

# CIL Bid Application Process Review

## Strategy & Resources Committee 8th June 2021

Report of: Alison Boote – Executive Head of Communities

Purpose: For decision

Publication status: Unrestricted

Wards affected: All

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### Executive summary:

This report is brought to committee to agree a new process for determining Community Infrastructure Levy (**CIL**) bid applications for infrastructure projects within the District. This process would meet the Council's strategic priority of delivering infrastructure through utilisation of the Council's CIL to support development in the area.

The new process has been formulated by joint working between officers and members of the CIL Working Group, with support from the Coast2Capital Local Enterprise Partnership (LEP), with the intention of creating an objective and transparent process for the assessment and evaluation of CIL bids.

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**This report supports the Council's priority of:** Creating the homes, infrastructure and environment we need.

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### Recommendation to Committee:

That the Committee:

- A. agrees the new CIL bid application process, and associated application forms and guidance notes as set out in Appendices (A-F);
  - B. agrees the governance arrangements for determining CIL bids as set out in the Terms of Reference (Appendix G);
  - C. notes the Instructure Process Map (Appendix H).
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## **Reason for recommendation:**

The setting up of an effective, objective and transparent decision-making process for the funding of infrastructure projects within the District is integral to meeting Priority Outcome 2.3 in the Council's Strategic Plan to 'deliver infrastructure through utilisation of the Council's Community Infrastructure Levy (CIL) and collection of planning obligations'.

An effective system for determining CIL bid applications for infrastructure projects is also necessary to meet Regulation 59 of the CIL Regulations, which requires a charging authority to apply CIL to funding infrastructure to support the development of its area.

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## **Introduction and background**

### Introduction

- 1.1 It was agreed by the Strategy and Resources (S&R) committee at the meeting of 24 November 2020 to set up a CIL Working Group to determine a method for evaluating and rating future CIL funding requests. The results of this would be brought back to this committee for formal agreement and implementation. The CIL Working Group has met several times over the past six months and a new process is now presented to committee for consideration and, if acceptable, for ratification.
- 1.2 The new CIL bid application process has been formulated with assistance from the Coast2Capital LEP. The involvement of the LEP, whose previous experience of determining bids for allocation of funds to projects, has been invaluable in setting up this new process. They have advised on matters relating to the process, and drafted the new application forms, guidance notes and supporting documents. This year they will also assist with sifting the Expression of Interest applications as there is expected to be a significant amount of interest due to the current backlog of projects. The Working Group and officers have also benefitted from a workshop from CIL and Planning specialist Gilian Macinnes, whose advice has helped identify the key requirements of CIL legislation when awarding CIL funds.
- 1.3 Officers are seeking agreement from committee for both the new CIL bid application process (Appendices A-F) and the new governance arrangements for determining bids as set out in the Terms of Reference (Appendix G), further details of which are set out below.
- 1.4 In addition, members are asked to note the Infrastructure Process Map (Appendix H). This illustrates the annual process officers should follow and includes key areas where member involvement is required.

- 1.5 The Infrastructure Process Map (Appendix H) sets out a process for collaboration with major infrastructure delivery partners. The purpose of this is to understand and align five-year infrastructure strategies and priorities for the District, which is critical to the Council's strategic long-term planning and to ensure that there is satisfactory infrastructure in place to meet the demands of growth.
- 1.6 The evidence gathered from working with infrastructure providers would assist in determining strategic infrastructure priorities for the Infrastructure Funding Statement (IFS) and is also an important factor in determining bids for the allocation of CIL funds. CIL bid applications will only progress where they meet the definition of strategic infrastructure as outlined in the Governments' Planning Practice Guidance and set out in paragraph 1.13 below. To score highly, applications will need to provide evidence to show how the project for new or improved infrastructure will support recent or future development.

