

## BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

<b>TO:</b> MSDC Council BDC Council	<b>REPORT NUMBER:</b> <b>MC/22/43</b>
<b>FROM:</b> Clive Arthey and David Burn, Cabinet Members for Planning	<b>DATE OF MEETINGS:</b> 20 March 2023 (MSDC) 22 March 2023 (BDC)
<b>OFFICER:</b> Tom Barker, Director Planning and Building Control	<b>KEY DECISION REF NO.</b> N/A

### COMMUNITY INFRASTRUCTURE LEVY (CIL) – CIL EXPENDITURE FRAMEWORK FIFTH REVIEW – MARCH 2023

#### 1. PURPOSE OF REPORT

- 1.1 The Community Infrastructure Levy (CIL) Expenditure Framework, the CIL Expenditure Framework Communications Strategy and the Timeline for Implementation and Review were all originally adopted by both Councils on the 24<sup>th</sup> April 2018 (Babergh) and 26<sup>th</sup> April 2018 (Mid Suffolk). A first review of these documents took place, and the changes were adopted at both Councils meetings on the 18<sup>th</sup> March 2019 (Mid Suffolk) and 19<sup>th</sup> March (Babergh). Second and third reviews took place in the winter 2019/20 and 2020/21 and a fourth review occurred in May 2022. Changes were agreed and adopted by both Councils in April 2020, March 2021 and July 2022 (Mid Suffolk) and October (Babergh). Both Councils agreed that they wished to keep the CIL Expenditure Framework under review and agreed the need for a fifth review which would take place during winter 2022/23 with any amendments being adopted and in place before Bid round 11 (May 2023). The fifth review was carried out in December 2022 and January 2023 and this report sets out the changes being proposed through this review (Background Documents refer)
- 1.2 It was also agreed that the Joint Member Panel who informed the content of the CIL Expenditure Framework (including the first, second, third and fourth reviews) would remain to inform the fifth CIL Expenditure Framework review process.
- 1.3 This fifth review process has taken place as follows: -
- The involvement of the Joint Member Panel comprising the following Members: Clive Arthey, Peter Beer, Leigh Jamieson, Mary McLaren, Suzie Morley, Harry Richardson, Sarah Mansel and John Field.
  - Joint Member Panel meetings took place on the 21<sup>st</sup> December 2022 and the 3<sup>rd</sup> 4<sup>th</sup> and 19<sup>th</sup> January 2023 to discuss the scope of the review and to agree outcomes.
- 1.4 This report together with the attached appendices A, (amended CIL Expenditure Framework) B, (amended CIL Expenditure Communications Strategy) C (amended Key CIL dates calendar) represent the conclusions and outcomes of the fifth CIL Expenditure Framework review process. These will be discussed in the report under Key information (see below) and constitute the foundation for the recommendations below.

- 1.5 Since the second review, a new provision within the CIL Regulations of 2019 has taken effect and an annual Infrastructure Funding Statement (IFS - including an Infrastructure List) for each Council has been produced and agreed in November 2020, November 2021 and November 2022. These documents have replaced the CIL Position Statements for each Council which were abolished (under this new legislation). The Councils published their Infrastructure Funding Statements (including the Infrastructure List) on the Councils website in December 2020, November 2021 and November 2022. These documents (to be reviewed each year for each Council) are key documents that the CIL Expenditure Framework rest on. (The updated IFS documents for the year 23/24 will be produced in November 2023, hence the current IFS (Infrastructure List) for each Council has been attached as Appendices E and F to this report).
- 1.6 A further recommendation under cover of this report involves the need for a further (sixth) CIL Expenditure Framework review (to be informed by the Joint Member Panel) whilst Bid round 12 is taking place (October 2023) so that any amended scheme is in place before Bid round 13 opens (May 2024).

## **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 5<sup>th</sup> and 8<sup>th</sup> 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. Four reviews of the CIL Expenditure Framework and the CIL Expenditure Framework Communication Strategy have subsequently taken place with changes informed by the Joint Member Panel that were adopted by both Councils in March 2019, April 2020, March 2021 and July 2022 (Mid Suffolk) and October 2022 (Babergh).

