07 July 2020 at 5.00 pm

This meeting will be held virtually via Zoom and livestreamed here
https://www.youtube.com/channel/UClT1f_F5OfvTzxjZk6Zqn6g

Despatched: 29.06.20

Development & Conservation Advisory Committee

Membership:
Chairman, Cllr. Hunter; Vice-Chairman, Cllr. Thornton
Cllrs. Barnett, Cheeseman, Clayton, Penny Cole, P. Darrington, Fothergill, McGregor, Pett, Reay and Roy

Agenda

		Pages	Contact
	Apologies for Absence		
1.	**Minutes** To agree the minutes of the meeting of the Advisory Committee held on 10 March 2020, as a correct record.	(Pages 1 - 4)	
2.	**Declarations of interest** Any interests not already registered.		
3.	**Actions from previous meeting (if any)**		
4.	**Update from Portfolio Holder**		
5.	**Referral from Cabinet or the Audit Committee (if any)**		
6.	**Community Infrastructure Levy (CIL) Spending Board - Review of Governance**	(Pages 5 - 42)	Claire Pamberi Tel: 01732227221
7.	**Local Plan Update**	(Pages 43 - 46)	James Gleave Tel: 01732227326
8.	**Work plan**	(Pages 47 - 48)	

EXEMPT INFORMATION

At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.

If you wish to obtain further factual information on any of the agenda items listed above, please contact the named officer prior to the day of the meeting.

Should you need this agenda or any of the reports in a different format, or have any other queries concerning this agenda or the meeting please contact Democratic Services on 01732 227000 or democratic.services@sevenoaks.gov.uk.

DEVELOPMENT & CONSERVATION ADVISORY COMMITTEE

Minutes of the meeting held on 10 March 2020 commencing at 7.00 pm

Present: Cllr. Hunter (Chairman)

Cllr. Thornton (Vice Chairman)

Cllrs. Cheeseman, Clayton, Penny Cole, P. Darrington, Pett, Reay and Roy

Apologies for absence were received from Cllrs. Barnett, Fothergill and McGregor

Cllr. Perry Cole was also present.

31. Minutes

Resolved: That the Minutes of the meeting of the Development and Conservation Advisory Committee held on 17 December 2019, be approved and signed by the Chairman as a correct record.

32. Declarations of interest

No additional declarations of interest were made.

33. Actions from previous meeting

The actions were noted.

34. Update from Portfolio Holder

The Development & Conservation Portfolio Holder reported that the Building Control Partnership update had been deferred to the next meeting. The Partnership agreement was currently under review, mainly to check that the vision and objectives remained relevant and to provide assurances that the partnership was structured and resources properly to meet current and future demand. The timetable for this was heavily influenced by the decision making processes at Tonbridge & Malling Borough Council. In the meantime performance remained good with the partnership having over 70% of the market share and was achieving all other performance and financial targets.

She also updated Members on staffing within Development Management and Strategic Planning: Steve Whitehead was in the newly created role of Planning Enforcement Manager – a position recommended as a growth item by the committee during the budget process; Evelyn Gilder would now oversee all office management, procurement, compliance and performance matters as the

Improvement & Standards Manager; Claire Pamberi was rejoining Strategic Planning focussing on Infrastructure and the Community infrastructure Levy; Rebecca Lamb was now full time in the role of Design & Conservation Officer; the Urban Designer's contract had been extended another year – another growth item requested by the committee; and Emma Coffin who had been on a fixed term contract was now permanent.

She also reported that the members training programme was ongoing and of great benefit.

In response to questions Members were advised that over 100 representatives from Parish & Town Councils had recently attended training.
The Chief Officer Planning & Regulatory Services undertook to ensure any Parish & Town council representatives who had not attended the recent training had access to the presentation. Should there be an appetite there was scope to offer bespoke training to parishes for which there would be a charge in order to recover costs.

35. Referral from Cabinet or the Audit Committee

There were none.

36. Update on the Design and Conservation Team

The Design & Conservation Team Leader presented the report which updated Members on the activities of the Design and Conservation Team. Further to the publication of the agenda she reported that the Assistant Conservation Officer was now just Conservation officer.

A Member advised that he had emailed to query what was considered the original core with reference to the Twentieth Century recommendations and the proposal to designate New Ash Green as a conservation area, which also contained an error in referring to Tonbridge & Malling Borough Council.

Public Sector Equality Duty
Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That the report be noted.

37. Use of Article 4 to restrict permitted development rights for a change of use from office to residential

The Planning Policy Team Leader presented the report which outlined the proposal to serve Article 4 directions, to restrict permitted development rights for a change of use from office to residential, to protect office accommodation in three key areas. In response to questions she advised that to avoid risk of compensation the Council had to give at least one, but no more than two, year's notice ahead of the Directions coming into force. During that year's notice, the sites could go through the prior approval process.

Public Sector Equality Duty
Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Cabinet to serve Article 4 directions, to restrict permitted development rights for a change of use from office to residential, as outlined in the report.

38. Local Plan Update

The Planning Policy Team Leader presented the report which updated Members on the Local Plan examination process.

Since the publication of the agenda the Planning Inspector's final report had been received dated 2 March 2020. It concluded that the draft Local Plan was not legally compliant due to the failure to meet the duty to cooperate, and should not be adopted. The report only covered failure to meet the duty to cooperate and did not refer to any other failings. The hearings had taken place over two weeks before this failure had been raised as an issue and Officers had requested detailed feedback on the areas already covered. No other issues were raised in the report, and the accompanying letter only referred to questions that may have been asked if the hearings had proceeded.

Next steps were now being considered. In the meantime the Green Belt was still protected by the existing local plan and framework.

Public Sector Equality Duty
Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That the report be noted.

39. Work plan

The work plan was noted.

THE MEETING WAS CONCLUDED AT 8.07 PM

CHAIRMAN

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COMMUNITY INFRASTRUCTURE LEVY (CIL) SPENDING BOARD – REVIEW OF GOVERNANCE

Development and Conservation Advisory Committee – 7 July 2020

Report of	Chief Officer Planning & Regulatory Services
Status	For recommendation to Cabinet
Also considered by	Cabinet – 9 July 2020
Key Decision	No

Executive Summary:

This report follows on from the Community Infrastructure Levy (CIL) Governance Report that was discussed at the Development and Conservation Advisory Committee in July 2019. When the initial Governance arrangements were set up for CIL, it was expected that the Governance would be reviewed at least once a year and this report provides this yearly review.

The report considers what has been implemented since the last CIL Governance Review, and any changes that are required following this current review. The Chairman and Vice Chairman of the Spending Board, have been a part of this review and have instigated some of the changes. This report therefore includes their thoughts and recommendations. Our Legal team have also provided an input to this report.

This report supports the Key Aim of ensuring that Sevenoaks District remains a great place to live, work and visit and that development is supported by the relevant infrastructure.

Portfolio Holder	Cllr. Julia Thornton
Contact Officer	Claire Pamberi Ext. 7221

Recommendation to Development and Conservation Advisory Committee:

That the recommendations to Cabinet are supported.

