

GOVERNANCE OF THE COMMUNITY INFRASTRUCTURE LEVY (CIL)

Cabinet - 15 June 2017

Report of	Chief Planning Officer
Status	For Decision
Also considered by	Planning Advisory Committee - 16 May 2017
Key Decision	No

Executive Summary:

Sevenoaks District Council adopted their Community Infrastructure Levy (CIL) Charging Schedule 18 February 2014 and any qualifying development permitted since 4 August 2014 has been liable to pay CIL.

In March 2014 the Local Planning and Environment Advisory Committee (LPEAC) resolved that a member/officer workshop should be set up to begin to consider CIL Governance issues and in particular the format of the CIL Spending Board which governs how this CIL money would be spent. The recommendations from these workshops were agreed by Cabinet in February 2015.

This report summarises the proposals agreed by the LPEAC and Cabinet in regard to CIL Governance. It also suggests potential changes to the agreed proposals and provides reasons for these changes, in order for members to discuss an appropriate way forward. If the recommendations are agreed, officers will then start the formal process of changing the CIL Governance. It is intended that these recommendations will assist the CIL Spending Board in making decisions and will also make the process more consistent.

This report supports the Key Aim of ensuring that Sevenoaks District remains a great place to live, work and visit.

Portfolio Holder Cllr. Robert Piper

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Recommendation to Planning Advisory Committee:

That the recommendations to Cabinet, be supported.

Recommendations to Cabinet: That the recommendations as detailed within paragraphs 11 to 16 be approved.

Reason for recommendation: To ensure that the Council is able to make decisions on how CIL funding is prioritised in an open, transparent appropriate and fair manner and to ensure consistency.

Introduction and Background

- 1 Sevenoaks District Council adopted their CIL Charging Schedule 18 February 2014 and has been charging on any qualifying development permitted since 4 August 2014.
- 2 In March 2014, the Local Planning and Environment Committee (LPAEC) resolved that a member/officer workshop should be set up to begin to consider CIL Governance issues. It was agreed at that time that the workshop would debate the CIL Governance issues and make a recommendation to Cabinet. The outcome of these workshops is laid out in the following CIL Governance report on 27 January 2015:
<http://cds.sevenoaks.gov.uk/documents/s21290/11%20LPEAC%20report%20-%20CIL%20Governance%20-%2027%20Jan%202015.pdf>
- 3 Following this, the Cabinet resolved that the Council should publish a Regulation 123 list, which sets out broadly the infrastructure needs of the District and therefore makes what the CIL monies could be spent on clearer. This was adopted November 2015.
- 4 Cabinet also resolved that all Town and Parish Councils should receive the equivalent of 25% of the 125 sq m residential CIL rate when chargeable development takes place in their area. This amount will be paid whether the CIL charge for the area is £75 per sq m or £125 per sq m. (The current CIL Regulations state that they should only be entitled to 15% of the chargeable development which increases to 25% when a neighbourhood plan is in place). It was also agreed that the Board would have 7 members which included a fixed Chairman and Vice Chairman, and 5 additional members picked from a pool of 13.
- 5 After the CIL charging schedule was implemented, initially very few CIL receipts were paid. The meeting of the CIL Spending Board was therefore delayed from when it was originally thought (2015/16) as it was considered by the Chair and Vice Chairman that there needed to be a sufficient CIL income for the Spending Board to be able to make a meaningful contribution to Infrastructure projects in the area. The Chairman of the Spending Board at that time requested that at least £250 000 should be available for spending by the Board, before it met. This target has now been met and therefore the process of arranging the first Spending Board is now in progress.

- 6 Just to clarify the amount of CIL money available for spending, in addition to payments paid to the Parish and Town Councils (as described above), the CIL Regulations also allow for 5% of the receipts to be spent on administration by SDC. This money has already been paid out since we have been receiving an receipts from CIL. The remainder of the CIL income is therefore proposed to be allocated through the CIL Spending Board to be spent on Infrastructure.
- 7 The original CIL Governance report, (link provided in paragraph 2) indicated that there was a strong view that a new Spending Board be established to decide on how the spending will be allocated on CIL Infrastructure. It would ensure that sufficient time is made available to debate different schemes that are submitted for funding, that there would be uniformity in decision making and it would also ensure that Members are kept up to date with changes in legislation. It is considered that the CIL Spending Board is still the most appropriate method to decide on CIL spending by this Council.
- 8 This report suggests some changes to the recommendations agreed under the original CIL Governance Report in January 2015. The aim of this paper is to initiate a discussion by PAC and Cabinet, and if the recommendations are agreed then officers can carry out further work as necessary in order to amend the current CIL Governance procedures.
- 9 In addition to the above, officers have also met with the Chairman and Planning Portfolio Holder, to discuss CIL Governance arrangements and it is evident that Members want the CIL monies to be spent in the most appropriate way, to ensure that it will support the most needed Infrastructure in the District. They were also clear that they wanted the money to be spent on projects that were 'ready to go', in that they had all their work plans and permissions in place. Members also wanted schemes that already had considerable funding in place to be supported as CIL is clearly meant as a top up and can not be used to fund the whole project. They did not want to be allocating large sums of money to individual projects. Members wanted to encourage bodies to work in partnership. With all these initial priorities identified it was clear that amendments should be made to the CIL Governance Arrangements to ensure that the most appropriate bids for CIL spending were identified.
- 10 This report therefore looks at the recommendations made by Members through the workshops (as laid out in Appendix B) and those previously agreed by PAC and Cabinet (see link in paragraph 2) and suggests some changes:

11 Recommendation A

Whilst it was agreed in the original report that the Spending Board should be run as a pool system where members should not be able to vote on proposals in their ward;

Recommendation: *It is the view of officers and Members that a Pool system would not provide a consistent approach to the consideration of the bids and would be difficult to manage. It is therefore proposed that the CIL*

Spending Board is changed to have a similar format to that of the Development Control Committee. This means that the Chairman and Vice Chairman remain in place and that the same members make decisions on all submissions, subject to any disclosable interests, leaving a fixed membership of 7 and no pool. If agreed it is requested that officers be given permission to work on the necessary amendments and submit the requisite reports in order to affect the agreed changes.