## **3. RECOMMENDATIONS**

### **Mid Suffolk only**

- 3.4 That Mid Suffolk Council approve the amendments to the CIL Expenditure Framework – March 2022 (arising from the fifth review) - (Appendix A) and the CIL Expenditure Framework Communications Strategy – March 2023 (Appendix B).
- 3.5 That Mid Suffolk Council agree that the CIL Expenditure Framework and the CIL Expenditure Framework Communications Strategy be reviewed again whilst Bid round 12 is being considered (October 2023) so that any amended scheme can be in place before Bid round 13 occurs (May 2024).
- 3.6 That Mid Suffolk Council agree that the Joint Member Panel be retained to inform this (sixth) review.

### **Babergh only**

- 3.1 That Babergh Council approve the amendments to the CIL Expenditure Framework – March 2023 (arising from the fifth review) - (Appendix A) and the CIL Expenditure Framework Communications Strategy – March 2023 (Appendix B).

- 3.2 That Babergh Council agree that the CIL Expenditure Framework and the CIL Expenditure Framework Communications Strategy be reviewed again whilst Bid round 12 is being considered (October 2023) so that any amended scheme can be in place before Bid round 13 occurs (May 2024).
- 3.3 That Babergh agree that the Joint Member Panel be retained to inform this (sixth) review.

**Both Councils**

*(Appendix C comprises the yearly Key CIL Dates Calendar which is produced under delegated powers (to the Director of Planning and Building Control in consultation with the Cabinet Members for Planning and the Cabinet Members for Communities) each year (as part of the outcomes of the first review of the CIL Expenditure Framework.) Appendix C (Key CIL dates for 2023/24) together with Appendices E and F (which comprise the current annual Babergh and Mid Suffolk Infrastructure Funding Statements - Infrastructure List) accompany the CIL Expenditure Framework and the Communications Strategy and are for reference purposes only).*

**REASON FOR DECISION**

Community Infrastructure Levy (CIL) monies have been collected since the implementation of CIL in April 2016. There is no prescribed way for Councils to decide upon the spend of money collected through CIL, so Councils must agree their own approach and review processes.

**4. KEY INFORMATION**

- 4.1 All the information captured in paragraph 4.5 has formed the substance of discussion by the Joint Member Panel at their meetings on the 21<sup>st</sup> December 2022 and 3<sup>rd</sup>, 4<sup>th</sup> 19<sup>th</sup> January 2023.
- 4.2 Since the first review of the CIL Expenditure Framework, the Infrastructure Delivery Plan (IDP) has been produced and updated in 2020 and is published as evidence for the Joint Local Plan. This document significantly changes the context for CIL expenditure as it identifies infrastructure priorities for both Districts to support growth. It classifies the infrastructure as critical, essential, or desirable and in doing so it signals that greater weight needs to be given to some infrastructure projects if compared with others as those listed as critical or essential are necessary where growth has taken place.
- 4.3 In addition since the second review, the provisions of the CIL Regulations 2019 have taken place requiring all Councils to produce a yearly Infrastructure Funding Statement (IFS). This document captures monitoring information about the income and expenditure of CIL and s106 together with the allocation of Neighbourhood CIL and its expenditure by Parishes on a yearly basis. In addition, the legislation requires all Councils to produce an Infrastructure List within the IFS which is a list of all specific infrastructure projects that the Council expect to spend CIL and s106 on. For Babergh and Mid Suffolk, this Infrastructure List (which is different for both Councils) is largely but not wholly comprised of infrastructure projects resulting from the Infrastructure.

- 4.4 The current Infrastructure Funding Statements for both Councils were produced in November 2022 and the separate IFS documents for Babergh and Mid Suffolk were published on the Councils web site in November 2022. (Appendices E and F comprise the Infrastructure List taken from the IFS for both Councils (with the remaining IFS documents capable of being read using the hyperlink in Background Papers - see below).
- 4.5 For the fifth review, the Joint Member Panel discussed revisions and have made the following suggestions for changes to the CIL Expenditure Framework (Appendix A) and the CIL Expenditure Framework Community Strategy (Appendix B) as follows:

