

REPORT TITLE: COMMUNITY INFRASTRUCTURE LEVY

CABINET – 18th JULY 2023

REPORT OF CABINET MEMBER: Councillor Jackie Porter Cabinet Member for Place and Local Plan

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WARD(S): ALL WARDS

PURPOSE

This report has been produced to advise the Cabinet on the outcome of the review of the current spending protocol for the Community Infrastructure Levy (CIL), and to recommend the way forward with;

- 1) The strategic allocation of CIL funding, including for infrastructure to be delivered by the County Council;
- 2) The prioritisation of infrastructure projects to produce a refreshed Infrastructure List;
- 3) The CIL charging rates; and
- 4) The review of the criteria for considering community bids for funding.

The scope of the review was to identify ways in which larger County Council led infrastructure projects, which reflect the City Council Plan priorities can be supported. Also, identify ways to continue support for local community/Parish led infrastructure schemes, examine the current CIL charging rates and to update the process that bids for CIL funding are assessed to ensure greater accountability.

RECOMMENDATIONS:

1. That the Strategic Procedural Overview for CIL allocation and spending which apportions percentages of the CIL retained by the city council be split into specific themes as detailed in Appendix A be agreed.
2. That the reviewed and refreshed Infrastructure List be agreed (Appendix B).
3. That the refreshed criteria for considering all CIL bids and the scoring matrix found in Appendix C be agreed.
4. That the CIL bid timetable is changed from the beginning of the year (1<sup>st</sup> January to 31<sup>st</sup> March) to 1<sup>st</sup> September to 30<sup>th</sup> November.

## IMPLICATIONS:

### 1 COUNCIL PLAN OUTCOME

#### 1.1 Tackling the Climate Emergency and Creating a Greener District

1.2 The purpose of the CIL review was to ensure that the priorities for CIL funding were more closely aligned with the Council Plan priorities and the infrastructure requirements of the emerging Local Plan. The allocation of CIL funding helps to provide the infrastructure required to support development whilst ensuring that the corporate priorities and outcomes within the Council Plan are at the forefront of the decisions made regarding the infrastructure to be delivered. This is achieved in several ways:

- The improvement of local community facilities which reduces the need for residents to travel further to access the required facilities, especially in areas where there has been significant development.
- The improvement of public open space and recreational activities to encourage healthier living.
- The support of active travel initiatives to help create a greener district and reduce carbon emissions.
- The support of infrastructure schemes which can demonstrate a positive impact on the reduction of carbon emissions in the district.

#### 1.3 Living Well

1.4 Many recreational and outdoor facilities have been supported using CIL funding, including sports facilities, outdoor gyms, improved footpaths and enhanced open spaces. This encourages residents to participate in outdoor recreation, provides access to sporting activities and engagement with the natural environment, which in turn improves health and well-being.

1.5 The use of CIL to improve walking and cycling routes both within the town area and in the district will encourage more active travel for shorter journeys that would otherwise have been undertaken by car, which improves air quality thereby improves health and well-being.

#### 1.6 Vibrant Local Economy

1.7 Although the use of CIL does not directly support businesses, the support of community facilities experiencing the challenge of additional development, boosts community cohesion and can indirectly stimulate growth and innovation of businesses within the local communities.

## 1.8 Homes for All

1.9 The CIL Review does not directly deliver to the Homes for All outcome. However, the support for new and improved infrastructure provided by CIL funding helps to create communities where the residents are served with better facilities which creates community cohesion.

## 1.10 Your Services, Your Voice

1.11 The use of CIL funding to support community projects has helped embed effective partnerships by working with Parish Councils and other community groups which represent residents to bring forward much needed community projects and local facilities.

2 FINANCIAL IMPLICATIONS

2.1 The council has collected over £21m of CIL receipts since adopting CIL in 2014. The CIL Regulations allow up to 5% of the CIL collected to be used to administer the fund (to collect and administer the CIL received from qualifying development). The Regulations also stipulate that 15% of the CIL collected is paid to the parish council for the area where the qualifying development is provided. Where a parish council has an adopted neighbourhood plan, the percentage of the CIL collected which must be passed to the parish council rises to 25%. Currently only Denmead Parish Council has an adopted neighbourhood plan and Denmead Parish Council therefore receives 25% of the CIL collected from qualifying developments in the parish of Denmead.

2.2 The remainder of the CIL fund collected is retained by the Council to fund infrastructure. Of the CIL retained by the council, to date approximately £8,347,592 of the CIL funding has been allocated to infrastructure schemes in the town area and wider district. This leaves approximately £7,417,563 unallocated and available to fund infrastructure projects in the district.