### The IFS

- 1.7 An IFS was agreed at committee on 16 December 2020. The published IFS included a list of 49 projects in Table 6 all of which were under consideration for CIL funding. It was recognised that the CIL funding available would be insufficient to support all projects set out in Table 6, and as such an evaluation and rating scheme was required.
- 1.8 As part of the IFS, a charging authority must, as set out in Part 10A of the CIL Regulations (Amended) 2019 regulation 121A, publish a report relating to the previous financial year on CIL and section 106 planning obligations. The IFS is also required to report the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the levy (excluding the neighbourhood portion).
- 1.9 The Government's Planning Practice Guidance states that the IFS will not dictate how funds must be spent but will set out the local authority's intentions and should be based on up-to-date or emerging plan policies. The Planning Practice Guidance states that:  
  
*'This should be in the form of a written narrative that demonstrates how developer contributions will be used to deliver relevant strategic policies in the plan, including any infrastructure projects or types of infrastructure that will be delivered, when, and where.'*
- 1.10 The current position for the Council is that the IFS sets out a number of potential projects for CIL spending but has not set a clear strategy for communities and developers on the infrastructure or type of infrastructure that is expected to be delivered.

## The new process

- 1.11 The CIL flow chart (Appendix A) illustrates the stages that a CIL bid application will follow. This should be viewed in conjunction with the CIL Applications Timeline (Appendix B), which shows the expected timing for consideration of individual CIL bids for this year. This timeline is also relevant for future years although going forward it is proposed to accept EOI forms throughout the year. In addition, the months stated in this timeline may change in forthcoming years, particularly in relation to the 6-week window for submission of formal applications and the subsequent consideration of bids.

### Stage 1 – Expression of Interest

- 1.12 Initially, applicants seeking CIL funding for infrastructure projects will be required to submit an Expression of Interest (EOI) form (Appendix C), which will be available from the Council's website. Officers will assess the EOI form to determine whether a project would meet the agreed set of mandatory criteria as set out below. Those that meet the criteria will be able to progress to a full application in stage 2, and feedback will be given to applicants whose bids fail stage 1.

- 1.13 The EOI form will require bids to provide basic information about the proposed project and to show that the mandatory set of criteria would be met. The mandatory criteria are:

- **Will the project deliver strategic infrastructure?**  
The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities. This includes play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes and police stations and other community safety facilities.
- **Does the project improve existing, or create new, infrastructure that would support future housing growth in the area?**  
Regulation 59 of the CIL Regulations requires a charging authority to apply CIL to funding infrastructure to support the development of its area. To support development of the area the project must be shown to enable future growth by a) addressing infrastructure deficits resulting from recent development (built in the last 5 years); and/or b) forward fund infrastructure which will support future committed development.
- **Have other funding options been explored?**  
Applicants are required to show that other funding sources have been explored, including Parish Council CIL funds. Details of the total project costs and known funding sources are required.

- **Is the development realistically deliverable within the next 5 years?**

Details of expected timescales/phasing, management of the project and maintenance arrangements should be included.

- 1.14 This year due to the current backlog an Expression of Interest application window will open for a period of 4 weeks. Once the 4-week window for the submission of EOI forms has closed all forms received will undergo a sifting process by officers to determine those that meet the mandatory criteria.
- 1.15 In future rounds it is proposed to accept EOI forms throughout the year. This will enable an understanding of the number and type of infrastructure projects in the pipeline for future CIL bids, and the likely costs and timescales of these projects.
- 1.16 This information will also inform the section on intended future spending of CIL in the IFS, currently known as Table 6. Strategic infrastructure projects, which are forecasted to seek CIL funding within the next 5-years, (such as a school expansion for example) but do not yet have sufficient detail to be considered under a full application at stage 2 would be recorded in the IFS (Table 6). This will enable an estimate of future CIL pot forecasting to be available to Decision makers to contextualise current and future bids.