#### **CIL EXPENDITURE FRAMEWORK (Appendix A)**

##### **Key recommended changes: -**

- **Should CIL be used for testing boreholes at the feasibility part of a District/Parish Heating system – should they be eligible? –** Explanation given that borehole drilling is to establish the geological “make-up” of the ground and to determine what type of heating installation work best in the area. **Members of the Joint Member Panel considered that other funding would be possible for this and whilst it should be kept under review, District CIL funds are not to be used for feasibility studies for testing boreholes for such schemes at this stage.**
- **Clarity around use of District CIL for community led infrastructure projects involving business proposals/ventures – this use of District CIL monies for business purposes is unacceptable and is outside the terms of the CIL Expenditure Framework.** Members agreed that it would be inappropriate for a private business to benefit from District CIL investment.
- **Continued use of catchment areas for proposed infrastructure and Use of Ringfenced monies.** Where infrastructure delivery is proposed through the submission of CIL Bids, the financing of these Bids when recommended to Cabinet or through delegated decisions will be undertaken by using Ringfenced monies first, supplemented by use of Strategic or Local Infrastructure Funds secondly if necessary (if additional funds required). **Catchment areas, where defined for all infrastructure projects, will be used.** Where those catchment areas involve more than one Parish a proportionate financial approach using District CIL1` (from those affected parishes) linked to growth will be employed in the financing of these projects Continue with investigations and discussions to ascertain whether any s106/CIL can be secured from adjoining Councils for infrastructure projects which are close to both Districts boundaries
- **Delivery of Library improvements/extensions – these can be supported through CIL Bids for District CIL where there is proven evidenced need for improvement /expansion.** Such proposals for funding would be treated in the same way both Councils treat education proposals (wrapping up design costs in the final funding application).

**New CIL Bid forms required for library improvement/expansion proposals.**  
New libraries funding would need to be sought through s106 funding.

- **Use of Claw Back (for the return of District CIL funding) where risks indicate that it would be both appropriate and reasonable.** Members agreed that a claw back provision was sensible when the risks or circumstances dictated that its use was appropriate (acknowledging that these cases were likely to be few and far between and the period of the claw back would be determined on a case by case basis).
- **Review of use of District CIL for Highway works, Traffic Calming and highway/traffic equipment** – Members agreed that highway traffic calming measures, pedestrian crossings, village gateway measures and speed reduction measures and traffic equipment are considered as part of the planning process when granting planning permission for development. These are the Highways responsibility and therefore fall outside of the CIL Expenditure Framework for funding purposes. **The only exception to this is where funding is being considered for Active travel and LCWIP cycling and walking infrastructure project where it might be necessary to include a highway measure (e.g. like a pedestrian crossing) as part of the project in order to secure the required overall walking and cycling scheme (over and above any other highway measures that might be delivered by developments through s106 or under s278 of the Highways Act).**
- **Continuing review of the current £75,000 threshold and 75% of total eligible costs of the project for Infrastructure Bids submitted by the Community** – agreed retention of thresholds of £100,000 and 75% of total eligible costs of the project to address rising infrastructure and materials costs.
- **Continued funding for Cycling and footpaths – projects in the LCWIP, IDP and IFS – continuation of the pilot period/scheme be operated with community threshold of £100,000.** Suggested the undertaking of proactive work for bringing LCWIP schemes forward. Position on the pilot scheme /period to be reviewed at next (sixth) CIL Expenditure Framework review to measure progress methodology and outcomes for deliverability of schemes.
- **Rising costs of building works and difficulty of getting committed prices for CIL Bids (for infrastructure led by the community).** Suggested that the current 4 month held period for quotes for infrastructure led by the community be reduced to 1-2 months and updated quotes are sought, if necessary, before decisions made on CIL Bids.

- **CIL monies collected need to be spent. Encourage greater spending of CIL (including Neighbourhood CIL).** Continue with current proactive approaches towards expenditure and progression of CIL Bids and in addition, produce capital project workplans (for next 5 years) with other infrastructure providers (Health, SCC Waste etc). In addition, number of CIL briefings per year to be retained at three for both Members and also Parishes (with Members in attendance at Parish events, if desired). Review alongside the IFS where Neighbourhood CIL spend is occurring and if necessary, carry out focused discussion with the Parish about capital CIL projects that are underway. Better targeted website advice with specific guidance note to aid project development as well as PIIPs (Parish Investment Infrastructure Plans) development. Look at the “chipping in” of Neighbourhood CIL – on a case-by-case basis and keep this matter under review for the next (sixth) review of CIL Expenditure Framework.
- **Agreement to keep CIL Expenditure Framework under review.** Suggested that another CIL Expenditure Framework review (sixth) should occur whilst Bid round 12 is underway (October 2023) so that any revisions are adopted before Bid round 13 occurs in May 2024.
- **Agreed the Joint Member Panel remain to inform the sixth CIL Expenditure Framework review.**