Recommendation to Cabinet: That

a) the amendments to Appendix X1 of the Constitution, as set out in Appendices G and H of this report be agreed; and

b) the report be noted.

Reason for recommendation:

To ensure that the Council is able to make decisions on how the CIL process is governed in an open, transparent, appropriate, fair manner and to ensure consistency.

Introduction and Background

1 As you are aware the Council has been charging the Community Infrastructure Levy (CIL) since August 2014. From this date, until March 2020, the Council has collected just over £9 million of CIL contributions, with just under £3 million passed to relevant town and parish councils to help fund local infrastructure improvements. This has meant that there has been £6 million available to spend on local and strategic infrastructure projects, through the CIL Spending Board, with £4.5 million of this amount already committed to specific projects.

2 As part of the current CIL Governance arrangements, that were originally set up by Sevenoaks District Council (SDC), it was agreed that the structure and process governing the CIL Spending Board and also the process of allocating CIL money would be reviewed on an annual basis. This is to ensure that the Council's processes and procedures remain relevant and fit for purpose. This report is therefore part of this process.

3 This report also provides an update on the current CIL Legislation. It will also look at the current structure of the CIL Spending Board and will highlight areas that have been improved since the last Governance review. It will also consider all the areas involved in the spending of CIL where further guidance or clarification is required.

Changes in Legislation

4 Since the last review, Members may be aware of the new CIL Regulations which came into force on 1st September 2019.

5 The regulations make a number of important changes to the operation of CIL and also section 106 planning obligations. These include:

- removing the requirement to consult on a preliminary draft charging schedule;
- applying indexation when planning permissions are amended;
- introducing new reporting requirements through Infrastructure Funding Statements (from December 2020);
- removing the restriction on the number of planning obligations that can be used to fund a single project; and

- confirming that authorities are allowed to charge for the administration of Section 106 obligations.

6 It should be noted that whilst these are considered important they do not impact on the process of the CIL Spending Board and how CIL will be spent.

7 The Infrastructure Funding Statement will, however, impact the way we report on our CIL income and expenditure. Looking at the updated CIL guidance provided from the Ministry of Housing, Communities and Local Government in September 2019, Infrastructure funding statements must set out the following in Paragraph: 176 Reference ID: 25-176-20190901:

> *"A report relating to the previous financial year on the Community Infrastructure Levy;*
>
> *A report relating to the previous financial year on section 106 planning obligations;*
>
> *A report on the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the levy (excluding the neighbourhood portion).*
>
> *The infrastructure funding statement must set out the amount of levy or planning obligation expenditure where funds have been allocated. Allocated means a decision has been made by the local authority to commit funds to a particular item of infrastructure or project.*
>
> *It is recommended that authorities report on the delivery and provision of infrastructure, where they are able to do so. This will give communities a better understanding of how developer contributions have been used to deliver infrastructure in their area".*

8 We have to provide this document to the Government by the end of December 2020.

9 Looking at the legislation, there are very little changes shown as to how Town and Parish Councils report their CIL money. This may however be a good opportunity, when reviewing how SDC reports, to also review how they report and provide additional guidance and training to them. In particular, as the money given to Parish and Town Councils should be spent within 5 years and it is now 5 years since some Parish and Town Councils were first given CIL, this is a good opportunity to review their reporting and provide further training if needed or wanted.

Current CIL Governance Arrangements

10 The current arrangements and procedures for the CIL Spending Board and the spending of CIL, following last Governance Review in July 2019, are primarily set out in the Council's Constitution at Appendix X1 (see back ground papers below for link).

11 In particular we have implemented the following changes since the last review:

- The role of members of the Board and Members' conduct was clarified.
- The Board's Structure, procedures and speaking protocol was clarified through last year's review.
- The types of recommendations the Board could make was amended to provide the Board with more options.
- The pro-forma was amended last year to ensure we received the most relevant information from the organisations making the bids.
- Criteria for the Council's assessment of the bids was amended last year to ensure that the officers and Board were assessing the bids under the most current and most suitable criteria. This has been made more widely available for organisations submitting bids and has therefore made it clear how officers assess the bids and how the CIL Spending Board considers the bids.
- The structure of the Legal Contract was set up through the Governance Review and has now been implemented for successful bids.
- We have provided clearer guidance when writing letters notifying those who have submitted bids.
- Monitoring of bids that have been allocated funding has begun to be implemented.
- The Council's constitution has been amended to reflect all the changes above.

Feedback from Members and Officers

12 Since the last report on CIL Governance, one further Spending Board has been held in December last year. This worked in line with all the Governance changes that were put in place in July 2019 and was successful.

13 Working with the Chairman and Vice-Chairman, during the whole process of setting up and holding the CIL Spending Board, it became clear that there were still aspects of the CIL Governance that required clarification. In particular, these included:

A. Clearer guidelines and timescales for monitoring bids after they have been awarded CIL through the CIL Spending Board.

14 Out of the £4.5 million allocated through the Spending Board, £3.2 million remains unspent. A large proportion of this is because projects have not commenced (including some of the Council's own projects) but there is also a chance that other projects from earlier CIL Spending Boards may not now

go ahead. Some of these projects were granted CIL monies before the Legal Agreement proposed at the last Governance Review (2019) was set up and therefore these will be monitored under a separate process. However, a process still needs to be agreed by officers as to when to chase these projects to see if they are still going to go ahead.

15 The current legal agreement sets out a number of conditions and time limits for organisations to submit information and updates etc. In particular, this includes a time limit of 6 months from the date of the contract to commence a project, unless an extension is agreed with the Council. However, it is clear that we require a clearly defined process for officers to monitor these bids that have been awarded funding and agreed timescales, in line with the legal agreement to ensure consistency in monitoring. This will also help us know when the money that is set aside for bids can be put back into the 'pot' for the CIL Spending Board to reallocate.

B. We need guidelines in place, to govern how we consider bids that change after money has been awarded.

16 We have had one bid, since the last review, where CIL was awarded through the CIL Spending Board and they increased the size of the scheme after the award was granted. This was because they had received more money towards the project from a local resident. Whilst we need to keep some flexibility, it is considered that some guidelines are required as to how officers approach projects that are amended either before they are discussed at the Board or after the project is granted CIL by the Board.

C. That updating the CIL Spending Board Chairman and Vice Chairman on the money available to spend through the CIL Spending Board and also a synopsis on the current state of the CIL awards should be provided quarterly.

D. Clarification is required for officers and the CIL Spending Board as to how to manage bids that are not successful.

17 One of the main issues that arose through the recent process of the CIL Spending Board, is that there is no formal process for how bids are dealt with. It is considered that guidelines should be agreed to indicate what occurs in the following situations:

- if a bid does not make it past the 1st stage of validation;
- if a bid does not make it past the 2nd stage of validation and onto the agenda; and
- those that are refused at the CIL Spending Board.

E. The need to make clear in the officer's report to the CIL Spending Board Report, how each bid relates to the priorities of the Infrastructure Delivery Plan.