## 2.3 Table 1 – Total CIL Collected and allocations (as of end of March 2023)

Allocation	Amount Collected (£000's)	Amount Allocated (£000's)	Amount Spent (from the allocated amount) (£000's)	Available CIL unallocated (£000's)
CIL Admin (5%)	£1,063,021	£677,994	£677,994	£385,027 (The unallocated CIL admin goes back in to the WCC main CIL pot each year)

Parish Councils (15% or 25% with a neighbourhood Plan)	£2,004,773	£2,004,773	£2,004,773	£0
Winchester Town Forum CIL (15%)	£1,316,770	£1,027,000	£ 174,478	£289,770
HCC (To September 2018)	£1,543,012.	£1,543,012.	£1,543,012.	£0
Retained by WCC	£15,380,128 + £385,027 unspent admin= £15,765,155	£8,347,592	£4,180,247	<b>£7,417,563</b> <b>Remaining WCC CIL to be allocated.</b>
<b>Totals</b>	<b>£21,283,269</b>	<b>£13,990,256</b>	<b>£9,320,831</b>	

### 3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The Community Infrastructure Levy (Amendment) (England)(No.2) Regulations 2019 allows charging authorities to collect funding from qualifying developments in their area, which must be used to fund infrastructure to support or mitigate development. Also, it can be used flexibly to fund any infrastructure as defined within the regulations. It also places a requirement on CIL charging authorities to publish an annual Infrastructure Funding Statement (IFS), which is a reporting mechanism covering the collection and allocation of funds in relation to CIL and s106 planning obligations. The Infrastructure List forms part of the IFS and broadly identifies the types of infrastructure and projects on which CIL can be spent.
- 3.2 A mechanism is needed to identify and prioritise the schemes which are required to support the development in the district and to ensure transparency and accountability. The allocation and spending of CIL funding is conducted in accordance with the protocol previously agreed by Cabinet in June 2016 (CAB2807) and updated by CAB3071 in September 2018 and CAB3292 in March 2021. The protocol reflects the relevant updated CIL Regulations and

Government guidance. The review of CIL considered in this report has scrutinised the current procedure and where necessary has recommended changes.

- 3.3 Approved council led schemes will be procured in accordance with the council's Contract Procedure Rules and the Public Contract Regulations 2015 with guidance from Procurement and Legal as required.
- 3.4 The CIL funding which is allocated to community schemes is not transferred until the project is complete or substantially complete, to reduce the risk of funds having to be recovered if a scheme fails to commence or be completed. The CIL funding allocated to community projects will often make up less than half of the total cost of the project.

#### 4 WORKFORCE IMPLICATIONS

- 4.1 The administration of the CIL (collection and implementation) is a resource which may be funded using up to 5% of CIL collected. The 5% of the CIL collected can only be applied for one financial year as stipulated by the CIL with any surplus being added to the overall district pot to fund infrastructure. However, this can potentially leave a shortfall in funding of CIL administration if less CIL is collected during a financial year. Two posts are currently funded through the CIL administration provision, with the CIL Officer identifying CIL liability and collecting funds and the CIL Implementation Officer monitoring the CIL programme and the bidding process, liaising with Members regarding priorities and updating the annual IFS. Other officers who spend significant time working on CIL recharge the Levy for their time.

#### 5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None directly, although CIL supports several council infrastructure projects as well as building provision and improvement.

#### 6 CONSULTATION AND COMMUNICATION

- 6.1 The intention to undertake the CIL review was brought to the Health and Environment Policy Committee in December 2022, and followed up with a cross party working group workshop in January 2023. A key part of the work was to ensure that the priorities of the Council Plan and supporting strategies were being reflected in the assessment of bids for the CIL funding and the subsequent allocation of funding. In view of the period since the CIL adoption and associated rates set in 2014, there was also a need for a discussion regarding whether the CIL rates should be reviewed.
- 6.2 The working group consisted of cross-party members and was chaired by the Cabinet Member for Place and Local Plan. Following positive discussions, members of the working group reached agreement on the way forward, and made recommendations regarding the way forward, which have informed the recommendations of this report. Further information on the working group's outcomes are found in paragraphs 11.13 to 11.15.

## 7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 The purpose of the review of the Infrastructure List, and the CIL criteria was to ensure that the CIL allocated for infrastructure projects aligned with the priorities of the Council Plan, specifically in relation to carbon reduction and tackling climate change. Projects which promote active travel and reduce the need for motorised transport or demonstrate an improvement in energy efficiency or a positive benefit in terms of carbon reduction will be favourably considered within the process of the CIL allocation.