## **CIL EXPENDITURE FRAMEWORK COMMUNICATION STRATEGY(Appendix B)**

### **Key recommended changes: -**

- **Consultation on CIL Bids** - Consultation will occur with the District Ward Member the Division County Councillor for the Ward affected and the Parish Council for that ward (except where the Parish Council is the Bidder for the Infrastructure project). The Consultation will occur by email and 14 days will be allowed for the submission of comments. (Should extensions of time be sought they will be granted). A copy of the CIL Bid application form and a location plan will be sent to the consultee. **CIL Bids no longer need to be valid for Consultation to occur.**
- **Three briefings each year to be continued on CIL collection and the detail/processes of CIL expenditure for District Members** – to improve knowledge and facilitate expenditure of District and Neighbourhood CIL.
- **Three briefings each year to be continued on CIL collection and the detail/processes of CIL Bids and expenditure for all Parish and Town Councils within both Districts (by holding Parish Briefings /Liaison meetings for both districts).** – to improve knowledge and facilitate expenditure of District and Neighbourhood CIL. (Members will be invited to these parish sessions to allow the opportunity for Members to attend with their parishes if desired).

## **KEY OUTCOMES FROM THE CHANGES SUGGESTED BY THE JOINT MEMBER PANEL**

4.6 The key outcomes would be as follows: -

- Greater clarity around use of District CIL so as to exclude its use for business proposals/ventures on community led projects by the community
- Clarify approach to utilisation of District CIL from the Strategic, Ringfenced and Local Infrastructure Funds for CIL eligible projects for the purposes of being consistent between CIL Bids.
- Inclusion of improvement /expansion of libraries within those infrastructure projects able to make CIL Bids subject to providing evidence of proven need for the proposed library project.
- Continued limit to thresholds for CIL Bids for infrastructure led by the community to £100,000 and not more than 75% of the total eligible project costs so as to address increase rising infrastructure and materials costs
- Continuation of the current pilot period/scheme for CIL funding for Walking and cycling schemes (from the LCWIP for each District) to be operated with continued community threshold of £100,000 to aid walking and cycling initiatives. The success of the pilot scheme/period to be evaluated at the next (sixth) CIL Expenditure Framework review.
- Process of CIL Bids altered to satisfactorily address Bidders difficulty for held prices and number of quotes for the provision of infrastructure led by the community
- Continue with current proactive approaches towards expenditure and progression of CIL Bids and in addition, produce capital project workplans (for next 5 years) with other infrastructure providers (Health, SCC Waste etc). This will ensure that a programme of infrastructure to be delivered by the Infrastructure providers can be developed. This will provide for a planned investment programme of infrastructure which will allow for budgeting and forecasting of CIL funds (subject to fluctuating levels of housing growth). Proactive measures for expenditure of CIL and Neighbourhood CIL suggested to assist with expenditure and delivery of infrastructure.
- Slight change to Consultation arrangements to allow for earlier consultation with Ward Members, County Councillors and Parish Councils instead of waiting for a CIL Bid to be made valid so that localised issues can be made known earlier in the process.

- Continue to improve communication around CIL particularly for Members and Parishes by continuation of three briefing sessions each year for Parishes and for Members (to improve knowledge and facilitate expenditure of both District and Neighbourhood CIL)
- Continue to keep the CIL Expenditure Framework and the CIL Expenditure Framework Communication Strategy under regular yearly review. Continue the work of the Joint Member Panel to inform changes through the yearly reviews.

4.7 It is recommended that both Councils agree these changes under the specific recommendations in Section 3 above.

## **5. LINKS TO CORPORATE PLAN**

5.1 The effective spending of CIL monies will contribute to all the three priority areas that Councillors identified in the Joint Corporate 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 growth and sustainable development.

