

Surrey Heath Borough Council

Executive

14 March 2023

Allocation of Community Infrastructure Levy (CIL) funding

Portfolio Holder:	Cllr Adrian Page – Planning and Control
Date of sign-off	8th March 2023
Head of Service	Gavin Chinniah
Report Author:	Gavin Chinniah – Head of Planning
Key Decision:	No
Wards Affected:	Whole Borough

1. Summary and purpose

- 1.1 This report has been produced following the motion at Full Council on 22 February 2023 where it was requested that the Executive consider changing the policy for the allocation of Community Infrastructure Levy (CIL) funding, so that each ward is allocated 45% of CIL generated from developments in the Borough wards, inclusive of the 15% or 25% statutory allocation to Parish Councils, and the current 15% to non-parished ward allocation established by this Council. The motion is attached at Annex 1.
- 1.2 This report sets out the relevant issues for consideration of this proposal, including the purpose of CIL funding and whether the Council should deviate from the established CIL funding allocations.
- 1.3 The report explores the scope for those Parishes and Wards that have had recent housing development to potentially have more of their local infrastructure funded from CIL.

2. Recommendation

- 2.1 The Executive is advised to RESOLVE that either:
 - (i) The current CIL allocations to Parishes and Wards is maintained based on 15% of CIL receipts, or 25% for areas with a Neighbourhood Plan; **or**
 - (ii) The current CIL policy is amended as set out in Section 5 of this report to provide Parishes and Wards, that have had recent housing development, the scope to put forward proposals to the Executive for local infrastructure up to an indicative maximum value of 45% of the CIL receipts generated for their area over the past three years.

- (iii) That the Council enters into formal consultation on a revised Regulation 123 Statement, which gives weight to the allocation of the main CIL funding for infrastructure in those Parishes and Wards where recent development has taken place alongside the other stated borough-wide infrastructure requirements.
- (iv) That Officers are asked to bring forward proposals in 2023/24 for a revised CIL Charging Schedule for consideration by the Executive as part of the development of Surrey Heath's new Local Plan.

3. Background and Supporting Information

- 3.1 The Community Infrastructure Levy (CIL) is a planning charge, introduced by the Planning Act 2008, as a tool for local authorities in England and Wales to help fund infrastructure to enable future development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010.
- 3.2 The Community Infrastructure Levy (CIL) was implemented by the Borough Council on 1st December 2014. CIL is collected on new development where there is a net gain in floorspace of more than 100 sq metres.
- 3.3 The CIL levy was established to provide infrastructure to support the future development of a local authority area rather than to mitigate the impact of previous planning permissions and housing developments or to make an individual planning applications more acceptable in planning terms.
- 3.4 CIL is expected to be available to fund more strategic infrastructure requirements across the borough, often with an impact far wider than one ward, in order to support new development.
- 3.5 The CIL income received from each development is proportioned as follows:
 - 5% - for Administration costs associated with running the CIL scheme.
 - 15% - for Ward or Parish where the development has taken place (25% where a Neighbourhood Plan is adopted)
 - 80% (circa) - CIL main fund for spending on the borough-wide strategic priorities, as set out in the Council's Regulation 123 statement, although the

majority is top sliced for SANG - (Suitable Alternative Natural Greenspace). ie £125.00 per sqm charged on net additional floor space created.

- The 15% funding to parishes is paid direct to them as required by the national CIL Regulations and they are under no obligation to share that money with other areas. The 15% CIL funding to non-parished areas is discretionary.
- The 15% CIL allocation is paid automatically to parish Councils. Anyone wishing to make a bid to spend this funding in the Parish areas must make them directly to the Parish Councils. Because the funding is paid direct, and is not held centrally, there is currently no opportunity for pooling of the 15% contribution to Parish Councils. That is, unless the Parish Councils agreed to give the money back so that it could be added to the pool.

3.6 The current CIL which has been received to date and is unspent totals approximately £5.1 million (please see Annex 2 for further details). This is after the contributions outlined above have been reduced from the total amount. This remaining amount has been accumulated to be spent on key strategic infrastructure projects which will come forward as a result of the new Local Plan, to support future development in the Borough. A reduction of this amount would have a detrimental impact on future development and the ability for the Council to demonstrate to the Government's Housing Inspector, the deliverability of proposed development sites contained in its new Local Plan.

4. Reasons for Recommendation

4.1 In Surrey Heath, the majority of CIL funding pays for SANG, with most of the balance funding strategic highways schemes. These both represent the two largest constraints on bringing forward future housing development sites. However, health infrastructure such as GP and medical facilities are increasingly becoming an important factor in accommodating future housing growth. It will not be possible for the Borough Council to deliver the housing target it has been set by Government without this enabling infrastructure spend. Failure to deliver the Government's housing target could have very serious consequences for the Council including the risk of having its planning decisions taken away, and more scope for indiscriminate developer-led development.

