

## COMMUNITY INFRASTRUCTURE LEVY (CIL) SPENDING BOARD - REVIEW OF GOVERNANCE

Cabinet - 11 July 2019

Report of	Chief Planning Officer
Status	For recommendation to Cabinet
Also considered by	Development and Conservation Advisory Committee - 9 July 2019
Key Decision	No

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**Executive Summary:** This report follows on from the CIL Governance Report that was discussed at the Planning Advisory Committee in March 2019. It also includes the recommendations made by the Advisory Committee. Since this date, we now have a new Portfolio holder and a new Chairman and Vice Chairman of the Spending Board and this report therefore includes their thoughts and further recommendations.

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**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 Officers** Simon Taylor, Ext. 7134, Claire Pamberi Ext. 7221

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### **Recommendation to Planning Advisory Committee:**

That the recommendations to Cabinet are supported.

**Recommendation to Cabinet:** To agree and adopt the proposed changes to the CIL Spending Board governance arrangements as set out in the report.

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### **Reason for recommendation:**

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

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### **Introduction and background**

- 1 From August 2014 to end of March 2019, the Council has collected just under £7 million of CIL contributions. With £2 million passed to relevant town and parish councils and £3.3 million committed through the CIL Spending Board

to help fund local infrastructure improvements. The remaining contributions collected (approximately £1.3 million) remain with the District Council to allocate and spend on local and strategic infrastructure projects, through the CIL Spending Board.

- 2 As laid out in the previous report, the current arrangements and procedures for the CIL Spending Board and the spending of CIL are set out in the Council's Constitution Appendix X1.

These arrangements and procedures can be summarised below:

- Membership of the Spending Board (15 members)
- Role of members of the Board and Members conduct.
- Board Structure, procedures and speaking protocol.
- The types of recommendations the CIL Spending Board could make.
- The pro-forma that is required to be submitted as part of a bid.
- Criteria for the Council's assessment of the bids.
- Details of the two stage validation process.
- It also confirmed that Cabinet will ratify any recommendation from the CIL Board.

- 3 The previous report presented to the Planning Advisory Committee in March suggested changes to the following:

- changes to the pro-forma;
- changes to the officers assessment criteria;
- changes to CIL Spending Board Key Considerations ;
- changes to CIL Board Recommendations;
- changes to the CIL Spending Board Report;
- the CIL Spending Board; and
- formation of a Legal Contract.

- 4 These changes have been made in draft and are laid out in full in Appendix B of the report. The aims of these changes are:

- to help ensure officers could get the right information through the pro-forma to assess the bids;
- that the Board were aware of all the sources of funding towards each bid;

- to assist the applicants in submitting their bids; and
- to provide more options for the CIL Spending Board in making recommendations and made their role clearer.

## **Feedback from Members and Officers**

### Planning Advisory Committee

- 5 At the Planning Advisory Committee in March 2019, Members agreed with the majority of the changes suggested by officers (as summarised above), however through further discussions they also recommended some further changes as laid out below:

#### Changes to the Pro Forma

- If a Parish or Town Council are applying for CIL then the Proforma must include a section to request a breakdown of their own CIL contribution or an explanation if they don't contribute any of their own CIL.
- A section to request how the project identified with the Council's Infrastructure Delivery Plan (IDP) and its priorities.
- The reference number of any planning permission granted for the project.

#### Other suggested changes:

- clearer information on what is "community infrastructure" and the Council's priorities for infrastructure placed in the guidance notes;
- ensure adequate and regular financial and progress monitoring with enforcement measures;
- consider a way of indicating, in order to aid examination by the CIL Spending Board, areas where applications are stronger or weaker for example the project may provide a clear social benefit but may not provide such a clear economic benefit or partnership working; and
- evidence of the status of all the funding for the project, should be made clear in the report presented to the Spending Board. For example, it should be identified what sources of funding are not yet confirmed.

### New Chairman and Vice Chairman of the CIL Spending Board

- 6 In addition to this, officers have now had an opportunity to meet with the new Chairman and Vice Chairman of the CIL Spending Board, who have also suggested the following changes to ensure that the process remains open, transparent, appropriate, fair manner and to ensure consistency. Their suggestions can be summarised as follows:

- providing better guidance to Parish and Town Councils and other individuals submitting bids as forms are complicated;
- making it clear what criteria the CIL bids are assessed under;
- changing some of the assessment criteria to ensure that the schemes put forward fully consider the public benefit of the scheme;
- remove references to 'Top up' and 'Match Funding' and encourage that that the majority of funding should come from other sources;
- that local support should usually be present - this can either be from a local member/Parish or Town Council/ Local organisation or business;
- provide a definition of infrastructure as part of the bidding information;
- requested that more information is provided to show what happens when a CIL bid is refused; and
- a better audit trail as to what happens once the money is spent.

7 Whilst as officers we attempted to include all the changes suggested above where possible. Some of the suggestions would not be appropriate as they may involve pre-determining an application before it has had an opportunity to be reviewed in full by the committee and for others the changes are too removed from what has been previously agreed by the Planning Advisory Committee. These are discussed in further detail in Appendix B.

