infrastructure Levy arrangements were to be created by Councillor Dixon, in consultation with Battle Town Council, the Cabinet Portfolio Holder for Strategic Planning and Planning Policy Manager.
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## Introduction

1. This is the fourth and anticipated final meeting of the Community Infrastructure Levy Steering Group (CILSG). The CILSG was set up consider the allocation and spending of the strategic Community Infrastructure Levy (CIL) money and report back to Cabinet.
2. At the first meeting on 24 July 2020, the scope and approach to the work of the CILSG was set out and Terms of Reference were agreed.
3. At the second and third meetings, the CILSG agreed the following resolutions:  
5 Oct 2020 – It was resolved that:
  - A draft Infrastructure Funding Statement (IFS) be considered at the next meeting (an IFS is a requirement of the amended CIL regulations, which came into force on 1 September 2019).
  - No changes to the Council’s CIL Instalment Policy should be recommended (the Council’s CIL Instalment Policy was considered and compared with those of neighbouring authorities).
  - Officers should consider the Chairman’s proposals regarding CIL Governance Arrangements and the Funding Decision Protocol and reconsider the composition of the CIL Officer Group to include Members.
  - That a review of the Council’s CIL 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.
  - The CIL Officer should carry out a comparison exercise on how many how many projects (£) from Community Grant Scheme over the last two years could have been funded from CIL receipts and report the findings at the next meeting.

8 February 2021 – It was resolved that:

- The Strategic CIL Funding Apportionment Proposals be approved and presented at the next scheduled meeting of the CILSG for onward recommendation to Cabinet and full Council; and
- The composition of the proposed Strategic CIL Allocations Panel include Cabinet Portfolio Holders for Strategic Planning, Finance and Performance Management, Economic Development and Regeneration, Chairman of Overview and Scrutiny Committee and Chairman of the Council and supported by the Head of Strategy and Planning<sup>1</sup>, Planning Policy Manager, Assistant Director Resources, Principal CIL Officer and Environment and Policy Manager.

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<sup>1</sup> The Head of Strategy & Planning and Environment & Policy Manager posts no longer exist.

## Strategic CIL Allocations Panel

4. On 8 February 2021, the CILSG agreed the composition of the Strategic CIL Allocations Panel. Since that meeting, there has been a Council restructure and the Head of Strategy and Planning and Environment and Policy Manager posts no longer exist. It is therefore proposed that the Director – Climate and Place be one of the officers advising the Panel.

**Recommendation:** That the CILSG resolve to recommend that the Strategic CIL Allocations Panel is set up, with a composition comprising: Cabinet Portfolio Holder for Strategic Planning; Cabinet Portfolio Holder for Finance and Performance Management; Cabinet Portfolio Holder for Economic Development and Regeneration; Chairman of Overview and Scrutiny Committee and Chairman of the Council.

That the Strategic CIL Allocations Panel be supported by the following officers in an advisory capacity: Director – Place and Climate Change; Planning Policy Manager; Assistant Director Resources; and the Principal CIL Officer.

## Strategic CIL Funding Apportionment Proposal

5. An updated CIL Governance and Funding Decisions Protocol for the consideration and allocation of strategic CIL funding is attached at Appendix 1.
6. The Protocol outlines how the Council as the Charging Authority, will allocate the Strategic CIL, ensuring that the governance arrangements for this decision-making process are consistent and transparent.
7. There will be two main funds, the Rother Infrastructure Fund (RIF) (55% apportion) and the Infrastructure Matched Fund (IMF) (25% apportion). Both will be sub-divided into Bexhill and Rural sub-funds. Funds will be allocated to projects identified on the annual IFS and as prioritised by the Panel.
8. While all applications will be expected to respond to the Council's corporate aim to become carbon neutral by 2030, a Climate Emergency Bonus Fund (20% apportion) will specifically fund projects which specifically reduce Rother's carbon emissions. Funds could be allocated specifically from this pot, or as a bonus to fund greater carbon reductions (i.e. to fund what its often referred to as the 'green premium').
9. To accompany this protocol, the following documents have also been produced:
  - a) the *Application Form*, which sets out how applications for CIL funding will be accepted and processed,
  - b) the *Assessment Criteria* document which gives guidance to applicants and the Strategic CIL Allocations Panel on how applications will be considered; and
  - c) the *Application Validation Checklist* document which sets out the criteria in which applications for CIL will be validated.

**Recommendation:** That the CILSG resolve to recommend that strategic CIL funds are distributed by the Panel in accordance with the proposed CIL Governance and Funding Protocol.