4.2 There is already a clear mechanism in place through the CIL schedule to provide funding for wards and parishes where development has taken place that enables key infrastructure projects to be delivered in the local area. The current CIL mechanism also provides funding to help deliver a range of borough-wide infrastructure projects that support residential and economic growth and benefit local communities. Reducing this pool of funding and allowing a greater share to parishes and wards would potentially risk key strategic infrastructure projects coming forward and in turn future housing sites

- 4.3 There will be key infrastructure requirements coming forward from relevant infrastructure providers such as the Highways and Drainage Authority - Surrey County Council, NHS England and other key infrastructure providers including Schools, Utility Companies to ensure adequate water, power supply (including what is necessary to accommodate electric vehicle charging points) and sewerage, and digital (e.g. high speed Broad Band) infrastructure providers.
- 4.4 The Council are currently actively engaged with Surrey County Council on two key projects, the first, Local Cycling Walking Infrastructure Project (LCWIP) and secondly Camberley to Frimley cycle route which will span many wards. As a result of this there will be a need for match funding from CIL for these key projects to come forward. Furthermore, the Council are engaged with NHS England about future infrastructure projects which will support both existing and future housing which have been granted consent. There will be an added cost to this contribution following the delivery of future housing for the Local Plan. Given this the earmarked CIL reserves will need to be built up to deliver these key projects including those projects which will come forward as part of the new Local Plan delivery.
- 4.5 The infrastructure that CIL supports in the Borough of Surrey Heath are listed in the adopted Strategic Infrastructure Spending Priorities. These priorities are as follows:
- Shared Suitable Accessible Natural Greenspace (SANG)
 - Shared SANG includes SANG provided for development which cannot secure its own SANG solution.
 - Open Space (with the exception of Shared or On-Site SANG) which is not directly related to a development.
 - Sustainable Local Transport Projects and Pedestrian Safety Improvements, which are not directly related to a development.
 - Play Areas & Equipped Playing Space, which are not directly related to a development.
 - Indoor Sports & Leisure Facilities, which are not directly related to a development.
 - Community Facilities not directly related to a development.
 - Sustainable Strategic Transport Projects.
 - Climate change projects
 - Digital Infrastructure Projects

- 4.6 The listed outlined under 4.5 are key priorities which need to be delivered through the use of CIL. A higher allocation to Parishes and Wards would reduce the funding that would be available to fund these enabling infrastructure requirements.
- 4.7 It is important to note that future CIL payments are dependent on the ability to bring forward new developments in the Borough. The CIL funding is an important role in enabling the infrastructure necessary to support new development being brought forward. A reduction in the allocation of CIL funding for strategic infrastructure, is likely to constrain future development and in turn mean that future CIL income is put at risk.
- 4.8 To date as outlined in Appendix 2, there is a total sum of approximately £486k of unspent CIL money which are currently allocated to various wards in the Borough. Further, CIL money will be added to these wards as contributions are received. Given, that there are large sums of money unspent and adding a larger share could lead to further sums of money being unspent at a time when the need for funding for strategic borough infrastructure will be at its greatest.
- 4.9 In Annex 3 which is attached to this report, the table illustrates the indicative contributions to each ward if the CIL contribution was increased from 15% to 45% in accordance with the motion to Full Council. The table shows that some Parishes and Wards could benefit significantly, while others would receive no funding. However, under this scenario, the funding available for borough-wide strategic infrastructure projects would be significantly reduced.

5. Proposal

- 5.1 If the Executive were minded to amend the CIL Policy to provide the scope of local infrastructure funding of up to 45% (compared with the current 15%), it is proposed that the new arrangement would operate as set out below.
- 5.2 Parishes and Wards would be given the scope to put forward proposals to the Executive for local infrastructure, up to a maximum indicative value of 45% of the CIL receipts generated for their area over the past three years. Given that Parishes are already allocated 15% of CIL funding upfront, to be spent at their discretion, this would equate to the balance of 30%. ie $15\%+30\%=45\%$.
- 5.3 To ensure that CIL infrastructure monies are spent in a reasonable timeframe on pressing infrastructure needs and do not simply sit idle, any unspent CIL receipts received for development in a Parish or Ward that are not allocated by the Executive within three years to specific infrastructure in those Parishes and Wards, will automatically be allocated for borough-wide infrastructure.
- 5.4 In turn, any CIL allocation for Parish or Ward infrastructure, approved by the Executive that is not spent within three years of that decision, will also be withdrawn and the funding re-allocated back for borough-wide infrastructure needs.

