



ADUR & WORTHING
COUNCILS

Key Decision [No]

Ward(s) Affected: Worthing ALL

Worthing Community Infrastructure Levy - Governance and Procedural Matters

Report by the Director for the Economy

Executive Summary

1.0 Purpose

1.1 Worthing Borough Council has introduced a Community Infrastructure Levy (CIL) to allow funds to be raised from developers to pay for infrastructure that is needed to support growth. The Council adopted the Charging Schedule for CIL in February 2015 and implementation of the levy commenced in October 2015. The Council has overarching responsibility for the allocation of CIL monies and reporting the amount of money collected and spent.

1.2 This report provides an update on progress made by the Joint Officer and Member Board (JOMB) for CIL Governance and,

- formalises a number of recommendations made by JOMB
- provides an update on the current level of CIL funding collected and,
- sets out the future work programme and timetable for the adoption of the Infrastructure Business Plan which will set out priorities for the use of CIL.

2. Recommendations

2.1 The Committee is recommended to:

- Note the progress made by the Joint Officer and Member Board in relation to governance arrangements for overseeing the Community Infrastructure Levy (CIL).
- Agree to the 'top slicing' of 70% of the CIL strategic pot to be used for Worthing Borough Council and West Sussex County Council projects (to be taken from the Strategic Pot).
- Agree to the proposal from JOMB that bids for funding from the Neighbourhood Pot should not be considered unless at least £10,000 has been accumulated and that there should be an annual bidding process.
- Delegate the decision on bids for the Neighbourhood Pot to the Executive Member for Regeneration (capped at a maximum of £25,000)
- Note the revised timeline for the preparation of the Infrastructure Business Plan which will be helped to inform the prioritisation of infrastructure projects.
- Note that administration costs of £48,800 will be required per year, that this will be funded from within existing budgets and from CIL contributions, and agree to amend the budgets accordingly.

3.0 Context

3.1 The CIL Regulations 2010 (as amended), allow local planning authorities to set a CIL charge on some developments in order to contribute toward the cost of the infrastructure required to support the cumulative impact of growth and developments in an area. Worthing Borough Council (WBC) adopted its CIL charging schedule in February 2015. Implementation of the levy commenced in October 2015.

3.2 CIL is now the main way in which WBC collects contributions from developers for infrastructure provision in Worthing. It largely replaces the use of S106 planning obligations with the exception of affordable housing provision and some site specific requirements. Although CIL has been in place in Worthing since 2015 funds are only now starting to grow as payment becomes due on commencement of liable development. To date, a total of £457k has been collected through CIL. The table below sets out CIL income receipts at March 2019 and how the money has been split in line with the CIL Regulations:

Money in the CIL Pots (as at 01/03/19)

| Strategic Pot (80%) | Neighbourhood Fund (15%) | Admin Pot (5%) |
|---------------------|--------------------------|--------------------|
| £366,000 | £69,000 | £6,000 (remaining) |

- 3.3 As charging authority, Worthing Borough Council has the responsibility for managing, monitoring and reporting on CIL. Although the CIL 'pot' is growing, it is accepted that CIL will not generate enough funds to completely cover the cost of new infrastructure needed to fully support the planned growth. As a result, infrastructure providers will also have to apply for funding from other sources, with CIL used as match funding where appropriate. It is also clear that there will be many competing demands on CIL funds which means that it is important that a clear and justified process for the spend and prioritisation of CIL is established.
- 3.4 To oversee this process, a Joint Officer and Member Board (JOMB) has been established (see JSC report 01/2/18). JOMB will oversee the governance around the spend of CIL which will include the development of an Infrastructure Business Plan (IBP) that will help to set the prioritisation of infrastructure delivery over a three year period.
- 3.5 Informed by best practice in other 2-tier local authorities in West Sussex, Kent and Surrey, the following section of this report addresses a number of key issues that have been considered by JOMB. Recommendations are made where appropriate.

