

MID SUFFOLK DISTRICT COUNCIL

COMMITTEE: Cabinet	REPORT NUMBER: MCa/19/55
FROM: David Burn- Cabinet Member for Planning	DATE OF MEETING: 9 th March 2020
OFFICER: Christine Thurlow Professional Lead Key Sites and Infrastructure	KEY DECISION REF NO. CAB183

COMMUNITY INFRASTRUCTURE LEVY (CIL) - CIL EXPENDITURE BUSINESS PLAN MARCH 2020

1. PURPOSE OF REPORT

- 1.1 The CIL Expenditure Framework, the CIL Expenditure Framework Communications Strategy and the Timeline for Implementation following the CIL Framework Review were all adopted by both Councils on the 19th March 2019 (Babergh) and 18th March 2019 (Mid Suffolk). (Background Documents refer).
- 1.2 The processes and governance around CIL expenditure is set out in these documents and the type of infrastructure that CIL monies can be spent on is set out in each Councils CIL Position Statement. (Background Documents refer).
- 1.3 CIL expenditure operates using a process of twice-yearly bid rounds which occur on the 1st - 31st May and 1st - 31st October each year. Once all the Bids have been validated, all valid Bids are then screened for the availability of s106 funds and other funding streams. Following this all valid Bids are prioritised using criteria set out in the CIL Expenditure Framework and recommendations on Valid Bids are included within a CIL Business Plan for each District. The CIL Business Plan for that District will be considered by that Councils Cabinet with decisions on all valid Bids either for Cabinet to make or for Cabinet to note (if the valid Bid has been determined using delegated powers).
- 1.4 This report seeks to obtain approval by Cabinet for Mid Suffolk's CIL Business Plan – March 2020 which forms Appendix A to this report. This report contains information relating to the CIL Bids including the technical assessments of those Bids (Appendix B).

2. OPTIONS CONSIDERED

- 2.1 There is a diverse spectrum of approaches to CIL expenditure across the country from Unitary Authorities who have absorbed CIL into their individual Capital Programmes to others who ringfence all funds to be spent locally. A range of different approaches was identified in Appendix A of the Framework for CIL Expenditure report provided to Cabinet's on the 5th and 8th of February 2018 and discussed in full during the workshops with the Joint Member advisory panel. Members adopted the documents set out in paragraph 1.1 above by

Council decision in April 2018 which were subsequently reviewed and adopted on the 19th March 2019 (Babergh) and 18th March 2019 (Mid Suffolk).

3. RECOMMENDATIONS

3.1 That the CIL Expenditure Business Plan (March 2020) and accompanying technical assessment of the CIL Bids forming Appendices A and B be approved. This includes decisions on valid Bids to be approved and noted by Cabinet as follows: -

Decisions for Cabinet to make: Local Infrastructure Fund

CIL Bid, Location and Infrastructure Proposed	Amount of CIL Bid and total cost of the Infrastructure	Cabinet Decision
M19-07 OCCOLD Village Hall enhancement extension	Amount of CIL Bid £19,190 Total cost £57,600.00	Recommendation to Cabinet to approve CIL Bid M19-07. For £19,190
M19-08 THORNHAM Greening and Growing Thornham Walks Provision of a car park	Amount of CIL Bid £27,000.00 Total cost £32,619.66	Recommendation to Cabinet to approve CIL Bid M19-08 for £27,000.00 subject to a legal document which allows the car park to be used for a 25-year period
M19-10 BRAMFORD CEVC Primary School – increase in capacity from 210-315 places (increase from 1FE to 1.5FE for R-Y5) Expansion of primary school	Amount of CIL Bid £645,593 Total cost 1,504,000	Recommendation to Cabinet to approve CIL Bid M19-10 for £645,593

