

Public
Key Decision – Yes

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Community Infrastructure Levy Governance Review

Meeting/Date: Overview & Scrutiny (Performance & Growth) –
5 June 2024
Cabinet – 18 June 2024

Executive Portfolio: Executive Councillor for Planning

Report by: Chief Planning Officer

Ward(s) affected: All or list individual Ward(s)

Executive Summary:

The purpose of this report is to set out the first stage of a new Community Infrastructure Infrastructure (CIL) governance process regarding the prioritisation and spending of CIL collected by the Council in its role as a CIL Charging Authority. CIL is used to help support the delivery of infrastructure required for new developments and their communities.

This report and associated appendix is the culmination of stage 1 of this work considering a range of options and recommendations for a new governance approach that will align with current national and local planning legislation and policy, along with the Council's Corporate Plan, Huntingdonshire Futures Places Strategy and key council strategies. Key lessons from best practice examples from elsewhere have also been considered. The next transitional stage will move towards a new way of working as highlighted in the attached Governance Review report at Appendix 1.

The new governance will support the delivery of the:

- Huntingdonshire Local Plan to 2036 and Infrastructure Delivery Plan, to fund infrastructure directly linked to supporting or mitigating the impact of new development
- Huntingdonshire District Council Corporate Plan 2023 – 2028 across our three priorities, specifically priority 2 – Creating a better Huntingdonshire for future generations and our approach to deliver across the three pillars of 'Do, Enable, Influence':
- Strategic strategies and policies, including our Huntingdonshire Futures Places Strategy, Climate Strategy, Market Town Investment Strategies, Sports and Leisure Facilities Strategy and Healthy Open Spaces Strategy

The report sets out the options considered and the recommended approach to the next stages. It also recommends one CIL funding round be started in the 2024/25 financial year.

Recommendation(s):

The Cabinet is

RECOMMENDED

to support the introduction of a new process for the allocation of CIL funding, including:

1. To agree the new CIL Governance arrangements based on the “Statement of Intent” as set out within the report and associated appendix.
2. Delegate authority to the Corporate Director (Place) and the Chief Planning Officer in consultation with the Executive Councillor for Planning to develop, publicise and implement the new governance arrangements as soon as practicable including a transitional CIL round in 24/25 financial year.
3. Delegate authority to the Chief Planning Officer to make changes to the documentation required under recommendation 2 above associated with the new CIL Governance arrangements including the application form to improve understanding of requirements and submission of information.
4. To agree the suggested increase in threshold for smaller funding applications from £50,000 to £100,000 – requests for CIL funding allocations over £100,000 being subject to decision by Cabinet.
5. Delegating authority to the Corporate Director (Place) and the Chief Planning Officer in consultation with the Leader and Executive Councillor for Planning for allocation of CIL funding for smaller funding applications requesting £100,000 or less CIL funding, including those from non-parished areas.
6. Delegate authority for the Chief Planning Officer to take forward steps to develop a programme to work more closely with town and parish councils to align local and strategic priorities; and to develop a more programme-led, evidence-based approach including working with partner organisations – such programme being presented to Cabinet on an annual basis for agreement.

1. PURPOSE OF THE REPORT

- 1.1 This report provides and update on the first stage of the review of CIL Governance arrangements for the spending of Community Infrastructure Levy (CIL) receipts. It sets out an initial 'Statement of Intent' for approval and outlines the delegation required for the next steps in the process.