6.2 The CIL Regulations stipulate that CIL monies which are collected must be spent on Infrastructure. Before 1<sup>st</sup> September 2019, each Council was required to publish a list of infrastructure that they will put the CIL monies towards. These lists were known as the "Regulation 123 Lists". However, on the 1<sup>st</sup> of 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 were identical for both Councils. Under the 2019 CIL Regulations each Council has to produce a yearly Infrastructure Funding Statement (IFS); the first one was agreed by both Councils Cabinets and they were published on the Councils web site in December 2020. The Infrastructure Funding Statements contain an Infrastructure List which is founded not wholly but partly on the Infrastructure Delivery Plan. Upon the publication of each Councils IFS under the 2019 CIL Regulations, each Council's CIL Position Statements were abolished.

6.3 CIL is collected and allocated in accordance with the CIL Regulations 2019. Each Council retains up to 5% of the total CIL income for administration of CIL. From the remainder, 15% (capped at £100 per Council Tax dwelling indexed linked) is allocated to Parish or Town Councils, but where there is a made Neighbourhood Plan in place this figure rises to 25% (with no cap). For those parishes where there is no Parish or Town Council in place the Council retains the monies and spends the Neighbourhood CIL funds through consultation with the Parish concerned.



- 6.4 At the time that the Parish pay-outs are made (by 28<sup>th</sup> April and 28<sup>th</sup> October each year), the 20% save for the Strategic Infrastructure fund is also undertaken as required by the CIL Expenditure Framework. The Strategic Infrastructure Fund money is stored separately to the Local Infrastructure Fund at this point. At the same time, the ringfencing of CIL monies (for developments of ten houses or more) occurs; these are known as Ringfenced Infrastructure Funds. This ringfencing of funds occurs in order to ensure that infrastructure provision for major housing developments is prioritised and ringfenced for spend. 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.
- 6.5 The remaining 80% of the CIL monies comprises the Local Infrastructure Fund. Each Bid round, the available funds for expenditure from the Strategic Infrastructure Fund, the Ringfenced Infrastructure Funds and the Local Infrastructure Fund are calculated. The CIL Bids are then paid for from these different funds of money.
- 6.6 Infrastructure delivery in CIL expenditure terms is as follows: - .

**Total allocated expenditure for Babergh in Bid rounds 1-9:**

CIL Expenditure	2018/19	2019/20	2020/21	2021/22	2022/23
Total CIL expenditure in Bid round 1 (May 2018)	£75,217.55	N/A	N/A	N/A	N/A
Total CIL expenditure in Bid round 2 (October 2018)	£341,886.99	N/A	N/A	N/A	N/A
Total CIL expenditure in Bid round 3 (May 2019)	N/A	£289,163.48	N/A	N/A	N/A
Total CIL expenditure in Bid round 4 (October 2019)	N/A	£237,333.00	N/A	N/A	N/A
Total CIL expenditure in Bid round 5 (May 2020)	N/A	N/A	£312,849.90	N/A	N/A
Total CIL expenditure in Bid round 6 (October 2020)	N/A	N/A	£469,214.19	N/A	N/A
Total CIL expenditure in Bid round 7 (May 2021)	N/A	N/A	N/A	£356,749.99	N/A
Total CIL expenditure in Bid round 8 (October 2021)	N/A	N/A	N/A	£345,360.00	N/A
Total CIL expenditure in Bid round 9 (May 2022)	N/A	N/A	N/A	N/A	£477,432.29
<b>TOTAL ALLOCATED EXPENDITURE</b>	<b>£417,104.54</b>	<b>£526,496.48</b>	<b>£782,064.09</b>	<b>£702,109.99</b>	<b>£477,432.29</b>

<b>TOTAL ALLOCATED EXPENDITURE</b>	<b>MONIES RETURNED TO INFRASTRUCTURE FUNDS FROM ALLOCATED EXPENDITURE (LOCAL, RINGFENCED, STRATEGIC) DUE TO PROJECTS BEING COMPLETED UNDERBUDGET OR EXPIRED DEADLINE</b>	<b>TOTAL EXPENDITURE APPROVED AND ALLOCATED</b>
<b>£2,905,207.39</b>	<b>£202,859.03</b>	<b>£2,702,348.36</b>

