

Strategy & Resources Committee Tuesday, 24 November 2020

CIL spending review and funding statement

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Publication status:	Unrestricted
Recommendations:	That the committee: A. Agree the Infrastructure Funding Statement as attached at Appendix A. B. Agree that Officers prepare a charging schedule for the monitoring of planning obligations to bring back to this Committee for consideration.
Appendices:	Appendix 'A' – Infrastructure Funding Statement
Background papers defined by the Local Government (Access to Information) Act 1985	None

1. Executive Summary

- 1.1 The Local Planning Authority can collect a combination of planning obligations ('S106') and ('S278' on behalf of the Highway Authority) as well as CIL. There are differing rules as to when S106/S278 can be sought which are site – specific and related in scale and kind. CIL, however, is a standard tariff applied to certain types of development.
- 1.2 The Government amended the Community Infrastructure Levy ('CIL') Regulations, and these came into force on 1st September 2019. The CIL Regulations (as amended) 2019 require Local Planning Authorities to publish an Infrastructure Funding Statement ('IFS') by 31st December annually. The IFS allows for the observation planning obligation and CIL receipts received during the previous financial year and what has been spent in that period. The IFS also requires a rolling 5-year programme that identifies what planning obligations and CIL should be spent on.

- 1.3 By agreeing the IFS, the Council will be fulfilling its statutory duty to publish such a statement and will be working towards meeting Strategic Priority 2 of the agreed Strategic Plan 2020/21 – 2023/24.

2. Background

- 2.1 The Community Infrastructure Levy ('the levy or CIL') allows local planning authorities to raise funds from certain types of development in their area. The funds raised go towards infrastructure provision which is needed to support the growth of the district, such as schools and transport improvements.
- 2.3 The Community Infrastructure Levy Regulations were updated and came into force on 1st September 2019. One of the key changes made was the revocation of a Regulation 123 which now enables the Council to use funding from different sources towards the same infrastructure item. Another amendment made to the CIL Regulations was that Charging Authorities are to publish an IFS on an annual basis.
- 2.4 The IFS is required to set out the past receipts received through planning obligations and CIL and what these receipts have been spent on. The IFS also sets out the infrastructure projects that the Council intends to fund, either wholly or partly, by the levy or planning obligations over the next five years. Tandridge District Council's IFS is set out in Appendix A.

The role of Parish Councils

- 2.5 The Council are required to provide a percentage of CIL to Parish Councils as a 'meaningful proportion' known as a neighbourhood fund. For Parish Council areas without a 'made' neighbourhood plan, the amount is 15% of the CIL income in that area. For Parish Council areas with a 'made' neighbourhood plan, it increases to 25% of the CIL income in that area. Parish Councils determine their own CIL spending priorities and are not subject to publishing an annual Infrastructure Funding Statement, however, are encouraged to work in partnership with the Council and are required by Regulations to inform the Council of CIL spending each year. This is ordinarily undertaken April – June each year and is currently reported on our website separately to the information contained in the IFS.

The role of the County Council

- 2.6 The Planning Practice Guidance states:

"County councils are responsible for the delivery of key strategic infrastructure. Charging authorities must consult and should collaborate with them in setting the levy and should work closely with them in setting priorities for how the levy will be spent in 2-tier areas.

Collaborative working between county councils and charging authorities is especially important in relation to the preparation of infrastructure funding statements (see Schedule 2 introduced by the 2019 Regulations) bearing in mind the potential impact on the use of highway agreements by the county council and the timely delivery of schools.

Paragraph: 014 Reference ID: 25-014-20190901

- 2.7 It is clear from the Planning Practice Guidance that the Government intends that where County and District councils operate the Upper Tier authority will need to be involved in the IFS and that a number of projects identified in the IFS should be education and highways projects, which for the District are the responsibility of Surrey County Council.
- 2.8 The potential impact of the changes to the CIL process including the publication of the IFS is that it will allow stakeholders such as the public and developers as well as the Council to see what is being funded in connection with development. It will give the Council clarity on directing funds to immediate infrastructure needs. The publication of the IFS does not replace the Infrastructure Delivery Plan, which is a separate but related document that provides a long-list of infrastructure items over a longer-term horizon. At present, the IDP cannot be updated as it is an evidence base to the Local Plan, which is in Examination. It is also the justification for charging CIL and replaces the Regulation 123.
- 2.9 The rationale for the changes to the CIL Regulations and the publication of an Infrastructure Funding Statement was to address a perceived lack of delivery of infrastructure using CIL receipts, to focus resources onto delivering infrastructure projects that are needed now and attempt to de-risk the business case development for the provision of infrastructure. It is this intention to de-risk which is resulting in officers advising that CIL bidding is no longer compatible with the CIL regulations and that tighter governance arrangements are put in place through project initiation documents and business cases being prepared.

