

COMMUNITY INFRASTRUCTURE LEVY (CIL) SPENDING BOARD - GOVERNANCE AND SOCIAL VALUE REVIEW

Development and Conservation Advisory Committee – 5 December 2024

Report of: Chief Officer – Planning and Regulatory Services

Status: For Decision

Also considered by:

- Cabinet – 12 December 2024

Key Decision: No

Executive Summary: The Sevenoaks District Community Infrastructure Levy (CIL) Spending Board has been operating successfully since 2018, meeting approximately once a year. The success of the Board is, in part, owed to a regular review of the procedure that governs it, which is set out in Appendix X1 of the Constitution. A regular governance review of the Spending Board is considered good practice and provides an opportunity to make changes to improve the procedure. It also ensures that the process remains robust and fit for purpose, and can stand up to scrutiny. This report considers the changes put in place since the last CIL governance review in 2021, and any further changes that are required. It also considers how social value can be incorporated into the procedure.

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

Portfolio Holder: Cllr. Julia Thornton

Contact Officer(s): Emma Henshall Ext. 7358; Carlyn Kan Ext. 7264

Recommendation to Development & Conservation Advisory Committee:

That the recommendations to Cabinet are supported.

Recommendation to Cabinet:

That Cabinet agrees to the following improvements to the CIL Spending Board process:

- a) Where appropriate and achievable, to incorporate a measure of social value in assessing the social, economic and environmental benefits of infrastructure projects put forward for CIL funding, as set out in paragraphs 12-15 of this report; and
- b) To restructure the CIL funding application form to be more user friendly, as set out in Appendix A.

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

Introduction and Background

- 1 Sevenoaks District Council has been charging the Community Infrastructure Levy (CIL) since August 2014. From this date, until the end of September 2024, we have collected almost £17 million of CIL contributions, with over £5 million passed to Town and Parish Councils to help fund smaller scale infrastructure improvements within their boundaries. This has meant that there has been over £10.5 million available to spend on larger scale and more strategic infrastructure projects through the CIL Spending Board, with over £9 million of this amount already committed to specific projects.
- 2 The current CIL governance arrangements are laid out in Appendix X1 of the Council's Constitution, and clearly set out the role of the Board, the structure, procedures and protocol to be followed in determining funding allocations. The governance arrangements also require these things to be reviewed on a regular basis. This is to ensure that the processes and procedures followed remain relevant, transparent and fit for purpose. This report sets out the latest review.
- 3 This CIL governance and social value review considers:
 - Changes in CIL legislation;
 - Changes put in place since the last review;
 - How social value can be incorporated; and
 - Suggested improvements to the current process.
- 4 Members will be aware that the provisional date for holding a CIL Spending Board in December 2024 was postponed, to allow this review to take place. This has not prevented projects from coming forward for funding, as there is CIL money available to be spent outside of the timescales of the CIL Spending Board, subject to projects meeting a strict set of criteria. Further detail on this is provided at paragraph 7a below.

Changes in CIL legislation

- 5 There have been no changes to the CIL Regulations since 2019.
- 6 Prior to the new Labour government taking office in July 2024, the previous Conservative government proposed reform on developer contributions. This would have seen Section 106 and CIL be replaced with a new regime called the 'Infrastructure Levy'. Details of the proposal were subject to a public consultation in 2023, to which the District Council responded. A government response was never published and the new Labour government has since confirmed that it will not be bringing forward the Infrastructure Levy, instead preferring to focus on improving the existing system of developer contributions. However, these are yet to be defined and any immediate changes to the way developer contributions work were notably absent from the recent consultation on the NPPF changes. Officers will keep a watching brief of the situation.