#### Stage 2 – Scoring of full applications

- 1.17 Projects that pass stage 1 will be invited to submit a full application within a set 6-week application window, which will occur either on an annual or bi-annual basis to be determined. A full application form (Appendix D) will be issued by officers for eligible applications only. Guidance notes have been produced to support applicants with this process (Appendix E).
- 1.18 Officers will score the full application from 0-6 points against a set of agreed benefits. The Working Group identified the desired benefits of infrastructure projects against which applications will be scored as follows:
- **Support impact of development** – Provide evidence showing to what extent the infrastructure project will support recent or proposed development in the area. This should include reference to any relevant allocations or policies in the Tandridge’s Local Development Plan (e.g. Local Plan, Neighbourhood Plans etc.) and any relevant planning applications;
  - **Enables economic growth and regeneration** – Evidence to outline any economic benefits of the scheme e.g. job opportunities, new business creation etc;

- **Flood defence provisions** – Provide details of any flood protection to homes, commercial space/infrastructure and roads resulting from the project and/or show how the project would support future development;
- **Improves health and wellbeing** – Show how the project would support development through increasing capacity, breadth and/or quality to local health services and/or identify any other benefits to health and wellbeing for communities resulting from the project;
- **Improves provision of education** – Show how the project would support development through increasing capacity, breadth and/or quality to local education facilities and/or identify any other benefits to education for communities resulting from the project;
- **Improves transportation and/or road safety** – Show how the project would support development through increasing capacity and safety of the road network, public transport and/or other forms of transportation;
- **Improves provision of amenity** - Show how the project would support development through increasing capacity, breadth and/or quality to local amenity provision, including play areas, open spaces, parks and green spaces, cultural and sports facilities;
- **Supports climate emergency and environmental measures** – Evidence of the environmental benefits of the scheme;
- **Match funding** – Provide details of other funding sources;
- **Value for money** – Provide evidence to show the need for CIL funding; the costs of the project are reasonable; the level of match funding and wider leverage /investment the project will deliver; provide an assessment against any core outcomes e.g. cost per job/home (against national benchmarks); and a cost benefit analysis.

1.19 The Working Group has determined a weighting from 1-6 for each of the above benefits as set out in the guidance notes (Appendix E). However, it is recommended that this weighting should be reviewed on an annual basis to ensure that it accords with the infrastructure priorities to be set out in the IFS.

1.20 To ensure objectivity a panel of officers, led by an officer from the Strategy Team, will review and score each application based on the evidence provided. A summary of the scoring will be set out in a matrix (Appendix F) and a narrative will be produced to explain the scores given. A key element running through the officers' assessment and scoring process will focus on to what extent the project would support recent development and/or enable future growth in the area as required under the CIL regulations.

### Determining Bids

- 1.21 The officer assessment for each application, and recommendations for funding allocations, will be submitted to the CIL Working Group for consideration and published on the CIL webpage. Appendix G sets out the terms of reference for the Working Group where it is proposed that applicants would have the opportunity to briefly present (max. 3 minutes) their project to the Working Group and respond to any questions members may have.
- 1.22 Once all eligible applications have been considered members of the Working Group will determine which projects they wish to recommend to the S&R Committee for the allocation of CIL funding. This can be either a full or partial award of CIL funds, and reasonable conditions can be recommended to be included in the contract. If the S&R Committee chooses not to approve a particular recommendation from the Working Group, then it should provide an explanation setting out its concerns and request that the Working Group reconsiders the issue.

### Monitoring

- 1.23 Once an allocation for CIL funding has been made officers will draft a contract (to be reviewed by the Council's legal department) with the applicant setting out the schedule for payment of the funds and any required conditions. Officers will report any relevant updates regarding the progress of the project to the next meeting of the Working Group. Further details are set out in the Terms of Reference (for the Working Group (Appendix G)).

### Next steps

- 1.24 If the process outlined above is approved by Committee, officers will send out Expression of Interest (EOI) forms to all applicants with projects on the list included in Table 6 of the IFS published December 2020, as well as to a small number of additional applicants who have been in contact regarding potential CIL funding since this date. The EOI form will also be made available on the Council's CIL website and this will be publicised.
- 1.25 Applicants will have a four-week window in which to submit the EOI form to the Council this year, which is anticipated to run from mid-June to mid-July 2021. Eligible applicants will then be invited to submit a full stage 2 application within a 6-week window anticipated to run from August to September this year.