4.0 Issues for consideration

Infrastructure Business Plan (IBP)

- 4.1 An Infrastructure Business Plan will be prepared in 2019/20 alongside the emerging Worthing Local Plan and the associated Infrastructure Delivery Plan (IDP). When in place, the IBP will provide the mechanism for the identification of key strategic infrastructure priorities and projects that can be delivered or started between 2020 to 2023 in support of Worthing's growth. The IBP will be updated and reviewed every 2 years.

Strategic Fund

- 4.2 At March 2019 approximately £366,000 was available in the CIL strategic fund (80%) and this amount is expected to increase significantly in the coming months when work on a number of major CIL liable developments commences.
- 4.3 Following consideration by JOMB, it is recommended that it would be appropriate to 'top slice' 70% of CIL funding for Worthing Borough Council and West Sussex County Council infrastructure projects. This approach provides early clarity; assists in the processing of CIL spend; and broadly responds to the previous collection and spend of S106 agreements of which the vast majority was collected for Borough

and County projects. This would also help to manage the expectations of other service providers.

- 4.4 When in place, the IBP will help to determine how and when the 70% of CIL money received will be spent on Borough / County infrastructure projects. It should be noted that despite this 'top slicing' JOMB agreed that there was no reason why the strategic pot (70%) could not be used to support infrastructure delivered by other service providers providing it was identified as a key priority within the Regulation 123 list and that the project had the support of both Worthing Borough Council and West Sussex County Council.
- 4.5 As explained in more detail below, with 5% of CIL being used for admin and 15% used as the 'local proportion', this 'top slicing' would, in effect, mean that the remaining 10% of CIL money collected would be used by other service providers. For practical reasons it is recommended that it would be sensible to allow time for this 'other' 10% pot to build (to a minimum of £100,000) before other services were invited to 'bid' for project funding. It is also recommended that the minimum project cost for bids on this pot should be set at £50,000.
- 4.6 A clear application, eligibility and evaluation process will be prepared and agreed by JOMB to help guide service providers and make clear how proposals will be assessed. Applicants will be made aware of the need for their proposals to demonstrate potential attraction of match funding, value for money and deliverability. An IBP Working Group made up of Officers from Adur and Worthing Council service departments and from West Sussex County Council will be established to evaluate proposals before consideration by JOMB. JOMB's recommendations will thereafter be considered by JSC and Full Council.

Neighbourhood Fund

- 4.7 As at March 2018, approximately £69,000 was available in the CIL neighbourhood fund. The CIL Regulations require a link to be demonstrated between CIL neighbourhood funds spend and where CIL liable development has occurred. JOMB has agreed that Worthing's wards form the most appropriate basis for this local link, with project proposals to be located in wards where sufficient CIL funds are available. However, it should be noted that there may be circumstances whereby it is appropriate to agree that the neighbourhood fund could be spent within an adjoining ward or that funds are pooled across different wards.
- 4.8 The experience of other local authorities suggests that it is beneficial to let sufficient CIL neighbourhood funds accumulate before inviting project proposals. At the last JOMB meeting it was agreed, therefore, that a £10,000 threshold for one or more

wards should be reached, before any bids for this funding could be made by the local community. The table below shows that by March 2019, Central, Durrington and Tarring wards have accumulated, or are close to achieving this amount.

| Neighbourhood Funding Held By Ward (as at 01/03/19) | |
|--|---------------------|
| Central - £29,000 | Marine - £3,000 |
| Durrington - £20,000 | Tarring - £9,000 |
| Goring - £3,000 | Northbrook - £1,000 |
| Heene - £1,000 | Offington - £0.2 |