2. WHY IS THIS REPORT NECESSARY/BACKGROUND

- 2.1 Huntingdonshire District Council implemented CIL in May 2012. CIL governance was originally agreed by Cabinet in October 2012 and subsequently updated in December 2015 working with the Huntingdonshire Growth & Infrastructure (HG & I) group, which made recommendations to Cabinet. The most recent review was approved by Cabinet in October 2020 and are the current governance arrangements.
- 2.2 Local authorities must spend the levy on infrastructure needed to support the development of their area. This helps to deliver across the priorities in the Council's Corporate Plan 2023 - 2028 specifically Creating a better Huntingdonshire for future generations by:
- Improved housing - 27. Maintain the level of new housing delivery, which meets the needs of Huntingdonshire residents, including the type of home and tenure (open market and social housing).
 - Forward-thinking economic growth - 39. Influence delivery of infrastructure including East West Rail, A428, A141 Strategic Outline Business Case and future Transport Strategies
- 2.3 Up to 5% of CIL receipts each financial year may be retained for administration costs. 15% - 25% of CIL receipts – the 'meaningful proportion' – are passed to parish/town councils in line with the CIL Regulations 2010 (as amended) and the Localism Act 2011 and the total amount transferred to parish/town councils has increased each year in line with receipt increases. The remaining 70-80%, the strategic proportion, is available for Huntingdonshire District Council as the charging authority to spend on the provision, improvement, replacement, operation, or maintenance of infrastructure to support the growth/development of its area.
- 2.4 To date the Council has allocated £27,403,445.80 CIL funding to 52 projects throughout the district. The total cost of the projects funding was allocated to is circa £102 million. This has contributed to delivering infrastructure across the priorities in the Council's Corporate Plan 2023 – 2028 to meet Local Plan growth.
- 2.5 In 2021 the Council participated in 'road testing' a self-assessment of Good Governance for Developer Contributions with the Planning Advisory Service (PAS). This highlighted the current approach as being at Level 2: Organised but Inconsistent. There have also been a number of significant new corporate policy and strategy documents adopted by the Council since the current CIL governance was adopted, including the Place Strategy, Climate Strategy and Market Town Investment Strategies along

side an update of the Local Plan. These updates along with a 'monitor and manage' approach to the existing system have made it timely to review the current CIL governance arrangements. Additionally, it is noted that various comments have been made by Members, including via Scrutiny, that a review of the governance arrangements would be welcomed, in order to provide improved clarity regarding the process and ensure it was fit for purpose.

- 2.6 An independent review of the Councils existing arrangements has been undertaken on the Councils behalf. This review has considered the processes in place for the administration of strategic CIL allocations; the considerations outlined in the current governance process and the principles put forward in the Planning Advisory Service CIL guidance; highlighting areas of best practice from other councils that could be applied in Huntingdonshire; and potential approaches which balance the need to meet longer-term, corporate infrastructure priorities with a flexibility to meet local priorities.
- 2.7 The objective of stage 1 of this work which this report relates to is to agree:
- A 'Statement of Intent' which includes a number of key principles to guide a new approach
 - How the Council can move towards a more proactive and 'programme-led' approach towards allocating CIL
 - And how it can achieve greater alignment between using CIL to meet both district and local priorities.

The next stage of the work will be a transitional stage towards a new way of working, and will include the following activities:

- Amend the project proposal and assessment forms to reflect the 'Statement of Intent'
 - Undertake 1 funding round in 24/25 based on the new principles and forms
 - Secure additional resource needed for implementation
 - Inform partners of new approach.
- 2.8 At a later stage more detailed arrangements can be put in place, including refining the current governance as required, producing an interim priority programme to inform CIL spend prior to the production of a new IDP, and designing the detailed new arrangements for aligning local & district priorities.
- 2.9 This report outlines the findings and recommendations from the first stage of that work. The report is attached at Appendix 1.

3. OPTIONS CONSIDERED/ANALYSIS

- 3.1 A scoping exercise of the current CIL governance arrangements has been undertaken and options for a new approach to the administration of CIL for Cabinet to consider has been put forward. This report presents the findings and recommendations from that exercise. The options considered are detailed at in the report at Appendix 1 section 5 and Figures 4 and 5 along with the recommendations.

- 3.2 It is considered that Option 2: Priority programme is the most appropriate means of allocating CIL “*through a Strategic Priority Programme (SPP), which sets out the priority projects the Council wishes to fund through CIL and then receives and assesses applications against these and other criteria.*” This option provides the optimum balance between being proactive as to which projects are a priority, whilst retaining some flexibility to allocate funds against them through a ‘bidding’ and assessment process. It crucially makes a strong link between the use of CIL and new development, through requiring an understanding of the infrastructure required to support allocated sites or growth locations, and plan CIL allocations, working more closely with other stakeholders to identify what infrastructure is required to support plan-led new development and proactively plan accordingly.
- 3.3 The Strategic Priority Programme will be developed over time as outlined in Appendix 1 para 5.2.1 and shown in Figure 10.
- 3.4 A ‘statement of intent’ has been developed to clarify the key principles that will form the Council’s new approach to CIL, which state that:
- The primary use of CIL is to fund infrastructure that is directly linked to supporting or mitigating the impact of growth and new development.
 - CIL funded projects can also contribute towards achieving the outcomes identified in the Council’s Corporate Plan and Place Strategy
 - CIL should be used in a way which leverages other sources of funding for greater impact.
 - The use of CIL should be considered alongside other developer contributions to maximise site-specific benefits (e.g. Affordable housing).
 - A new approach to allocating CIL should follow a programme-led, evidence-based approach.
 - A new approach to CIL should recognise the Importance of working with partners to deliver infrastructure.
 - There should be greater alignment between local and district-wide priorities.
- 3.5 Section 6 highlights the actions to be taken to deliver the proposed new arrangements and highlights that not all can be implemented with immediate effect and what the transitional arrangements would be.
- 3.6 CIL is restricted in the infrastructure it can support, as outlined in para 8.4 below, in that affordable housing, which is a recognised priority for the Council, is not currently part of the definition of infrastructure for the purposes of CIL. In order to consider a more strategic approach to the use of CIL, considering outcomes that deliver more value, the new proposal outlines the opportunity to use CIL for infrastructure on new developments with viability challenges in order to unlock growth, so there is less pressure on the S106 for infrastructure, such as a strategic road junction, which can then enable affordable housing to be prioritised and increased. There