13 Recommendation B

It was agreed that applications should be made by way of the completion of a standard pro-forma.

Recommendation: *The original pro-forma should be amended as recommended by the Portfolio Holder for Planning and current Chairman of the CIL Spending Board. Please see attached under Appendix A the original and proposed form. Members will note that a few changes have been suggested, but the alterations seek to ensure that any bids submitted clearly have permissions in place, that the projects are properly managed, that there are other sources of funding for every scheme put forward and also that the party submitting the Bid has any opportunity to submit any additional information that they wish the Board to consider.*

Successful applicants for CIL funding will be expected to maintain communication with SDC on the progress of the scheme. This requirement has been strengthened in the new pro-forma which requests that the applicant provide details of the level of communication and also forms one of the criteria against which the bids are assessed by (see recommendation C). It is recommended that these pro-formas be used immediately upon approval of this recommendation.

14 Recommendation C

It has been agreed that applications for funding would go through a simple validation process by a lead officer appointed by the CIL Spending Board (it is proposed that this be the Strategic Planning Manager - Antony Lancaster).

Recommendation: *It is proposed that this initial validation still takes place. However through a discussion with the Planning Portfolio Holder and Chairman of CIL Spending Board, it is considered that the bids go through a validation process. Like the Development Control Committee, the aim is to assist the Spending Board in considering the applications, as the report will make recommendations on all the bids submitted. The recommendations will be based on the initial priorities laid out for consideration by Appendix C, which were identified through meetings with the Planning Portfolio Holder and Chairman of the Board. These are proposed to be refined and agreed at the initial meeting of the Spending Board.*

It has been recommended by Members that the consideration of the proposed bids is assessed using a similar method to the Sevenoaks Big Community Fund which lists a number of criteria that the bids should be

assessed by and also indicates the number of points allocated to each criteria. Some of the bids will be penalised by a minus score if they are not working in partnership or if they do not have other funding in place as these are considered to be fundamental to a successful bid.

15 Recommendation D

It is recommended by the Chairman that the report circulated and drafted by officers, with the assistance of the Chairman and Vice Chairman, should consist of the following:

- *Summary of current CIL Legislation or any recent changes.*
- *Amount of funding available to be spent by the Spending Board.*
- *Summary of where the CIL receipts have come from.*
- *Summary of needs highlighted in the Infrastructure Strategy (Regulation 123 List)*
- *Summary of the priorities for the Spending of CIL receipts.*
- *Summary of the top 5 bids and reasons for this.*
- *Summary of all bids submitted.*
- *Recommendation of officers.*
- *Appendices will consist of the completed Assessment Criteria and pro-formas completed.*

16 Recommendation E

It is anticipated that the first CIL Spending Board should meet in September this year. See attached under Appendix D the provisional timescales for the CIL Spending Board. Of particular note are the timescales which allow 4 weeks for organisations to submit their bids. They also allow time for officers to validate the bids, write a report and liaise with Members.

Training for CIL Spending Board members

20 It is acknowledged that not all Board Members will have been involved in CIL and that the CIL process consists of quite complex legislation. It is therefore considered that training be provide for all Board members, prior to the first meeting. Due to the technicality of the Legislation is considered that members cannot sit on the Board unless they have attended the CIL training.

21 Training will cover a basic introduction to CIL, how the SDC collects CIL, the most up to date CIL legislation, the Council's Structure, what CIL can be spent on, the validation process, the criteria that will be used to assess bids, and the decisions that the Board can make.

Other Information:

22 In addition the CIL Spending Board matters, it is important to inform members that officers are currently updating the Council's Infrastructure Plan (Regulation 123 List) to form part of the evidence base to the new Local

Plan. This will be reported on further in the process of the Local Plan, but will enable us to have a plan of infrastructure and a strategic projects overview which will identify projects and enable us to support identified infrastructure development.

Other Options Considered and/or Rejected

- 23 Members could decide not to agree to the proposed changes to the governance arrangements. However the recommendations laid out under a - d seek to make the process more consistent and manageable and also ensure that the funding released by the CIL Spending Board is appropriately spent.
- 24 In addition, any identified weaknesses in the system can be addressed through the proposed review process.

Key Implications

Financial

There are no specific financial implications of this recommendation. However the establishment of a new committee will place additional work pressures on existing staff.

Legal Implications and Risk Assessment Statement.

Governance arrangements must be consistent with the CIL regulations and must be applied consistently. If they are not then the Council runs the risk of challenges from developers over the use of CIL to the Ombudsmen being upheld.

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

It is recommended that a new CIL Spending Board is established in accordance with the recommendations in this report.

Appendices

Appendix A - Existing and Proposed Pro Forma

Appendix B - Original Decision Making Process

Appendix C - Assessment of bids for consideration by the CIL Spending Board.

Appendix D - Provisional CIL Spending Board timescales

Background Papers

Community Infrastructure Regulations 2010 (as amended)

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Richard Morris

Chief Planning Officer