Decisions for Cabinet to make: Ringfenced Funds and Local Infrastructure Fund

<p>M19-14 CLAYDON Primary School Expansion - Expansion of primary school increase in capacity from 420 to 525 places (increase from 2FE to “.5FE for R-Y6)</p>	<p>Amount of CIL Bid £499,421 Total cost £2,6000,000</p>	<p>Recommendation to Cabinet to approve CIL Bid M19-14 for £499,421 (given the unique circumstances relating to this Bid for essential infrastructure (contained in the Infrastructure Delivery Plan - IDP) thereby representing an acceptable exception to the terms of the CIL Expenditure Framework. concerning approval of retrospective CIL Bids.</p>
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3.2 Cabinet are also asked to note and endorse this CIL Business Plan which includes the position in respect of approved CIL Bids from Rounds 1, 2 and 3 including CIL Bid M14-18 at Stowupland (determined in January 2020).

REASON FOR DECISION

Community Infrastructure Levy (CIL) monies have been collected since the implementation of CIL on the 11th April 2016. The CIL Expenditure Framework originally adopted in April 2018 and reviewed with amendments adopted on the 18th March 2019 requires the production of a CIL Business Plan for each District which contains decisions for Cabinet to make or note on CIL Bids for CIL expenditure.

These decisions relating to the expenditure of CIL monies form one of the ways in which necessary infrastructure supporting growth is delivered.

4. KEY INFORMATION

4.1 Given the determination of “available monies”, (paragraphs 6.7,6.8 and 6.9 inclusive) Members are advised: -

- 10 new Bids submitted in total – all acknowledged and given a reference.
- Majority of Bids were initially invalid due to the need to clarify or submit information. Further information on all such Bids has been requested.
- A list of Valid Bids is published on the Web site.
- All 10 new Bids are collaborative (i.e. more than one source of anticipated income for the project.).
- The majority of Bids are from Parish Councils or Community Groups although SCC has submitted school extension Bids.
- A number of new Bids (including held over Bids) could not be validated because insufficient information had been submitted and/or because the size and scope of the project needs revisiting and /or because three quotes had not been submitted and /or because there are land ownership issues/ formal approval is awaited. Some of the collaborative Bids could not be progressed at this time as all the funding from other organisations had not been finalised. (these will be held over for Bid round 5).

Conclusions of key information

4.2 The list of CIL Bids for the fourth round is contained in the CIL Business Plan and includes valid and invalid Bids. (Appendix A) The valid Bids have been the subject of Consultation, Screening (for s106 and other potential sources of funding). In addition, where appropriate, these valid Bids have been assessed using the prioritisation criteria in the CIL Expenditure Framework so that a decision can be made. This forms the technical assessment using all the criteria in the CIL Expenditure Framework and comprises Appendix B. (All valid Bids where a decision is being taken will be the subject of a technical assessment.)

4.3 Where decisions on valid Bids are delegated, they have been determined and the decision is for Members to note. There are 4 valid Bids in Bid round 4 for Cabinet to consider and determine.

4.4 All those Bids which are currently listed as invalid in Appendix A will be carried forward to the next Bid round unless otherwise stated. This will allow further discussions to take place, the submission of further information which clarifies/amends the Bid and/or confirms that all the necessary formal approvals or other funding for the project have been secured.

