

BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

From: Cabinet Member for Planning	Report Number: MCa/17/43
To: Mid Suffolk Cabinet Babergh Cabinet	Date of meetings: 5 February 2018 8 February 2018

COMMUNITY INFRASTRUCTURE LEVY (CIL) - FRAMEWORK FOR CIL EXPENDITURE

1. Purpose of Report

- 1.1 To share current thinking regarding a proposed framework for the expenditure of the Community Infrastructure Levy (CIL) for both Councils
- 1.2 To obtain Cabinet approval to the appointment of a Panel of Members from both Councils to shape the development of a fully worked up CIL expenditure framework for adoption by each Council.
- 1.3 To encourage engagement with the wider Councillor body as part of developing the proposed framework ahead of its detailed consideration by Cabinet before being presented to full Council for approval as a key decision of both Councils.
- 1.4 A timetable for the approval and earliest implementation of the CIL framework to be devised and ultimately agreed by Cabinet and full Council for both Councils when the detailed scheme is considered.

2. Recommendations

- 2.1 That the current thinking around a framework for CIL expenditure be noted and used as a basis for development of a detailed CIL expenditure framework.
- 2.2 That Cabinet approve the creation of a Panel comprised of three Members from each Council to shape the development of a detailed CIL expenditure framework
- 2.3 That the framework be returned to Cabinet for consideration and agreement before being presented to Full Council as a key decision for both Councils.

Reason for Decision: To ensure member involvement in the development of the framework before this is presented to Full Council for approval.

3. Financial Implications

- 3.1 The development of a detailed framework for CIL expenditure for consideration and adoption by both Councils is required as there is no set prescriptive approach for CIL expenditure prescribed either by Central Government or through the CIL Regulations 2010 (as amended).
- 3.2 As such all Councils across the country where a CIL charging regime has been adopted and is being implemented have brought in their own schemes for how CIL monies are spent. Appendix a provides a summary of a Planning Advisory Service report on CIL expenditure which captures the wide divergence of CIL expenditure approaches across the country.

3.3 The CIL Regulations do stipulate however that CIL monies which are collected must be spent on Infrastructure. Each Council is required to publish a list of infrastructure that they will put the CIL towards. These lists, known as the “Regulation 123 lists”, were adopted and published in January 2016. These documents (which are different for both Councils) constitute Appendix b) and c) to this report.

3.4 As such the development and adoption of a CIL expenditure framework is critical to the funding of infrastructure to support inclusive growth and sustainable development.

4. Legal Implications

4.1 Any framework for CIL expenditure will need to be legally sound and robust and thereby not at risk of challenge. It is therefore important that any CIL expenditure framework to be devised is endorsed as being sound and legally compliant by the Councils shared legal service prior to its consideration and adoption.

4.2 CIL is collected and allocated in accordance with the CIL Regulations 2010 (as amended). Each Council retains 5% of the total CIL income for administration of CIL. From the remainder, 15% is allocated to Parish or Town Councils but where there is a Neighbourhood Plan in place this figure rises to 25%. For those parishes where there is no Parish or Town Council in place the Council retains the monies and spends it through consultation with the Parish.

4.3 Since the implementation of CIL for both Councils on the 11th April 2016 there have been three payments to Parish Councils, in October 2016, April 2017, and October 2017 (<http://www.babergh.gov.uk/planning/community-infrastructure-levy-and-section-106/community-infrastructure-levy-cil/cil-reporting/>)

4.4 Regulation 62 of the CIL Regulations 2010 (as amended) requires CIL charging authorities to publish monitoring statistics for collection allocations and expenditure of CIL monies by the 31st of December for each year. The 2017 Monitoring Report for both Councils is published on our websites (see below).

<http://www.babergh.gov.uk/assets/CIL-and-S106-Documents/Babergh-District-Council-CIL-Monitoring-Report-2016-17.pdf>

<http://www.babergh.gov.uk/assets/CIL-and-S106-Documents/Mid-Suffolk-District-Council-CIL-Monitoring-Report-2016-17.pdf>

5. Risk Management

5.1 This report most closely links with Strategic Risk No.1d – Housing Delivery: If we do not secure investment in infrastructure (schools, health, broadband, transport etc.), then development is stifled and/or unsustainable.

5.2 Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Failure to allocate expenditure such that if we do not secure investment in infrastructure (schools, health, broadband, transport etc.), then development is stifled and/or unsustainable. CURRENT RISK SCORE: 6	Unlikely (2)	Bad (3)	Adopted Community Infrastructure Levy (CIL), secure investment on infrastructure via planning process (e.g. S106). Creating the Infrastructure Delivery Plan as part of the Strategic Plan, Joint Local Plan with associated Infrastructure Strategy will ensure that infrastructure across both Councils is

			addressed, New Anglia LEP Economic Strategy, draft created.
Failure to produce a Regulation 62 report would result in non-compliance with the CIL Regulations 2010 (as amended) and may mean that Members and the public are not aware of CIL income and expenditure activities.	Highly Unlikely (1)	Noticeable /Minor (2)	The Infrastructure Team produces the report which is checked and verified by Financial services/open to review by External Audit. Reminders are set to ensure the report is published by the statutory date. The format of the Regulation 62 Monitoring report is laid out in the CIL Regulations, so there is no risk in relation to the way the information is presented
Failure to monitor expenditure such that CIL expenditure is not effective.	Unlikely (2)	Bad (3)	The software which supports CIL collection will be used to support CIL expenditure. In addition it is envisaged that a yearly CIL Business plan (with a 6 month update) will be produced which will include details of all allocated and proposed CIL expenditure and this together with the software will be used for effective monitoring.