Changes put in place since the last review

7 The last CIL governance review was undertaken in November 2021, and the following improvements were agreed by Cabinet and have since been successfully implemented:

- a. *For 15% of the CIL money allocated to the CIL Spending Board be set aside to spend outside of the timescales of the CIL Spending Board, subject to meeting a set of strict criteria*

Given that the CIL Spending Board meets approximately once a year, and taking into consideration the deadline for funding applications which can often be at least three months prior to the Board meeting, it was considered that there was a risk of some much needed infrastructure projects missing out on CIL funding if such projects had strict time limitations. As such, members agreed that 15% of the CIL money allocated to the CIL Spending Board should be set aside to be spent on projects arising outside of the timescales of the CIL Spending Board, subject to applications meeting the following criteria:

- That the project is for infrastructure;
- That the request is submitted in writing;
- That the project is for one of the priorities laid out in the Council's Infrastructure Funding Statement;
- That a clear need is shown for the project and it provides a clear community benefit;
- That it is part of an existing strategy or plan;
- That the project has sought to maximise funding from other sources;
- That the application is within a financial year;
- That the Portfolio Holder for Development & Conservation agrees to the spend, by sign off on a Portfolio Holder Decision Sheet, following consultation with the Leader of the Council, Chairman and Vice Chairman of the CIL Spending Board.

Since this change was agreed the Council has received two applications for this pot of CIL funding. At the time of writing, one was approved and the other is under consideration.

- b. *Changes to the CIL funding application form and assessment criteria to reflect the Council's commitment to tackling climate change*

It was considered that, in line with the Council's commitment to the challenge of tackling climate change, projects should be looked upon more favourably if they have a strong focus on reducing carbon emissions. As such, members agreed changes to the CIL funding application form and the assessment criteria in order to capture and evaluate this information.

Since this change was agreed two CIL Spending Boards have been held, with funding being allocated to a number of projects that assist in tackling the challenge of climate change and which are helping to reduce carbon emissions across the District.

c. *Changes to the CIL funding application form and assessment criteria to record CIL exemptions*

There were concerns that some projects may be seen to benefit twice if they were in receipt of a CIL exemption at the planning stage and then were successful in securing CIL funding through the CIL Spending Board. Projects that fall within the following exemptions do not have to pay CIL:

- Minor development < 100sqm;
- Self build;
- Exemptions for residential annexes or extensions;
- Charitable relief through a charitable institution;
- Social housing relief; and
- Exceptional circumstances relief.

It was suggested that the full picture is taken into consideration when assessing applications for CIL funding. As such, members agreed changes to the CIL funding application form and the assessment criteria in order to capture and evaluate this information.

Since this change was agreed there have not been any CIL funding applications that have benefitted from CIL exemptions, however the amended application form now makes this information much more transparent.

d. *Clarification on member questions during the CIL Spending Board*

Members of the CIL Spending Board requested clarity on when they were allowed to ask questions of the speakers, as different processes had been followed at previous Board meetings. It was considered that the guidance provided could be strengthened to make clear that questions of clarification could be asked by Board members once all speakers had spoken on that particular item.

Members agreed to this strengthening of the guidance, which has assisted in the smooth running of the last two CIL Spending Boards.

e. *Clarification where if Cabinet were to disagree with the CIL Spending Board's recommendations*

Members of the CIL Spending Board requested clarity on what happens if Cabinet does not approve the Board's recommendations for the allocation of funding, which could result in projects going back and forth between the two committees with no decision made. It was considered that the guidance provided could be strengthened to make clear that a project can only go back to the CIL Spending Board once for reconsideration before Cabinet has the right to refuse the application. But that this does not preclude future applications for the same project where additional information is provided.

Members agreed to this strengthening of the guidance, which has assisted in the smooth running of the last two CIL Spending Boards.