5. LINKS TO JOINT STRATEGIC PLAN

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

6. FINANCIAL IMPLICATIONS

- 6.1 The adopted CIL Expenditure Framework is critical to the funding of infrastructure to support inclusive growth and sustainable development.
- 6.2 The CIL Regulations stipulate that CIL monies which are collected must be spent on Infrastructure. The CIL Regulations stipulate that CIL monies which are collected must be spent on Infrastructure. Before 1st September 2019, each Council was required to publish a list of infrastructures that they will put the CIL monies towards. These lists were known as the "Regulation 123 Lists". However, on the 1st September 2019, new CIL Regulations were enacted, with the CIL 123 Lists being abolished, and in order to provide clarity given this changing situation, each Council adopted a CIL Position Statement containing a list of infrastructure that it would spend its CIL monies on. The authority for this was provided by a Council decision in March 2019 when the First Review of the CIL Expenditure Framework was undertaken and a revised scheme was agreed (by both Councils). The CIL Position Statements are identical for both Councils; the hyperlink for the CIL Position Statement for Mid Suffolk is contained at paragraph 14.1.
- 6.3 These replacement documents (known as the CIL Position Statement) makes both Councils positions clear on the expenditure of CIL This is expected to remain in force until the CIL Position Statement is formally reviewed (as part of the forthcoming Review of the CIL Expenditure Framework) and amended/or replaced.
- 6.4 CIL is collected and allocated in accordance with the CIL Regulations 2010 (as amended). Each Council retains up to 5% of the total CIL income for administration of CIL. From the remainder, 15% is allocated to Parish or Town Councils (subject to a cap) but where there is a Neighbourhood Plan in place this figure rises to 25% (without a cap). For those parishes where there is no Parish or Town Council in place the Council retains the monies and spends the CIL Neighbourhood funds through consultation with the Parish.
- 6.5 Since the implementation of CIL for both Councils on the 11th April 2016 there have been seven payments to Parish Councils, in October 2016, April and October 2017, April and October 2018, April and October 2019. At the time that the Neighbourhood payments are made, the 20% set aside for Strategic Infrastructure fund is also undertaken. The Strategic Infrastructure Fund money is stored separately to the Local Infrastructure Fund at this point. As this accounting requires Finance to verify the figures, daily accounting in this way would be too cumbersome and resource hungry to carry out. There is no adverse impact on the Bid Round process or cycle to this method of accounting. Indeed, these dates work well with the Bid round process. (Paragraph 1.3 refers).

- 6.6 The remaining 80% of the CIL 123 monies comprises the Local Infrastructure Fund from which the available funds for expenditure against the Bid round are calculated. Within the CIL Expenditure Framework infrastructure provision for major housing developments is prioritised and ringfenced for spend against these housing projects. In this way housing growth occurring within the Districts is supported by infrastructure provision.
- 6.7 When commencement of these major housing schemes occurs, monies are collected according to the CIL payment plan in place. If the scale of development is large the CIL payment plan could be up to 5 equal payments collected over a two-year timescale. Smaller developments are required to pay the money in less instalments and over a shorter timescale. These monies are held in a separate account from the Strategic and Local Infrastructure funds to ensure the monies are safeguarded towards infrastructure supporting these developments. The remaining unallocated monies are known as the “available funds” and it is these funds that can fund the majority of CIL bids.

Available funds (Ringfenced funds, Strategic and Local Infrastructure Funds)

Mid Suffolk.

6.8 These available funds are: -

- Strategic Infrastructure Fund (including interest) as at 30 September 2019 (and including expenditure against M14-18) = £0
- Total available ringfenced monies as at 30th September 2019 = £1,643,186.34
- Local Infrastructure Fund available as at 30 September 2019 =: £1,447,776.13

6.9 These are expressed as follows: -

Expenditure	Total	2017/ 18	2018/19	2019/20
Total Expenditure in Bid Round 1 (Local Infrastructure Fund only)		N/A	£156,979.84	N/A
Total Expenditure in Bid Round 2 (Local Infrastructure Fund only)		N/A	£78,297.15	N/A
Total Expenditure in Bid Round 3 (Local Infrastructure Fund only)		N/A	N/A	£9,996.26
Total Expenditure for Approved Bid M14-18 Stowupland High School outside of Bid Round 4 (Strategic Infrastructure Fund only)		N/A	N/A	£1,139,906.98 (£50,474.28 due to be collected between Oct

