

Report of the Strategic Director, Place to the meeting of the Executive to be held on 8th January 2019.

Subject: Bradford Community Infrastructure Levy (CIL) – Update, Review and Annual Report

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Summary statement:

This report provides a summary update on the total amount of CIL monies collected up to December 2018. The report outlines the future process for allocating the Strategic CIL Fund and proposes minor amendments to the Regulation 123 List.

The report also seeks approval to commence with a review of the charging rates and zones in the adopted CIL Charging Schedule, as recommended following the CIL Examination and adoption in 2017.

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**Portfolio: Regeneration Planning &
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Overview & Scrutiny Area:
Regeneration and Environment

1. SUMMARY

- 1.1 The Community Infrastructure Levy (CIL) is intended as a means of contributing to the funding of infrastructure required to support the delivery of the Local Plan, including the adopted Core Strategy and other Development Plan Documents. It replaces part of the system of Planning Obligations (S106 Agreements), the scope of which has been restricted since 6 April 2015. The Council adopted the Bradford CIL Charging Schedule in March 2017 and the charges took effect from 1st July 2017.
- 1.2 This report includes a summary for the amount of CIL monies collected up to December 2018 and outlines the process for allocating future CIL monies from the Strategic CIL Fund.
- 1.3 The report also covers other matters relating to the CIL implementation, namely proposed minor amendments to the Regulation 123 List, and is also seeking approval to commence a review of the CIL rates and charging zones in the adopted Bradford CIL Charging Schedule.

2. BACKGROUND

- 2.1 The Bradford CIL was adopted by Full Council on 21 March 2017, and the charges were implemented across the District from 1st July 2017. The process for the collection, spending and reporting of CIL monies must be transparent and undertaken in line with the requirements set out in the CIL Regulations.
- 2.2 The report 'Governance Arrangements for the Bradford CIL Charging Schedule' to the Governance and Audit Committee on 28 February 2017, sets out the governance arrangements for allocating, spending and reporting on the Bradford CIL. CIL monies will be directed into two main funding streams; a Strategic CIL Fund and a Neighbourhood CIL Fund. The Council will retain 5% of the total CIL receipts collected to cover administration and implementation costs.
- 2.3 **Neighbourhood CIL Fund**
 - In line with the CIL Regulations 2010 (as amended) 15% of CIL income will be passed directly to those parish and town councils where development has taken place (the neighbourhood proportion), subject to the cap set in national CIL regulations. This will increase to 25% in any areas with an adopted neighbourhood plan.
 - The neighbourhood proportion will be transferred annually by the 28th April each year.
 - In areas where there is no parish or town council communities will still benefit from the neighbourhood proportion, however the Council will retain and ring-fence the CIL receipts for these areas. The existing approach used for Planning Obligations (Section 106) will be used to direct spending of the CIL Neighbourhood Fund in areas without a parish or town council, in consultation with relevant ward councillors.

2.4 Strategic CIL Fund

- After the council has allocated the Neighbourhood CIL Fund monies and retained 5% for administration cost, the remaining proportion of the levy will be placed in a Strategic CIL Fund.
- The Strategic CIL Fund monies can be spent anywhere across the District on infrastructure needed to support growth.
- The Council's Regulation 123 List sets out the types of strategic infrastructure within the District that could be funded through the Strategic CIL Fund.
- Priorities for spending the Strategic CIL Fund will be agreed on an annual basis by the council's Executive, in line with the Regulation 123 List, taking into account the impact of specific and cumulative infrastructure needs arising from new development.
- To date, there have been no detailed decisions on the spending of the Strategic CIL Fund. It is proposed that a report from the Director (Place) will be taken to the Council's Executive in June each year, outlining the amount of CIL monies collected to date, the previous financial year's Annual CIL Monitoring Report and setting out recommendations for the allocation of the Strategic CIL Fund towards infrastructure priorities.
- It should be noted that a number of services and infrastructure providers will be consulted in producing the infrastructure evidence to inform any recommendations regarding allocating the Strategic CIL Fund including; education, health, parks, landscape and countryside.