18 In addition to the above, it has also been noted by officers that we have received a number of emails from Town and Parish Councils asking for further information as to how to bid to the CIL Spending Board and asking what their own CIL money can be spent on. Town and Parish Councils have also challenged the first stage of the validation process for the CIL Spending Board and have challenged SDC's decision to not put bids through to the Spending Board. In particular, when officers have provided their views as to whether certain projects are infrastructure or not, they have also been challenged on these decisions. Currently there is no process for officers as to how we deal with these challenges, so this also needs to be considered as part of this review.

Discussion

19 It is considered important to address each issue raised in turn:

A. Clearer guidelines and timescales for monitoring bids after they have been awarded CIL through the CIL Spending Board.

20 Clearer guidelines are required for reviewing and monitoring bids approved at the CIL Spending Board, the monitoring will be looked at in two parts.

- Projects that were awarded funding without the need for a legal agreement or without a timescale to have one in place.
- Projects awarded funding subject to a legal agreement.

21 I will address each one in turn:

Projects without a Legal agreement:

22 These will be for all bids awarded CIL before the last Governance review they include the Council's own applications, Parish and Town Council bids and other statutory bodies. No legal agreement was required as the spending of the CIL money for these bodies is covered by the CIL Regulations 2000 (s amended).

23 Since CIL was first awarded through the CIL Spending Board, bids that have been granted to other organisations require a legal agreement, however before the last Governance review, no time scales were set for getting a legal agreement in place. There are only 3 however that fall within this category.

It is considered that the following monitoring is required for these bids:

- Officers will contact all organisations by the end of July, that have not requested the money or have signed a legal agreement to see whether they wish to proceed with their project. Officers will give them 21 days to respond. If no response is received, we will contact them again giving

them 14 days to respond, warning them if no response is provided that we will assume that the project is no longer going ahead and the money will be returned to the CIL Spending Board pot.

- If the organisation wants to carry on with their project, they need to sign a legal agreement and then the monitoring of their project will continue as laid out in the section further below:

- For these bids, they will be refused (and the money requested to be returned) and/or the money allocated to these bids be returned to the CIL Spending Board spending pot if the following occurs:

    1. If the organisation who makes the bid submits in writing that they no longer want to proceed with the project;

    2. If the organisation spends their CIL money outside the remits of the CIL Regulations 2019 as amended. This includes:

        - If the applicant/organisation provides SDC with any materially misleading or inaccurate information.

        - That the money is not spent on an infrastructure project.

        - If all or part of the CIL funding remains unspent after a period of 5 years then the monies should be repaid to Sevenoaks District Council and the money will be returned to the CIL Spending Board pot. Officers will chase and monitor this throughout the lifespan of the bid and will make this more formal 4 years into the project.

24 Please note that the officers will continue to monitor these bids and contact the relevant organisations every six months to ensure that the Legislation is adhered to. There is however nothing in the CIL Legislation where we can ask for money to be returned to us if it is not spent in under 5 years.

Projects with a Legal agreement:

25 This will put in place an agreement for officers as to how to monitor all bids awarded CIL since the last Governance review and all bids granted to outside organisations since the commencement of CIL which are protected by a Legal Agreement.

It is considered that the following monitoring is required for these bids:

- Officers will contact the organisations at 2 months and 4 months after the decision is made to award CIL is ratified by Cabinet, to ensure that the Legal Agreement is signed within 6 months of this decision.

- That bids will be refused and/or the money allocated to these bids be returned to the CIL Spending Board pot if the following occurs:

1. If a Legal Agreement is not signed within 6 months.

2. If any other conditions made by the Spending Board are not met.

3. If the organisation who makes the bid submits in writing that they no longer want to proceed with the project;

4. If the organisation breaches any of the conditions of the Legal Agreement and fails to rectify such a failure within 30 days of receiving written notice (from SDC) detailing the failure. The conditions include the following:

    - The applicant shall provide updates in the form of a financial report and an operational report on its use of CIL funding and delivery of the project every 6 months. Officers will monitor each bid and chase organisations that do not provide an update every 6 months.

      Please note that the timing of these updates will change depending on the project. Some of the smaller projects – i.e. medical pod only took a few weeks to install so we may state in the legal agreement that we require an update every 3 months. Officers will contact the organisation 1 month before an update is required.

    - Spending CIL money for any other purpose, without prior written agreement of the Collecting Authority. Officers will monitor this through regular required updates.

    - If the organisation makes a significant change to the project without the Collecting Authorities written agreement. Officers will monitor this through regular required updates.

    - If the organisation transfers any part of the CIL funding to bank accounts which are not ordinary business accounts without prior written agreement of the Collecting Authority. Officers will again monitor this through regular required updates.

    - If all or part of the CIL funding remains unspent after a period of 5 years then the monies should be repaid to Sevenoaks District Council and the money will be returned to the CIL Spending Board pot. Officers will chase and monitor this throughout the lifespan of the bid and will make this more formal 4 years into the project.

    - The delivery of the project does not start within 6/12 months of the commencement date and the applicant has failed to provide SDC with a reasonable explanation for the delay. Officers will chase and monitor this at 4/10 months.

Please note – these dates will differ depending on the size and scale of the project.

- The collecting authority considers that satisfactory progress has not been made on the delivery of the project. Officers will review the progress at every 6 months for larger projects and every 2 months for smaller projects.

- If the applicant/organisation provides SDC with any materially misleading or inaccurate information. Officers will monitor this through the regular updates provided by the organisation.

Please note: If the money is returned the organisations who are responsible for the bid will need to pay interest.

26 In order to assist organisations in requesting their CIL money, please find a document provided under **Appendix A** which makes it clear what information any organisation needs to be provide before SDC can transfer any CIL money to them.

B. We need guidelines in place, to govern how we consider bids that change after money has been awarded.

27 Firstly, it should be made clear that bids should not generally be amended after they have been submitted to the CIL Spending Board and the submission deadline has passed. In addition to this, in line with the current Council's Constitution the CIL Spending Board cannot amend any bids put forward.

28 The decision by the CIL Spending Board is giving an approval to a particular project with particular circumstances. Each bid has been assessed against all the other projects put forward to that Board and assessed against the Council's criteria including the project management, the impact of the bid and the amount of CIL asked for amongst others. This ensures consistency and fairness.

29 If the details of any of the bids change this will impact upon how they are considered against other bids submitted. It would be improper for CIL monies to be spent on a markedly different project.

30 However, there is a clear need to be flexible, and it may be considered disproportionate for a new bid to have to be made to the Board each time there is a minor change, or a change that has a significantly positive effect. For example, in one recent case a project developer received more money from other sources, allowing for a facility which was fundamentally similar, but improved and at less proportionate risk to the Council.

31 Currently successful bidders must keep as close to possible to the project as originally approved by the Council. The contract requires any changes to be approved by the Council in writing.

32 It is considered that the Council should permit some changes but only where the following circumstances apply:

- where the project (and the community benefits provided) is at least substantially similar to that approved; and
- where the risk to the CIL monies does not materially increase

33 As at present, under no circumstances would this allow for more monies from the Council without a fresh bid.

C. Updating the CIL Spending Board Chair and Vice Chair quarterly on the money available to spend through the CIL Spending Board and also a synopsis on the current state of the CIL awarded.

