

Name of Committee:	Planning Policy Committee Full Council		
Committee Date:	05/02/2024		
Report Title:	Update of Community Infrastructure Levy Spending Protocol		
Responsible Officer:	Executive Head of Place		
Cabinet Lead:	Deputy Leader of the Council, Cabinet Lead for Communities and Housing		
Status:	Non-Exempt		
Urgent Decision:	No	Key Decision:	No
Appendices:	Appendix A - Community Infrastructure Levy (CIL) Spending Protocol (2024) Appendix B - Proposed Community Infrastructure Levy (CIL) Spending Protocol (Track Changes Version)		
Background Papers:	<ul style="list-style-type: none"> • CIL Spending Protocol 2022: CIL Spending Protocol 2022_0.pdf (havant.gov.uk) • The Community Infrastructure Levy Regulations 2010 (as amended) • The Capital Strategy • Cabinet Papers 08/11/23 – ‘Update of Capital Strategy’ 		
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Report Number:	HBC/74/2024		

Corporate Priorities:

When decisions on Community Infrastructure Levy (CIL) spending are made, whilst being in accordance with the CIL Regulations 2010 (as amended), they must also support the Corporate Strategy and the CIL Spending Protocol. The latest Corporate Strategy 2022-2026 concentrates on the following themes:

- Wellbeing – Health of our communities
- Pride in Place – Creating a great place to live, work and enjoy
- Growth – Building our future

Executive Summary:

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 CIL and to make that process transparent. The protocol was last approved at Council on 16 March 2022. Since then, minor changes have been made following the recommendation of Planning Policy Committee on 30 May 2023 and at Cabinet 8 November 2023 when a decision was taken for the Capital Strategy to be amended to reflect the role of the CIL Spending Protocol 2022.

The main changes proposed compared to the currently adopted protocol are:

- (i) To reference the Capital Strategy agreed at Council on 22 February 2023 and the updates to it agreed on 8 November 2023 and bring CIL allocations in line with this document.
- (ii) To note decisions on Strategic CIL will be presented to Cabinet for consideration as part of the capital budget setting process, before being agreed by Full Council.
- (iii) To restate the importance of the infrastructure Delivery Plan (IDP).
- (iv) For the Neighbourhood Portion CIL Spending Protocol, to allow the council to extend expenditure to assets not owned by the council where delivery projects are directly linked to the Corporate Strategy.

Recommendations:

Planning Policy Committee is requested to recommend to Council:

- a) To approve the Community Infrastructure Levy (CIL) Spending Protocol (2024) (Appendix A)
- b) To delegate authority to the Executive Head of Place, in consultation with the relevant Cabinet Lead to amend the CIL Spending Protocol following adoption, provided those changes are 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.
- c) To delegate authority to the Executive Head of Place, in consultation with the relevant Cabinet Lead to prepare guidance and relevant process notes for the implementation and administration of CIL spending decisions in line with the Spending Protocol.
- d) To delegate authority to the Executive Head of Place, in consultation with the relevant Cabinet Lead to determine applications for spends from the Neighbourhood Portion; subject to the total expenditure not exceeding that set out in the Capital Spending Programme for the stated year.
- e) To update the Local Scheme of Delegation to record the delegation of authority at b–d above and the revocation of the earlier authorisations contained in b–g of Council minute 83/03/201

1.0 Introduction

- 1.1 Havant Borough Council is responsible for determining how funds raised from the Community Infrastructure Levy (CIL) should be spent, within the regulatory framework. The current mechanism for this is the CIL Spending Protocol March 2022, implemented from 1 April 2022.
- 1.2 A report was taken to Cabinet on 8 November 2023 by the Chief Finance Officer, the Executive Summary read: *'In March 2022 the Council adopted its Community Infrastructure Levy (CIL) Spending Protocol. In March 2023 the Council adopted the Capital Strategy amongst other finance and spending strategies. An unforeseen consequence of the adoption of the Capital Strategy in 2023 was that there now exists a divergence in the two spending regimes which could lead to confusion... whilst CIL is a capital resource and will be aligned to the Capital spending process CIL spending will operate under the 2022 protocol and not as part of the Capital Strategy as adopted in 2023.'* Cabinet recommended to Council: *'The Capital Strategy be amended to confirm that CIL spending decisions are governed by the separate CIL Spending Protocol March 2022; Authority be delegated to the Chief Finance Officer to amend the Capital Strategy.'*
- 1.3 The CIL Spending Protocol is therefore in need of amendment, particularly to make Full Council the decision-making body for Strategic CIL in accordance with the Capital Strategy. Decisions on spending are timetabled to take place 28/02/2024 as part of the capital budget setting process.