				and March 2020)
Total Expenditure for Approved Bid M14-18 Stowupland High School outside of Bid Round 4 (Ringfenced Funds only)		N/A	N/A	£1,276,305.23 (£253,437.77 due to be collected between Oct and March 2020)
Amount carried forward to Bid Round 4 (Strategic Infrastructure Fund) after approval of Bid M14-18 (at 30/09/2019)		N/A	N/A	£0
Amount carried forward to Bid Round 4 (Local Infrastructure Fund) after approval of Bid M14-18 (at 30/9/2019)		N/A	N/A	£1,447,776.13
Amount carried forward to Bid Round 4 (Total Ring-fenced monies within Stowupland high school catchment area) after approval of Bid 14-18 (at 30/9/2019)		N/A	N/A	£0
Amount carried forward to Bid Round 4 (Total Ring-fenced monies outside of Stowupland high school catchment area) (at 30/9/2019)		N/A	N/A	£1,643,186.34

7. LEGAL IMPLICATIONS

- 7.1 The detailed framework for CIL expenditure is legally sound and robust and was designed including a legal representative from the Councils Shared Legal Service (who also attended each of the Joint Member workshop sessions) and agreed the adopted CIL Expenditure Framework documents (prior to consideration by Cabinet and Council of both Districts).
- 7.2 This report and the accompanying CIL Business Plan for Mid Suffolk District Council - March 2020 (including Appendix B) have also been endorsed as being sound and legally compliant by the Councils Shared Legal Service.
- 7.3 Governance arrangements agreed in April 2018 and which remained unchanged as part of the CIL Expenditure Framework Review of 2019 are indicated for each Bid in the list of Bids. The delegation for making Delegated decisions for the Community Infrastructure Levy falls to Assistant Director Planning and Communities (under the governance arrangements in the CIL Expenditure Framework).
- 7.4 Regulation 62 of the CIL Regulations 2010 (as amended but prior to the 1st September 2019) required 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, 2018 and 2019 Monitoring Report for both Councils are published on the websites (see below).

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

<https://www.midsuffolk.gov.uk/assets/CIL-and-S106-Documents/FINAL-MSDC-Reg-62-Report.pdf>

<https://www.midsuffolk.gov.uk/planning/community-infrastructure-levy-and-section-106/community-infrastructure-levy-cil/cil-reporting/>

7.5 In the future, under the new CIL Regulations brought in on the 1st September 2019, it is necessary for each Council to produce an annual Infrastructure Funding Statement (IFS) dealing with both CIL and s106 developer contributions). This must be produced by December 2020.

8. RISK MANAGEMENT

8.1 This report is most closely linked with the significant risk 3. If we do not secure investment in infrastructure development may be stifled and /or unsustainable. The consequences are Housing targets not met. Reputation of the Councils may be impacted. Quality of life for residents could be affected. Access to services may be restricted.

8.2 Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
<p>Failure to allocate expenditure such that if we do not secure investment in infrastructure (schools, health, public transport improvements etc.), then development is stifled and/or unsustainable.</p> <p>Current Risk Score: 6</p>	Unlikely (2)	Bad (3)	<p>Adopted Community Infrastructure Levy (CIL), secures investment on infrastructure via the planning process (which includes S106). Creating the Infrastructure Delivery Plan as part of the Strategic Plan, Joint Local Plan with associated Infrastructure Strategy and Infrastructure Delivery Plan will ensure that infrastructure across both Councils is addressed, New Anglia LEP Economic Strategy, draft created together with the Councils Open for Business Strategy.</p>