34 It is considered important to keep the Chairman and Vice Chairman updated on the bids that have been awarded money through the CIL Spending Board. It is also important to keep them informed of the CIL income that has been paid as this will determine when the next CIL Spending Board is held.

35 Currently there is nothing set up for this formally and updates are provided when requested. Through discussions with the CIL Chairman and Vice Chairman it has been agreed that these updates should be provided quarterly on or around the following dates; 30th January, 30th April, 30th July and 30th October.

D. Clarification is required for officers and the CIL Spending Board as to how to manage bids that are not successful.

36 During the course of the last CIL Spending Board, it became clear that existing procedures did not sufficiently cater for those bids that are unsuccessful, including the advice that will be given to bidders.

37 It is considered appropriate to consider each stage at which the bids are refused:

First stage of Validation

38 In line with the Council's constitution, bids are only rejected at this stage if they are incomplete, if they would not have the right to carry out the scheme or if the project is not considered to be for infrastructure to support development. Please see **Appendix B** where a template letter informs an organisation that their bid has not been successful. The letter makes it clear that the organisation should not bid again for this particular project without amendment as it is likely to be rejected again. It also provides an opportunity to request a review of the bid and decision of the Council. A

request to review will generally only be accepted if the organisation provides additional information to justify its validation.

Second Stage of Validation:

39 In line with the constitution, Officers consider bids at this stage working with the Chairman and Vice Chairman of the Board. Bids will currently be referred to the Board where it is considered that they are assessed to perform strongly against the evaluation criteria.

40 The Constitution should clarify that those bids which are not referred to the Board are formally refused.

41 We will send letters to all the unsuccessful bids to inform them of our decision. Please see **Appendix C**, which will provide a template letter to explain the reason why this bid was rejected at the second stage of validation. You will note that the template letter also explains the criteria that SDC thought the bid was weak on and the process for re-submitting a bid. It also provides the organisation with 2 options, either to re-submit and forward the bid to the next CIL Spending Board or change the bid and resubmit. There is no opportunity to be able to request a review here as every organisation has the opportunity to submit a new/revised bid to another CIL Spending Board.

Bids refused at the CIL Spending Board.

42 In line with the Council's constitution, bids are only rejected/deferred by the CIL Spending Board for the following reasons:

- Funding for the scheme is not approved on the basis that other proposed schemes have been given greater priority.
- Funding for the scheme is not approved on the basis that insufficient evidence has been provided to justify it.
- A decision of the provision of funding for a scheme is deferred. It is considered that further evidence is required to fully show the benefits of the scheme.
- A decision of the provision of funding for a scheme is deferred It is considered that further evidence is required to indicate whether the project is viable.

43 Please see **Appendix D** attached where a template letter is provided to organisations submitting the bids explaining why their bid has been rejected by the CIL Spending Board. As you can see this letter will indicate what the Board considered to be its strengths and weaknesses together with the reasons it was refused. If the CIL Board consider that this was a strong bid, this will be made clear and the letter will also explain clearly the reasons it was rejected and providing the options for them to resubmit. It also makes it clear that Bids will not automatically be re-submitted to the next Board

otherwise we will be inundated, but as above it will ask them to consider whether they want to submit the bid as originally submitted or whether they want to make changes and resubmit.

44 If the CIL Board was definite that a bid was not going to be successful, then this is also made clear in the letter sent to the bidder.

45 Please also see **Appendix E** where a template letter is provided to organisations, who have submitted a bid explaining why their bid has been deferred by the CIL Spending Board. This makes it clear the reasons why it was deferred and what further evidence is requested by the Board. This letter also makes it clear that the bid will be presented back to the Board and will not need to go through the Validation process again. It also gives the applicant the opportunity to amend and withdraw the bid before the next Board.

E. The need to make clear in the officer's report to the CIL Spending Board Report, how each bid relates to the priorities of the Infrastructure Delivery Plan.

46 Through the governance review last year, the information requested in the pro forma was amended to ensure that organisations making a bid to the Board provided evidence as to how they consider their bid identifies with the Council's Infrastructure Delivery Plan (IDP) and its priorities.

47 In addition to this, the criteria for assessing bids were also amended, so that when officers assess the bids submitted to the Board, they are required to consider whether the bid is supported or part of an existing strategy or plan. Bids that are identified in the Council's IDP will clearly provide towards an identified need and would receive a higher score when assessed against this criterion.

48 Following this request, whilst it is clear that the relationship between the bid and the IDP is important and that evidence in this regard is requested and available, officers need to make this relationship clearer in their CIL Spending Board Report. This issue will therefore be made more prominent in the report, to assist members in making their decision on each bid brought forward to the Board.

Review of the Council's decision

49 It has been recognised that there are 2 possible situations, throughout the CIL Governance process where organisations have a right to ask SDC to review their decision.

50 The first situation is when a Town or Parish Council originally contact SDC to ask whether they can spend their CIL money on a particular project, the CIL and Infrastructure officer or Team Leader will assess any request for CIL spending. A decision on their initial request will be made in writing. If the decision is made that their project is not considered to be infrastructure and therefore not an appropriate use of CIL then the Parish or Town Council will

be informed of that decision and be given a right to start discussions in regard to this issue.

51 Please see attached **Appendix F** which lays down the process of to allow a discussion to take place between officers and any Town or Parish Council. This will include a request to ensure that any part of the discussion must be made in writing. As part of their discussion, the Town or Parish Council will be asked to provide further information as to how a project is for infrastructure or how it provides for the increase of development in their area. This process laid out, whilst not formal will enable officers to request the information provided and they will not enter into a discussion if the request is not made in writing and no further evidence is provided.

52 The other process we need to consider here is when a bid is not successful after the first stage of validation, for example if a bid is not taken forward to the CIL Spending Board as it is not considered to be infrastructure.

53 This review will follow a more formal format to that above, please see **Appendix G** which lays down a review process for bids made to the CIL Spending Board that do not pass the first stage of validation. The format provides time scales to request a review, it will ensure any request to review is made in writing and that it must contain additional information/evidence to support it. If agreed, this review process will be added to the Council's constitution as shown in **Appendix H.** This shows the section of the Constitution to be amended**.**

54 The laying out of a review process will provide applicants with a process to follow and will allow any challenge of the Councils' decision to be dealt with more consistently. Please note there is no right of appeal or opportunity to request a review against the CIL Spending Board's decisions. This is because they will be ratified by Cabinet and the organisation will always have a right to submit another bid to another Board.

Additional proposals

55 In carrying out this governance review it has also been recognised that not all the guidance suggested in the last Governance review has been fully implemented. Through discussions with the Chairman and Vice Chair, and through the review above, it is considered that the following guidance is required and will be provided over the next year:

- Guidance notes for those submitting bids to the CIL Spending Board before the next Spending Board is held.
- Guidance notes for Town and Parish Councils to assist them in reporting, managing the use of their own CIL money and their rights of review if their spending proposals are not agreed, as soon as possible.
- Guidance Notes and training as to how Town and Parish Councils report their CIL income, within the next 6 months.