- 1.26 At this stage it is unknown how many applications will be received, however based on the list in Table 6 of the IFS we could be in receipt of over 50 applications. As such the LEP has been engaged to assist with this initial sifting process to ascertain how many applications will meet the mandatory criteria and be eligible to apply under stage 2. In the event that a large number of stage 2 applications are received the Working Group may wish, for this year, to ask officers to bring forward the most critical projects in terms of timing to be considered more expediently.

#### Budget considerations

- 1.27 Tandridge is already a CIL charging authority and has been collecting CIL since 1<sup>st</sup> December 2014. A total of £3,097,014 CIL funds is currently available to spend and is set aside to be spent on strategic infrastructure projects for the benefit of the District. Parish Councils receive either 15-25% of the total CIL collected in their area (depending on their neighbourhood plan status) to be spend on local infrastructure projects. Regulation 61 of the CIL regulations also allows a charging authority to apply up to 5% of collected CIL to the administrative expenses incurred by CIL.
- 1.28 The new CIL bid application process proposed does not require any additional staff to that already set out within the budget. The Council is seeking to appoint a new Infrastructure Officer to fill the current vacancy within the Strategy Team. This vacancy is currently being covered internally by existing officers with support from the LEP.

#### Conclusion

- 1.29 Officers recommend that the new process, which has been established in conjunction with members of the Working Group and with support from the LEP, be adopted to provide a clear and objective process for determining CIL bid applications for the funding of strategic infrastructure projects in the District. The process will also provide transparency for infrastructure providers, communities and developers to understand how CIL receipts from development is being spent for the benefit of Tandridge residents and to support the growth of the District.

#### Future Government Changes

- 1.30 It should be noted that impending changes to the infrastructure levy are likely, but there is insufficient detail to report on at this time. The changes were proposed through the Planning White paper (August 2020) and the Queen, in her speech has supported a new Planning Bill which is expected to provide further detail.



- 1.31 At this stage it is recommended that the potential for changes should be recognised, but that the Council should proceed with this process as we currently have no information regarding the timeline or detail for any changes.

### **Other options considered**

- 2 The process by which a charging authority determines how to spend its CIL can be flexible. Officers have viewed many examples of different methods used by other authorities and these have been presented to the Working Group. However, the key requirement for spending CIL, to which all charging authorities must adhere, is set out in Regulation 59 of the CIL regulation requiring the application of CIL to fund infrastructure to support the development of its area. It is considered that the process set out above provides a framework in which this requirement can be met.

### **Consultation**

- 3 The process has been undertaken in conjunction with members of the CIL Working Group.

## **Key implications**

### **Comments of the Chief Finance Officer**

The Council's finances will continue to be constrained as we move into the new financial year, this places the onus on the Council to place financial sustainability on all future projects.

The Council has a duty to ensure that it has a tight grip on costs and that projects funded from CIL receipts do not exceed the amount set aside for them. A robust monitoring of the CIL receipts should be undertaken, so money allocated does not exceed money received. The Council will continue to develop and implement plans to ensure rigorous monitoring of all expenditure.

### **Comments of the Head of Legal Services**

The Council's current CIL procedures did not oblige counterparties to enter into a formal contract with the Council in relation to the monies provided to deliver projects, however this was corrected for each awarded grant after 2017. The proposals advocated by this report would remedy this long-term by requiring the parties to enter into a contract which will govern the allocation of funds (staging the payments if necessary), mandating the ring-fencing of funds to the project, and providing the Council with the necessary monitoring and governance powers. The contract will provide legal assurance that the monies are spent as intended and include clawback provisions where any material terms are breached.

Legal Services are satisfied that the proposals set out in this report comply with the CIL Regulations and shall continue to provide assistance to the relevant Officers as and when required.

## **Equality**

The proposed new CIL bid application process is considered to promote equality of opportunity to all involved.

## **Climate change**

There are no significant environmental / sustainability implications associated with this report.

## **Appendices**

Appendix A – CIL Process Flowchart

Appendix B – CIL Application Timeline

Appendix C – Expression of Interest form

Appendix D – CIL Application Form

Appendix E – CIL Application Guidance Notes

Appendix F – Scoring Matrix Template

Appendix G - Terms of Reference

Appendix H – Infrastructure Process Map

## **Background papers**

None