<p>Failure to produce a yearly Regulation 62 report or the forthcoming Infrastructure Funding Statement would result in non-compliance with the CIL Regulations and may mean that Members and the public are not aware of CIL and s106 income and expenditure activities.</p>	<p>Highly Unlikely (1)</p>	<p>Noticeable /Minor (2)</p>	<p>The Infrastructure Team produces the required 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 Monitoring report which in future will be known as the Annual Funding Statement is laid out in the CIL Regulations, so there is no risk in relation to the way the information is presented</p>
<p>Failure to monitor expenditure such that CIL expenditure is not effective.</p>	<p>Unlikely (2)</p>	<p>Bad (3)</p>	<p>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.</p>
<p>If too high a value is allocated into the Strategic Infrastructure Fund, there is a risk that there would be insufficient Local Infrastructure Funding available to deliver the infrastructure required to mitigate the harm, thereby ensuring sustainable development.</p>	<p>Unlikely (2)</p>	<p>Bad (3)</p>	<p>The Infrastructure Team will continue to monitor all allocations of CIL Funds and the CIL Expenditure Framework review will include this risk as a key element of the review to ensure the level set remains appropriate.</p>
<p>If 25% Neighbourhood CIL is automatically allocated to any Parish/Town councils where there is no Neighbourhood Plan in place, there is a risk that there would be insufficient CIL Funding to allocate to the Strategic Infrastructure Fund and also the risk that there would be insufficient Local Infrastructure Funding available to deliver the infrastructure required to mitigate the harm, thereby ensuring sustainable development.</p>	<p>Unlikely (2)</p>	<p>Bad (3)</p>	<p>The Infrastructure Team will continue to monitor all allocations of Neighbourhood CIL and other CIL Funds and the CIL Expenditure Framework review will include this risk as a key element of the review to ensure allocations of CIL remain appropriate and projects to make development sustainable are able to be delivered.</p>

If commencements of major housing developments were not correctly monitored or the incorrect apportionment of CIL monies were to occur such that monies could not be allocated towards major housing developments, inadequate infrastructure provision would result.	Unlikely (2)	Disaster (4)	The Infrastructure Team will continue to monitor all commencements of development through the service of the required Commencement Notice by developers such that correct apportionment of CIL Funds can be undertaken. The CIL Expenditure Framework review will include this risk as a key element of the review to ensure allocations of CIL remain appropriate and projects to make development sustainable are able to be delivered.
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Assurances (for collection of CIL monies)

8.3 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.

8.4 On the 18th December 2017 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 would need to go to Cabinet and then full Council. The resulting joint CIL Expenditure Framework, the CIL Expenditure Communications Strategy and the Timeline for the Expenditure of CIL and its Review were adopted by both Councils on the 24th April 2018 (Babergh) and 26th April 2018 (Mid Suffolk).

- 8.5 In May 2018 the results of an investigation by Internal Audit on behalf of the Assistant Director Planning and Communities were produced following complaints regarding the CIL process in place for Babergh and Mid Suffolk. The investigation concluded: -
- 8.6 “The information provided to the public in relation to the CIL process is superior to that found for some other Councils and the team go over and above the requirements when supporting applicants where resources allow them to do so. It is Internal Audit’s opinion that the Infrastructure team, even though working under challenging conditions with increasing numbers of applications, are providing a good service to customers and also pro-actively looking for ways to improve where possible.”
- 8.7 “The audit opinion is therefore high standard” – (paragraph 8.3 Table 5 defines high standard classification).
- 8.8 In September 2018 Internal Audit conducted a review of CIL Expenditure processes and released a written report. It contains a Substantial Assurance audit opinion (with two good practice points needing to be addressed relating to further clarification of “best value” (one of the criteria for assessing CIL Bids) and storage of all electronic communication.
- 8.9 On the 19th September 2019 a report was prepared for consideration by Joint Overview and Scrutiny on CIL expenditure with five witnesses including Infrastructure Providers, Cockfield Parish Council and a member of the Joint Member Panel; the latter of which are informing the second review of the CIL Expenditure Framework. Overview and Scrutiny endorsed the work of the CIL team and the Joint Member Working group and notes that a fit and proper process is in place in respect of the bidding and allocation of CIL funds. It is expected that the outcomes from this second CIL Expenditure Framework Review process will be presented to both Councils for consideration and be in place before Bid round 5 opens in May 2020.