6. Consultations

- 6.1 To inform current thinking around a framework for CIL expenditure informal discussions continue with Officers of the Council, Infrastructure providers (including Suffolk County Council and Health) and some Parish Councils where questions have arisen.
- 6.2 There is no requirement upon the Council to formally consult on a detailed scheme of CIL expenditure although it may be appropriate to engage with infrastructure providers and Parish Councils as part of developing the framework.

Assurances (for collection of CIL monies)

- 6.3 As part of the initial Audit planning process for 2015/16 Internal Audit were invited to review the governance of the Community Infrastructure Levy processes.
- 6.4 The approach adopted for this governance review was to establish the current arrangements and comment/ evaluate on the robustness of those arrangements and make recommendations where necessary.
- 6.5 In September 2016 Internal Audit issued a report in relation to CIL governance processes. The Audit Opinion was High Standard and no recommendations for improvement to systems and processes were made. Table 5 provides a definition of this opinion:

Table 5

	Operation of controls	Recommended action
High standard	Systems described offer all necessary controls. Audit tests showed controls examined operating very effectively and where appropriate, in line with best practice.	Further improvement may not be cost effective.
Effective	Systems described offer most necessary controls. Audit tests showed controls examined operating effectively, with some improvements required.	Implementation of recommendations will further improve systems in line with best practice.
Ineffective	Systems described do not offer necessary controls. Audit tests showed key controls examined were operating ineffectively, with a number of improvements required.	Remedial action is required immediately to implement the recommendations made.
Poor	Systems described are largely uncontrolled, with complete absence of important controls. Most controls examined operate ineffectively with a large number of non-compliances and key improvements required.	A total review is urgently required

6.6 On the 18th December 2018 Joint Overview and Scrutiny received a fact sheet on collection and current thinking on CIL expenditure and questions were answered in relation to it. Members of that Committee were advised of the route map towards getting a framework for CIL expenditure formally considered. Members were advised that this would be a key decision for both Councils and as such would need to go to Cabinet and then full Council.

6.7 It is likely that a further internal audit of CIL collection will occur January 2018 onwards

Assurances (for expenditure of CIL monies)

6.8 It is expected that internal audit will audit CIL expenditure processes and expenditure once any scheme is developed and look at it further once implemented.

7. Equality Analysis

7.1 There are no equality and diversity implications arising directly from the content of this report.

8. Shared Service / Partnership Implications

8.1 The CIL expenditure framework is being devised as a joint framework albeit the monies for each Council are collected and allocated according to where the development is being carried out. Expenditure of Council CIL monies would also be spent in accordance with that Councils Regulation 123 list (which are slightly different for both Councils -see Appendices b) and c).

9. Links to Joint Strategic Plan

9.1 The effective spending of CIL monies will contribute to all the three-main priority area that Councillors identified in the Joint Strategic Plan: Economy and Environment, Housing and Strong and Healthy Communities.

10. Key Information

10.1 Current thinking around a joint CIL expenditure framework is split into 5 main areas:

- Key Principles of any CIL Expenditure framework
- Processes for a Joint CIL Expenditure framework
- Assessment criteria and prioritisation for expenditure

- Governance of any such CIL expenditure framework
- Timetable for development and implementation of the CIL expenditure framework and any review.

10.2 These are addressed below.

Key Principles of a CIL Expenditure approach

10.3 Current thinking is as set out in Appendix (e) to this report.

Processes for a Joint CIL Expenditure framework

10.4 Current thinking is as set out in Appendix (f) to this report.

Assessment criteria and prioritisation for expenditure

10.5 Current thinking is as set out in Appendix (g) to this report.

Governance of any CIL expenditure framework

10.6 Current thinking is as set out in Appendix (h) to this report

Timetable for development and implementation of the CIL expenditure framework and any review

10.7 Current route map is as set out in Appendix (i) to this report. -

Conclusions of key information

10.8 These are as follows: -

- A Panel of Cabinet Members from both Councils to work alongside Officers to develop the joint CIL expenditure framework is recommended (see above) with reference to the development of the following matters
- Assessment and prioritisation criteria (including whether CIL expenditure should occur outside both Councils geographical boundaries and whether offers of spending on projects should be time limited) is required.
- Governance arrangements likely to require hybrid approach including for delegation
- A Communications plan on CIL collection and expenditure is required
- Timetable going forward and timescale of any Review is required