**Total allocated expenditure for Mid Suffolk for Bids rounds 1-9:**

CIL Expenditure	2018/19	2019/20	2020/21	2021/22	2022/23
Total CIL expenditure in Bid round 1 (May 2018)	£156,979.84	N/A	N/A	N/A	N/A
Total CIL expenditure in Bid round 2 (October 2018)	£78,297.15	N/A	N/A	N/A	N/A
Total CIL expenditure in Bid round 3 (May 2019)	N/A	£10,637.61	N/A	N/A	N/A
Total CIL expenditure in Bid round 4 (October 2019)	N/A	£3,637,779.00	N/A	N/A	N/A
Total CIL expenditure in Bid round 5 (May 2020)	N/A	N/A	£227,402.60	N/A	N/A
Total CIL expenditure in Bid round 6 (October 2020)	N/A	N/A	£822,072.10	N/A	N/A
Total CIL expenditure in Bid round 7 (May 2021)	N/A	N/A	N/A	£1,987,081.00	N/A
Total CIL expenditure in Bid round 8 (October 2021)	N/A	N/A	N/A	£1,862,846.97	N/A
Total CIL expenditure in Bid round 9 (May 2022)	N/A	N/A	N/A	N/A	£2,111,864.45

<b>TOTAL ALLOCATED EXPENDITURE</b>	£235,276.99	£3,648,416.61	£1,049,474.70	£3,849,927.97	£2,111,864.45
<b>TOTAL ALLOCATED EXPENDITURE</b>	<b>MONIES RETURNED TO INFRASTRUCTURE FUNDS FROM ALLOCATED EXPENDITURE (LOCAL, RINGFENCED, STRATEGIC) DUE TO PROJECTS BEING COMPLETED UNDERBUDGET OR EXPIRED DEADLINE</b>			<b>TOTAL EXPENDITURE APPROVED AND ALLOCATED</b>	
<b>£10,894,960.72</b>	<b>£237,115.69</b>			<b>£10,657,845.03</b>	

## 7. LEGAL IMPLICATIONS

- 7.1 Both the original and amended CIL Expenditure Frameworks are legally sound and robust. A legal representative from the Councils Shared Legal Service has been directly involved in the majority of the reviews and has reviewed the documentation and changes in this review and is satisfied that the proposed amendments are legally sound and robust.
- 7.2 Regular monitoring reports required by the CIL Regulations have been produced for each year for both Councils on CIL expenditure as follows: -

### Year 2016/17 - Babergh

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

### Year 2016/17 - Mid Suffolk

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

### Year 2017/18 - Babergh

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

### Year 2017/18 - Mid Suffolk

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

### Year 2018/19 - Babergh

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

## Year 2018/19 - Mid Suffolk

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

- 7.3 Under the CIL Regulations of 2019 it is necessary for each Council to produce an Infrastructure Funding Statement (IFS) containing monitoring information in relation to income and expenditure of CIL and s106 and allocation and expenditure of Neighbourhood CIL by Parishes on a yearly basis. This information for years 2019/20 2020/21 and 2021/22 can be seen using the following hyperlinks for both Districts:-

## Year 2019/20 - Babergh

[Babergh-District-Council-IFS-19-20.pdf](#)

## Year 2019/20 - Mid Suffolk

[Mid-Suffolk-District-Council-IFS-19-20.pdf \(midsuffolk.gov.uk\)](#)

## Year 2020/21 – Babergh

[IFS-Appendix-A-Funding-Statement-Babergh-District-Council-IFS-20-21.pdf](#)

## Year 2020/21 - Mid Suffolk

[IFS-Appendix-A-Funding-Statement-Mid-Suffolk-District-Council-IFS-20-21.pdf \(midsuffolk.gov.uk\)](#)

## Year 2021/22 – Babergh

[Babergh-District-Council-Infrastructure-Funding-Statement-21-22.pdf](#)

## Year 2021/22 - Mid Suffolk

[Mid-Suffolk-District-Council-Infrastructure-Funding-Statement-21-22.pdf \(midsuffolk.gov.uk\)](#)

- 7.4 In addition, the IFS for each Council contains an Infrastructure List. (The current Infrastructure List documents for years 21/22 constitute Appendices E and F to this report.)