### **The Council's CIL Instalment Policy**

10. At the 5 October 2020 meeting, the CILSG considered a report by the Head of Strategy & 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).
11. At that time, new regulations, temporarily in place during the time of COVID-19, (22 July 2020 – 31 July 2021) gave the Council discretion to defer CIL payments. It was concluded in October 2020 that as only one formal enquiry had been received and there was limited risk to the Council, no amendments were recommended to the Council's Instalment Policy at this time, however the Policy would be kept under review.
12. Since that time, deferrals were agreed for nine developments (mainly relating to large extensions or replacement dwellings). However, it is still the case that there remains little evidence that the current procedure is causing problems for existing planning applications.

**Recommendation:** That the CILSG resolve to recommend that the Council's Instalment Policy be maintained, but kept under review.

### **Review of the Council's Community Infrastructure Levy Charging Scheme**

13. At the 5 October 2020 meeting, the CILSG considered whether the CIL Charging Scheme should be reviewed. It concluded that the review should 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.
14. Since that time, the Government has announced that it has 'paused' the White Paper. The review of the Local Plan continues.

**Recommendation:** That the CILSG resolve to recommend that a review of the Council's CIL Charging Scheme to be delayed subject to the outcome of the Government's paused White Paper "Planning for the Future" and further investigation of future infrastructure needs as part of the Local Plan Review. ;

### **CIL Steering Group – Terms of Reference**

15. The Terms of Reference at Appendix 2 require the CILSG to create a governance structure; set thresholds for CIL spending; consider how strategic CIL could be re-distributed; and review the CIL charging framework. All of these tasks have been undertaken.

**Recommendation:** That the CILSG resolve to recommend that the CIL Steering Group is disbanded.

## Conclusion

16. Members' are recommended to agree the five recommendations so that the new CIL Governance and funding decision protocol can be established and presented to Cabinet for approval and then to Full Council.

## Financial Implications

17. 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 need.

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Appendices:	Appendix 1 – CIL Protocol Appendix 2 – Terms of Reference Appendix 3 – OSC Minutes 22.11.21
Relevant Previous Minutes:	None
Background Papers:	None
Reference Documents:	None

## COMMUNITY INFRASTRUCTURE LEVY STEERING GROUP

### TERMS OF REFERENCE

#### Aims

For the Steering Group to consider and make recommendations to Cabinet on how the Council's retained portion (Strategic) of the Community Infrastructure Levy (CIL) should be prioritised, as follows:

#### Scope & Objectives

##### *Infrastructure Delivery*

1. To review and propose revisions to the Infrastructure Delivery Plan (IDP)<sup>2</sup> to inform the forthcoming Infrastructure Funding Statement.
2. Consider how the Strategic CIL should be prioritised against the infrastructure priorities set out in the Infrastructure Delivery Plan, or a revised version of that plan, and to determine how or if Towns and Parishes can access the Strategic portion.

##### *Governance*

3. Set the Terms of Reference and procedure for assessing how the Strategic CIL should be allocated, including the membership of the Strategic CIL Decision Making Panel.
4. To consider how the Authority works with Towns and Parishes to optimise the use of CIL using the Strategic and local portion in-conjunction with the work to be carried out as part of the Infrastructure Delivery Plan

##### *Thresholds for CIL Spending and interrelation with Community Grant funding*

5. To consider the use of Strategic CIL spending thresholds and, if relevant, propose those spending thresholds
6. To consider how Strategic CIL interrelates with the Community Grant funding process.

##### *Strategic CIL re-distribution*

7. Consider if and how Strategic CIL could be allocated to areas where significant affordable housing is built but does not generate its own CIL.
8. Consider if and how Strategic CIL could be allocated to areas where housing is allocated or where it is not allocated.

##### *Review of CIL charging framework*

9. Consider, in the wider context of viability and the delivery of infrastructure within the District, whether there should be a review of the CIL charging schedule (which if a review is recommended will be required to be evidenced and subsequently be tested through an independent Examination process).

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<sup>2</sup> This can only be completed once work has been undertaken with the infrastructure providers as part of the evidence base to support the Local Plan Update process

## **Approach**

1. Review current methodology for allocating Strategic CIL and determining Strategic CIL funding applications.
2. Set out a detailed estimate of CIL to be collected based on existing development targets and potential future development scenarios ensuring calculations take into account affordable housing and self-build exemptions and developments which will not attract CIL where approval was gained before the introduction of CIL.
3. Collect evidence from other Local Planning Authorities in respect of their CIL bidding and allocation processes and decision-making approaches.
4. Consult broadly with Infrastructure providers, Towns and Parishes and other interested parties on proposed approaches to the allocation and use of CIL by way of written and verbal consultation.
5. Consider how Strategic CIL should be prioritised through the development of the revised Infrastructure Delivery Plan and Infrastructure Funding Statement.
6. Review the Strategic CIL Governance Arrangements, including seeking any appropriate legal advice, and propose the approach system for allocating/spending Strategic CIL payments across the District.

