

Scrutiny Committee



Report of Head of Development and Regeneration

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Community Infrastructure Levy Spending Strategy

Recommendation

The committee is invited to comment on the proposed community infrastructure levy spending strategy as attached at appendix one.

Purpose of Report

1. The purpose of this report is to seek comments on the proposed spending strategy for income generated by the Community Infrastructure Levy (CIL), adopted by the council in April 2016.

Strategic Objective

2. To support multi sectoral infrastructure development in the district in line with needs generated by new housing developments, sharing the funds available, after town and parish council transfers, according to council infrastructure priorities.

Background

3. The recently approved restructure splits the collection and spending of S106 and CIL between the planning service (collection) and the infrastructure and development team within the development and regeneration service (spending).

The infrastructure and development team will focus on ensuring effective spending and support to town and parishes to ensure infrastructure is delivered.

4. To support the continued housing growth of South Oxfordshire there is a need to ensure the appropriate infrastructure is in place to support development. To help fund this, developers pay a CIL on new housing or retail developments to contribute towards the infrastructure supporting such developments. The current charging schedule is being reviewed as part of the Local Plan process.
5. CIL should be used to fund infrastructure items as set out in our existing Regulation 123 list (Appendix 2) which sets out the type of infrastructure CIL can be used for.¹ This list is derived from our 2017 Infrastructure Delivery Plan (IDP) which supports the adopted 2012 Core Strategy.
6. A system of monitoring will be established as a core function to ensure compliance with statutory CIL regulations and financial accountability.
7. CIL has not fully replaced Section 106 (S106) planning obligations. These will continue to be used for infrastructure needs such as on-site open space, allotments, play areas, playing pitches, public transport, recycle bins, street naming and securing affordable housing on specified S106 designated developments. Currently these sites are: Didcot North-East, Ladygrove East, and Site B Wallingford, where infrastructure needs will continue to be secured through s106 planning obligations.²
8. To date, various options on how to utilise CIL funding have been put forward. In November 2017 officers invited councillors to a CIL spending workshop to discuss such alternatives and to identify a preferred strategy option for spending CIL income. In January 2018 officers requested key stakeholders to provide information with regards to their infrastructure projects that could be considered for CIL spending.
9. The CIL Regulations do not set out governance arrangements for the council, however, they are clear that we have:
 - i. a duty to pass to any town and parish 25 per cent of the CIL revenues raised in those towns/parishes where there is an adopted neighbourhood plan, or 15 per cent, subject to a cap of £100 per existing council tax dwelling, where there is no neighbourhood plan;
 - ii. a duty to transfer the CIL income to the relevant town or parish council by 28 April and 28 October in any financial year;
 - iii. the ability to recover administrative expenses incurred in connection with CIL of up to 5 per cent of the income generated;
 - iv. to spend the levy on infrastructure, and
 - v. a duty to report on CIL income generated and how it is spent.
10. CIL expenditure aims at mitigating the infrastructure impacts of an individual development, as well as the overall cumulative effect of development. As such spending does not have to be directly spent on the individual development through

¹ Funds generated, save for the 5 per cent administration costs, cannot therefore cover salary or overhead costs of any body that is allocated funding.

² Such locations will remain the S106 specific areas until a new "Local Plan" is finalised, when some new locations may be added.

which it was raised and can be used to support infrastructure expenditure in general. Whilst this gives the council a good degree of flexibility over how to prioritise its spending, it also means that there will be competing demands on CIL funds. It should be noted that CIL is not meant to pay for all infrastructure including items set out in the IDP but will help to reduce the funding gap. Other sources of funding streams will need to be explored.

11. The draft CIL strategy (Appendix 1) was sent out for consultation on 17 August 2018 with a cut-off date for responses set at 18 September 2018. A summary of comments received will be presented at the meeting.

Financial Implications

12. An annual CIL spending cycle will be established in that percentage allocations would be apportioned to Oxfordshire County Council (OCC), Clinical Commissioning Group (CCG), and certain council departments, in time for inclusion in the council annual budget setting process, with 1 April annual budget transfer payments being based on actual CIL funds available as at December the previous year. For council departments this would be allocated through the provisional capital programme budget process.
13. Currently there are unspent funds of approximately £2.1M received from CIL revenues generated during 2016/17 (£400K) and 2017/18 (£1.7M).³ These will be added to CIL funds generated during 2018/19 and included in the first CIL transfer for the fiscal year 2019/20.

