



CABINET: 9 JUNE 2020

COUNCIL: 22 JULY 2020

Report of: Corporate Director of Place and Community

Relevant Portfolio Holder: Councillor David Evans

**Contact for further information: Mr Peter Richards (Extn. 5046)
(E-mail: peter.richards@westlancs.gov.uk)**

SUBJECT: UPDATE TO THE COMMUNITY INFRASTRUCTURE LEVY AND SECTION 106 GOVERNANCE AND EXPENDITURE FRAMEWORK

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

- 1.1 To advise Members of an update to the Community Infrastructure Levy (CIL) and Section 106 Governance and Expenditure Framework. The update has been prepared to respond to Government amendments to the CIL Regulations (2019), to reflect Cabinet decisions made since the adoption of the original Governance Framework and as a result of a best practice review of operations designed to ensure that the framework remains the most appropriate and effective approach for CIL and S106 expenditure.
- 1.2 A report will be taken to Council to seek authority to update the Community Infrastructure Levy (CIL) and Section 106 Governance and Expenditure Framework.

2.0 RECOMMENDATIONS TO CABINET

- 2.1 That the revisions to the Community Infrastructure Levy and Section 106 Governance and Expenditure Framework, as attached at Appendix A, be endorsed for consideration by Council at the meeting on 22 July.

3.0 RECOMMENDATIONS TO COUNCIL

- 3.1 That the updated Community Infrastructure Levy and Section 106 Governance and Expenditure Framework, as attached at Appendix A, be adopted with immediate effect.
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4.0 BACKGROUND

- 4.1 CIL enables the Council to raise funds from new developments in the Borough, with those funds then used to help deliver infrastructure required to support the new growth. The Council adopted a CIL Charging Schedule in July 2014, which took effect on certain planning approvals granted from 1 September 2014.
- 4.2 In April 2015, the Council approved the original CIL and S106 Governance and Expenditure Framework which set out the structure for the allocation and spending of developer contributions collected through CIL and Section 106 obligations, as well as a policy for CIL Payment in Kind.

5.0 PROPOSAL

- 5.1 Since the adoption of the Governance Framework in 2015, there have been a number of changes warranting a review of the framework.

Amendments to the CIL Regulations

- 5.2 In September 2019, the Government introduced a further iteration of amendments to the CIL Regulations, which have changed some of the administration requirements for the levy. This includes significant changes to how Councils are required to report CIL and S106 receipts and expenditure, which need to be reflected in our governance processes. The same amendments have also removed pooling restrictions on Section 106's and the requirement for a Regulation 123 list, which will now be replaced by an alternative method of reporting called the Infrastructure Funding Statement. From December 2020, it will be mandatory for the Council to report CIL and S106 receipts and expenditure through this new statement, to improve public accessibility to, and transparent reporting of, data relating to developer contributions. Officers are already in the process of preparing for this statement.

Infrastructure Funding Statement

- 5.3 The Council are required, through the Infrastructure Funding Statement, to set out those items of infrastructure which it intends to fund in the following financial year(s). This can be general, for example, the types of infrastructure items or projects to be funded with CIL, or indicative of future intent, for example, where the Council plan to fund an infrastructure item in the longer-term, such as a new leisure centre, but have not yet formally committed the funds. It should, however, report that funding which is committed following Cabinet decision, and so it is proposed to refer the CIL Funding Programme to Cabinet in the November (rather than the January), for a final decision on which projects should be funded in the following financial year, to enable selected projects to be included in the Infrastructure Funding Statement, which must be published in December.

Introduction of financial caps for the annual CIL Funding Programme

- 5.4 In January 2018, Cabinet agreed that annual CIL Funding Programmes will focus on smaller-scale projects, requiring £100,000 of CIL funding or less, and limit expenditure of CIL on those projects through the CIL Funding Programme to £100,000 each year. In this way, the vast majority of the 'strategic portion' of CIL collected each year will be saved and allocated towards larger-scale projects,

whilst still allowing smaller infrastructure projects to receive funding and be taken forward for delivery. This approach strikes an appropriate balance between delivering smaller-scale projects each year and collecting sufficient CIL funding to make a meaningful contribution to the delivery of larger infrastructure projects.