## 8 PUBLIC SECTOR EQUALITY DUTY

- 8.1 Consideration of the council's duties under the Human Rights Act 1988 and the Equalities Act 2010. There is no identified adverse impact through the allocation of the CIL funding to anyone with a protected characteristic under the Equalities Act 2010, or with regards to human rights. (See Appendix D)
- 8.2 Many projects allocated CIL funding seek to improve accessibility of facilities and improve infrastructure for all. These would have a positive impact on the council's duties under the Human Rights Act 1988 and the Equalities Act 2010. Future funding priorities will endeavour to continue to provide improved facilities at both local and district wide level to enable more inclusive communities and better connectivity. Future projects will be required to demonstrate that an Equality Impact Assessment has been completed to show that all sections of the community have been considered and would suffer no adverse impact if implemented.

## 9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 The information supplied by applicants to the bidding scheme does not contain any personal information. Often only the e-mail address of an organisation or the Town/Parish Clerk is included for communication purposes. The application forms are not publicly available.

## 10 RISK MANAGEMENT

<b>Risk</b>	<b>Mitigation</b>	<b>Opportunities</b>
Financial Exposure Schemes allocated CIL funding are not complete or exceed the amount requested	The funding allocated to schemes is not paid until a scheme is complete or substantially complete. A fixed amount of CIL is allocated, and any increase must be agreed by the Cabinet.	The CIL funding allocated to schemes often enables additional funding to be levered in from other organisations to help deliver schemes that would not otherwise be progressed.
Exposure to challenge	The Infrastructure List	

<p>The schemes prioritised for CIL funding do not provide the infrastructure required to support the development in the district or provide inappropriate funding not meeting the CIL Regulations or Government Guidance</p>	<p>includes a wide range of infrastructure types which can be allocated CIL funding. However, as the CIL resources are not sufficient to provide all the infrastructure required, the decisions made regarding priorities will be agreed by Cabinet once projects have been assessed and scored accordingly using the proposed scoring matrix. Larger council led schemes (Those requiring over £100k of CIL as well as other significant capital funding) will require a business case to be agreed by Cabinet to proceed with a bid for CIL funding. Decision making on allocating funding will be taken regarding the relevant considerations in the CIL Regulations and Government guidance</p>	
<p>Reputation Failure to deliver appropriate schemes using CIL income could damage the council's reputation.</p>	<p>The CIL programme will continue to be monitored and reviewed regularly to ensure that appropriate schemes are allocated funding.</p>	<p>The Infrastructure List will be reviewed annually to ensure that the schemes delivered reflect the council's priorities.</p>
<p>Achievement of outcome Projects to be funded by CIL are not delivered.</p>	<p>Council projects are allocated funding once a business case has been made and agreed by Cabinet. Community schemes are delivered by outside organisations, including the County Council and progress is monitored and reported on by the city council. The allocation of CIL funding</p>	<p>The proposed revised assessment of the projects bidding for CIL funding will include and assessment of the deliverability with regards to timescale and additional funding secured.</p>



	can be withdrawn if Cabinet decides that a scheme has not been delivered within a reasonable timescale.	
Property Assets may not have the capacity to cope with the increased pressure from new developments	CIL is allocated to improve the community facilities required to support the development of an area	
Community Support The community do not support the schemes which are allocated funding.	Funding has been allocated to community facilities in areas where significant development has taken place and the community bidding scheme is set to continue for the foreseeable future. Moving forward it is proposed to ensure that ward member support is sought for any projects which are added to the Infrastructure List. This will help support infrastructure improvements for local communities.	Larger schemes which are supported with CIL can engage with the community through consultation events
Timescales Projects will not be delivered within a reasonable timescale	The refreshed criteria used for assessing bids will consider the deliverability of a project as part of the assessment for funding. The programme of schemes is reviewed regularly and any projects that are not showing satisfactory progress can have the funding withdrawn if agreed by Cabinet.	
Project capacity Lack of resource could hinder the use of CIL funds to deliver infrastructure projects.	Up to 5% of the CIL collected may be used for the administration of CIL to prioritise, deliver projects and monitor	

	spending.	
Other CIL funding is not used for appropriate infrastructure schemes	Legal advice is sought for any schemes which may not fall within the stipulation of 'infrastructure' under the CIL Regulations to ensure that CIL is spent on appropriate schemes	