Legal Implications

14. A funding agreement will be drafted on an annual basis with both OCC and the CCG to outline the responsibilities of each party and to ensure that the funds are utilised in line with CIL regulations. Such an agreement will incorporate a list of projects that OCC and the CCG will spend the funding on, within set timescales. This will be monitored by the infrastructure and development team. Funds not spent or misspent will be returned to the council or deducted from future transfers.

Risks

15. Funds allocated to OCC/CCG will not be spent within the allocated timeframe.
16. OCC/CCG might wish to reallocate such funds received to other projects they feel are a greater priority.
17. The infrastructure and development department will not have the required staff members to fulfil monitoring obligations.

Other Implications

18. CIL funding will not meet all infrastructure needs and can only contribute towards selected projects and priorities. Expectations of what CIL revenue will achieve need to be managed.

³ CIL revenues generated need to be spent within five years.

Conclusion

19. The CIL spending strategy suggests a percentage based funding allocation procedure that systematically calculates funds to be annually transferred to relevant partners and council departments, based on actual funds received and currently unspent.
20. The recommended allocation of funding for 2018/19 is as follows:

Infrastructure type⁴	Percentage of CIL to be allocated
OCC:	
Education and transport infrastructure	50%
CCG	
Community Health Care	20%
SODC:	
Sports and Leisure facilities (incl. improved disabled access)	20%
Green Infrastructure/Biodiversity provision	5%
Public art and cultural heritage/Public realm (including disabled access)	5%
TOTAL	100%

These percentages would be reviewed on an annual basis based on performance and council infrastructure priorities.

The committee is invited to make comments on the proposed community infrastructure levy spending strategy.

Background Papers

- The council's Infrastructure Delivery Plan 2017
- The council's local plan 2033
- CIL annual financial reports 2016/17, 2017/18
- Ministry of Housing, "Supporting Housing Delivery Through Developer Contributions". March 2018
- CIL Charging Schedule Instalment Policy 2017

⁴ Any infrastructure provided as a result of CIL, where relevant, should comply with the Local Plan Policies, Design Guide, and current best practice accessibility standards.

Appendix 1:

Draft Community Infrastructure Levy – Spending Strategy (Consultation Version)

Background

1. To support the continued housing growth of South Oxfordshire there is a need to ensure the appropriate infrastructure is in place to support development. To help fund this, developers pay a CIL on new housing or retail developments to contribute towards the infrastructure supporting such developments. The current charging schedule is being reviewed as part of the Local Plan process.
2. The CIL can only be used to fund infrastructure items as set out in our existing Regulation 123 list (Appendix 1) which sets out the type of infrastructure CIL can be used for.⁵ This list is derived from our 2017 Infrastructure Delivery Plan (IDP) which supports the adopted 2012 Core Strategy.
3. CIL has not fully replaced Section 106 (S106) planning obligations. These will continue to be used for infrastructure needs such as on-site open space, allotments, play areas, playing pitches, public transport, recycle bins, street naming and securing affordable housing on specified S106 designated developments. Currently these sites are: Didcot North-East, Ladygrove East, and Site B Wallingford, where infrastructure needs will continue to be secured through s106 planning obligations.⁶
4. The CIL Regulations do not set out governance arrangements for the council, however they are clear that we have:
 - i. a duty to pass to any town and parish 25 per cent of the CIL revenues raised in those towns/parishes where there is an adopted neighbourhood plan, or 15 per cent;
 - ii. a duty to transfer the CIL income to the relevant town or parish council by 28 April and 28 October in any financial year;
 - iii. the ability to recover administrative expenses incurred in connection with CIL of up to 5 per cent of the income generated;
 - iv. to spend the levy on infrastructure, and
 - v. a duty to report on CIL income generated and how it is spent.
5. Once the 15 or 25 per cent allocations for the town or parishes, and the maximum five per cent for CIL administration costs have been deducted, the remaining CIL income remains with the council to be utilised as per this suggested strategy.

CIL income

6. During the first financial year 1 April 2016 to 31 March 2017, the council issued Demand Notices for £1.3 million and received CIL payments of £515,567.06.

⁵ Funds generated, save for the 5 per cent administration costs, cannot therefore cover salary or overhead costs of any body that is allocated funding.

⁶ Such locations will remain the S106 specific areas until a new “Local Plan” is finalised, when some new locations may be added.