Other Options Considered and/or Rejected

56 Members could decide not to agree the proposed changes to the current governance arrangements. However, the proposed changes seek to build on the existing arrangements to make the process more consistent, manageable and robust to ensure that future funding allocated by the CIL Spending Board is appropriately spent and monitored.

57 In addition, any further identified weaknesses in the system can be addressed through the annual review process.

Key Implications

Financial

There are no financial implications regarding this report.

Legal Implications and Risk Assessment Statement

There are no legal implications regarding this report.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

The CIL Spending Board provides the Council's oversight of allocating CIL funding to local and strategic infrastructure projects across Sevenoaks District. The current CIL governance arrangements were agreed by Members of the Development and Conservation Advisory Committee in July 2019 and are reviewed annually to ensure that they are still fit for purpose. This report sets out some suggested changes to the CIL Governance following feedback received from Officers and the Chairman and Vice Chairman of the CIL Spending Board and it is therefore asked that Members grant the Chief Planning Officer and Legal Team delegated authority to implement these changes.

Appendices

Appendix A – Information required from organisations for them to receive CIL funds from Sevenoaks District Council approved by the CIL Spending Board.

Appendix B – Template to send to organisation if bid is rejected at the first stage of validation.

Appendix C – Template to send to organisations if a bid is rejected at the second stage of validation.

Appendix D - Template to send to organisations if a bid is

refused by the CIL Spending Board.

Appendix E - Template to send to organisations if a bid is deferred by the CIL Spending Board.

Appendix F - Process if a Town or Parish Council wish to discuss an officer's decision that a project they wish to spend through their own CIL money is not considered to be infrastructure.

Appendix G – Appeal process for any organisation, where their bid is refused at the first validation stage as it is not considered to be infrastructure.

Appendix H – Community Infrastructure Levy Board – Decision Making Process – Proposed amendments

Background Papers

Governance of the Community Infrastructure Levy (CIL) (Planning Advisory Committee – 16 May 2017)

Governance of the Community Infrastructure Levy (CIL) (Cabinet – 15 June 2017)

Referral from Cabinet – Further Advice to PAC re Governance of the Community Infrastructure Levy (22 June 2017)

Planning Advisory Committee response to referral – Community Infrastructure Levy (Cabinet – 13 July 2017)

Planning Advisory Committee - 12 March 2019

Development and Conservation Advisory Committee - 9 July 2019

Council's Constitution – Appendix X1.

Richard Morris

Chief Officer Planning & Regulatory Services

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Information required from organisations for them to be able to receive CIL funds from Sevenoaks District Council approved by the CIL Spending Board.

1. In order for Sevenoaks District Council to send the money, we will need you to confirm in writing:

    - that you have signed the legal agreement within 6 months of the Cabinet meeting which ratified the grant. The Council's Legal Team (legal@sevenoaks.gov.uk) will contact you to arrange this.
    - that you have met any other conditions placed on the approval of CIL money by the CIL Spending Board.
    - the following payment details
        - Name of the company to who the money will be paid:
        - Name of bank account:
        - Address of company:
        - Sort code:
        - Account number:
        - Contact e-mail for notification to you once the payment goes through.

    Once the above information is received in writing, Sevenoaks District Council can then transfer the money to you.

2. Once payment has been made, please ensure that you comply with all requirements of the legal agreement. This includes providing the Council with regular updates upon request.

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Sevenoaks
DISTRICT COUNCIL

Appendix B

Town/Parish Council

By email only

Tel No: 01732 227000
Ask for:
Email: cil@sevenoaks.gov.uk
My Ref: CIL VAL 1
Your Ref:
Date:

Dear Sir / Madam,

COMMUNITY INFRASTRUCTURE LEVY (CIL) SPENDING BOARD: NOTIFICATION OF CIL APPLICATION

Thank you for your recent applications for Community Infrastructure Levy (CIL) funding to the CIL Spending Board. As we understand the application/s you have submitted to us involve the following projects:

•

Under the Council's CIL governance arrangements, applications that have been made to the CIL Spending Board must be vetted through a two-stage Validation process. This process is explained through the Council's Constitution (Appendix X1 – Community Infrastructure Levy Spending Board). Please use the following link: https://www.sevenoaks.gov.uk/info/20039/councillors_and_decisions/80/council_constitution

Unfortunately, your bid did not make it through the first stage of the validation process, for the following reason (s):

Delete as appropriate:

- Your bid was incomplete and the relevant forms were not submitted or completed correctly.
- From the evidence provided, it was not clear that your organisation had the right to carry out the scheme.

- This project is not considered to be for "infrastructure" and cannot be considered as an appropriate use of CIL monies.

If however you consider that your project is for infrastructure or would wish to discuss this further, we would ask the you write to officers using the following e-mail address cil@sevenoaks.gov.uk.

Any challenge to the Council's decision, will only be accepted in writing and if further evidence is provided to support your case. Please see the attached sheet for further guidance (Request to Review). Your bid will not be accepted to the current Spending Board, but after consideration officers will either confirm their decision or invite you to make an application to the next Board.

I am therefore informing you that your application has been **unsuccessful** and will not go before the CIL Spending Board**.**

As the project is not considered to be an appropriate use of the CIL money, we would not invite you to make a bid again, without amendment, to the CIL Spending Board.

As you have submitted an application for funding, your contact details will be added to our CIL Board mailing list. We will notify you when the next CIL Board has been confirmed and when the next round of bidding is open.

If you do not wish to be added to the CIL Board mailing list, please notify the Planning Policy team by emailing cil@sevenoaks.gov.uk.

If you have any queries regarding the CIL or would like to discuss the reasons for your unsuccessful application, please contact the Planning Policy Infrastructure Team on 01732 227000 or email cil@sevenoaks.gov.uk.

Kind regards,

Richard Morris
Chief Planning Officer

Sevenoaks
DISTRICT COUNCIL

Appendix C

Tel No: 01732 227000
Ask for:
Email: cil@sevenoaks.gov.uk
My Ref: CIL VAL 2
Your Ref:
Date:

By email only

Dear Sir / Madam,

COMMUNITY INFRASTRUCTURE LEVY (CIL) SPENDING BOARD: NOTIFICATION OF CIL APPLICATION

Thank you for your recent application for Community Infrastructure Levy (CIL) funding to the CIL Spending Board.

Under the Council's CIL governance arrangements, applications that have been made to the Spending Board for additional top-up funding must be vetted through a two-stage process. This process is explained through the Council's Constitution (Appendix X1 – Community Infrastructure Levy Spending Board). Please use the following link:
https://www.sevenoaks.gov.uk/info/20039/councillors_and_decisions/80/council_constitution

Your application has gone through the two-stage validation process and along with all other bids, and has been assessed against a key set of criteria laid out on page 17 of the above link.

