
NON-EXEMPT

HAVANT BOROUGH COUNCIL

Planning Policy Committee 19 July 2021

Community Infrastructure Levy (CIL) Spending Protocol

FOR DECISION

Portfolio Holder: Councillor Gwen Robinson - Cabinet Lead for Housing, Communities and CIL

Key Decision: Yes

Report Number: HBC/007/2021

1. Purpose

- 1.1. This report is submitted to the Planning Policy Committee for onward recommendation to Council.
- 1.2. The report considers whether the revised Community Infrastructure Levy Spending Protocol should be approved for use in CIL spending decisions.

2. Recommendation

- 2.1. Members are requested to recommend to Council:
 - a) To approve the Community Infrastructure Levy (CIL) Spending Protocol in the Appendix for use in CIL spending decisions;
 - b) To agree, in accordance with section 3 of the Protocol and section 5 of this report, that an additional 10% of the CIL collected in Emsworth ward should be allocated specifically to Emsworth starting with the next

spending round, provided that the Emsworth Neighbourhood Plan is 'made' following a successful referendum;

- c) To grant delegated authority to the Head of Planning to amend the CIL Spending Protocol, in consultation with the Cabinet Lead for Housing, Communities & CIL (or any future Cabinet Lead responsible for Community Infrastructure Levy matters). Such changes shall be limited to the correction of factual errors and changes necessary to accommodate national or local changes in regulations, guidance or procedures and shall not otherwise alter the meaning of the protocol.

- d) To grant delegated authority to the Community Infrastructure Officer to approve interim Strategic CIL spends with a value of no greater than £10,000 (in consultation with the Head of Planning and the Cabinet Lead), and to the Cabinet Lead responsible for CIL to approve interim spends greater than this, in consultation with the S151 Officer, and, where the value exceed £50,000, after consideration by the Planning Policy Committee.

3. Executive Summary

- 3.1. The Council collects Community Infrastructure Levy (CIL) monies from developers that undertake building projects in the Borough. The purpose of the CIL Spending Protocol is to guide spending decisions in relation to these funds, and to make that process transparent.
- 3.2. While a protocol already exists and has guided previous rounds of CIL spending, the Cabinet agreed in July 2020 that an update was needed to take into account experience gained from earlier years.
- 3.3. The revised protocol gives a basic introduction to CIL, sets out the process of decision making for the spending of the Strategic CIL and the Neighbourhood Portion and explains for collection and spend of monies is monitored. Detailed appendices set out the criteria that will be used in decision making.

- 3.4. The Council is asked to approve the revised protocol for use in future bidding rounds and spending decisions, together with a number of related recommendations.

4. Additional Budgetary Implications

None

5. Background and relationship to Corporate Strategy and/or Business Plans

Background

- 5.1. Havant Borough Council is responsible for making the final decision on the allocation of funding raised through the Community Infrastructure Levy (CIL) in its area. The aim of the CIL Spending Protocol is to ensure that the decision-making process is transparent. Through it, the Council will identify and agree priorities for the use of CIL and the allocation of funds on an annual basis.
- 5.2. The Council introduced its Community Infrastructure Levy in 2015. Systems for collection are well established and several annual spending rounds have taken place, which have funded significant strategic and local community infrastructure projects. The process has been guided by a CIL Spending Protocol. It is necessary to update this protocol again, to take account of experience gained from use of previous iterations of the protocol on annual spending rounds to 2021. The update was agreed by Cabinet in July 2020 and was included in the Corporate Action Plan for 2020/21.
- 5.3. The revised protocol, attached as an Appendix to this report, gives a basic introduction to CIL, sets out the process of decision making for the spending of the Strategic CIL and the Neighbourhood Portion and explains how the collection and spend of monies is monitored. Detailed appendices set out the criteria that will be used.

Criteria based approach

- 5.4. While criteria have always been used to assess CIL bids, the revised protocol sets out more clearly how they will be used, allowing bidders to consider them in assessing whether CIL is a suitable funding pot for their project, and making decisions more transparent and consistent. The criteria and how they are proposed to be used are set out in Appendices A and B of the Spending Protocol.
- 5.5. Criteria are split into eligibility criteria and prioritisation criteria. Broadly speaking, the eligibility criteria are heavily influenced by national regulations and guidance (such as a requirement that funds should be spent on infrastructure). Some additional eligibility criteria, as well as the prioritisation criteria are locally set and reflect the priorities identified by the Council over the past years of CIL spending. These include a desire to support a large variety of different projects and groups from across the Borough by limiting repeat funding of the same groups and projects and setting an expectation of match funding to make CIL go further.

Neighbourhood Areas

- 5.6. It is proposed that in future spending of the Neighbourhood Portion is to be considered on a borough-wide basis, as opposed to by smaller areas. This is considered to be the fairest way to allocate funds, with all bidders having an equal chance to access the funds. It means that the merits of all bids can be assessed fairly against eligibility and prioritisation criteria. It allows funding for eligible projects to be maximised rather than being limited by the availability of funds in smaller sub-areas.
- 5.7. The revised protocol also sets out how the uplift in CIL spending in areas with an adopted neighbourhood plan will be managed. The CIL regulations provide that 25% of the CIL receipts from development falls due to such areas, rather than 15% where there is no neighbourhood plan. It is proposed that the original 15% of CIL receipts for the area is considered as part of the wider

allocation of funds, with the uplift of 10% ringfenced specifically to the Neighbourhood Plan area.