## 11 SUPPORTING INFORMATION:

- 11.1 The Community Infrastructure Levy (CIL) is a mechanism for local authorities to raise money from most new development to fund the provision of new or improved infrastructure, to support or mitigate the effects of the new development on existing communities. Also, it can be used flexibly to fund any infrastructure as defined within the regulations. CIL can be used to fund a wide range of infrastructure including schools, flood defences, transport schemes, health and social care facilities, parks and green spaces, cultural and sports facilities, and community safety facilities. Local authorities must spend CIL on infrastructure needed to support the development of their area, and it is intended for the provision of new infrastructure rather than to remedy pre-existing deficiencies, unless made more severe by new development.
- 11.2 The national legislation requires CIL charging authorities to publish on their website, an Infrastructure Funding Statement each year, which reports on the amount of CIL collected within the financial year as well as CIL allocations and spending. This requirement was brought in as part of amended CIL legislation in 2019. As part of the Infrastructure Funding Statement, an Infrastructure List must be produced, which was formerly the called the R123 List to identify the projects which both CIL and funding from s106 Agreements could be used for. The Infrastructure List is a comprehensive list of projects which can be supported using CIL funding, with the value of the projects on the list far exceeding the CIL funding available.
- 11.3 The Government had announced the intention to replace CIL with the Infrastructure Levy, as part of the 'Levelling Up and Regeneration Bill' (currently going through the various readings in Parliament). The Infrastructure Levy aims to not only replace CIL but will reduce the requirement for s106 Agreements for all but the largest developments. There is currently a technical consultation requesting views on the way in which the Infrastructure Levy will operate, and the additional information released as part of the technical consultation regarding the Infrastructure Levy, has indicated that the roll-out of the new system will take up to ten years to implement. If the Infrastructure Levy comes into force, it is anticipated that it will need new charging rates to be set at a local level, with a requirement for viability assessments, and consultation to be undertaken before being

assessed by an independent examiner. It is with this change in mind, and the timescale indicated for the replacement of the CIL that this strategic review of CIL was undertaken.

#### Background to the current CIL spending protocol

- 11.4 The city council adopted CIL in April 2014 and is a 'charging authority' for the collection and spending of CIL for the part of the district for which it is the local planning authority. The South Downs National Park Authority (SDNPA) is the local planning authority for the part of the Winchester district which falls within the National Park area and is also the charging authority for CIL. This report does not therefore apply to the area of the Winchester district which falls within the National Park.
- 11.5 A spending protocol for CIL was agreed by Cabinet in June 2016 (CAB2087), as by then approximately £600k of CIL had been collected, and going forward, a mechanism was required for the allocation and spending of the CIL funding. Cabinet agreed that the spending programme would be aligned with the Council's Capital Programme and would be agreed by Cabinet, with the final decision being made at Council each year.
- 11.6 The CIL Regulations require collecting authorities to award a percentage of the CIL collected from qualifying development to the parish council for the area where the development occurs. This percentage is 15% of the CIL collected rising to 25% if the Parish Council has a published neighbourhood plan. For the Winchester Town area there is no town council, therefore 15% of the CIL collected from development in the town is set aside with agreement of Town Forum to spend on projects.. There is a separate spending protocol for Town Forum CIL, which was agreed in 2018, and this is not included as part of the review in this report.

#### The Strategic Allocation of CIL Funding

- 11.7 Between June 2016 and September 2018, £1,543,012 was passed to the county council for highway infrastructure projects. It took some time for the County Council to allocate the funding to specific schemes, but information published in the County Council's Infrastructure Funding Statement (December 2020) listed the following schemes upon which CIL funding was allocated. These included:
- Sutton Scotney A30 Pedestrian Crossing £50,000.00
  - Wales Street Winchester Pedestrian Crossing £157,369.00
  - Romsey Road Winchester/Clifton Terrace Pedestrian Crossing £380,000.00
  - Access Improvements to Kings School Winchester £403,900.00
  - Andover Road/Barton Farm Winchester, Footway £112,402.02