2.5 Monitoring and Reporting

- To ensure that the levy is open and transparent the council must produce and publish on its website a CIL Annual Monitoring Report, which sets out CIL receipts, balances and spend, for the previous financial year.
- It should be noted that the Bradford CIL only came into effect on 1 July 2017. CIL is only liable for planning applications approved on or after 1 July 2017 and payment of CIL is only triggered on commencement of development, in line with the council's approved CIL instalments policy.
- The total amount of CIL monies collected up to December 2018 is £147,755.00.
- The amount of CIL monies received will increase in subsequent financial years as more planning applications become liable for CIL and development of approved CIL liable applications is commenced.

3. OTHER CONSIDERATIONS

Minor Changes to the Regulation 123 List

- 3.1 The CIL Regulation 123 List was approved alongside the Bradford CIL Charging Schedule in 2017.
- 3.2 A number of minor changes to the approved Regulation 123 List are considered necessary to ensure that the Council can continue to prioritise Strategic CIL Funds to support an appropriate range of infrastructure to support growth.
- 3.3 The Regulation 123 List can be revised independently of the adopted CIL Charging Schedule, subject to appropriate local consultation. However, where a change to

the Regulation 123 List would have a very significant impact on the viability evidence that supported examination of the Charging Schedule, this should be made as part of a review of the CIL Charging Schedule.

- 3.4 Appendix 1 sets out the proposed minor amendments to CIL Regulation 123 List. The list below highlights what is proposed to be changed from the current version and provides an explanation.
- 3.5 Proposed minor changes to the Regulation 123 List:-
- Include new reference to renewable and low carbon energy schemes in addition to the specific reference to district heat networks.
 - Include specific reference to air quality improvement measures and infrastructure to support brownfield land remediation under environmental improvement infrastructure.
 - Minor changes to the wording to provide clarity about the use of CIL funds for strategic infrastructure, while not precluding site specific planning obligations from individual developments, where required by Core Strategy Policies.
- 3.6 It is considered that the proposed changes to the Regulation 123 List are minor and therefore would not impact on the viability evidence assessed at the CIL examination. The changes are also not being proposed in order that a specific infrastructure item can be funded through a new S106, but to give more clarity on specific infrastructure that could be funded through CIL. Therefore the only requirement is that 'appropriate local consultation' takes place on the proposed changes.
- 3.7 It is proposed that consultation on the changes and the opportunity for comment be made available through the Council's website and through limited targeted consultation. Given that only minor amendments are proposed to the Regulation 123 list it is suggested that the Assistant Director (Planning, Transportation and Highways) be authorised to make any further changes arising from this consultation.

Review of Adopted CIL Charging Schedule

- 3.8 At the examination of the Bradford CIL Charging Schedule the Government's independent CIL Examiner recommended that the council should undertake an early review of the CIL charging rates following adoption of the charging schedule.
- 3.9 The Government consulted in March 2018 on reviewing the approach to CIL and developer contributions. The Government has responded to this consultation in October 2018. A summary of the key points from the Government's response are set out in Appendix 2. It should be noted that Legislation will be required in order to implement the changes set out in the consultation document. Therefore, the Government will be consulting on the draft regulations in the near future. However, the government still recognises CIL as an effective mechanism for collecting contributions towards addressing the cumulative impact of development and so will ensure measures are in place to incentivise uptake and the continued use of the Levy.
- 3.10 It is therefore considered that the council should undertake a review of the adopted