3. Changing the CIL spending process

- 3.1 Consultation on changing the CIL spending process began in January 2020 with seminars held for all councillors and for Parish Councils to set the scene for why the processes the Council have in place for CIL need to change. Using the IDP, consultation with infrastructure partners took place subsequently in February – August 2020 to gather information and evidence, check and challenge the existing evidence base and to prioritise projects on the IDP (moving forward) to draw up a recommended short-list of projects to be funded by CIL receipts for the next 5-year horizon.
- 3.2 It was intended that further seminars would be held for all Members in September to explain the discussions had and the outcomes with infrastructure partners, however, owing to circumstances beyond the control of Officers these had to be cancelled last minute. As an alternative, a slide pack was distributed to Members and an invitation to comment and provide feedback on the infrastructure projects to be funded through CIL for the next five years was provided during September – October 2020.
- 3.3 After consultation with members, Officers have considered that further engagement around governance and prioritisation of projects is taken forward early next year to feed into the updated IDP and the 2021 IFS.
- 3.4 This engagement would be in the form of workshops open to all Members and would aim to cover the following:
- An overall understanding of the legislation and regulations governing CIL
 - The role of Elected members both as Committee Members in making funding decisions on CIL projects as well as ward members in supporting and/or working with interested parties on CIL bids

- An understanding of the overall CIL process from idea gestation through to final approval
- An understanding of the role of other agencies, particularly infrastructure providers and the timeframes taken with delivery of infrastructure projects
- How Members can input into the prioritisation of prospective projects for consideration by the Council

4. Resourcing

- 4.1 The introduction of the IFS has added to the statutory requirement of the charging authority, which has an implication on resourcing. At a time of financial pressure, the Council must consider options for resourcing statutory functions appropriately. The Council currently collect 5% of CIL receipts to pay for CIL administration, although this does not cover the salaries of officers involved in the administrating of CIL. The Council can also charge for the monitoring of s106 agreements, which it currently does not do.
- 4.1 Planning obligations can vary in complexity and are not always a monetary agreement, therefore a flat rate cannot be attributed to the monitoring of the obligations. As set out in recommendation B, it is proposed that the Council prepare a charging schedule for the monitoring of planning obligations and bring back to this committee to consider.

4. Other options considered

- 4.1 The Council could decide not to agree to the recommendations set out above, however, to do so would mean the Council would fail in its statutory duty to publish an Infrastructure Funding Statement by 31st December.

5. Climate Change implications

- 5.1 There are no significant environmental / sustainability implications associated with this report itself. There are, however, marginal environmental/sustainability implications with some of the projects listed in Appendix B (the Infrastructure Funding Statement) which the committee are being asked to support ‘in principle’ with CIL funding. Overall the package of measures outlined in Appendix B can be considered to be neutral, with the flooding mitigation measures providing a positive contribution to the environment and some of the highways mitigation measures providing a potentially negative contribution if it encourages the use of the car only.

6. Equality implications

- 6.1 It is not foreseen that there are any direct equality implications as a result of the recommendations in this Report as infrastructure is provided for all sections of our communities and each project funded will be rigorously assessed as part of the business case for equalities implications.

7. Any other corporate implications where applicable

- 7.1 There are no foreseeable implications relating to any other corporate services arising from this Report. There are implications for open space investment, should the committee decide not to agree to some of the projects identified in Section 6 of the Infrastructure Funding Statement (Appendix C). The IFS aligns with the Strategic Plan priority 2.

8. Comments of the Chief Finance Officer

- 8.1 By introducing an effective monitoring system and publishing an IFS report, will increase transparency and ensure a robust system is in place to monitor the spend, whilst meeting our statutory obligations. Any costs that are funded from revenue to achieve these objectives must be contained within existing resources.

9. Comments of the Head of Legal Services

- 9.1 As a result of recent changes to the Regulations implemented through the Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019 (which came into force on 1 September 2019), local authorities will now need to increase transparency, by reporting on what they have received and spent through CIL and developer contributions and include information for the following year on CIL priorities.
- 9.2 Each calendar year (between 2nd Dec – 31st Dec) the Council must publish an Infrastructure Funding Statement in relation to the next calendar year detailing the infrastructure priorities which it intends will be wholly or partly funded by developer contributions.
- 9.3 Members should note that the requirement for the Council to maintain a CIL Regulation 123 list has been removed following the enactment of the new CIL Regulations 2019 on 1 September 2019. The Council's CIL Regulations 123 list will be replaced by the Council's new Infrastructure Funding Statement by 31 December 2020.
- 9.4 The recommendations in this report comply with the statutory duty.

10. Conclusion

- 10.1 Committee is advised to accept the recommendations of this Report in order to enable the Council to fulfil its statutory duties and deliver against Strategic Plan priority 2.

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