could also be opportunity to work with a Town and Parish Councils to gain agreement on how we work in partnership to support this delivery further utilising their meaningful proportion, which has a wider legal definition for its use.

- 3.7 The recommendations to the report also set out a number of areas of delegation to enable the work to progress in a timely manner. This includes the proposed increase in delegation level for applications for the allocation of CIL funding for smaller infrastructure projects rising from the existing £50,000 or less CIL funding to £100,000 or less CIL funding, including those from non-parished areas. The delegation in all other parts would remain the same, namely delegating authority to the Corporate Director (Place) and the Chief Planning Officer in consultation with the Leader and Executive Councillor for Planning. This has been proposed as it is believed this will reduce the level of 'local' small infrastructure projects needing to be considered by Cabinet and so enable use of Cabinet time more effectively on larger projects of strategic nature. This approach will enable more timely decision making giving certainty to Towns/Parishes who may also be bidding for external funding and need to demonstrate match funding to deliver locally important projects.
- 3.8 A summary showing how the governance process is proposed to change is shown in Appendix 1 section 2.1.
- 3.9 Town and Parish Councils will still receive their meaningful proportion of CIL receipts in line with the CIL Regulations 2010 (as amended). This equates to 15-25% of CIL payments received in relation to a planning permission and its locality depending on whether a Neighbourhood Plan has been 'made' or not. The Town and Parish Councils can decide on how this is spent as long as it is to support the development of the local council's area, or any part of that area, by funding:
- (a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
 - (b) anything else that is concerned with addressing the demands that development places on an area.
- In doing so this enables them to prioritise funding projects that may not be supported by the District Council Strategic CIL or consider how they could work with the District Council to support strategic priorities in their town or parish for funding.

4. COMMENTS OF OVERVIEW & SCRUTINY

- 4.1 The Panel discussed the Community Infrastructure Levy Governance Review Report at its meeting on 5th June 2024.
- 4.2 In response to a question from Councillor Gardener relating to rural areas, the Panel heard that CIL funding was strategic and that the revised approach to CIL would allow for the meaningful portion of CIL to go further. It was clarified that the funding was available for those looking to unlock growth with a strategic intent or benefit, and that the team would look to engage with parishes to establish how CIL could be generated to meet their aspirations. It was noted that this was only one type of many funding opportunities available to parishes.
- 4.3 Councillor Pickering observed that the new approach may be considered

as the Council taking control rather than the parishes, following which, the Panel heard that the team had taken learnings from recent work in other districts and that although parish relationships had been identified as a risk for the project, the team would be confident that this approach was consistent with high quality and best practice.