CIL Charging Schedule, to commence in 2019. It is proposed that the CIL review process and any associated consultation is aligned with the updated Local Development Scheme approved at Executive on 10 July 2018. This will ensure that the council's CIL rates and charging zones reflect up-to-date economic and infrastructure evidence and take account of any changes to the CIL Regulations and national planning practice guidance. This will also allow the emerging Local Plan evidence on viability and infrastructure to be aligned with the CIL review, thus giving efficiency savings.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 The Community Infrastructure Levy Regulations 2010 (as amended) require the Council to prepare a report for any financial year in which:
 - a) It collects CIL, or CIL is collected on its behalf; or
 - b) An amount of CIL collected by it or by another person on its behalf (whether in the reported year or any other) has not been spent.
- 4.2 CIL Regulation 62 sets out the specific requirements which must be covered by this Report, the first such annual CIL monitoring report and covers the financial year 6 April 2017 to 31 March 2018 and will be made available on the council's website.
- 4.3 The total amount of CIL monies collected up to December 2018 is £147,755.00. In line with the CIL regulations the council will transfer the neighbourhood proportion (15% or 25 with an adopted neighbourhood plan) directly to the town or parish council where development has taken place by the 28th April each year. A report from the Director (Place) will be taken to the Council's Executive in June each year, outlining the amount of CIL monies collected to date, the previous financial year's Annual CIL Monitoring Report and setting out recommendations for the allocation of the Strategic CIL Fund towards infrastructure priorities.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 The collection, spend and reporting of CIL is governed by Legislation set out in the Planning Act 2008 (as amended by the Localism Act 2011) and the CIL Regulations 2010 (as amended). If the Council does not follow appropriate governance arrangements for collecting, spending and monitoring CIL consistent with the CIL Regulations then the Council runs the risk of challenge over the use of CIL monies being upheld.
- 5.2 The report 'Governance Arrangements for the Bradford CIL Charging Schedule' to the Governance and Audit Committee on 28 February 2017 sets out the governance arrangements for allocating, spending and reporting on CIL.

6. LEGAL APPRAISAL

- 6.1 The adopted Bradford CIL Charging Schedule has been prepared and implemented in line with the appropriate, legislation (UK and EU), regulations and guidance.
- 6.2 The process for implementing the CIL Charging Schedule and spending CIL monies is set out in the CIL Regulations 2010, together with subsequent amended CIL Regulations in 2011, 2012, 2013, 2014 and 2015. Under the CIL Regulations

restrictions have come into force for existing planning obligations (Section 106 agreements) from April 2015. If the Council does not follow appropriate governance and spending arrangements consistent with the CIL Regulations then the council the Council runs the risk of challenge over the use of CIL monies being upheld.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

These issues have been considered and no implications have been identified.

7.2 SUSTAINABILITY IMPLICATIONS

CIL monies will support the delivery of infrastructure and sustainable development across the District and help to mitigate the impacts arising from of growth.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

None

7.4 COMMUNITY SAFETY IMPLICATIONS

None

7.5 HUMAN RIGHTS ACT

These issues have been considered and no implications have been identified.

7.6 TRADE UNION

None

7.7 WARD IMPLICATIONS

In non-parished areas the decisions about spending will be delegated to the relevant ward councillor and the CIL Neighbourhood Fund ring fenced by the Council for that purpose.

7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)

None

7.9 IMPLICATIONS FOR CORPORATE PARENTING

None

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

None

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

Make minor amendments to the approved CIL Regulation 123 List

9.1 Option 1: Make minor amendments to the approved CIL Regulation 123 List

9.1.1 Minor changes proposed to the Regulation 123 List are considered necessary to improve clarity, provide consistency, and to reflect current strategic infrastructure priorities.

9.1.2 This will enable the council to direct future strategic CIL monies to a range of necessary infrastructure types, including infrastructure to support air quality improvement measures, renewable and low carbon energy schemes and brownfield land remediation to support growth in the District and deliver sustainable development.

9.2 Option 2: Do not make minor amendments to the approved CIL Regulation 123 List

9.2.1 The approved Regulation 123 list will remain unchanged and therefore will not reflect current strategic infrastructure priorities.

Undertake a review of the adopted Bradford CIL Charging Schedule

9.3 Option 1: Undertake a review of the Adopted CIL Charging Schedule

9.3.1 The review will ensure that the council's adopted CIL rates remain appropriate and informed by the latest economic and infrastructure evidence. This will ensure that the council will continue to maximise the amount of CIL available to support investment in infrastructure and support growth, while ensuring the rates are viable and delivery of development is not put at risk. It will also ensure the Bradford CIL is in line with the latest Government CIL Legislation and Guidance.

9.3.2 This will also enable the CIL review and evidence to be twin tracked alongside the production of the Local Plan Allocations and Partial Review of the Core Strategy, ensuring that the evidence required for economic viability and infrastructure requirements can be aligned and support both the CIL and Local Plan production resulting in efficiencies.