## **Timescales**

Report back to Overview and Scrutiny Committee – November 2020.

Report back to Cabinet – December 2020.

## **Membership**

### 4 Elected Members

The Leader, Deputy Leader, the Cabinet Member for Strategic Planning, the Cabinet Member for Regeneration.

Elected members will be voting members of the Steering Group.

The Chairman will be elected from amongst the 4 elected Members at the first meeting.

Meetings will require at least 3 elected members to attend to be quorate.

### Officers

Head of Service Strategy and Planning, Planning Policy Manager and CIL Officer.

Additional input from other elected members, officers and outside representatives, as and when required.

Officers have no voting rights on the Steering Group.

### Meetings

There will be at least four formal meetings of the Steering Group each year. Meetings will be open for the public to attend (non-speaking).

**Minutes of the Overview and Scrutiny Committee Meeting – 22 November 2021**

**OSC21/32. NEW COMMUNITY INFRASTRUCTURE LEVY GOVERNANCE AND THE PROPOSALS FOR APPORTIONMENT STRATEGIC COMMUNITY INFRASTRUCTURE LEVY FUNDS**

It was agreed by the Chairman to vary the order of the Agenda and for Members to discuss Item 11 first.

The Cabinet Portfolio Holder for Strategic Planning and Chairman of the Community Infrastructure Levy Steering Group (CILSG) guided Members through the report of the Director – Place and Climate Change, which proposed the new Community Infrastructure Levy (CIL) Governance arrangements and proposals for apportionment of Strategic CIL funds. A CILSG had been established to consider the allocation and spending of the Strategic CIL funding. The CILSG had met four times and the report detailed what had been considered / discussed at each meeting.

Appendix 1 to the report identified the updated CIL Governance and Funding Decisions Protocol for consideration and allocation of Strategic CIL funding and included the application form, assessment criteria and validation checklist. The Protocol outlined how the Council, as the Charging Authority, allocated the Strategic CIL and ensured governance arrangements were consistent and transparent. There were two main funds, namely the Rother Infrastructure Fund (RIF) (55% apportion) and the Infrastructure Matched Fund (25% apportion). Both would be sub-divided into Bexhill and Rural sub-funds. Funds would be allocated to projects identified on the annual Infrastructure Funding Statement and prioritised by the Strategic CIL Allocations Panel. A Climate Emergency Bonus Fund (20% apportion) would be established to assist schemes that were considered 'green premium' e.g. reduced carbon emissions.

It was recommended that the composition of the Strategic CIL Allocations Panel be the Cabinet Portfolio Holders for Strategic Planning, Finance and Performance Management, Economic Development and Regeneration, Chairman of the Overview and Scrutiny Committee and Chairman of the Council and would be supported by the Director – Place and Climate Change, Planning Policy Manager, Chief Finance Officer and Principal CIL Officer.

Members were given the opportunity to ask questions and the following points were noted during the discussions:

- parish and town councils with a Neighbourhood Plan could apply for 25% of CIL funding collected, those without, 15%;
- a Neighbourhood Plan would not be required to apply for funding from the Infrastructure Matched Fund;
- any party meeting the criteria of the scheme could apply for the Climate Emergency Bonus Fund;



- decisions of the Allocations Panel would be regularly scrutinised by the Overview and Scrutiny Committee and reported to the Audit and Standards Committee; and
- infrastructure priority requirements would be sought from the parish and town councils.

The Overview and Scrutiny Committee was supportive of the CILSG's recommendations.

**RESOLVED:** That Cabinet be requested to agree and recommend onwards to Full Council, where appropriate, that:

- 1) the Strategic Community Infrastructure Levy Allocations Panel be established, with a composition of Councillors supported by officers;
- 2) strategic Community Infrastructure Levy funds be distributed by the Panel in accordance with the proposed Community Infrastructure Levy Governance and Funding Protocol;
- 3) the Council's Community Infrastructure Levy Instalment Policy be maintained (the Council's Community Infrastructure Levy Instalment Policy was considered and compared with those of neighbouring authorities);
- 4) a review of the Council's Community Infrastructure Levy Charging Scheme be delayed subject to the outcome of the Government's paused White Paper "Planning for the Future" and further investigation of future infrastructure needs as part of the Local Plan Review;
- 5) the Community Infrastructure Levy Steering Group be disbanded; and
- 6) it be noted that 'best practice guidance' on Community Infrastructure Levy arrangements were to be created by Councillor Dixon, in consultation with Battle Town Council, the Cabinet Portfolio Holder for Strategic Planning and Planning Policy Manager.

(Overview and Scrutiny Committee Agenda Item 11).