How social value can be incorporated

- 8 Officers have been asked by the Leader of the Council and Portfolio Holder for Development and Conservation to consider how social value can be incorporated into the CIL Spending Board process.
- 9 Social value is a broader understanding of value, moving beyond using money as the main indicator of value and instead putting the emphasis on the wider impact on people's lives. Specifically for the Council, social value is about making a positive impact on people and places across Sevenoaks District and is captured across three themes:
 - Social – to support communities, boost health and wellbeing, and reduce health and other avoidable inequalities;
 - Economic – to develop a thriving economy that benefits local people, and increase the amount of wealth produced, controlled and invested locally; and
 - Environmental – to reduce harm to the environment and develop more sustainable ways of working and living.
- 10 To a great extent, these three themes are already captured in the CIL Spending Board process. Firstly, applicants are required to detail the social, economic and environmental benefits of the infrastructure project to the District and its residents when completing the CIL funding application form. Secondly, the information provided by the applicant is then evaluated by officers and forms part of the assessment criteria in determining the applications to be put forward to the Board for its consideration. And thirdly, the Board considers the same information as part of its key considerations to determine 'whether sufficient evidence has been provided to demonstrate a strong social, economic or environmental justification for the project'.
- 11 This process is effective. The assessments are qualitative in nature, which is considered appropriate and reliable owing to the variety of infrastructure projects put forward.
- 12 However, in some circumstances, it is considered that the addition of a quantitative measure of social value would complement and provide a useful sense check to the current process. The 'Social Value Engine' is a tool already used by the Council's Communities team in assessing bids for Community Grants. It provides an accredited way of accurately and transparently measuring the social value provided to the community. But given the complexities of the tool, it will not be appropriate, fair or achievable for all bids. It is therefore proposed that, where appropriate and achievable, this tool is used in the assessment of CIL bids to measure the social value of infrastructure projects.
- 13 On receipt of CIL funding application forms, officers will review whether the use of the Social Value Engine is appropriate and achievable on a case by case basis, in agreement with the Portfolio Holder for Development &

Conservation, Chairman and Vice Chairman of the CIL Spending Board. Where the use of the Engine is agreed, officers will liaise directly with applicants to obtain the relevant information. The measurement of social value will then be included within the reports considered by the CIL Spending Board, as part of the overall assessment of social, economic and environmental benefits.

- 14 Inclusion of the Social Value Engine will not automatically add weight in favour of such applications, rather it will be treated as a complementary feature of the overall assessment provided to assist Board members in determining 'whether sufficient evidence has been provided to demonstrate a strong social, economic or environmental justification for the project'.
- 15 Following member agreement to this approach, the guidance note provided to applicants to assist them in submitting their CIL funding application forms will be updated to reflect the additional social value considerations.

Suggested improvements to the current process

- 16 The previous two governance reviews resulted in significant changes being made to the CIL Spending Board process, impacting the application stage and the applicant's experience, how bids are assessed by officers and by the Board, the running of the Board itself, and the monitoring of projects following funding being awarded. Changes were also implemented that allowed the process to be more flexible and reactive to changing circumstances. These improvements have been implemented successfully and have ensured that the process runs fairly and transparently in recent years. Members of the Board were particularly complimentary about the smooth running of the last Board meeting in November 2023. As such, it is not proposed to make further significant changes to the process at this stage.
- 17 It should also be remembered that our CIL governance has been highlighted by the Planning Advisory Service (PAS) as an exemplary system, following an independent review in 2020. Our processes feature in a guidance handbook PAS has published to help authorities improve their governance of developer contributions. The changes and tweaks we continue to make therefore build on these solid foundations to make our processes even better.
- 18 However there is one small change proposed that has the potential to make a significant positive difference, based on feedback received by officers. Applicants find the CIL funding application form long and not particularly intuitive or user friendly. The form exists to collate the information needed for officers and members to undertake the appropriate assessments to assist the Board in making their decision as to whether CIL funding should be awarded to a particular infrastructure project. In making that decision there are ten key considerations and so it is imperative that the right information is sought from the outset. Whilst the form has been amended and added to over the years it has never been reviewed in its entirety.
- 19 Officers have undertaken a full review of the form, simplifying it where possible and restructuring and regrouping the sections in line with the ten key

considerations, to make it more user friendly and intuitive for applicants. The addition of pre-filled answers and tick boxes also make it less onerous.

- 20 The revised CIL funding application form is attached at Appendix A and it is proposed that this version should replace the current 'Bid for Funding Proforma'.

Other options Considered and/or rejected

Members could decide not to agree to the proposed changes to the governance of the CIL Spending Board. However, the suggested improvements seek to build on the existing governance arrangements to ensure that the process remains robust and fit for purpose, and that future funding allocated by the CIL Spending Board is appropriately spent.

Key Implications

Financial

The use of the Social Value Engine requires a paid-for licence, however the Council already has three of these in place and so it is not expected that any additional costs will be incurred.

