

# ***Information/Discussion Paper***

## **Overview and Scrutiny Committee – 17<sup>th</sup> January 2022**

### **Community Infrastructure Levy**

This note contains the information to keep Members informed of matters relating to the work of the Committee, but where no decisions from Members are needed

#### **1. Why has this come to scrutiny?**

- 1.1 To provide Members with an update on income received via the Community Infrastructure Levy (CIL).
- 1.2 To explain the relationship between Section 106 Planning Obligations and CIL and specifically the circumstances under which of the two types of contribution can be collected.
- 1.3 To update Members on the emerging governance arrangements for “local” CIL.

#### **2. Summary of the Issue**

- 2.1 The Town and Country Planning Act (1990) and the Planning Act (2008) established the current process by which contributions the development industry makes for funding and delivering critical infrastructure are secured and charged.
- 2.2 More recently, the Planning Act 2008 and subsequent CIL regulations from 2010 to the amendments of 2019 provide the legislation for the Community Infrastructure Levy (CIL). This is a locally determined ‘fixed charge’ on development which is calculated as ‘£X per square metre of new development’. Different rates can be set for different types, scales and locations of development
- 2.3 LPAs, like Cheltenham, that have chosen to adopt CIL can operate these two approaches, CIL and S106, in parallel to manage developer contributions.

#### **3. Summary of evidence/information**

##### **Community Infrastructure Levy Receipts and Expenditure**

- 3.1 In summary for the ‘reporting year’ (1st April 2020 to 31st March 2021):

- CIL Receipts = £212,051.82

- CIL Expenditure = £9,848.02

- CIL Passed to Parish Councils = £11,566.20 (£2,908.20 of which raised in previous year).

- 3.2** Members will note that expenditure has been modest to date. This is primarily a product of the fact that the priorities identified for CIL funding largely comprise major infrastructure projects which take a considerable time to design, develop and implement.
- 3.3** Regulation 61 of the CIL Regulations allows up to 5% of income received in any financial year to be used towards the administrative costs of running the Charging and Collection function of the Charging Authority. The JCS councils currently pool their administration funding; this supports the employment of a CIL Manager and CIL Officer, together with the required computer and systems software, and membership costs such as RICS, BCIS Subscription etc. Current funding does not cover all costs incurred by the administration of CIL and the shortfall is funded through the JCS councils shared commitment and funding of the JCS. For 2020/21 the Council's contribution to CIL administration was £9,958.79, however the actual administration costs for this year are £139,360.76 of which is split across the 3 JCS councils equally. As the administration pot increases in size it may be possible to allocate part of it to help fund substantive posts within the Council which partly contribute to the management and delivery of CIL.
- 3.4** Full details of CIL income and expenditure are presented in the Appendix to this report.
- 3.5** CIL receipts currently retained by the Borough Council = £260,167. This is made up of;

'Infrastructure Funding' made up of £169,641 from receipts in the reporting year and £59,943.67 from the previous year. This is to be spent on infrastructure required to deliver the planned development contained within the JCS. .

£268.63 Neighbourhood Funding to be paid to Parish Councils on the 28th April of the next reported year (2021/22).

£30,313 Neighbourhood Fund for unparished areas.

### **The Role of Section 106 Contributions**

- 3.6** CIL money does not need to be used for providing infrastructure on the site it is collected from. It can be used for any project identified on the Infrastructure Funding Statement within the charging authority's area. There is not therefore a direct link between a site's infrastructure requirements and level of contributions made.

However in cases where there is a need for a specific piece of infrastructure to make a planning proposal acceptable, contributions can still be secured through a Section 106 Planning Obligation which is a binding legal agreement between the Council and the developer (and occasionally third parties). For example, a section 106 agreement might require a developer to fund improving the access road to a site, to ensure that access will be safe once the development is completed. The appropriate level of contributions and time of payment is negotiated on a case by case basis as part of the consideration of the planning application.

- 3.7** The Section 106 process is also the means by which the Council secures provision of affordable housing, again through individual planning applications. The default position is that affordable housing is provided on site but there are circumstances in which provision is made through alternative mechanisms (such as off-site provision or financial contributions). The justification for requiring affordable housing through the section 106 process is contained within our policy framework and most specifically Policy SD12 of the Joint Core Strategy.
- 3.8** At the start of April 2020, there was a balance of £2,349,368 in the Council's Section 106 account. During the 'reporting year' we received £39,637 and spent £883,549. At the end of March 2021, there was a closing balance of £1,505,455. 2.6. 62 affordable homes secured in agreements entered into during the reporting year.

### **Strategic Infrastructure Funding**

- 3.9** 70% of the levy is committed to be spent on infrastructure identified to support delivery of the JCS. The current governance arrangements therefore reflect those of the JCS. Governance at the JCS level comprises an operational CIL Management Group represented by planning lead officers from across the three districts who work to the JCS Joint Advisory Group (JAG) made up of senior officers/lead members. In addition, there is a joint CIL Manager working on behalf of the JCS authorities and an administrative assistant currently employed to support the implementation of CIL.
- 3.10** It has also been agreed in principle through JAG that going forward a Board be established which will have delegated decision-making authority over this pooled budget.

### **Neighbourhood Fund**

- 3.11** CIL that is generated by development in parishes is automatically passed on to the relevant Parish Council.
- 3.12** Aside from the requirement that it "consult and engage with the community" the Council has a free hand in deciding how to allocate the pot of CIL that is secured

through development in unparished areas. Whilst modest at present this proportion of CIL will grow steadily on years to come and the Council should therefore establish a transparent system of governance to allocate funds and account for monies received.

- 3.13** Officers are currently preparing a paper for Informal Cabinet which will outline some possible approaches to this governance which will include examples of best practice from elsewhere. It is also suggested that Planning Liaison Member Working Group could assist in identifying criteria which would inform any future allocation process.

**4. Next Steps - possible next steps for the committee to consider, e.g. potential witnesses, further report, site visit etc.**

- 4.1** Officers to prepare a paper for a forthcoming informal cabinet.
- 4.2** A future paper updating progress to be brought to O&S Committee.

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<b>Background Papers</b>	N/A
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