- 4.9 Projects should have a local focus with a minimum request of £1,000 and usually a maximum CIL request of £10,000. If possible CIL should also be matched with other funding sources. Project proposals that request more the £10,000 will be considered on their merits. As an example, justification for this may be where benefits accrue to one or more Borough wards.
- 4.10 A standard application form with related guidance has been prepared and these were considered and agreed by JOMB at its last meeting on the 20th March - the Executive Member for Regeneration will now be asked to approve these. The guidance note and associated scoring matrix demonstrate how proposals will be expected to meet the eligibility and evaluation criteria summarised below:
- is the project led by a local community or local organisation, and supported by ward member(s)?
 - does the project proposal provide infrastructure in terms of the CIL Regulations neighbourhood fund definition?
 - does the project proposal provide evidence of benefits to local communities, residents and businesses?
 - will other sources of funding be secured / leveraged in alongside CIL neighbourhood funds?
 - what stage of development is the project at?
 - what is the plan for sustaining the benefits of the project in the long-term?
- 4.11 It is suggested that an annual bidding process should be undertaken to assess appropriate community bids for the neighbourhood fund. The timeline and process for this will be agreed by JOMB. At the appropriate time (expected to be on an annual basis), a call for project proposals will be made when local ward members, local communities and organisations will be invited to submit proposals which will then be assessed by the IBP Working Group.

- 4.12 To streamline the process and also serve to demonstrate the link between development and spending on community based projects, it is proposed that decisions on spend requests for the neighbourhood pot should be taken by the Executive Member following recommendations by the CIL Officer Group. It should be noted that JOMB / Executive Member could also decide to not allocate funds if proposals are of insufficient quality.

Admin Pot

- 4.13 In line with the CIL regulations, JSC (February 2018) agreed that 5% of CIL collected should be ring fenced to pay for administering the collection and monitoring of CIL spend. To date, a proportion of this money has been spent on consultancy costs related to the establishment of governance arrangements.
- 4.14 The Council is currently in the process of recruiting a CIL Monitoring Officer and consideration is also being given to the purchase of bespoke software that will greatly assist in the monitoring and reporting of CIL. Money collected within this 'pot' will be used to help fund these costs in the future.

CIL Review

- 4.15 As previously reported, changes to legislation and the timeline for the emerging Worthing Local Plan means that it is timely to undertake a full review of the Worthing Charging Schedule for CIL. In particular, this will: respond to recent changes in guidance; 'test' greenfield development; update viability tests; and address some 'grey areas' within the existing Schedule. Consultants (Dixon Searle and Partners) have been appointed to undertake this review and the findings and implications for proposed CIL rate and zone options, with finalised proposals will be considered by JOMB and then taken forward to a future meeting of JSC.

Timetable / Next Steps

- 4.16 JOMB will be asked to consider and agree a more detailed work programme which, in summary, will deliver the following outcomes for 2019/20:
- ❑ 2019/20 - IBP Officer Working Group to be established to manage the assessment of bids made on, firstly, the neighbourhood fund and, secondly, the strategic fund
 - ❑ 2019/20 - Preparation of Infrastructure Business Plan (IBP) that will establish clear priorities for infrastructure / project delivery 2020-2023.

5.0 Engagement and Communication

- 5.1 The IBP will include a consideration of the information provided by infrastructure providers as part of the consultation on the Infrastructure Delivery Plan, which forms part of the evidence base for the emerging Worthing Local Plan.
- 5.2 As explained in paragraph 3.3 above, a Joint Officer and Member Board has been established and regular meetings are held to oversee the governance of CIL in Worthing.
- 5.3 As set out in the report, at appropriate stages, key stakeholders and infrastructure providers will be invited to submit proposals and 'bid' for a proportion of the CIL pot.. Guidance will be provided as to how 'bids' will be evaluated and assessed.