Legal Implications and Risk Assessment Statement

The Council has a duty as the charging authority to ensure that the allocation and spending of CIL is in line with the CIL Regulations 2010 (and subsequent amendments). The proposed improvements to the CIL Spending Board process are in accordance with these regulations.

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.

Climate Change Implications

The decisions recommended through this paper have a remote or low relevance to the Council's ambition to tackle the challenge of climate change. There is no perceived impact regarding either an increase or decrease in carbon emissions in the District, or supporting the resilience of the natural environment.

It is recognised that bids for CIL funding may have climate change benefits, and the specific implications of these will be considered at a future stage, once the merits of such projects are considered by the CIL Spending Board.

Appendices

Appendix A – Restructured CIL Funding Application Form

Background Papers

[Appendix XI of the Council's Constitution: Community Infrastructure Levy Spending Board](#)

[CIL Bid for Funding Proforma](#)

[CIL Guidance Note for Applicants](#)

Richard Morris

Deputy Chief Executive and Chief Officer – Planning & Regulatory Services

APPENDIX A

COMMUNITY INFRASTRUCTURE LEVY (CIL) SPENDING BOARD CIL FUNDING APPLICATION FORM

Please complete this application form if you wish to apply to the CIL Spending Board for CIL funding to deliver an infrastructure project.

Applicants should have regard to the 'CIL Bids Guidance Note', available online [here](#), which sets out how your application will be measured against the assessment criteria.

1. *A bit about the infrastructure project*

Name / title of the project to be delivered	
Description of the project to be delivered	

2. *Who is responsible for the infrastructure project?*

Applicant name	
Applicant organisation	
Applicant role / job title	
Applicant email address	
Applicant phone number	

3. *Is the infrastructure project being delivered in partnership?*

Are you working with another organisation to deliver this project?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, what is the name of the partner organisation?	
Please provide a named contact at the partner organisation	Name: Role / job title: Email address: Phone number:

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Do you have the partner organisation's permission to submit this application?	Yes <input type="checkbox"/> No <input type="checkbox"/>
What agreement(s) do you have in place with this partner organisation? Please state the amount of committed funding from each party.	

4. *How has the infrastructure project arisen?*

Why is the project needed?	
Is the project (or need for it) identified in an adopted plan or strategy? E.g. Neighbourhood Plan, public body work programme, Infrastructure Plan etc.	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, state the relevant plan and/or strategy	
Does the construction of new homes and other types of development in the local area contribute towards the need for the project?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, list the contributing developments	
How will the project address the infrastructure needs arising from the local area?	
Is the project identified in the Council's Infrastructure Delivery Plan (IDP) and/or does it reflect the priorities set out in the Infrastructure Funding Statement (IFS)?	

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5. *What are the benefits of the infrastructure project?*

What are the <u>social</u> benefits of the project for Sevenoaks District residents?	
What are the <u>economic</u> benefits of the project for Sevenoaks District residents?	
What are the <u>environmental</u> benefits of the project for Sevenoaks District residents?	
How will the project help tackle the challenge of climate change, in line with the Council's Climate Change Strategy?	

Please note that consideration will be given to social value in the assessment of the above benefits. Depending on the project put forward, officers may contact you following your submission for further information pertaining to this.

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6. How is the infrastructure project being funded?

What is the total cost of the project?	£
What amount of CIL funding are you applying for?	£

What other funding sources have you identified to deliver the project?	Funding source	Funding amount	Status of the funds
For each funding source please state the financial contribution and indicate the status of the funds (already paid / agreed in principle / application pending / early investigation stage)		£	
		£	
		£	
		£	
		£	

Will the project be fully funded if this application is successful?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Is this application for staged payments?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, please indicate the required frequency and timetable	

7. Other funding opportunities explored

Have you applied to the relevant Town or Parish Council for CIL funding for the project?	Yes <input type="checkbox"/> No <input type="checkbox"/>
What amount of CIL funding did you apply for?	£
Was the application successful?	Yes <input type="checkbox"/> No <input type="checkbox"/>