- West Street New Alresford Footpath Improvements £68,000
- 11.8 The spending protocol for the CIL retained by the city council was refreshed in September 2018 (CAB3071) and the decision was made to immediately cease further CIL allocation to Hampshire County Council. The County Council may still bid for funding for specific highway schemes, but since September 2018, there have been very few bids for the funding of highway schemes, and most of those which have come forward have been made by the Parish Councils rather than the County Council.
- 11.9 In 2019 Winchester City Council in partnership with Hampshire County Council, adopted the City of Winchester Movement Strategy, which aims to reduce traffic within the town and encourage and support more sustainable forms of transport especially for short journeys between popular destinations within the town area This includes the Local Walking and Cycling Infrastructure Plan (LCWIP) to introduce more attractive walking and cycling routes around the city to destinations such as the train station, the leisure park, shops, workplaces and educational establishments. Feasibility work continues to be undertaken to bring forward walking and cycling routes and investigate specific measures that would enable active travel between key destinations around the city. As a result of the feasibility and design work, schemes are coming forward which will require funding to be implemented.
- 11.10 The need for substantial funding for measures identified by the Winchester Movement Strategy requires CIL for schemes which support the LCWIP, which promotes active travel, and prioritises walking and cycling routes around the city and supports the Council Plan priorities. To enable schemes identified by the LCWIP, it has been suggested that the CIL retained by the city council after the admin and Parish Council percentage is accounted for, be divided into specific funding 'pots' as detailed in Appendix A. It is proposed that 30% of the retained CIL is ring-fenced to support projects that are being delivered in partnership with Hampshire County Council, with schemes to be supported agreed between the city and county council. The CIL funding agreed to support county council schemes will be paid in arrears once a scheme has been completed, or substantially completed.
- 11.11 The remainder of the retained city council CIL would be allocated to community and health infrastructure (10% of the retained CIL) and for city council led projects (60% of the retained CIL) as detailed in Appendix A. The provision of infrastructure to support the health service has recently been highlighted, in areas where significant development has occurred. Health services in areas with substantial development have been struggling to accommodate the increase in the numbers of new residents being added to surgery lists, which may require CIL funding to help expand provision.
- 11.12 The prioritisation of the schemes being brought forward by Hampshire County Council would be agreed as a workplan with Winchester City Council, which would then need to be approved via Decisions made on Decision Days by each Council.

- 11.13 The CIL allocated for community and health infrastructure (10% of the retained CIL) detailed in Appendix A would continue to support the funding of community projects as well as health infrastructure. In 2018, the Cabinet agreed to allow Parish Councils and community groups to bid for the CIL funding to help support community schemes. However, this is at the sole discretion of the City Council. This is in addition to the 15% of the CIL collected from development within a parish area, which is passed to Parish Councils.

The review of CIL Rates, Infrastructure Priorities and Criteria for CIL Funded Projects

- 11.14 As the Council Plan priorities have changed considerably since CIL was adopted in April 2014, there was also a need to assess whether the prioritisation and funding of infrastructure schemes progressed by the city council aligned with the Council Plan priorities, and if the amount of the CIL being collected from qualifying development was being optimised. A cross party Members workshop meeting was therefore held on 20<sup>th</sup> January 2023 to consider the three issues for review, which were;

- a) The CIL Charging Rates,
- b) The Infrastructure List
- c) The CIL Criteria for assessing bids for funding.

Outcome of the Members Workshop

- 11.15 The members workshop held on the 20<sup>th</sup> January 2023 consisted of cross party members from both the town and district area, and was chaired by the Cabinet Member for Place and the Local Plan.
- 11.16 The working group considered each of the issues above and concluded on recommendations regarding the way forward as proposed in this report. The working group agreed that it would be helpful to investigate whether other Hampshire Authorities were intending soon to review their current CIL rates. A further issue discussed was whether the CIL collected in the town area and the wider district area should be ring-fenced so that the town CIL was used solely for its infrastructure, and the CIL collected in the district used for infrastructure in the district. Also, whether the CIL could prioritise certain projects (e.g. carbon neutrality or transport scheme). Some members did not wish to ring fence the CIL collected in the town separately from that collected in the district. However, there are several factors considered on this subject and no conclusions were drawn from the said meeting discussions by the working group.

CIL Charging rates

- 11.17 To comply with the relevant CIL legislation, the city council were required to formulate a CIL charging regime and submit a charging schedule (Infrastructure List) which set an appropriate balance between helping to fund necessary infrastructure and the potential effects on the economic viability of development across the district. This included commissioning a report by Adams Integra in 2013 to be able to demonstrate to an independent examiner that the CIL charging would not be detrimental to the financial viability of residential and commercial developments, as well as demonstrating that the CIL was required to provide the infrastructure necessary to support the development of the district. The financial viability work is undertaken alongside the Local Plan viability work, therefore the CIL charging rates are closely linked with the Local Plan Viability Assessment.
- 11.18 Following the formulation of a CIL charging regime, consultation was then undertaken with neighbouring authorities, Parish/Town councils, and commercial organisations such as developers and retailers for a period of six weeks, with the responses received considered by Cabinet and Council. The outcome of the consultation resulted in a small number of modifications, before the draft Charging Schedule was submitted for independent examination in autumn 2013.
- 11.19 The CIL charging rates that were implemented in April 2014 are detailed in the table below, along with the rates that are currently being charged in 2023. Since 2014 the rate charged per metre squared are updated annually each January using an inflation index to keep the levy responsive to market conditions. The index used is the All-In Tender Price Index of construction costs, published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors and is therefore a robust method for keeping the CIL charging rates in line with the cost of building materials.