## 8. RISK MANAGEMENT

- 8.1 Key risks are set out below (taken from the Strategic Planning Operational Risk Register) as follows:-:

Key Risk Description	Likelihood 1-4	Impact 1-4	Key Mitigation Measures	Risk Register and Reference*
Development may be unsustainable if we do not secure investment in infrastructure.	3	2	Infrastructure needs are detailed through a published Infrastructure Delivery Plan (IDP), which is updated periodically.	Strategic Planning Operational Risk register 18

Here is a risk that Infrastructure is not delivered where it is needed.				
Level of Community Infrastructure Levy (CIL) being charged is low. There is a risk that insufficient funds would be available for critical and essential infrastructure.	3	3	Publish revised CIL Charging Schedules for consultation.	Strategic Planning Operational Risk register 19
Unable to progress CIL Charging Schedules to Examination and Adoption. There is a risk that insufficient funds would be available for critical and essential infrastructure.	2	3	Be clear on the purpose and content of the CIL Charging Schedules prior to consultation.	Strategic Planning Operational Risk register 20
Non-payment of CIL or non-collection of s106 payments. There is a risk that Insufficient funds would be available for infrastructure.	3	3	Appointment of a Debt recovery officer in 2021 to ensure improved recovery of CIL and s106 debt.	Strategic Planning Operational Risk register 21
Planning reforms meaning changes to the development plan system and infrastructure delivery resulting in different approaches needing to be followed. There are risks that Changes to the plan-making process and the replacement of CIL with an Infrastructure Levy.	3	3	Ensure prepared for any forthcoming changes.	Strategic Planning Operational Risk register 22

<p>Absence of clarity on where expenditure is to be made as a result of plans and strategies being incomplete or out-of-date. There is a risk that 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>	2	3	<p>Adopted Community Infrastructure Levy (CIL), secures investment on infrastructure via the planning process (which includes S106). Creating the Joint Corporate Plan, the emerging Joint Local Plan with associated Infrastructure strategy and Infrastructure Delivery Plan and Infrastructure Funding Statement will ensure that infrastructure across both Councils is addressed.</p>	Strategic Planning Operational Risk register 33
<p>Failure to produce a yearly 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. Under the CIL Regulations 2019 an annual Funding Statement is required to address CIL and s106 developer contributions and a list of infrastructure projects ("Infrastructure List"). Failure to do so will also result in non-compliance with the CIL Regulations (as amended).</p>	1	2	<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 Infrastructure Funding Statement (IFS) is laid out in the CIL Regulations, so there is no risk in relation to the way the information is presented</p>	Strategic Planning Operational Risk register 34
<p>Failure to monitor due to an absence of staff undertaking this task.</p>	2	3	<p>The software which supports CIL collection will be used to support CIL expenditure. In addition, it is envisaged that a twice</p>	Strategic Planning Operational Risk register 35

<p>There is a risk that failure to monitor expenditure may result in CIL expenditure not being effective.</p>			<p>yearly (at least) CIL Expenditure Programme 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>	2	3	<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>Strategic Planning Operational Risk register 36</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>	2	3	<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>	<p>Strategic Planning Operational Risk register 37</p>

<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.</p>	<p>2</p>	<p>4</p>	<p>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.</p>	<p>Strategic Planning Operational Risk register 38</p>
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### Assurances (for collection of CIL monies)

8.2 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.

8.3 On the 18<sup>th</sup> 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. 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 24<sup>th</sup> April 2018 (Babergh) and 26<sup>th</sup> April 2018 (Mid Suffolk).



8.4 In May 2018 the results of an investigation by Internal Audit on behalf of the Assistant Director Planning and Communities (post title changed subsequently to Director Planning and Building Control) were produced following complaints regarding the CIL process in place for Babergh and Mid Suffolk. The investigation concluded: -

“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 pro-actively looking for ways to improve where possible.”

“The audit opinion is therefore high standard” – (paragraph 8.3 Table 5 defines)

8.5 In September 2018 Internal Audit conducted a review of CIL 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. Both these matters have been addressed. The first point by including further explanation about Best Value in Appendix A; the second point through resource adjustments.