- 5.8. The neighbourhood plan referendum for Emsworth took place on 8 July 2021. The referendum resulted in a 'yes' vote for the Neighbourhood Plan. These arrangements would therefore apply to the Emsworth area from the next (February 2022) spending decision onwards.
- 5.9. Across the borough monies received to 31 March 2021 determine the amount of funds available for the spending decision in February 2022. For Emsworth, it is proposed that the uplift to 25% is applied to monies collected from 1 July 2020 onwards. This is the date that the Council would have 'made' the Neighbourhood Plan following the planned May 2020 referendum, which was cancelled due to Coronavirus restrictions. Government guidance has been issued to councils that suggests arrangements should be made to recognise this delay in the way CIL funding is handled. Although funds collected in 2020/21 pre-date the making of the neighbourhood plan, it is considered fair, reasonable and in line with national guidance to backdate the uplift to 25%.

Delegations

- 5.10. Two delegations are proposed through this report:
- 5.11. The first is to allow officers, in consultation with the Cabinet Lead responsible for CIL, to make amendments to the protocol. This recommendation is included to allow any factual errors to be corrected, to make amendments necessitated by any future changes to national CIL regulations and/or guidance, or any relevant future Council decisions. Any changes to the Spending Protocol made under this delegation would be exceptional, and should only be used to make changes that are necessary to correct factual errors or to ensure compliance and consistency with national or local regulations, guidance and procedures.
- 5.12. The second delegation sought is for the approval of interim spends from the strategic pot between formal spending rounds by the Community

Infrastructure Officer and the Cabinet Lead responsible for CIL. It is proposed that interim spends up to £10k may be authorised by the Community Infrastructure Officer in discussion with the Head of Planning and the Cabinet Lead. This delegation is designed to allow for limited overspends on agreed projects should the need arise. Any spend above this amount would have to be authorised through a delegated report to the Cabinet Lead, in consultation with the Monitoring Officer, and, where the amount exceeds £50K, after consideration by the Planning Policy Committee. This delegation would allow funds to be committed to strategic projects outside of the annual allocation process if it becomes expedient to do so. The protocol makes clear that such interim spends should be exceptional and sets out criteria that must be met for such decision to be made.

6. Options considered

- 6.1. The proposed protocol takes into account the experience gained from several years of CIL spending rounds. It formalises the arrangements arrived at over time and sets out transparently the criteria that will be used to assess bids.
- 6.2. The alternative would have been not to update the protocol. This would leave the decision making processes more open to interpretation and variation in each spending round, which in turn could lead to inconsistency in decision making and a less transparency.

7. Resource Implications

7.1. Financial Implications

While the CIL Protocol sets out the process and the criteria to be applied to decision on allocating funds from the Community Infrastructure, no specific financial implications arise from its contents. Agreeing the protocol will assist in transparent decision making in future CIL spending decisions.

The recommendation to allocate 25% of CIL gathered in Emsworth during 2020/21 to the Neighbourhood portion spending in 2022 means a reduction in funds from the Strategic CIL fund of £29,000 (rounded). The reasons for this approach are explained in the Neighbourhood area section above and are in line with national guidance on the neighbourhood portion in areas with a delayed Neighbourhood Plan Referendum.

Section 151 Officer comments

Date: 25 March 2021

Financial changes in this report reflect changes in both the Council's constitution and national guidance.

7.2. Human resources Implications

The administration of CIL is covered by existing posts within the Planning Service.

7.3. Information Governance Implications

While as part of the process of collecting and spending CIL, personal information is handled, the CIL protocol itself, which is the subject of this report, does not involve the use of personal identifiable information/data and/or personal sensitive or confidential information/data.

7.4. Other resource implications

CIL funding includes an allowance of 5% of the total income taken to be spent on CIL administration, which funds the posts referred to under the 'Human Resources Implications' heading.

8. Legal Implications

- 8.1. The collection and spend of CIL is governed by The Community Infrastructure Levy Regulations 2010 as amended. The proposed Protocol is in line with these provisions.

Monitoring Officer comments

Date: 29 June 2021

The legal implications comments above are noted and agreed.

9. Risks

- 9.1. Risks to the Council as a result of this decision are minimal. The protocol is designed to ensure that funds will be spent in line with the Community Infrastructure Regulations.

10. Consultation

- 10.1. The CIL protocol has been drafted in close consultation with the Cabinet Lead for Housing, Communities and CIL, who in turn discussed its contents with other members. The content of the update was also presented to Cabinet Briefing.

11. Communication

- 11.1. No particular communications are planned following approval of this protocol, although it will be made available on the CIL pages of the Council's website. Potential bidders will be referred to it during the next round of bidding.

12. Appendices

- 12.1. Community Infrastructure Levy Spending Protocol (2021)

13. Background papers

- 13.1. Government Neighbourhood Planning Guidance
Paragraph: 107 Reference ID: 41-107-20200925 (Revision date: 25 09 2020)
<https://www.gov.uk/guidance/neighbourhood-planning--2>

Agreed and signed off by:

Portfolio Holder: Cllr Gwen Robinson, 28 June 2021

Director: Simon Jenkins, 15 March 2021

Monitoring Officer: Daniel Toohey, 29 June 2021

Section 151 Officer: Matthew Tiller, 25 March 2021

Contact Officer

Name: Jacqueline Boulter

Job Title: Principal Planning Officer

Telephone: (023) 9244 6533

E-mail: Jacqueline.boulter@havant.gov.uk