
NON-EXEMPT

HAVANT BOROUGH COUNCIL

Planning Policy Committee

22 February 2022

Community Infrastructure Levy (CIL) Spending Protocol

FOR DECISION

Cabinet Lead: Councillor Gwen Robinson – Cabinet Lead for Housing, Communities and CIL

Key Decision: Yes

Report Number: *HBC/442/22*

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. Recommendations

- 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 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

- i. 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;
 - ii. amending the Annual Funding Awards for the Neighbourhood Portion as set out in Part 4 of the CIL Spending Protocol where scrutiny by the Planning Policy Committee suggests this should be the case; and
 - iii. Amending the branding of the Spending Protocol to align with the Council's Corporate Strategy and wider place-making and regeneration agenda and commentary within the document.
- c) To grant delegated authority to the Head of Planning, in consultation with the Cabinet Lead for Housing, Communities & CIL (or any future Cabinet Lead responsible for Community Infrastructure Levy matters) to prepare guidance and relevant processes for the implementation and administration of CIL spending decisions in line with the Spending Protocol;
- d) To grant delegated authority to the Community Infrastructure Officer/Team Leader, in consultation with the Head of Planning and the Cabinet Lead, to approve spends from the neighbourhood portion and interim Strategic CIL spends with a value of no greater than £10,000.
- e) To grant delegated authority to the Cabinet Lead responsible for CIL to approve interim spends greater than £10,000, in consultation with the S151 Officer, and, where the value exceeds £50,000, after consideration by the Planning Policy Committee.
- f) To grant delegated authority to the Community Infrastructure Officer/Team Leader, in consultation with the Head of Planning and the Cabinet Lead, to approve spends from the neighbourhood portion;
- g) To grant delegated authority to the Community Infrastructure Officer/Team Leader to assign available neighbourhood portion funds for 2022/23 in line with section 4.8 of the Spending Protocol;

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 principles which guide the spending of the Strategic CIL and the Neighbourhood Portion and explains how the collection and spend of monies is monitored.
- 3.4. The Council is asked to approve the revised protocol for use in future 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. It will guide the way future spend from CIL funds is allocated to projects.
- 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, to take account of experience gained from use of previous iterations of the protocol on annual

spending rounds to 2021 and changes in priorities. 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 principles which guide the spending of the Strategic CIL and the Neighbourhood Portion and explains how the collection and spend of monies is monitored.

Clear and strong principles guiding decision making

- 5.4. The aim of CIL spending is to provide the infrastructure that's needed to implement the Council's Corporate Strategy together with its key development and place-making strategies, namely the Local Plan and the Havant Regeneration Strategy.
- 5.5. While criteria have always been used to assess CIL bids, the revised protocol sets out clearly the guiding principles which should underpin all CIL spending decisions:
 - a) funding infrastructure to support the development of the area, in line with national regulations
 - b) making best use of funds by clearly defining expectations of CIL funded projects and only allocating CIL funds to those project which meet them
 - c) maximising the reach of CIL by enshrining the principle of match funding.

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.
- 5.7. The Neighbourhood Portion will be made available on an annual basis to project delivery teams responsible for infrastructure assets owned and managed by Havant Borough Council¹.

¹ In some cases, particularly in Leigh Park, the facilities may be owned and operated by Portsmouth City Council

- 5.8. 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.
- 5.9. At this point, Emsworth is the only part of the Borough which is covered by a Neighbourhood Plan.

Delegations

- 5.10. Several delegations are proposed through this report:
- 5.11. The first (recommendation 2.1b) is to allow officers, in consultation with the Cabinet Lead responsible for CIL, to make amendments to the protocol. Any changes to the Spending Protocol made under this delegation would be exceptional and would 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. A further element of this delegation is to allow changes to be made to the Annual Funding Awards for the Neighbourhood Portion as set out in Part of the Protocol. The protocol sets out that the Planning Policy Committee will keep under review the appropriateness of the split between the Infrastructure Asset Themes. This delegation allows changes to be made to the Protocol if the planning Policy Committee determines that the split is no longer appropriate and should be changed.
- 5.12. Authorisation is sought under recommendation 2.1c for officers, in consultation with the Cabinet Lead, to prepare guidance and relevant processes for the implementation and administration of CIL spending decisions in line with the Spending Protocol; These matters have been removed from the protocol itself, as flexibility is required to adapt to changing circumstances, for example in staffing and administration arrangements. Any

documents prepared under this delegation would not alter or supersede the content of the protocol and would be in line with the principles set out in it.

- 5.13. A further delegation sought is for the approval of interim spends from the strategic pot between formal spending rounds (recommendations 2.1d and 2.1e). It is proposed that interim spends up to £10,000 may be authorised by officers in discussion with 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 £50,000, 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.
- 5.14. A delegation is also sought for officers to approve spends from the Neighbourhood Portion, in consultation with the Cabinet Lead (recommendation 2.1f). Only spends that follow the process and meet the criteria set out in the CIL Protocol will be approved under this delegation.
- 5.15. Finally, recommendation 2.1g seeks a delegation for officers to assign available neighbourhood portion funds to the infrastructure asset themes set out in section 4.8 of the CIL Spending Protocol. This delegation is only required for the financial year 2022/23, as this report is being considered after the setting of the budget. In future years, these funds will be assigned through the budget setting process.

6. Options considered

- 6.1. The proposed protocol takes into account the experience gained from several years of CIL spending rounds. It sets out transparently the expectations of CIL funded projects.

- 6.2. An 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 less transparency.
- 6.3. A further alternative would have been a draft protocol which was considered, and approved, by the Planning Policy Committee on 19 July 2021². Upon further discussions between officers and Cabinet members, it was concluded that the approach would not maximise the delivery of the relevant strategies, and officers were instructed to prepare an alternative approach, which is the subject of this report.

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 Levy, no specific financial implications arise from its contents. Agreeing the protocol will assist in transparent decision making in future CIL spending decisions.

Section 151 Officer comments

Date: 10 December 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.

² <https://havant.moderngov.co.uk/ieListDocuments.aspx?CIId=531&MIId=11432&Ver=4>

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

The Community Infrastructure Levy (CIL) is one important source of funding which can contribute to the cost of infrastructure needed to support development across the Council area.

To ensure consistent and equitable application of the money collected, a clear CIL governance structure to oversee the spending of CIL monies is desirable and this report proposes the key governance arrangements around this to ensure CIL serves its purpose.

Mark Watkins, DMO

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 Leader and the Cabinet Lead for Housing, Communities and CIL. 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.

12. Appendices

- 12.1. Community Infrastructure Levy Spending Protocol (2022)

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, 6.1.2022

Director: Simon Jenkins, 7.1.2022

Monitoring Officer: Daniel Toohey, 24.1.2022

Section 151 Officer: Lydia Morrison, 20.1.2022

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