Assurances (for collection and expenditure of CIL Monies)

- 8.10 It is expected that Internal Audit will continue to regularly audit CIL collection allocation and expenditure processes and actual expenditure once any schemes are developed and implemented.
- 8.11 As Members will recall there is a timeline for implementation of CIL and its review which contains key dates for the remainder of the CIL expenditure year cycle (Background papers referred.)
- 8.12 The first review of the CIL Expenditure Framework took place in 2018 following consideration by Joint Overview and Scrutiny in November 2018. The Joint Member Panel also informed the review and the conclusions were presented to both Councils and adopted in March 2019. This decision by both Councils planned for a further review of the CIL Expenditure Framework to occur at the same time as the Bid round no 4 so that any revised scheme would be in place before Bid round 5. This second review of the CIL Expenditure Framework is likely to be considered by each Council in April 2020.

9. CONSULTATIONS

9.1 The CIL Expenditure Communications Strategy contains a requirement for both Councils to consult the following bodies or organisations (for a period of 21 days) where valid Bids for their Wards or Parish have been submitted as follows (with responses contained in paragraph 4.2 above): -

- District Member(s)
- Parish Council
- Division County Councillor

9.2 Where appropriate as part of the CIL process and assessment of the Bids, Officers have also taken advice from other Officers within the Council; including the Communities team and the Strategic Leisure Advisor.

9.3 Regular Parish events and Member briefings will continue to be held to familiarise all with the Expenditure Framework and how we can continue to work together to provide infrastructure for the benefit of our communities.

10. EQUALITY ANALYSIS

10.1 Please see attached Screening report.

11. ENVIRONMENTAL IMPLICATIONS

11.1 It is important that appropriate infrastructure mitigates harm which could be caused by new development without its provision. CIL is one way in which infrastructure is provided and the CIL Expenditure Framework requires two bid rounds per year supported by the provision of a business plan for each Bid round. There is no EIA Assessment required.

12. APPENDICES

Title	Location
A. Appendix A comprises the CIL Business Plan for Mid Suffolk – March 2020	ATTACHED
B Appendix B to the CIL Business Plan for Mid Suffolk – March 2020 (Technical Assessment of the CIL Bid M14-18)	ATTACHED
C Appendix C Screening report for Equality Analysis	ATTACHED

13. BACKGROUND DOCUMENTS

13.1 The CIL Expenditure Framework, the CIL Expenditure Framework Communications Strategy and the CIL Position Statement for Mid Suffolk District Council together with the Timetable for the implementation of the CIL Expenditure Framework and Review constitute background papers for this

report. These were originally adopted by both Councils in April 2018. They were reviewed and adopted by both Councils in March 2019 (Babergh – 18th and Mid Suffolk - 19th March) and these amended Background documents are as follows: -

- The CIL Expenditure Framework:

<https://www.midsuffolk.gov.uk/assets/CIL-and-S106-Documents/CIL-SPENDING/FINAL-CIL-Expenditure-Framework-Babergh-and-Mid-Suffolk-Final-amended-March-2019.pdf>

- The CIL Expenditure Framework Communications Strategy:

<https://www.midsuffolk.gov.uk/assets/CIL-and-S106-Documents/CIL-SPENDING/FINAL-CIL-Expenditure-Framework-Communication-Strategy-final-005March-2019-005.pdf>

- CIL Position Statement for Mid Suffolk District Council:

<https://www.midsuffolk.gov.uk/planning/community-infrastructure-levy-and-section-106/community-infrastructure-levy-cil/spending-cil/>

- The Timetable for the implementation of the CIL Expenditure Framework and the second Review of the CIL Expenditure Framework

<https://www.midsuffolk.gov.uk/assets/CIL-and-S106-Documents/CIL-SPENDING/FINAL-CIL-Expenditure-Calendar-2019-Key-dates.pdf>

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