8.6 Within the first review process, information was captured from a wide array of sources and all feedback was shared with the Joint Member Panel including the recommendations of Overview and Scrutiny who met to discuss and review the operation of the CIL Expenditure Framework on the 19<sup>th</sup> November 2018.

Their recommendations were considered as part of the first review of the CIL Expenditure Framework process by the Joint Member Panel.

8.7 On the 19<sup>th</sup> 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 worked to inform the second review of the CIL Expenditure Framework. Joint Overview asked questions of the witnesses and concluded the following: -

- Joint Overview and Scrutiny Committee endorses the work of the CIL team (and the CIL Member Working Group) and notes that a fit and proper process is in place in respect of the bidding and allocation of CIL funds

8.8 In line with the fourth review, both Councils agreed for the Joint Member Panel to inform a fifth review during Bid round 10 (in October 2022) so that any changes could be in place before Bid round 11 commences in May 2023. This report captures the work of the Joint Member Panel on the fifth review.

## **9. CONSULTATIONS**

9.1 The amended CIL Expenditure Communications Strategy continues the requirement for both Councils to consult the following bodies or organisations (14 days) where Bids for their Wards or Parish have been submitted: -

- Division County Councillor

- District Member(s)
- Parish Council

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.

9.3 Regular Parish events and Member briefings will continue to be held to familiarise all with the CIL Expenditure Framework (including amendments) and how we can continue to work together to provide infrastructure for the benefit of both Districts 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. The CIL Expenditure Framework requires two Bid rounds per year supported by the provision of a CIL Expenditure Programme for each Bid round and Council report. The twice-yearly CIL Expenditure Programme for Babergh and Mid Suffolk contains the CIL Bid decisions for each Bid round together with updates on progress of delivery on CIL Bids and details of emerging infrastructure projects. There is no EIA Assessment required.

## 12. APPENDICES

Title	Location
(a) Amended CIL Expenditure Framework – March 2023	Attached
(b) Amended CIL Expenditure Framework Communications Strategy – March 2023	Attached
(c) Key Dates for CIL Calendar 2023/2024	Attached
(d) EQIA Screening report for Equality Analysis	Attached
(e) Infrastructure Funding Statement (Infrastructure List) for Babergh 21/22	Attached
(f) Infrastructure Funding Statement (Infrastructure List) for Mid Suffolk 21/22	Attached

### 13. BACKGROUND DOCUMENTS

13.1 The CIL Expenditure Framework (July 2022) the CIL Expenditure Framework Communications Strategy (July 2022), Key dates for the CIL Calendar 2022/23 all constitute background papers for this report. These are as follows: -

- **The CIL Expenditure Framework (adopted July 2022 (Mid Suffolk) and October 2022 (Babergh):**
- [Appendix-A-The-CIL-Expenditure-Framework-Babergh-and-Mid-Suffolk-Final-amended-July-2022-.pdf](#)
- **The CIL Expenditure Framework Communications Strategy (adopted July 2022 (Mid Suffolk) and October 2022 (Babergh):**
- [Appendix-B-CIL-Expenditure-Framework-Communication-Strategy-Final-July-2022.pdf \(babergh.gov.uk\)](#)
- **Key Dates in CIL Calendar 2022/23**
- [Appendix-C-CIL-Expenditue-Calender-Key-dates-in-bold.pdf \(babergh.gov.uk\)](#)
- **Infrastructure Funding Statement – Babergh 21/22 (Monitoring report only) - Infrastructure List comprises Appendix E to this report)**
- [Babergh-District-Council-Infrastructure-Funding-Statement-21-22.pdf](#)
- **Infrastructure Funding Statement – Mid Suffolk 21/22 (Monitoring report only) - Infrastructure List comprises Appendix F to this report)**
- [Mid-Suffolk-District-Council-Infrastructure-Funding-Statement-21-22.pdf \(babergh.gov.uk\)](#)

### 14. REPORT AUTHOR

Authorship: Christine Thurlow.

Tel Number 01449724525

Professional Lead - Key Sites and Infrastructure.

Email [christine.thurlow@baberghmidsuffolk.gov.uk](mailto:christine.thurlow@baberghmidsuffolk.gov.uk)