There have been a number of submissions for CIL funding for the Spending Board. These vary in scale and the amount of CIL asked for. Following a full assessment of all the bids and in consultation with the Chairman and Vice-Chairman of the CIL Spending Board, I must inform you that your application has been **unsuccessful**. It did not make it past the second validation stage and will therefore not be presented to the CIL Spending Board.

It was considered unsuccessful for the following reasons **(to be deleted as appropriate)**:

- There was a lack of information provided within the application for the CIL Spending Board to make an informed decision;
- Due to the number of projects submitted to the CIL Spending Board, there were other schemes that were deemed to have greater priority at this time.
- Insufficient evidence was provided to demonstrate that your project had a strong social, environmental or economic justification for the scheme.
- Insufficient evidence had been provided to demonstrate a strong link between new development and the scheme.
- Insufficient evidence had been provided to show that the project involves partnership working.
- The scheme did not form part of a planned, local, economic or community strategy to address the need for local infrastructure.
- Insufficient evidence had been submitted to show that there was a clear public benefit for the scheme.
- Insufficient evidence has been provided to show that other sources of funding have been maximised.
- Insufficient evidence has been provided to show that the scheme will be delivered.
- Insufficient evidence has been provided to show that all the necessary permissions are in place.
- Insufficient evidence has been provided to show that the scheme has local support.
- The scheme has already benefited from CIL either through Parish or Town Council or the CIL Spending Board and insufficient evidence has been provided to show why further CIL money is required.
- The project described in the submitted application is not considered as an appropriate use of CIL monies.

Please note that while your bid has been unsuccessful for this stage, it does not prevent you from submitting a revised bid for the CIL Spending Board to consider in the future. To assist you in this, it was considered that your project was strong on the following grounds:

- It had a clear social, environmental or economic justification for the scheme.
- It demonstrated a strong link between new development and the scheme.
- It had clear evidence of partnership working.
- The scheme was part of a planned, local, economic or community strategy to address the need for local infrastructure.
- There was a clear public benefit for the scheme.
- Sufficient evidence has been provided to show that other sources of funding have been maximised.
- Good evidence had been provided to show that the scheme will be delivered.

- Evidence had been provided to show that all the necessary permissions are in place.
- Evidence has been provided to show that the scheme has local support.

Can you therefore please confirm in writing to CIL@sevenoaks.gov.uk, whether you wish your bid to be considered at the next Spending Board as it is or whether you wish to withdraw the bid and submit a new bid with further information to address the points above. If we do not hear from you within 4 weeks, we will assume that you wish your bid to be withdrawn and we will not submit it towards the next Board.

The date for the next CIL Board has not been confirmed at present. However, as you have submitted an application for funding, your contact details will be added to our CIL Board mailing list. We will notify you when the next CIL Board has been confirmed and when the next round of bidding is open.

If you do not wish to be added to the CIL Board mailing list, please notify the Planning Policy team by emailing cil@sevenoaks.gov.uk.

If you have any queries regarding the CIL or would like to discuss the reasons for your unsuccessful application, please contact the Planning Policy Infrastructure Team on 01732 227000 or please email cil@sevenoaks.gov.uk.

Kind regards,

Richard Morris
Chief Planning Officer

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Sevenoaks
DISTRICT COUNCIL

Appendix D

Tel No: 01732 227000
Ask for:
Email: cil@sevenoaks.gov.uk
My Ref: CIL SPB R
Your Ref:
Date:

By email only

Dear Sir / Madam,

COMMUNITY INFRASTRUCTURE LEVY (CIL) SPENDING BOARD: NOTIFICATION OF CIL APPLICATION

Thank you for your recent application for Community Infrastructure Levy (CIL) funding to the CIL Spending Board.

Unfortunately, I am writing to inform you that following a full assessment and discussion of your bid at the CIL Spending Board on (Date), the decision was made by the Board to **refuse** your bid for the following:

- Describe the bid

Your application was assessed under the criteria laid out for the CIL Spending Board which can view using the following link: https://www.sevenoaks.gov.uk/info/20039/councillors_and_decisions/80/council_constitution

It was refused **as the CIL Spending Board considered that (to be deleted as appropriate)**:

- Funding for the scheme is not approved on the basis that other proposed schemes have been given greater priority.
- Funding for the scheme is not approved on the basis that insufficient evidence has been provided to justify it. In particular, the Board considered that your bid was weak in the following areas:

- There was a lack of information provided within the application for the CIL Spending Board to make an informed decision;
- Due to the number of projects submitted to the CIL Spending Board, there were other schemes that were deemed to have greater priority at this time.
- Insufficient evidence was provided to demonstrate that your project had a strong social, environmental or economic justification for the scheme.
- Insufficient evidence had been provided to demonstrate a strong link between new development and the scheme.
- Insufficient evidence had been provided to show that the project involves partnership working.
- The scheme did not form part of a planned, local, economic or community strategy to address the need for local infrastructure.
- Insufficient evidence had been submitted to show that there was a clear public benefit for the scheme.
- Insufficient evidence has been provided to show that other sources of funding have been maximised.
- Insufficient evidence has been provided to show that the scheme will be delivered.
- Insufficient evidence has been provided to show that all the necessary permissions are in place.
- Insufficient evidence has been provided to show that the scheme has local support.
- The scheme has already benefited from CIL either through Parish or Town Council or the CIL Spending Board and insufficient evidence has been provided to show why further CIL money is required.
- The project described in the submitted application is not considered as an appropriate use of CIL monies.

Not a strong bid:
Please note that due to the strong reasons provided above, it is unlikely that your bid, if re-submitted, would be considered acceptable as it stands. It will therefore not automatically be put through for consideration at the next CIL Spending Board. This refusal however does not prevent you from submitting a revised bid to the CIL Spending Board to consider in the future.

If you decide to submit an amended bid, this will be looked at afresh. I would encourage you to consider and address the points raised above in your submission to a future Board. The date for the next CIL Board has not been confirmed at present. However, as you have submitted an application for funding, your contact details will be added to our CIL Board mailing list. We will notify you when the next CIL Board has been confirmed and when the next round of bidding is open.

Strong Bid
Whilst your bid was refused, the Board did consider that it was a strong bid. In particular, it was considered to be strong in the following areas:

- It had a clear social, environmental or economic justification for the scheme.
- It demonstrated a strong link between new development and the scheme.

- It had clear evidence of partnership working.
- The scheme was part of a planned, local, economic or community strategy to address the need for local infrastructure.
- There was a clear public benefit for the scheme.
- Sufficient evidence has been provided to show that other sources of funding have been maximised.
- Good evidence had been provided to show that the scheme will be delivered.
- Evidence had been provided to show that all the necessary permissions are in place.
- Evidence has been provided to show that the scheme has local support.

Please note that whilst your bid has been unsuccessful at this stage, it does not prevent you from submitting a revised bid for the CIL Spending Board to consider in the future.

Can you therefore please confirm in writing to CIL@sevenoaks.gov.uk, in light of the above comments whether you wish your bid to be considered at the next Spending Board as it is or whether you wish to withdraw the bid and submit the bid again with further information to address the points above. If we do not hear from you within 4 weeks, we will assume that you wish your bid to be withdrawn and we will not submit it towards the next Board.