6.0 Financial Implications

- 6.1 There are costs for the Council in setting up, adopting, implementing and managing CIL. As explained in the report, the CIL Regulations allow up to 5% of the revenue arising from the levy to be used on administration costs. The Council currently holds £6,000 for administration costs.
- 6.2 In the coming years it is expected that the total funding for infrastructure projects will increase significantly as more developments will contribute through CIL rather than through the current S106 regime.
- 6.3 In the meantime there is an urgent need to employ a CIL Monitoring Officer on an initial 2 year contract and implement monitoring software. The annual costs of managing CIL is estimated to be:

| | 2019/20 £ | Full year £ |
|---|--------------|----------------|
| Salary costs (grade 6) | 35,000 | 42,000 |
| Software maintenance costs | 6,800 | 6,800 |
| Total annual costs of administration | 41,800 | 48,800 |
| Less: Funds held for administration | -6,000 | -42,220 |
| Less: Salary savings | -24,530 | -6,850 |
| Net cost to be funded from the strategic pot in 2019/20 | 11,270 | 0 |

- 6.4 Given that there is insufficient funding in the administration pot, in the first year it is recommended that the current vacancies within the Planning Policy Team be used to help fund part these costs with the residual costs being funded from the strategic element of the CIL funds. Thereafter, sufficient CIL is expected to fund the net administration costs associated with the scheme.
- 6.5 In addition, the new CIL system will cost £17,000, it is proposed to use resources from the Digital Strategy budget to fund the system.

7.0 Legal Implications

- 7.1 Legislation governing the development, administration and governance of CIL is contained within the Planning Act 2008) and the Community Infrastructure Levy Regulations 2010 (as amended). This came into effect with the CIL Regulations 2010 (as amended). The Ministry of Housing, Communities and Local Government (MHLG) has also provided CIL guidance that needs to be followed.
- 7.2 Governance arrangements that are consistent with the CIL Regulations must be agreed. If they are not then the Council runs the risk of complaints and/or challenges from developers over the use of CIL and these could then be upheld by the Local Government Ombudsman. The CIL regime and associated guidance relating to governance is still at an early stage of development. Governance arrangements will need to be kept under review.
- 7.3 Under the Equalities Act 2010 the council has a “public sector equality duty”. This means that in taking decisions and carrying out its functions it must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act; to advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it; and to foster good relations between persons who share a relevant protected characteristic and those who do not share it. All decisions on spending CIL will themselves be subject to assessment to ensure the 2010 Act duties are complied with.

Background Papers

- Adur & Worthing Councils JSC: CIL Governance Arrangements; agenda item 7, 1 February 2018
- Worthing CIL Charging Schedule
- Worthing Regulation 123 List

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Sustainability & Risk Assessment

1. Economic

The efficient collection and distribution of money collected through CIL will help to ensure that infrastructure is delivered alongside development to meet the identified needs of new and existing residents, communities and businesses.

2. Social

2.1 Social Value

The efficient governance of CIL will ensure that money collected is spent on projects that provide the greatest benefit to the community. Furthermore, ensuring that a robust process is put in place for the spending of the 'local neighbourhood fund proportion' will ensure that communities in close proximity to development are in a position to benefit from the provision of new or enhanced infrastructure.

2.2 Equality Issues

Issues relating to race, disability, gender and equality have been considered and it is not felt that CIL will have an adverse impact on any social group. In reality, by making communities more sustainable, CIL will facilitate economic growth and help to deliver improved services. The infrastructure and services that CIL can provide (such as community facilities and transport networks) could enhance liveability for all sectors of society, and could help to deliver new infrastructure that serves different needs within the community.

2.3 Community Safety Issues

Matter considered and no issues identified.

2.4 Human Rights Issues

Matter considered and no issues identified.

3. Environmental

Matter considered and no issues identified.

4. Governance

- The Council now has overarching responsibility for the allocation of CIL monies and reporting of monies collected and spent. The protocols proposed and being taken forward, will enhance the Council's reputation as they will ensure that CIL is managed in an open way and accordance with the CIL regulations.
- Without clear and robust governance arrangements being in place the Council could be open to challenge on the basis of maladministration of CIL funds.

- The efficient distribution of money collected through CIL will help to ensure that infrastructure is delivered alongside development to meet the identified needs. This will help to contribute towards meeting many Council priorities.