2.0 Background

- 2.1 To reflect the minor changes necessary, updates are proposed to the 2022 Protocol. The updated Protocol will ensure that the decision-making process is transparent, proportionate to each type of CIL and facilitate the implementation of the Corporate Strategy. It will guide the way future spend from CIL funds is allocated to projects.
- 2.2 When the CIL Spending Protocol was last approved at Council on 16 March 2022, there was a mechanism for annual review at Paragraph 6.4, this should be maintained and is restated below.

- 2.3 In addition to ongoing monitoring by officers, the Council's spending of CIL will be monitored and reviewed annually by the Planning Policy Committee. The review will consider whether the funding distribution for the Neighbourhood Portion set out in this protocol remains appropriate, and most importantly, whether delivery of projects using CIL funds is ensuring that the borough's infrastructure capacity is being expanded in line with new development coming forward. Where changes are proposed by Planning Policy Committee these will be proposed to the Executive Head of Place as per Recommendation b) of this report.
- 2.4 More regularly the Cabinet Lead Report to Full Council will provide detail on allocation and expenditure of CIL funds.
- 2.5 Whilst Strategic CIL allocations will be captured through the budget setting process, Neighbourhood Portion allocations will be reported by the S151 Officer on a quarterly basis.
- 2.6 The Infrastructure Delivery Plan (IDP) will form a key part of the evidence base to support the Borough's new Local Plan, entitled 'Building a Better Future.' It will also influence the council's developer contributions spending decisions. In addition, other workstreams, such as the council's Regeneration and Economy Strategy will rely heavily on infrastructure investment. As such, the CIL Spending Protocol has been prepared so that it can dynamically adapt to the development of these various strategies and plans, all of which will support the Corporate Strategy.

3.0 Options

- 3.1 It is proposed to make the changes proposed in order to reflect previously agreed decisions.
- 3.2 The alternative is to keep the Protocol as is. This will prevent the alignment of CIL Spending with the subsequently agreed Capital Strategy, identification of the importance of the IDP and prevent the use of Neighbourhood Portion on a wider range of projects, all of which will continue to deliver substantial improvements to local infrastructure assets that are used by a wide variety of residents and

groups. This was highlighted in the report to Cabinet, 8 November 2023, from the Chief Finance Officer.

4.0 Proposed changes to the Protocol

Capital Strategy

4.1 The spending of CIL will be aligned to the Capital Spending Programme (in accordance with the Capital Strategy 2023/4 to 2027/8 agreed at Council on 22/2/2023 and amended following Cabinet of 08/11/23). However, there are nuances in the spending of the different types of CIL.

Strategic CIL

4.2 Strategic CIL will be approved for release in line with the Capital Spending Programme. Any overspends will be considered in accordance with the Capital Strategy.

Neighbourhood CIL

4.3 For the Neighbourhood Portion the total budget envelope will be detailed in the Capital Spending Programme with funds allocated to the themes set out in the Protocol.

4.4 At the beginning of the financial year the Development Infrastructure Team will administer applications for Neighbourhood Portion spending with decisions on projects delegated to the Executive Head of Place, in consultation with the relevant Cabinet Lead and relevant Ward Councillors. If there are funds remaining after this process additional allocations may be considered until the particular theme is exhausted.

5 Relationship to the Corporate Strategy

5.1 When decisions on CIL spending are made, whilst being in accordance with the CIL Regulations 2010 (as amended), they must also support the Corporate Strategy. The latest Corporate Strategy 2022-2026 concentrates on the following themes:

- Wellbeing – Health of our communities
- Pride in Place – Creating a great place to live, work and enjoy
- Growth – Building our future

5.2 As discussed earlier at Paragraph 2.6 ‘...the CIL Spending Protocol has been prepared so that it can dynamically adapt to the development of these various strategies and plans, all of which will support the

Corporate Strategy.’ This statement applies equally to Neighbourhood Portion spending decisions.