11. Appendices

Title	Location
(a) Summary of PAS report on different approaches to CIL expenditure across the county	Attached
(b) Regulation 123 list for Babergh District Council	Attached

(c) Regulation 123 list for Mid Suffolk District Council	Attached
(d) An indicative diagram - CIL expenditure being held in two pots – Local and Strategic Infrastructure	Attached
(e) Key principles of a CIL expenditure approach	Attached
(f) Processes for a CIL expenditure approach	Attached
(g) Assessment criteria and prioritisation for CIL expenditure	Attached
(h) Governance of any CIL expenditure framework	Attached
(i) Timetable for development and implementation of any CIL expenditure framework and any review	Attached

12. Background Documents

12.1 None

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Appendix A - Summary of Planning Advisory Service (PAS) report on CIL expenditure for a number of different Councils across the country

- **Bristol City Council** - use existing neighbourhood partnerships decision making powers
- **Elmbridge Borough Council** – is considering giving parishes 25% of the money whether they have a neighbourhood plan in place or not. It also sees CIL as a new opportunity to improve working between County and the District.
- **Havant Borough Council;** - The focus is not just on spending CIL but on delivery. The Borough Council will hand over money for ready to go schemes and for this evidence is key. This way the Borough say, “the decisions make themselves”.
- **London Borough of Croydon** - Single tier authority where major infrastructure issue (local transport and education) are the responsibility of the Council. An internal group assigns CIL income to infrastructure projects Other organisations can make bids for funding and then attend the meeting where their bid is considered
- **London Borough of Redbridge** – Area Based Committees make decisions and have Ward Members on the Committees. Members take the lead in engaging with local community to decide on spending.
- **Shropshire Council** - has a number of market towns but few major developments where strategic growth is planned. There is no single infrastructure requirement which is expected to attract a large proportion of CIL monies.
- Shropshire has decided to spread the benefits of CIL monies. Spending is a combination of bottom up inputs from the towns themselves and top down inputs from the strategic providers. Priorities are agreed through a partnership approach.
- If the parish councils opt to accept development in Shropshire they can decide what the strategy should be. 90% of the net CIL revenue can be spent on what is on the local list the remainder is spent on strategic items.
- **Newark and Sherwood District Council** – CIL is only forecast to plug £40 million of the £210 million funding gap. The Council considers that “the knowledge that CIL income is going to come, gives us the confidence to invest more widely”
- **Wycombe District Council** – considering match funding opportunities improvements supported by the Parish Councils 15% provided that any projects are taken from the Councils 123 list. Wycombe also consider that if new schools are required it is much better if these are funded through s106.



COMMUNITY INFRASTRUCTURE LEVY BABERGH DISTRICT COUNCIL

Regulation 123 Infrastructure list January 2016

Regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended) places limitations on the Council's ability to use planning obligations to fund the provision of infrastructure across the district.

As a charging authority, **Babergh District Council** is required by Regulation 123(2) to publish a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL. The order of infrastructure items within the list do not imply or signify any order of preference or priority for CIL funding.

The CIL Regulation 123 List will be expected to be subject to review once a year, as part of the ongoing and continuous monitoring of CIL collection and spend.

Where site-specific exclusions are identified, they will be subject to statutory tests set out under Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), which stipulates:

"A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- a) Necessary to make the development acceptable in planning terms*
- b) Directly related to the development; and*
- c) Fairly and reasonably related in scale and kind to the development."*

Infrastructure across the district that may be wholly or partly funded by Community Infrastructure Levy funds, except for the listed strategic sites
Provision of passenger transport
Provision of library facilities
Provision of additional pre-school places at existing establishments
Provision of primary school places at existing schools
Provision of secondary, sixth form and further education places
Provision of health facilities
Provision of leisure and community facilities
Provision of 'off site' open space
Strategic green infrastructure (excluding suitable alternative natural greenspace)
Maintenance of new and existing open space and strategic green infrastructure
Strategic flooding
Provision of waste infrastructure

It is expected that the proposed development of the strategic sites at Chilton Woods, Sudbury/Gt. Cornard; strategic broad location for growth - East of Sudbury / Gt Cornard; Lady Lane, Hadleigh; Babergh Ipswich Fringe; Brantham Regeneration Area will provide all the necessary infrastructure for each site through planning obligations (and not Community Infrastructure Levy) relating specifically to those development.

CIL funding will not be spent on specific planning obligations required with the following strategic sites:

- Chilton Woods, Sudbury
- Strategic broad location for growth - East of Sudbury / Gt Cornard
- Lady Lane, Hadleigh
- Babergh Ipswich Fringe
- Brantham Regeneration Area

Babergh District Council as Charging Authority is required to pass a set percentage (15% or 25%) of CIL funds generated onto local communities in line with the Regulations. The money passed onto local communities can be spent on a wider remit than detailed on the Regulation 123 List but must be used to support the development of the area.