Table 1 - CIL Charges per square metre of new development in 2014 and 2023 (current charges)

Type of Development	2014 Zone 1	2014 Zone 2	2014 Zone 3	2023 Zone 1	2023 Zone 2	2023 Zone 3
Residential	£0	£120	£80	£0	£179.74	£119.82
Hotel	£0	£70	£70	£0	£104.85	£104.85
Retail	£0	£120	£120	£0	£179.74	£179.74
Percentage increase	N/A	N/A	N/A	0	49.8%	49.8%

Zone 1 – MDA areas (Whiteley, West of Waterlooville and Barton Farm)

Zone 2 – Winchester Town

Zone 3 – Rural areas and Market Towns

A benchmarking exercise was undertaken in February 2023 to ascertain the CIL rates charged by other local authorities in Hampshire. The residential rates charged by each local authority that has adopted CIL is found in table 2

below. CIL is not a compulsory levy and not all councils have adopted it. Although other district and borough councils in Hampshire adopted CIL mostly between 2013 and 2018 Eastleigh Borough Council decided not to adopt CIL. Those Councils which adopted CIL later than Winchester City Council tend to have a slightly higher CIL charging rates, as the financial viability assessment would have reflected housing market and financial conditions at the time of the research being undertaken.

- 11.20 Of the other district councils in Hampshire approached, only Fareham Borough Council is revising its CIL charging rates at present. Other Hampshire authorities have postponed any revision of the CIL charging rates pending government information regarding the introduction of the Infrastructure Levy, which is set to replace and amend the CIL and s106 planning obligations for the provision of infrastructure to facilitate development.

Table 2 - Other Hampshire Authority CIL Charging Rates

Authority (and date CIL adopted)	Development type	No of Zones	Current Charging rates
<b>Winchester CC (April 2013)</b>	<b>Residential</b>	<b>3</b>	<b>£0 (for MDA's) £119.82 and £179.74</b>
Fareham BC (May 2013)	Residential	2	£0 (for Welborne MDA) and £153
New Forest DC (April 2015)	Residential	1	£109.23 across whole area
Test Valley BC (January 2016)	Residential	4	£91.67, £137.55, £183.39 and £229.24
East Hants DC (April 2016)	Residential	4	£85.47, £144.09, £196.49 and £235.79
Basingstoke and Deane BC (March 2018)	Residential	4	£0, £88.47, £154.83 and £221.18

- 11.21 At the time of the Members Workshop, there were few details of the timescale for the roll out of the new Infrastructure Levy. Discussions with other Hampshire local authorities revealed that many were postponing reviewing their CIL rates pending further information regarding the timing of the Infrastructure Levy. Others are conducting a review of their CIL rates as part of their Local Plan Viability Assessments.
- 11.22 Fareham Borough Council are consulting on their revised CIL rates because the viability work undertaken when setting CIL rates for Wellborne MDA indicated that an uplift in the CIL rates for the rest of the Borough could be justified. However, a key important difference is that Fareham Borough

Council have gone through their Local Plan Examination and have consulted on their main modifications and are now at the final stage of adopting their new Local Plan. It is therefore not at a comparable stage with Winchester City Council whose Local Plan is yet to go out for Regulation.19 Local Plan consultation.

- 11.23 The Strategic Planning Team are currently analysing the representations on the Regulation 18 Local Plan, and following on discussions with Dixon Searle Partnership who are undertaking the council's Local Plan Viability Assessment have recommended that any updating of the CIL rates should be postponed ensuring that it does not undermine the Local Plan process. The current CIL charging rates have been used to directly inform the work that has gone into the Local Plan Viability Assessment. If the CIL charging rates were reviewed and the charges were potentially increased this could have an impact on other policies in the emerging Local Plan, such as the percentage of affordable housing that the council requires schemes to deliver. Members of the workshop therefore concluded that the issue of charging rates should be postponed until more details of the Infrastructure Levy were known and the Local Plan process had been advanced.