7. By November 2016 the first town and parish CIL transfer of £4,940.63 was made to Henley Town Council. A further £205,891 was transferred to a variety of town and parishes by October 2017 and in April 2018 they received a further transfer of £202,030.
8. Regarding the maximum five per cent allocation of CIL revenue for administration expenses, £25,778.32 for 2016/17 and £109,509.95 for 2017/18, has been utilised to cover internal council expenditures.
9. Expected CIL income, estimated in 2015, based on the housing trajectory in the Core Strategy Plan period to 2027, was £32.7 million, generating approximately £2.7 million per year.⁷ Estimating future CIL incomes annually is difficult as the charging rate although fixed is index linked and will therefore change over time, some developments may be delayed, and some expected developments may never get started. Therefore, the annual amount of funds generated will fluctuate dependent on the amount of new developments started in that year plus the rate of payment of CIL charges that have been carried forward from previous years.
10. In order to simplify the allocation process, funds available for CIL spending will be based on actual amounts of CIL revenues received less transfers to town and parishes and administrative costs incurred. Funds currently available are set out in the council's CIL Annual Financial Statements.⁸ To meet the council's budget setting requirements the actual amount of funds available as at each December year end will be used as a basis for calculating the percentage allocation.⁹

CIL Spending

11. The strategy has been formulated so that CIL revenue can contribute to the broad range of infrastructure needs that new developments generate. This includes increasing the capacity of local schools, improving roads and access to the developments, and the availability of primary health care facilities. The responsibility for these large infrastructure items comes under the responsibility of Oxfordshire County Council (OCC) and the Clinical Commissioning Group (CCG).
12. The remaining funds would be allocated towards sports and leisure facilities, green infrastructure/biodiversity provision, public art and cultural heritage, and public realm. Included within this will be funds for improving disability access.
13. The council considers the most efficient and effective alternative would be to allocate CIL on a percentage basis to cover the various types of infrastructure needs.
14. The advantage of allocating a percentage of CIL revenues towards key infrastructure types is that it:
 - i) provides clarity for OCC/Clinical Commissioning Group (CCG) so they can plan and meet infrastructure needs.
 - ii) enables the relevant internal council departments to incorporate funds into their annual strategies and plans.

⁷ As per the council's "CIL 3, Response to examiners main issues and questions, July 2015".

⁸ Generated by the planning service who track all invoiced and received CIL payments.

⁹ Fiscal year end actuals would arrive too late for budgeting timings.

- iii) will give the wider community the confidence that necessary infrastructure will be provided either by the town or parish or other CIL recipients.
- iv) negates the requirement for a bidding process to take place.

15. Please note that as this is the first CIL Spending Strategy, there is no precedent on which to base percentage allocations. A basic reasoning approach has been adopted to arrive at unbiased percentages for all parties concerned. The possibility of having a contingency fund was considered, however, our decision is that this would not work within the current allocation process and would generate significant additional administration costs. The suggested allocated percentages are as per Table 1 as follows:

Table 1: Proposed CIL percentage allocations:

Infrastructure type¹⁰	Percentage of CIL to be allocated
OCC:	
Education and transport infrastructure	50%
CCG	
Community Health Care	20%
SODC:	
Sports and Leisure facilities (incl. improved disability access)	20%
Green Infrastructure/Biodiversity provision	5%
Public art and cultural heritage/Public realm (including disability access)	5%
TOTAL	100%

- 16. A certain percentage of the funding will need to be shared with OCC to ensure the broader provision of infrastructure items, identified as part of general development needs, in this instance, as requested by OCC, restricted to transport and education only. As per Table 1, OCC’s allocation of CIL has been set at 50 per cent.
- 17. A memorandum of understanding (MoU) between the council and OCC would need to be outlined in this respect agreeing how CIL funds transferred to OCC will be spent. This would be revised annually. The amount to be transferred will be calculated on an annual basis. The amount should be included in our annual financial budget and released in either a lump sum annual payment or quarterly as per the agreement reached.
- 18. OCC would complete a request for CIL funding form (appendix 2) annually in order to draw down the allocated funding. This request would be subject to set criteria:
 - meet the requirements of CIL Regulations
 - address the needs identified in our Infrastructure Development Plan
 - be fully costed
 - be deliverable within a specified timescale.

¹⁰ Any infrastructure provided as a result of CIL, where relevant, should comply with the Local Plan Policies, Design Guide, and current best practice accessibility standards.