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If you have not applied to the relevant Town or Parish Council for CIL funding for the project, explain why	
Has the project already benefited from CIL funding through the CIL Spending Board?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, why is further funding required?	
Has the project benefited from other funding from Sevenoaks District Council? E.g. a grant or community fund, Section 106 etc.	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, state the amount and type of funding	
Has the project, at any stage, benefited from any CIL exemption as laid out in the Community Infrastructure Levy Regulations 2010 (as amended)?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, state why CIL funding is still required following an exemption	

8. How deliverable is the infrastructure project?

Do you have the legal right to deliver the project? If no, you must provide documentation showing that the person/organisation that does, is supportive of the project	Yes <input type="checkbox"/> No <input type="checkbox"/>
What is the anticipated start date for delivery of the project?	
What is the anticipated completion date for delivery of the project?	

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<p>If this application is successful, what is the anticipated date that the funding will need to be made available?</p>	
<p>Does land need to be purchased in order to deliver the project?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>Is planning permission required in order to deliver the project?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>If yes, has a planning application been made?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>If yes, what is the planning application reference? If no, state why</p>	
<p>Are any other consents required? If yes, state the consent required e.g. listed building, conservation area, other government bodies etc.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>Has this consent been obtained?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>Who will be responsible for ongoing maintenance, once the project is complete?</p>	
<p>Are funding arrangements in place for maintenance? If yes, state what the arrangements are</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>

9. Does the infrastructure project have local support?

<p>Has the project undergone public consultation, or is any planned?</p>	<p>Consultation undertaken <input type="checkbox"/> Consultation planned <input type="checkbox"/> No consultation <input type="checkbox"/></p>
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<p>If yes, please summarise the outcome</p>	
<p>Does the project have local support? Please select all that apply and provide evidence e.g. a signed letter or email, for all ticked entries.</p>	<p>Relevant Sevenoaks District ward member <input type="checkbox"/></p> <p>Relevant Town or Parish Council <input type="checkbox"/></p> <p>Other local support e.g. a business, community group etc <input type="checkbox"/></p>

10. Important contact details for the CIL Spending Board

<p>Who will attend the CIL Spending Board in support of this application?</p>	<p>Name:</p> <p>Role / job title:</p> <p>Organisation:</p> <p>Email address:</p> <p>Phone number:</p>
<p>Who will be responsible for the legal contract?</p>	<p>Name:</p> <p>Role / job title:</p> <p>Organisation:</p> <p>Email address:</p> <p>Phone number:</p>
<p>Who will be legally responsible for receiving the CIL funds, if this application is successful?</p>	<p>Name:</p> <p>Role / job title:</p> <p>Organisation:</p> <p>Email address:</p> <p>Phone number:</p>

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11. Declaration

I confirm that I am authorised to submit this application form for CIL funding on behalf of the organisation I represent. At the time of submission, the information contained in this application (including any appendices and/or supporting documents) is correct and true to the best of my knowledge. If CIL funding is awarded and circumstances change prior to the completion of the project, the organisation I represent will notify Sevenoaks District Council. The Council will reserve the right to reconsider the allocation of funding. If CIL funding is awarded to the above project then the organisation that I represent commits to providing Sevenoaks District Council with sufficient information to enable it to undertake its reporting requirements under the CIL Regulations 2010 (as amended), or any subsequent relevant regulations.

Signature	
Name	
Position	

Privacy Notice

The personal data that is collected in this application form is reasonably necessary for the public task of processing your application for CIL funding. This includes considering whether to grant the application and to ensure the effective management of CIL funding, if approved.

If your application is unsuccessful, then personal information will be retained for a period of 10 years after the application is refused. The personal data shall then be deleted except for any information made public under the Council's other legal obligations (including the Access to Information provisions of the Local Government Act 1972 or the Freedom of Information Act). If your application is successful then your data will be retained for the duration of the project applied for and for the full period in which the contract under which the monies are transferred is enforceable. The personal information will then be deleted, except for any information made public under the Council's other legal obligations. Any information relating to this application that is deleted will be done so in accordance with the Council's standard record retention practice. Unless otherwise stated we will generally handle personal information in accordance with the Council's Privacy Policy, which can be found on our website [here](#).