#### The Infrastructure List (Formerly the R123 List)

- 11.24 The CIL Regime operates alongside S106 Planning Obligations, although developers are not charged through both CIL and S106 for the same item of infrastructure. To allow councils to continue to use S106 to secure infrastructure provision and collect CIL, a List, referred to formerly as the R123 List had to be produced which would identify the differential between what the council may spend CIL receipts on, and infrastructure the S106 would be secured to provide. Under the CIL Regulations at the time CIL could not be used to fund the same infrastructure that S106 had been secured to provide (known as 'double-dipping').
- 11.25 The original R123 List, which was prepared along with the charging schedule in 2013 was also presented to an external examiner, who was satisfied that it represented a reasonable approach. The adopted R123 List set out 'headline' projects or topics that the Council may use CIL to fund, either in whole or in part, and was not a detailed programme of projects. The R123 List was refreshed in 2018, but largely remained a list of headline projects, with the addition of specific highway schemes that had been identified by Hampshire County Council, which may require some CIL funding. The refreshed list was agreed by Cabinet in September 2018 and largely formed the basis of the Infrastructure List which, since 2020, is now published with the Infrastructure Funding Statement.
- 11.26 Members at the workshop discussed the broad headings on the Infrastructure List, and discussed whether there should be a two-tier list with a hierarchy of infrastructure types. However, it was recognised that the broad headings and lack of hierarchy allowed the list to be responsive to the emerging priorities and requirements for supporting development within both the town and



district. The headings of the current Infrastructure List were debated by members in regard to updating the categories, to reflect the Council's priorities. There was agreement that some headings should be updated and the retention or deletion of specific transport schemes on the list were discussed. The proposed list is detailed as Appendix B to this report.

- 11.27 To keep the Infrastructure List 'live', the Member working group suggested a review each year in consultation with ward members and the Cabinet Member for Place and Local Plan. Any changes to the Infrastructure List would need to then be agreed by Cabinet. This would ensure that the Infrastructure List contained a comprehensive and responsive list of infrastructure schemes which could be provided by the city council as well other infrastructure providers for which CIL could be utilised.

#### The CIL Spending Criteria

- 11.28 In June 2016 a spending protocol for the proportion of CIL funds retained by the city council was agreed by Cabinet. At the time of preparing the criteria these were aligned with the Council's Capital Programme. At this time the CIL funds collected were less than £1m, therefore the infrastructure projects which could be supported using CIL funding was limited. In the following two years a further £3.5m of CIL was collected. However, by September 2018 only £208,000 had been spent on infrastructure projects in the district and a further £900,000 had been allocated to projects.
- 11.29 In September 2018, the Cabinet (CAB3071) agreed to a refreshed spending protocol which set aside a pot of CIL funding for community led projects. Parish councils and community groups would be able to bid for a share of an initial amount of £1m which was set aside to fund three years rolling programme. To assess the bids received a spending criterion was established against which the bids would be assessed. It was also agreed that all projects supported with CIL funding, including city council and any county council projects would be assessed using the same criteria for transparency.
- 11.30 The first round of bidding was opened in January 2019, with the CIL funding allocated to the schemes that made successful bids agreed by Cabinet in September 2019. Since then, a further three rounds of bidding have taken place in 2020, 2021 and 2022. This has resulted in a total of 38 community schemes being allocated funding. Council schemes were considered under the same spending protocol as those received from community groups, although the amount of CIL which can be bid for to support council led schemes can be above the £200,000 limit set for community led schemes. Moving forward, the county council projects such as those identified by the Winchester Movement Strategy and the Local Cycling and Walking Infrastructure Plans will also be assessed using the spending criteria in Appendix C, as well city council projects and community projects.
- 11.31 The criteria against which the bids were assessed were originally devised in 2016 which was prior to the confirmation of the Climate Change Emergency and the current Council Plan priorities. A more thorough review was therefore

considered appropriate to reflect both significant changes since the original spending protocol and criteria were devised and agreed by Cabinet. Several the original criteria have been retained as the fundamental purpose of CIL is to provide infrastructure to support the development of an area and address the impacts of development. It is important where possible that the use of CIL helps to lever in additional funding streams and should not be used to solely fund a project unless the project is critical to an area and could otherwise not be provided without CIL funding.