- 4.4 Councillor Corney enquired whether a study had been undertaken to reassess unsuccessful applications from the last round of funding to ascertain whether the new scheme would have provided them with a different outcome. The Panel heard that whilst such a study hadn't been undertaken, but that the flowchart in the report demonstrated that in the context of previous applications some had no link to growth and therefore were not successful.
- 4.5 Councillor Catmur observed that better engagement with parishes would be welcomed and would be helpful to develop parishes understanding of CIL. The Panel heard that a communications plan was being developed and that the team would attend a parish conference in October to further assist and advise interested parishes.
- 4.6 In response to a question from Councillor Cawley, the Panel were assured that whilst there would undoubtedly be an impact on resources, the team would have access to an administrative pot of funding to assist with this. It was further observed that whilst there may be some time investment required in the early stages of applications but that this may prove more beneficial in the long term.
- 4.7 Following a question from Councillor Pickering regarding CIL being spent in the communities where it had been generated, the Panel heard that the new scheme allowed for a more positive spread of the funding and utilising it to unlock growth across the district. This would include a benefit to more rural areas whose contribution to the CIL fund may be minor in terms of the district but significant in the growth of that community.
- 4.8 Councillor Martin observed that the proposed change in threshold for officer approved applications rising from £50,000 to £100,000 seemed a significant increase and expressed concern that as a result very few applications would be discussed in the democratic process. The Panel heard that due to rising costs, this threshold was deemed to be a reasonable increase and that officer time and resource also needed to be considered as well as the ability to make quicker and more efficient decisions. Councillor Martin suggested that this increase in threshold be reviewed in 12 months to assess its effectiveness and suitability for the long term. Following which it was proposed by Councillor Cawley to add an additional recommendation to the Cabinet report; that the increase in officer approved applications from £50,000 to £100,000 be reviewed in 12 months and a report be brought back through the democratic cycle to assess the effectiveness of this change. The Panel were in favour of proposing this recommendation for consideration by Cabinet.
- 4.9 Following the discussion, the Panel were informed that their comments would be added to the Cabinet report in order for Cabinet to make a decision upon the recommendations and additionally, the Panel request that the Cabinet consider adding the following recommendation to their

report;

7) that the increase in officer approved applications from £50,000 to £100,000 be reviewed in 12 months and a report be brought back through the democratic cycle to assess the effectiveness of this change.

5. KEY IMPACTS / RISKS

5.1 The key impact from not reviewing the governance process will be the potential for certain infrastructure projects not being delivered due to CIL funding not being available or allocated appropriately and in a timely manner. Detail on the analysis of the options considered and their associated risks is shown in Appendix 1 at Figures 4 and 5 and paras 5.2 and 5.3 of that document.

5.2 Subject to the recommendations in this report being support, the key risk elements are likely to include, but not limited to:

Budget Management Risk: It will be important to ensure spend is within appropriately set cost parameters for each step of the programme. This will be considered against the overall programme funding profile with oversight by the Chief Planning Officer where necessary. Funding will be from the CIL Admin 'pot' as permitted within the CIL Regulations 2010 (as amended).

Programme timescale risk: This is an ambitious programme of change and delivery with tight timescales. The work will be regularly reviewed with the Chief Planning Officer and any changes to the programme and milestones agreed.

Programme resources risk: It is recognised that additional resource will be required, in the short-term as a minimum, to take forward the proposed new governance process. Programme management will be established with the additional support through the outlined consultancy support.

Engagement with partners: The Council has a positive and proactive approach to partnership working, supported through the Corporate Plan and Places Strategy. It is recognised that partners, both internal and external, are experiencing many resourcing and priority pressures and so a structure programme of engagement will be established to look at bringing this into all partners business as usual work, recognising the corporate priority for this work. Any issues will reported back to the Chief Planning Officer.

Legislation changes: The government has announced that CIL could be replaced by a new Infrastructure Levy, as outlined in the Levelling-up and Regeneration Act 2023. This sets out a legislative framework for the new planning levy but further technical consultations are expected before the full detail of this is known and the potential impact on future financial receipts.

5.3 A risk register will be established for the work if recommendations are approved.

6. WHAT ACTIONS WILL BE TAKEN/TIMETABLE FOR IMPLEMENTATION

6.1 The proposed new CIL governance arrangements will take time to implement. To ensure certain elements can be introduced immediately,

some interim arrangements are proposed. This would include for the first year, amongst other things:

- The Project Proposal Form for use by applicants being amended to reflect the 'statement of intent'
- The CIL guidance being updated to include defined criteria elements
- A Project Initiation Document being prepared to secure additional resources to implement the work programme, the budget for which is proposed to be met through the use of the CIL Admin pot
- A communication framework is designed and implemented to 're-launch' the new approach and interim arrangements and any changes relevant with partner organisations, service providers and community groups.
- A single funding round to commence within the 2024/25 financial year
- The development of a programme of closer engagement with Town and Parish Councils alongside the Neighbourhood Planning team work to demonstrate the benefits of aligning priorities and funding, this could include providing additional support in the development of parish-level infrastructure plans (for example through a template Infrastructure Investment Plan that town and parish councils can use to prioritise infrastructure), and producing web-based guidance for town and parish councils.

6.2 Moving forward from the above, the programme of work will develop further to include a new Infrastructure Development Plan supporting the emerging new Local Plan, including a range of evidence-based items to support its development. From this a business plan and programme will be produced which will aid the prioritisation of infrastructure funding support across the district. An indicative work programme is shown at Figure 10 in Appendix 1.

7. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND/OR CORPORATE OBJECTIVES

(See Corporate Plan)

7.1 This will help to deliver across a range of the Council's Corporate Plan priorities specifically Creating a better Huntingdonshire for future generations by:

- Improved housing - 27. Maintain the level of new housing delivery, which meets the needs of Huntingdonshire residents, including the type of home and tenure (open market and social housing).
- Forward-thinking economic growth - 39. Influence delivery of infrastructure including East West Rail, A428, A141 Strategic Outline Business Case and future Transport Strategies

8. LEGAL IMPLICATIONS

8.1 Regulation 59 (1) of the Community Infrastructure Levy Regulations 2010 (as amended) requires a charging authority to apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area. It may also, under Regulation 59 (3), support infrastructure outside its area where to do so would support the development of its area.

8.2 Passing CIL to another person for that person to apply to funding the

provision, improvement, replace, operation and maintenance of infrastructure is also permitted under Regulation 59 (4).

8.3 Section 216 (2) of the Planning Act 2008 as amended by Regulation 63 of the Community Infrastructure Regulations 2010 (as amended) states that infrastructure 'includes *[and is therefore not limited to]*:

- (a) roads and other transport facilities
- (b) flood defences
- (c) schools and other educational facilities
- (d) medical facilities
- (e) sporting and recreational facilities
- (f) open spaces.'

8.4 The Strategic levy may not be used to fund affordable housing.

8.5 The Council enters into contract arrangements with any organisation that is allocated CIL funding. A template contract has been reviewed with the Council's legal team and continues to be engaged with new contracts as they are developed.

9. RESOURCE IMPLICATIONS

9.1 Resources required are for officer time and include:

- a) Existing resources of the Implementation Team, which is part of the Planning Service.
- b) Additional resources as outlined in the report, funded through the CIL Admin pot as part of the CIL receipts, in line with the CIL Regulations 2010 (as amended)
- c) Other sections within the Council - preparation of funding applications in line with the Infrastructure Delivery Plan, Corporate Plan and Strategic Priority Programme

10. HEALTH IMPLICATIONS

10.1 Huntingdonshire District Council is committed to supporting residents through a positive and ongoing working relationship with local communities. Delivery of certain infrastructure projects could support the health and wellbeing of our new, and existing, communities such as through health facilities or sports development. Such capital initiatives that support development would also directly contribute to positive health outcomes.

11. ENVIRONMENT AND CLIMATE CHANGE IMPLICATIONS

11.1 The Council has a duty to ensure that we continue to promote environmentally positive and sustainable projects supporting positive place-making. The new arrangements can play an important role in influencing the applications for CIL funding to tackle climate change at the same time as enabling sustainable growth within their infrastructure proposals.

11.2 Climate Strategy, which was adopted by the Council in February 2023, will be considered as part of the assessment criteria.

12. REASONS FOR THE RECOMMENDED DECISIONS

- 12.1 The proposed process is considered the best option available to ensure that CIL funds are allocated appropriately to fund infrastructure that is directly linked to supporting or mitigating the impact of new development and in line with Council priorities, whilst ensuring best value is achieved and allowing some flexibility where appropriate.

13. LIST OF APPENDICES INCLUDED

Appendix 1 – CIL Governance Review Report

14. BACKGROUND PAPERS

Section 216 of Planning Act 2008 Huntingdonshire Infrastructure Delivery Plan

<http://www.huntingdonshire.gov.uk/media/2694/infrastructure-delivery-plan.pdf>

Huntingdonshire Infrastructure Delivery Plan – Infrastructure Schedule

<http://www.huntingdonshire.gov.uk/media/2693/infrastructure-schedule.pdf>

Huntingdonshire Infrastructure Delivery Plan Addendum

<http://www.huntingdonshire.gov.uk/media/2861/infrastructure-delivery-plan-addendum.pdf>

Community Infrastructure Levy Spend Allocation July 2019

<https://democracy.huntingdonshire.gov.uk/moderngov/documents/s104976/Community%20Infrastrucutre%20Levy%20Spend%20Report.pdf>

Community Infrastructure Levy Governance October 2020

<https://democracy.huntingdonshire.gov.uk/moderngov/documents/s112140/Community%20Infrastructure%20Levy%20Governance%20report.pdf>

Infrastructure Funding Statement 2022-23

<https://democracy.huntingdonshire.gov.uk/moderngov/documents/s131501/4.%20Infrastructure%20Funding%20Statement%20Report.pdf>

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