19. A certain percentage of the funding will also need to be apportioned to the health sector to ensure that the provision of health care can also be increased in line with the demand generated by the increased number of residents in a location. As per Table 1, CCG's allocation of CIL revenue for expenditure on such items has been set at 20 per cent. The same procedures as OCC would need to be applied in terms of agreeing an MoU, and annual budget allocations and requests for funding.
20. Our allocation has been designated to sectors highlighted in the 2012 Core Strategy and the Infrastructure Delivery Plan to be spent in line with department spending strategies and priorities. Any allocations not utilised by the year end could be transferred to other council departments, as deemed appropriate in accordance with council financial procedures and rules.
21. It is important to note that developments liable for S106 planning obligations (North-East, Didcot, Ladygrove-East Didcot, and Site B Wallingford) will continue to secure funding for on-site specific infrastructure needs, as well as an element of offsite infrastructure, subject to current pooling regulations. Strategic sites will continue to deliver key infrastructure such as new schools, transport improvements, health provision, leisure and community facilities.
22. It will be important to establish strict monitoring practices to ensure the CIL allocations are spent on the relevant infrastructure required. This role will be fulfilled by a "CIL support officer" who will monitor the use of funds whilst also supporting the town or parishes in the usage of their allocated funds. The role will be funded from the CIL five per cent administrative support charge.

CIL Spending Process

23. Once a CIL Spending Strategy has been agreed, a CIL spending cycle should be established. A suggested process is as follows:
 - i. Identify current and prior year unspent CIL revenue, as at 31 December, in terms of CIL monies received.¹¹
 - ii. Calculate, based on percentage allocations, in time for inclusion in the council annual budget setting process, CIL monies to be allocated to OCC, and CCG, to be transferred in April of each new fiscal year.
 - iii. To further calculate, again based on percentages, allocations to be made within the "provisional capital programme budget" funds to be made available for those internal council departments selected as percentage recipients (see Table 1).
 - iv. Prior to the transfer to OCC and CCG, an MoU between the organisations on how shared CIL funds will be spent and reported on would need to be drawn up. OCC and CCG should complete the necessary application form (appendix 2).
 - v. For town or parishes, funds will be released in line with regulations i.e. every six months.
 - vi. At the end of the calendar year all town or parishes, the OCC, CCG, and council departments will submit annual reports as per the report format in appendix 4.

¹¹ As per the planning service ongoing spreadsheets which track CIL invoices, receipts, and ring-fenced monies for town or parishes, to be transferred every six months.

- vii. The process should be annually reviewed, particularly in terms of the percentage allocations for infrastructure types, based on the effectiveness of delivery i.e. how much of the allocated funds departments have spent, and on project impact, i.e. the benefit such funds have had in the community.

24. A proposed timetable for the finalisation of the CIL Spending Strategy is set out in Table 2 below:

Table 2: Proposed timetable for CIL Spending Strategy:

July 2018	Draft CIL Spending Strategy Submitted to Strategic Management Team
August 2018	Draft CIL Spending Strategy to Cabinet briefing
August 2018	ICMD to approve the draft Spending Strategy to be sent out for consultation (4 weeks) - invitation only.
Sept 2018	Review of consultation results
Sept 2018	Resubmit revised CIL spending strategy to Strategic Management Team
Sept 2018	Scrutiny Committee consider draft strategy
October 2018	Formal Cabinet approval of CIL Spending Strategy
October 2018	Bi-annual town or parish allocations
January 2019	Calculation of December year end unspent CIL balance. Estimate CIL fund allocations for financial year 2019/20 for inclusion in the council's annual budget. Amounts agreed with heads of service and included in annual budgets. OCC and CCG CIL application forms submitted.
February 2019	Agreement with OCC and CCG on CIL project allocations to be included in the Council/OCC/CCG MoU.
March 2019	Finalise MoUs with OCC/CCG
April 2019	Transfer of funds to OCC/CCG
April – Dec 2019	Monitoring of CIL spend

Recommendation:

- 25. Officers recommend that the proposed CIL spending strategy utilise a percentage allocation approach, as per table 1 above, apportioning funds on an annual basis, calculated on available actual funds, once town or parish allocations and council administrative costs have been deducted.
- 26. We recommend that such an approach be piloted and reviewed after one year to ensure compliance in terms of achieving CIL objectives and to assess the effectiveness of the Strategy.

Appendix 2 CIL Regulation 123 List, April 2016

Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended) restricts the use of planning obligations for infrastructure that will be funded in whole or in part by the Community Infrastructure Levy. The Regulation 123 list contains generic types of infrastructure that may be funded using CIL receipts, with the exception of specific on-site infrastructure or direct mitigation measures and specifically of the strategic development sites.

The list below sets out those infrastructure projects that South Oxfordshire District Council may wholly or partly fund by the CIL. The inclusion of a project or type of infrastructure on this list does not signify a commitment from the council to fund (either in whole or in part) the listed project or type of infrastructure through CIL. The order in the table does not imply any order of preference for spend and the council will review this list on an annual basis, as part of its monitoring of CIL collection and spend.