- 11.32 An Informal CIL Panel currently meets on a regular but ad-hoc basis as and when needed to discuss bids and agree whether they meet the criteria to be allocated funding. The criteria used when assessing the bids was considered by the working group along with a proposed scoring matrix. The existing criteria for bids was introduced in 2018 as part of the refreshment of the spending protocol. It is proposed to retain some of the existing criteria (as these reflect the fundamental requirement of CIL with supporting development) but to introduce new criteria to align with the priority of carbon reduction and addressing the climate change emergency. Members of the workshop agreed with these proposed changes.
- 11.33 Another issue discussed was the timing of the community bids, which are currently invited between 1<sup>st</sup> January and 31<sup>st</sup> March each year. Following the receipt of the bids the funding decisions are often delayed due to the council elections, which can affect the timetable for the projects awaiting a decision. It was therefore suggested that the bidding 'window' be moved to 1<sup>st</sup> September to 30<sup>th</sup> November, as this would allow for a more efficient decision making process and would coordinate with the council's own budget setting processes, for the following financial year.
- 11.34 Members of the workshop have suggested that it would be helpful for the Panel to have a scoring matrix which would ensure greater transparency in terms of the way each scheme which made a bid for funding, was assessed. Several potential changes were suggested by the members that attended the workshop. It was proposed by the working group that the Informal Panel 'trial' the scoring matrix when the bids that are received between January and March 2023. Bids would be assessed against the current criteria and the new criteria. The proposed scoring matrix, which includes the revised criteria for assessing bids from both community groups and those progressed by the council aligns more closely with the Council Plan priorities and is included as Appendix C to this report.

## CONCLUSION

- 11.35 The review of the spending protocol for the CIL funding required a fundamental investigation of the issues and priorities which the council wish to take forward to improve infrastructure provision for the residents of the district.

A major part of the review was the need to ensure that the priorities for the CIL funding reflect the priorities identified in the Council Plan and supporting strategies, and this indicates close liaison with Hampshire County Council as a major infrastructure provider.

- 11.36 For this reason, certain percentages of the CIL retained by the city council would be ring-fenced, once the regulatory 5% administration costs and the parish council share (15% or 25% where a Parish Council has a Neighbourhood Plan) have been deducted. The ring-fenced pots of WCC CIL will be allocated as detailed in Appendix A and will support specific projects, identified from a list of priority schemes, including those agreed between HCC and WCC. Appendix B details the proposed list of all infrastructure schemes which could be supported with CIL funding, (including those provided by other infrastructure providers such as HCC, the NHS etc.) and moving forward the list will be update in consultation with ward members to also reflect the schemes agreed for prioritisation with Hampshire County Council
- 11.37 For the community, health and city council projects which will be supported with CIL funding, the criteria for assessing bids have been recommended to be refreshed as detailed in Appendix C. The criteria closely align with the priorities of the Council Plan and supporting strategies and the emerging requirements of the Local Plan. It also recognises the need place the climate change emergency at the forefront of the any spending decision.

## 12 OTHER OPTIONS CONSIDERED AND REJECTED

- 12.1 The current system of prioritising projects and assessing bids could have remained in place without being changed as CIL funding is being allocated and spent on infrastructure projects in both the town and district. However, there was need to ensure that the priorities of the Council Plan were being supported and that the infrastructure funded using CIL reflected these priorities. Questions were raised by individual members from both the town and district in relation to the way schemes were prioritised and assessed, as there are differing views in terms on the way that schemes should be prioritised. Therefore, greater transparency was required in agreeing the infrastructure schemes to be prioritised for funding.
- 12.2 The working group's input on the Infrastructure List and the CIL criteria was extremely valuable and provided several recommendations on the CIL funding allocation process and the assessment of individual schemes.
- 12.3 Whilst it is accepted that the CIL charging rates were adopted some years ago, a change to the current CIL rates would involve commissioning consultants to prepare an evidence base, public consultation and an independent examination process. If because of this process, the CIL charging rates did increase, it could affect the Local Plan Viability work and have implications for policies such as the percentage of affordable housing and delay the Local Plan Regulation 19 consultation process. However, the recent government consultation on the Infrastructure Levy, which could

replace CIL, would now be gradually rolled out over a ten year period. The decision is not to re-evaluate the current CIL charging rates at present, but probably after the adoption of the Local Plan.

BACKGROUND DOCUMENTS:-

None

Previous Committee Reports:-

CAB2529(LDF) – Community Infrastructure Levy: Adoption of Draft Charging Schedule and Introduction of CIL Charge. – 27<sup>th</sup> November 2013

CAB2807 – Community Infrastructure Levy (CIL) Spending Protocol – 8<sup>th</sup> June 2016

CAB3071 -Community Infrastructure Operational Review – 19<sup>th</sup> September 2018

CAB3292 – Community Infrastructure Levy (CIL) Future Funding Priorities and Monitoring Update – 10<sup>th</sup> March 2021

Other Background Documents:-

None

APPENDICES:

Appendix A – Flow Chart for Spending Protocol of CIL Funding

Appendix B – The proposed Infrastructure List

Appendix C – The proposed CIL criteria and scoring matrix for assessing CIL bids for funding

Appendix D – The Equalities Information Assessment Form