- 5.5 With regard the allocation of CIL funding to larger, costlier schemes, such projects will be expected to be in line with Council strategies and capital programmes which will ensure that funding is awarded to those programmes and projects that will contribute most to the achievement of the Council's strategic objectives. Appropriate projects will be taken to Cabinet as necessary, to ensure that the Council can continue to facilitate strategic projects speedily and flexibly in line with wider strategies, implementation and capital timetables, but the annual Infrastructure Funding Statement will provide an indication of what projects and / or types of infrastructure the Council intend to spend strategic CIL monies on over the subsequent few years.
- 5.6 Changes to the framework act to clarify these processes. As per the original CIL Governance Framework, the decision to allocate CIL monies to projects is delegated to Cabinet.

Expenditure of neighbourhood CIL monies in non-Parished areas

- 5.7 The CIL Regulations require that 15% of the funds collected within the area where the chargeable development takes place should be passed to the community through parish or town councils, known as the 'neighbourhood' or 'local' portion of CIL. The figure rises to 25% where a neighbourhood plan is adopted. At present, only Burscough Town Council has an adopted Neighbourhood Plan. In West Lancashire, there are some areas which are unparished, including Skelmersdale and Ormskirk. These areas are subject to regulation 59F of the CIL Regulations 2010 (as amended), which addresses the use of CIL in an area without a 'local council'. In areas without a parish council, the Council will retain the neighbourhood portion of the CIL receipts but must engage with the local community where development has taken place and agree with them how best to spend the neighbourhood portion.
- 5.8 Whilst the original framework outlined a process for consultation, delivery and reporting in relation to non-parished neighbourhood monies, it presented very little detail on how this would all be undertaken as, at the time, this had yet to be considered in practice. However, since the adoption of the framework, CIL monies have been collected in Ormskirk and so necessitated the refinement of an expenditure process for these local, non-parished monies. This process has been designed to fit alongside the annual consultation on the CIL Funding Programme, and the Governance and Expenditure Framework has been updated to reflect these changes.

Government planning guidance

- 5.9 The Government are keen to ensure new developments provide ecological improvements, and have introduced a requirement in the National Planning Policy Framework (NPPF) that they deliver biodiversity net gain. There are a number of ways in which biodiversity net gain can be secured, which, dependent on individual circumstances, may include use of planning conditions, obligations or CIL. The updated Governance and Expenditure Framework has been

updated to clarify that ecological contributions are an infrastructure type that can be sought through planning obligations.

5.10 Key changes which have been reflected in the proposed update to the Framework include:

- Removal of pooling restrictions relating to Section 106 planning obligations;
- Removal of the Regulation 123 list; and
- Introduction of annual Infrastructure Funding Statement (IFS);
- Amendments to the timetabling to be able to accommodate expenditure decisions in the annual IFS in December each year;
- Clarification on the criteria for assessing projects for CIL funding
- Clarification of the annual financial cap for smaller projects within the CFP
- Process for expenditure of non-Parished neighbourhood CIL monies
- Clarification that ecology contributions can be sought through S106
- Clarification of varying S106 decision routes dependent on the specific wording of agreements and proposed value of the schemes

6.0 SUSTAINABILITY IMPLICATIONS

6.1 The management of CIL, to ensure that new infrastructure is provided to support new development in West Lancashire, will have positive implications for sustainability by providing a valuable source of funding for projects that will help achieve the Council's priorities.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

7.1 It is anticipated that there will be minimal financial and/or resource implications for the Council arising from the proposed changes set out through this report. Administrative costs are covered by the 5% portion of CIL receipts and the staff resource is already in place to administrate the process.

8.0 RISK ASSESSMENT

8.1 The purpose of the CIL Governance Framework is to maximise the opportunities for allocating and spending CIL and delivering / securing new infrastructure. As such, there are limited risks with these recommendations, which seek to take advantage of the opportunities related to CIL.

9.0 HEALTH AND WELLBEING IMPLICATIONS

9.1 There are no health and wellbeing implications arising from this report, as the report is not deciding how funding is spent, only on the process for making those decisions. However, CIL monies can be used on schemes to improve health and wellbeing, including walking, cycling, recreation and outdoor spaces, as long as that new / improved infrastructure is necessary because of new development.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

Appendices

Appendix A Community Infrastructure Levy and Section 106 Governance and Expenditure Framework

Appendix B Minute of Cabinet – 9 June 2020