- 5.5 In relation to Parish Councils, given that they are already allocated 15% of CIL funding upfront to spend as they wish, and have the scope to further increase their funding through income generation and through their local precept, they will be expected to provide some level of match funding in their proposals, although this will not be compulsory.
- 5.6 The amended CIL policy would make it clear that while the Executive would need to carefully consider any infrastructure proposals for CIL against the strategic priorities currently set out in its formal Regulation 123 Statement, it would also seek to give weight to local infrastructure needs for those Parishes and Wards where development had recently taken place, and the Executive would not withhold its CIL support for such schemes, unless it had a good reason to do so.
- 5.7 It is envisaged that specific proposals from Parishes and Wards would be considered by the Executive in the same way that has already been established through the current 15% Ward allocations, with the Executive taking into account known infrastructure demands and available CIL funding.
- 5.8 To embed this change, the Council's formal Regulation 123 Statement would need to be updated to reflect the weight that will be given to Parish and Ward Infrastructure where housing development has recently taken place, and these proposals would then need to be consulted on as part of the formal process the Council is required to follow. This will include consultation with key infrastructure providers.

6. Proposal and Alternative Options

6.1 There are three potential options for CIL funding for Parishes and Wards:

(i) **Option 1: Maintain the current CIL allocations** to the Parishes and Wards based on 15% (and 25% in an area with a Neighbourhood Plan). This would maintain the funding available to Parishes and Wards and maintain funding for borough-wide infrastructure that may be necessary for the delivery of the Council's emerging Local Plan.

(ii) **Option 2: To amend the CIL Policy** to allow Parishes and Wards that have had recent housing development, the scope to put forward proposals to the Executive for local infrastructure, up to a maximum value of 45%* of the CIL receipts generated for their area over the past three years. This would reduce the funding available for borough-wide infrastructure that may be necessary for the delivery of the Council's emerging Local Plan. * Please note that as 15% of CIL receipts are already provided to Parish Councils and spent at their discretion, Parish Councils would be able to submit bids up to the balance of 30% - ie 15%+30% = 45%.

(iii) **Option 3: To bring forward a new CIL charging scheme** with a higher charging rate to increase the overall level of CIL funding received going forward. This would then feed through using the current percentage allocation, to higher levels of funding for both Parishes and Wards where housing development takes place and for strategic borough-wide infrastructure.

7. Contribution to the Council's Five Year Strategy

- 7.1 The existing CIL charging regime helps to support and deliver the following themes:
- i. **Environment** - enhance and improve access to the Borough's cherished green spaces and natural environments for the enjoyment of generations to come, balancing our commitments to housing delivery and economic growth.
 - ii. **Environment** – tackle Climate Change, working with communities and partners.
 - iii. **Health & Quality of Life** – provide infrastructure that would support our ambition to ensure everyone can access a safe, quality home to meet their needs.
 - iv. **Economy** – invest in our towns, villages and communities, supporting our existing businesses and attracting new ones.
 - v. **Economy** – work with partners to improve to the Borough's infrastructure.
 - vi. **Effective & Responsive Council** – advocate on behalf of our community on issues outside our direct control.

8. Resource Implications

- 8.1 There are no immediate resource implications.

9. Section 151 Officer Comments

- 9.1 The Council holds capital funds on the balance sheet for CIL received. These stand at £5.067 million. Most of this will be used to support strategic infrastructure and will be used to contribute to the areas listed in paragraph 4.5.
- 9.2 The rationale for CIL being introduced to replace the old Developers' Contribution (aka s.106/s.278 agreements) was that often the infrastructure needing to be developed did not always fall immediately within the area of the development. CIL allows the money to be spent at infrastructure pinch points across the Borough; pinch points that are caused by development are not always site-specific (hence why CIL is preferable to s.106 arrangements).
- 9.3 The funds collected are capital and must be used for capital projects. There is a risk that by increasing the allocation to wards/parish areas is that there will not be sufficient capital projects for the allocation to be spent.

10. Legal and Governance Issues

10.1 The amounts required to be passed onto the Parish Councils are 15% or 25% if there is a neighbourhood plan. The CIL policy is an Executive Function.

11. Monitoring Officer Comments

11.1 No matters arising.

12. Other Considerations and Impacts

12.1 No matters arising.

13. Environment and Climate Change

13.1 The report would not give rise upon environmental matters or climate change.

14. Equalities and Human Rights

14.1 No matters arising.

15. Risk Management

15.1 A greater share of CIL contributions would cause there to be a reduction of the main CIL fund for strategic projects when this is required.

15.2 The Government are indicating that they may bring forward proposals in the coming year for a fundamental change in the CIL funding regime and it is not clear at this stage whether such proposals would reduce the scope for borough councils to determine how CIL funding is spent in their area.

16. Community Engagement

16.1 The CIL contributions help fund important infrastructure that directly contributes to the quality of life of local communities.

17. Annexes

17.1 Annex 1 – Motion to Full Council to review the policy for distribution of CIL Funding

17.2 Annex 2 – Funds to Wards, Main Fund and Parishes

17.3 Annex 3 – Comparison Table showing increase in CIL payments to Wards and Parishes

18. Background Papers

18.1 None