This list will be updated on a regular basis. It is anticipated that CIL receipts will be limited in the first years after adoption, given that contributions are not payable until commencement of development.

In accordance with the CIL Regulation 59A, this council will pass 15% of relevant CIL receipts to the Town/Parish Council for that area, capped at £100 per dwelling on existing dwellings. If the Town/Parish Council adopts a Neighbourhood Plan, this percentage will be increased to 25% (uncapped). This will be passed onto the Town/Parish Councils on a 6 monthly basis in accordance with the CIL Regulations.

Infrastructure type or project (to be funded through CIL)	Exclusions (to be secured through S106 and other statutory provision)
	The strategic sites North-East Didcot, Ladygrove-East Didcot, and Site B Wallingford are referred to as the Strategic Sites
	Affordable housing
Education	
<ul style="list-style-type: none"> • Primary (incl. pre-school) • Secondary education • Further education • Special education needs 	<p>Education infrastructure to serve development at the Strategic Sites¹</p> <p>Land for education provision associated with new development to make the development acceptable in planning terms</p>

Infrastructure type or project (to be funded through CIL)	Exclusions (to be secured through S106 and other statutory provision)
Transport	
Strategic highways or transport infrastructure projects (including public rights of way)	Site specific transport infrastructure including any works necessary for vehicle, cycle and pedestrian access and/or public transport on or adjacent to the site as a result of the development. Mitigation works remote from the development site where the need for such works is identified in a Transport Assessment. Works associated with a S278 agreement, or planning conditions
	Contribution towards delivery of the Science bridge, Didcot Northern Perimeter Road Phase 3, A4130 widening, Jubilee way roundabout, strategic bus network and Culham river crossing schemes associated with development at the strategic sites and employment development (where appropriate)
	Travel Plan monitoring
Recreation, sports and leisure	
Recreation, sports and leisure facilities other than site specific requirements	On-site provision, of recreation, sports and leisure facilities in accordance with policy requirements and to make development acceptable in planning terms. On and off-site provision of recreation, sports and leisure facilities to serve development at the Strategic Sites
Open space, play, allotment and biodiversity	
<ul style="list-style-type: none"> - Play areas - Allotments Other than site specific requirements	On-site provision of <ul style="list-style-type: none"> - open space - play areas - allotments in accordance with policy requirements
Strategic habitat creation enhancement and restoration Ecological enhancement of watercourses in line with Water Framework Directive	On-site habitat creation and mitigation to include restoration, enhancement and management of existing sites of ecological value

Infrastructure type or project (to be funded through CIL)	Exclusions (to be secured through S106)
Community and cultural facilities	
Community facilities including youth support and adult learning	On- and off-site provision of community facilities (incl. youth support and adult learning) to serve development at the Strategic Sites
Libraries and Museums	Library facilities incl. book stock provision to serve development at the Strategic Sites
<p>Public realm/public art</p> <p>Improvements to the public realm and town centres to increase accessibility for disabled</p>	<p>Site related provision and maintenance of public art associated with development at the Strategic Sites, and retail and employment development</p> <p>Improvements to the public realm and town centres to increase accessibility for disabled in association with development at the Strategic Sites and employment development</p> <p>Contributions towards the conservation, restoration and enhancement of the historic environment and archaeological sites and monuments will be sought where an impact is directly linked as a consequence of a development site and requires mitigation.</p>
Provision, expansion and maintenance of cemeteries	
Fire and Police	
Extension and/or new fire and rescue service infrastructure	
Improvements to policing and community safety infrastructure	On and off-site provision of policing and community safety to serve development at the Strategic Sites
Health	
Health services/ local surgeries	On and off-site provision to health services to serve development at the Strategic Sites
Recycling	
Recycling facilities and improvements to Household Waste Recycling Centres	<p>Provision of household recycling and waste bins</p> <p>Contributions for Household Waste Recycling Centre to serve development at the Strategic Sites</p>

Infrastructure type or project (to be funded through CIL)	Exclusions (to be secured through S106)
Health and wellbeing (Adult Day Care)	
Health and wellbeing facilities	On and off-site related provision of health and wellbeing to serve development at the Strategic Sites and to make development acceptable in planning terms
Flood protection and water management	
Strategic flood protection	On-site provision of flood protection and water management (i.e. Sustainable Urban Drainage System)
Air Quality	
Infrastructure/measures to improve air quality and monitoring	Mitigation infrastructure/measures required directly as a result of a specific development
	Wider Air Quality Infrastructure/Measures associated with development at the Strategic Sites and retail and employment development