### **Proposed Changes to the CIL Governance Arrangements**

8 Following on from the discussions with officers and Members, as highlighted above, it is clear that whilst a number of elements do work with the current system, there are a number of changes that need to be made to the governance of CIL to improve the process and understanding of the granting of CIL monies. These changes include assisting organisations submitting bids (to make the process of assessing the bids more clear) and also to assist the CIL Spending Board (in assessing the bids and making decisions on the spending of CIL).

9 The changes have been summarised below:

#### Changes to the pro-forma (See Appendix C)

- To include point of contact for project, legal issues and finance.
- To identify who will be attending the CIL Spending Board, with a note to suggest that the application may be deferred if there is insufficient information to proceed.
- That the reference number is provided for any planning application granted for the project.

- Information is requested as to whether the project has received any source of funding from the Council including CIL.
- To request whether CIL funding had been received from Parish and Town Councils or an explanation if they do not contribute any of their own CIL funds.
- To request information as to the status of all existing and proposed funding.
- A section to request how the project identified with the Council's Infrastructure Delivery Plan (IDP) and its priorities.

### Guidance

- Clearer information to those submitting bids as to what community infrastructure and the Council's priorities for infrastructure in the form of a 'Guidance note for submitting a bid to the CIL Spending Board'.
- This guidance note will also include more information on the type of information we require for each bid and make it clear what criteria we assess the bids under.
- We need to make it clear in our letters to those when we are notifying them that their bid will be presented to the CIL Spending Board what is required i.e. they will be expected to speak, the date by which they have to register etc.
- Provide clearer guidance to those organisations where their bid has not been successful as to what their options are. (See Appendix E) This states that non-successful bids can either go back to the Spending Board as they stand or that the applicant can amend the bid.

### Changes to the officers assessment criteria (Appendix D)

- To ensure they complement the CIL Board Key Considerations.
- To make it clear what the environmental benefits of a scheme will be expected to be.
- Additional advice as to how to assess bids where planning permission, or some other barrier to implementation, is not in place.
- To consider how through the assessment we encourage applicants to seek to ensure that other sources of funding are maximised.
- That the criteria for assessing bids are made more publically available.
- To make it clear that the project may be looked upon more favourably if it has local support.

- To have an overall evaluation of the bids which considers the overall impact of the scheme against the benefit to the community.
- Clearer guidance as to how to consider bids where the Parish and Town Councils have contributed CIL towards the project, to ensure that this is encouraged. This also provides an opportunity to explain, if CIL money is not contributed.

#### Changes to CIL Spending Board Key Considerations (See Appendix A)

- To ensure they match officers assessment criteria
- Change the requirement from Local Member support to encourage local support.

#### Changes to CIL Board Recommendations: (See Appendix A)

- The Board will be reminded of their role and the procedure at the beginning of the meeting.
- Additional options should be provided to the recommendations to make them more flexible, allowing the Board to delay payments (e.g. until after planning permission or other funding is in place), set aside funding for particular projects or defer an application for example.

#### Proposed changes to the CIL Spending Board Report:

- Officers will look to include the percentage of CIL requested compared to the overall cost of the project.
- Officers will also include details to show under what Key Considerations each scheme scored stronger and weaker against.
- Officers will make it clear if all sources of funding are not yet confirmed.

#### The CIL Spending Board (See Appendix A):

- More detailed guidance notes and clarification regarding the format of the CIL Spending Board.
- Make clear in the constitution the amount of visual aids a speaker can use.
- Amend the Constitution to clarify that the amount of money requested cannot be changed at the CIL Spending Board by Members or applicants. This includes the need to alter recommendations to allow the Board to defer applications.

- A bid can still be considered if there is no speaker, but a bid is likely to be deferred if the Board considers that they reasonably require further information in order to determine it.

#### After CIL bid is approved

- That the Chief Planning Officer continue to work with legal to draft appropriate legal contracts for those who receive CIL grant monies.
  - That adequate and regular monitoring takes place by the Enforcement Team to ensure that the CIL monies are spent correctly and in line with the pro-forma and the legal contract.
- 10 In light of the above, it is therefore asked that Members agree these proposed priority changes and also the detailed changes provided in Appendices A, B, C and D to ensure the bidding process and the CIL Spending Board runs more smoothly and that all parties are more informed of the process.

#### **Other Options Considered and/or Rejected**

- 11 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.
- 12 In addition, any further identified weaknesses in the system can be addressed through the annual review process.

#### **Additional Comments**

- 21 Currently amendments to the CIL Legislation are being laid before Parliament. These amendments will be reviewed and Members will be updated of their implications in due course.
- 22 It is not expected that any of these changes will result in a need to significantly change these Governance Arrangements.

#### **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 in July 2017 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 Members and Officers and the new Chairman and Vice Chairman of the CIL Spending Board and is therefore asked that Members grant the Chief Planning Officer and Legal Team delegated authority to implement these changes.

## **Appendices**

**Appendix A** - Proposed Appendix X1

**Appendix B** - Full discussion of the proposed changes to the CIL Governance

**Appendix C** - Proposed Pro-forma

**Appendix D** - Proposed Criteria to assess bids to the CIL Spending Board

**Appendix E** - Proposed Flow Chart

## **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](#)

**Richard Morris**

**Chief Planning Officer**