The date for the next CIL Board has not been confirmed at present. However, as you have submitted an application for funding, your contact details will be added to our CIL Board mailing list. We will notify you when the next CIL Board has been confirmed and when the next round of bidding is open.

If you do not wish to be added to the CIL Board mailing list, please notify the Planning Policy team by emailing cil@sevenoaks.gov.uk.

If you have any queries regarding the CIL or would like to discuss the reasons for your unsuccessful application, please contact the Planning Policy Infrastructure Team on 01732 227000 or email cil@sevenoaks.gov.uk.

Kind regards,

Richard Morris
Chief Planning Officer

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Sevenoaks
DISTRICT COUNCIL

Appendix E

Tel No: 01732 227000
Ask for:
Email: cil@sevenoaks.gov.uk
My Ref: CIL SPB D
Your Ref:
Date:

By email only

Dear Sir / Madam,

COMMUNITY INFRASTRUCTURE LEVY (CIL) SPENDING BOARD: NOTIFICATION OF CIL APPLICATION

Thank you for your recent application for Community Infrastructure Levy (CIL) funding to the CIL Spending Board.

I am writing to inform you that following a full assessment and discussion of your bid at the CIL Spending Board on (Date), the decision was made by the Board to **defer** your bid for the following reasons: (delete as appropriate)

- A decision of the provision of funding for a scheme is deferred. It is considered that further evidence is required to fully show the benefits of the scheme. In particular, the Board considered that further evidence was required of the following:
- A decision of the provision of funding for a scheme is deferred It is considered that further evidence is required to indicate whether the project is viable. In particular, the Board would like to see the following evidence:

Your application was assessed under the criteria laid out for the CIL Spending Board which can view using the following link: https://www.sevenoaks.gov.uk/info/20039/councillors_and_decisions/80/council_constitution

Your bid will be presented back to another CIL Spending Board in the future. You will not need to resubmit the whole bid again.

We would ask however that you provide the evidence requested above in writing or to the following e-mail address cil@sevenoaks.gov.uk for the next Spending Board.

The date for the next CIL Spending Board has not been confirmed at present. However, your contact details will be added to our CIL Board mailing list and we notify you when the next CIL Board has been confirmed and when the next round of bidding is open. You would need to provide the information/evidence requested to us before the closing date for bids. If we do not hear from you before the closing date for the next CIL Spending Board, we will assume that you no longer wish to submit your bid and it will be withdrawn.

If you require more time to collect the evidence requested. Please submit this request in writing or the following e-mail address cil@sevenoaks.gov.uk and we can agree a date for the additional information to be provided.

If you do not wish your bid to be presented to the next CIL Spending Board, you wish to withdraw it or you do not wish to be added to the CIL Board mailing list, please notify the Planning Policy team by emailing cil@sevenoaks.gov.uk.

If you have any queries regarding the CIL or would like to discuss the reasons for your unsuccessful application, please contact the Planning Policy Infrastructure Team on 01732 227000 or email cil@sevenoaks.gov.uk.

Kind regards,

Richard Morris
Chief Planning Officer

Appendix F

Process to aid discussions between Sevenoaks District Council and the Parish and Town Councils spending their own CIL Money. (Allocated to them through Paragraph 59 of the CIL regulations 2000 (as amended)).

1. Any query raised against the Council's decision must be made in writing. This should be made within 6 months of the Councils decision.

2. Any query must contain additional evidence/information in addition to the original submission as to why they consider their project to be for infrastructure or to address the query made.

3. Sevenoaks District Council will review the information submitted, they will liaise with legal and make a decision on the information submitted within 6 weeks. If a decision cannot be met within 6 weeks, they will contact the relevant Parish or Town Council and explain why and provide a new date for a decision to be made.

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Appendix G

Request for a review of a bids considered by Sevenoaks District Council not to succeed under Stage 1 of the Validation Process

1. A request for a review must be made within 6 months of the letter from Sevenoaks District Council informing them of one of or more of the following:
    - that the project is not considered to be infrastructure;
    - that the bid is considered to be incomplete or
    - there is insufficient evidence to show that the organisation making the bid has the right to carry out the scheme.

2. The request for a review must be submitted formally in writing or emailed to the following address cil@sevenoaks.gov.uk.

3. The request for a review must contain additional evidence/information in addition to the original bid as to why they consider their project complies with the 1st stage of validation.

4. Sevenoaks District Council will review the information submitted, they will liaise with legal and make a decision on the information submitted within 6 weeks. If a decision cannot be met within 6 weeks, they will contact the organisation to explain why and provide a new date for a decision to be made.

5. A senior manager will review the case, before a response is provided.

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Appendix H

Sevenoaks District Council

Community Infrastructure Levy Spending Board

Decision Making Process

First Stage of Validation Process

~~Lead Officer's initial validation of bids~~

The lead officer will undertake an initial validation of bids. The following will not be put to the spending board for consideration and, subject to any request for a review process offered, shall be considered as invalidated:

- Those schemes for which a pro-forma has not been completed.
- Those schemes where the bidding organisation does not have the legal right to carry out the proposed scheme or the support from the statutory provider of that service.
- Those schemes that could clearly not be defined as infrastructure* to support development.

The lead officer's validation of bids will be agreed by the chairman of the CIL Spending Board in advance of papers being published for the spending board meeting.

A written response will be provided to the bidder to explain this decision. This may suggest that a revised submission is considered at a future meeting.

Second stage of Validation Process

The Lead Officer will carry out a second stage in the validation of bids, which will assess the proposed bids against the following criteria in order to make recommendations on the bids submitted:

- The need for the scheme
- Whether the scheme supports local or Key Infrastructure projects
- Whether the applicant is working in partnership to implement the scheme
- Is the scheme part of an existing Strategy or Plan?
- The public benefit of the scheme~~?~~

- Has the applicant sought to maximise funding from other sources?
- Is there clear project management
- Is the scheme deliverable?
- Does the scheme and bid have local support?
- Has the project already had CIL funding?
- Does the scheme provide an overall community benefit?

**Infrastructure Definition - The term "infrastructure" is the basic systems, facilities and services which support development in an area. These can include highways and other transport facilities, flood defences, energy, educational facilities, health and social care facilities, community facilities, green blue infrastructure etc*

Each bid will be scored against how they perform against each category. The lead officer's initial assessment and recommendations will be provided to the Chairman and Vice Chairman of the CIL Spending Board in advance of the papers being published for the Spending Board Meeting. The Report to the CIL Spending Board will include a summary of what criteria the bids score highly against and those where they perform weaker against.

Those applications which are not referred to that meeting of the Board shall be refused.

CIL Spending Board's Key Considerations

The CIL spending board's key considerations will be whether there is a public and overall community benefit of the proposed scheme for residents in Sevenoaks District. In determining this, the spending board will consider the following issues in making its recommendation.