- 5.3 An amendment is also proposed in respect of the ‘Best Use of Funds’ (shown in Appendix B Paragraph 2.4 g) to allow the council to extend expenditure to assets not owned by the council where projects are directly linked to delivery of the Corporate Strategy. Amongst other projects this will facilitate spending of the Neighbourhood Portion in respect of Waterlooville Town Centre.

6 Conclusion

- 6.1 The CIL Regulations 2010 (as amended) are not prescriptive in the manner Strategic CIL expenditure is spent. This statement also applies to the Neighbourhood Portion CIL as the Council is unparished.
- 6.2 When the CIL Spending Protocol 2022 was agreed at Full Council it had increased focus on delivery of the Corporate Strategy. The amendments currently proposed continue this focus but bring both types of CIL expenditure more in line with the Capital Spending Process (albeit each will be subject to slightly different spending processes) and extend the range of assets for which Neighbourhood Portion expenditure may be considered.

7 Implications and Comments

- 7.1 S151 Comments - Members should be content that the recommendations allow the service to be agile and flexible whilst ensuring tight budgetary control and not exposing the Council to undue financial risk, the CIL budget still remains part of the annual Capital Programme but with operational flexibility within its cash limit. A report on CIL expenditure, project progress and performance should be submitted to Cabinet on a quarterly basis alongside the existing wider quarterly finance and performance reports.
- 7.2 Financial Implications - The CIL Spending Protocol sets out the process and the criteria to be applied to decision on allocating funds from the Community Infrastructure Levy taking into consideration the Capital Strategy.

- 7.3 Monitoring Officer Comments - As a matter of good practice, the Council's policies and procedures should be kept under review and, as in this case, update and amend were appropriate. Members should be assured that the CIL Spending Protocol ensures that decisions are made in an open and transparent manner.
- 7.4 Legal Implications - The collection and spend of CIL is governed by The Community Infrastructure Levy Regulations 2010 (as amended). The updated protocol is in line with these provisions.
- 7.5 Equality and Diversity - This decision has no direct equality impact. Due regard to the Public Sector Equality Duty will need to be given when CIL is being allocated for expenditure. This will need to be a consideration in the spending of Strategic CIL when decisions on spending go through the political process. In respect of Neighbourhood Portion CIL this is captured through the application process.
- 7.6 Human Resources - The administration of CIL is covered by existing posts within the Place Service and is currently funded through CIL at zero cost to the Council.
- 7.7 Information Governance - The process of collecting CIL involves collecting personal and confidential information. However, spending decisions are not linked to individual development schemes as is the case with other types of developer contributions and so no personal information will be used in the spending of CIL.
- 7.8 Climate and Environment - This report does not have any climate and environment implications but future CIL spends will consider the Climate Change Strategy and the Biodiversity Duty imposed by the Environment Act 2021 during scheme development.

8 Risks

- 8.1 Risks to the Council as a result of this report are minimal. The protocol is designed to ensure that funds will be spent in line with the Community Infrastructure Regulations. However, these regulations in and of themselves do not articulate in detail how CIL is spent except in respect of the Neighbourhood Portion where a local authority is parished.

9 Consultation

- 9.1 No public consultation is proposed regarding the updated CIL Spending Protocol. This is not required under the CIL Regulations. Consultation would take place as necessary on individual infrastructure projects proportionate to the scale and type of infrastructure proposed.

10 Communications

- 10.1 To facilitate a wider understanding of CIL allocations and expenditure we have our publicly accessible developer contributions system and pages on our website concerning the CIL Allocation Process. Our website at annual intervals will invite infrastructure providers to put forward expressions of interest for Strategic CIL spends where appropriate.

Agreed and signed off by:		Date:
Cabinet Lead:	Councillor Gwen Robinson	09/01/2024
Executive Head:	Alex Robinson	28/12/2023
Monitoring Officer:	Jo McIntosh	25/01/2024
Section151 Officer:	Steven Pink	17/01/2024