- Whether sufficient evidence has been provided to demonstrate a strong social, environmental or economic justification for the scheme.
- Whether sufficient evidence has been provided to demonstrate a strong link between new development and the scheme.
- Whether sufficient evidence has been submitted to show that the project involves partnership working.
- Whether the scheme forms part of a planned, local, economic or community strategy to address the need for local or strategic infrastructure.

- Whether sufficient evidence has been provided to show the clear public benefit to the scheme.
- Whether sufficient evidence has been provided to show that other sources of funding have been maximised
- Whether there is sufficient certainty that the scheme will be delivered, including considering whether the project has all the necessary permissions in place and evidence has been provided to demonstrate that there are sufficient maintenance arrangements in place.
- Whether the scheme has local support.
- Whether the project has already benefited from CIL through the Parish and Town Councils.
- Whether overall the bid provides a benefit to the community as a whole

The board may also take into account other factors that it considers relevant.

Limited CIL funding is available and it is unlikely that it will fund all of the infrastructure schemes that are considered necessary to support development. Where it is necessary to choose between schemes that could both be appropriate uses of CIL (i.e. they satisfy all of the considerations set out above), the board will give particular consideration to the public benefit of the schemes for residents in Sevenoaks District and the link between development and the scheme.

Types of recommendation

The board may make the following recommendations to Cabinet for it to ratify. The recommendation to Cabinet for each item should usually be for one of the following:

- Funding for the scheme is approved subject to a legal agreement being entered into. If no legal agreement is entered into, within 6 months the bid will be reported back to the CIL Spending Board to be reconsidered.
- Funding for the scheme is secured and set aside for this project. The funding will be paid upon the completion of a legal agreement and when planning permission is granted for the project. If planning permission is not granted, the bid will be reported back to the CIL Spending Board to be reconsidered.
- Funding for the scheme is secured and set aside for this project. The funding will be paid upon the completion of a legal agreement and when all the funding sources laid out in the submission documents have been secured. If

not all the funding is secured, within 1 year, the bid will be reported back to the CIL Spending Board to be reconsidered.

- Funding for the scheme is not approved on the basis that other proposed schemes have been given greater priority.
- Funding for the scheme is not approved on the basis that insufficient evidence has been provided to justify it.
- A decision of the provision of funding a scheme is deferred. It is considered that further evidence is required to fully show the benefits of the scheme.
- A decision of the provision of funding for a scheme is deferred. It is considered that further evidence is required to indicate whether the project is viable.

If the decision is for the application to be refused then an applicant should be given sufficient information to understand the reason why. If it is deferred then the applicant should be given sufficient clarity over what information is required for the Bid finally to be determined.

LOCAL PLAN UPDATE

Development and Conservation Advisory Committee – 7 July 2020

Report of	Chief Planning & Regulatory Services Officer
Status	For information
Key Decision	No

Executive Summary: This report provides an update on the progress of the Council's emerging Local Plan.

This report supports the Key Aim of: Protecting the Green Belt and Supporting and developing the local economy

Portfolio Holder Cllr Julia Thornton

Contact Officers James Gleave Ext. 7326 / Hannah Gooden Ext. 7178

Recommendation: That Development and Conservation Advisory Committee notes the report.

Reason for recommendation: To provide an update on the progress of the Local Plan.

Introduction

1 Members received a report in March, which provided an overview of the Local Plan examination and an update on discussions with the Inspector regarding the Duty to Co-operate. Following the receipt of the Inspector's Final Report, the latest position is summarised below.

Background on the Duty to Co-operate (DTC)

2 On 16 October 2019, the Council received a letter from the Inspector stating that she had significant concerns regarding the approach taken to meeting the duty to co-operate during the production of the emerging Local Plan. A further letter dated 28 October 2019 sets out these concerns in more detail.

3 The duty to co-operate is contained in planning legislation and requires local authorities to co-operate with each other and specific prescribed bodies in relation to planning and sustainable development. In relation to the duty, the Inspector's central concern is a perceived lack of constructive

engagement to resolve unmet housing need. A failure to meet the duty to co-operate is significant because it cannot be rectified retrospectively.

4 The Council submitted over 800 pages of evidence to demonstrate constructive engagement with neighbouring authorities during the production of the Local Plan. We fundamentally disagree with the Inspector's conclusions on this matter.

Update since March DCAC

5 The Inspector's Final Report on the examination was issued to the Council on 2 March 2020. The report finds a failure in the duty to co-operate and recommends that the Local Plan should not be adopted. The Inspector states that she is unable to recommend any Main Modifications in relation to matters of soundness.

6 The Council has repeatedly requested feedback on matters other than the duty to co-operate that were discussed at length during the course of the examination hearing sessions. These 'soundness' issues include the approach to protecting the Green Belt in accordance with national policy, the assessment of the Plan through Sustainability Appraisal and the overall spatial strategy to meet District-wide development needs. Notwithstanding a short covering letter provided with the report, substantive feedback on these issues has not been forthcoming.

7 The Inspector's Final Report and the associated correspondence are available via the following link: https://www.sevenoaks.gov.uk/info/20069131/emerging_local_plan/447/news_and_updates

8 Saira Kabir Sheikh QC has been appointed as Counsel and a claim was submitted against the Inspector's decision to the Administrative Court on 15 April 2020. On 2 June 2020, confirmation was received from the Honourable Mr Justice Swift that permission for judicial review had been granted and that all grounds for the claim were arguable.

9 All three Members of Parliament who represent the District – Laura Trott, Tom Tugendhat and Gareth Johnson - have written a joint letter to the Secretary of State for Housing, Communities & Local Government, to request that the Inspector's decision be called in for further consideration. Members will be aware that the Leader of the Council also wrote to the Secretary of State on 21 January 2020, outlining his concerns about the Planning Inspector's conclusions. At the time of writing, responses to this correspondence have not been received.

10 In addition, the Council has lodged a formal complaint with the Planning Inspectorate regarding the service it received during the examination. There has been significant interest in the Council's case from local and social media channels. Both the Leader and the Portfolio Holder for Development and Conservation have given interviews on BBC Radio Kent and further media interest may follow as our case progresses.

Next steps

11 The Council is now awaiting confirmation of a hearing date from the Administrative Court and the Secretary of State's response to the letter from our Members of Parliament. Further verbal updates will be provided at the Development and Conservation Advisory Committee meeting on 7 July 2020.

Key Implications

Financial

Production of the Local Plan will be funded from the Local Plan reserve.

Legal Implications and Risk Assessment Statement

Preparation of a Local Plan is a statutory requirement. There are defined legal requirements that must be met in plan making which are considered when the Plan is examined by a Government Planning Inspector. Risks associated with Local Plan making are set out in the Local Development Scheme

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusion

Officers will be happy to take any questions at the meeting.

Background Papers None

Richard Morris

Chief Planning & Regulatory Services Officer

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Development & Conservation Advisory Committee 2019/21 (as at 9/06/20)

7 July 2020	20 October 2020	3 December 2020	4 March 2021
Local Plan Update CIL Governance Annual Review	Aboriculture Update Design Review Panel Supplementary Planning Document Innovation Update Performance Indicators Building Partnership Review		

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