9.4 Option 2: Do not undertake a review of the Adopted Bradford CIL Charging Schedule

9.4.1 Not reviewing the adopted CIL rates will mean the adopted CIL rates will become increasingly out of date and therefore may not reflect current market conditions or maximise the potential amount of CIL available to support investment in infrastructure to support growth in the District. The CIL and Local Plan evidence will not be aligned and therefore there may be the need to produce separate evidence

in the future with associated additional costs and resources required.

10. RECOMMENDATIONS

Recommended -

- 10.1 *That the proposed minor amendments to the Regulation 123 List (as set out at Appendix 1), be approved for consultation and the final changes to be agreed by the Assistant Director (Planning, Transportation & Highways) in consultation with the Portfolio holder following consideration of any representations made, and to make any further amendments considered necessary prior to implementation of the revised Regulation 123 List.*
- 10.2 *That the Assistant Director (Planning, Transportation and Highways) be authorised to commence work towards a review of the adopted Bradford CIL Charging Schedule in 2019 alongside the preparation of the Local Plan Core Strategy Partial Review and Allocations Development Plan, with delegated authority to the Assistant Director (Planning, Transportation and Highways) to undertake any associated consultation required and make any further amendments to the CIL Charging Schedule considered necessary prior to producing a Draft Charging Schedule.*

11. APPENDICES

Appendix 1: Proposed Minor Amendments to Regulation 123 List

Appendix 2: Government's Response to Developer Contributions Consultation

12. BACKGROUND DOCUMENTS

- Bradford District CIL Charging Schedule (2017)
- Bradford CIL Regulation 123 List (2017)
- Report 'Governance Arrangements for the Bradford CIL Charging Schedule' to the Governance and Audit Committee on 28 February 2017
- Report 'Government response to supporting housing delivery through developer contributions'. October 2018. Ministry of Housing, Communities and Local Government. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachme>

Appendix 1: Proposed Minor Amendments to CIL Regulation 123 List

Current Regulation 123 List	Proposed Change	Explanation
Education including primary and secondary provision	No change proposed.	No change necessary.
Sustainable transport improvement schemes except where improvements are required as a direct result of development <ul style="list-style-type: none"> • Improvements to strategic pedestrian and cycle routes • The Public Right of Way network • Station improvements 	Sustainable transport schemes including: <ul style="list-style-type: none"> • Improvements to strategic pedestrian and cycle routes • The Public Right of Way network • Station improvements <p>except for site specific provision required by Core Strategy Policies as a direct result of development.</p>	To provide clarity on the use of CIL funds to contribute to (alongside other funding sources) sustainable transport schemes, while not precluding site specific planning obligations from individual developments where required by Core Strategy Policies.
Green infrastructure and public greenspace (e.g. improvements to open space), except for on-site provision required by Core Strategy policies	Green infrastructure, recreation and open space, except for site specific provision required by Core Strategy Policies as a direct result of development.	To provide clarity on the use of CIL funds to contribute to (alongside other funding sources) green infrastructure, recreation and open space, while not precluding site specific planning obligations from individual developments where required by Core Strategy Policies.
Community sports and recreation facilities (e.g. children's and young people's play areas, playing pitches), except improvements which are directly related to a development	Community sports and recreation facilities including: <ul style="list-style-type: none"> • children's and young people's play areas • playing pitches <p>except for site specific provision required by Core Strategy Policies as a direct result of development</p>	To provide clarity on the use of CIL funds to contribute to (alongside other funding sources) sports and recreation facilities, while not precluding site specific planning obligations from individual developments where required by Core Strategy Policies.

<p>Habitat mitigation including Suitable Alternative Natural Greenspace, except for onsite provision required by Core Strategy policies.</p>	<p>Habitat mitigation schemes including Suitable Alternative Natural Greenspace, except for site specific mitigation required by Core Strategy Policies as a direct result of development.</p>	<p>To provide clarity about the use of CIL to contribute to funding strategic habitat mitigation infrastructure, while not precluding site specific planning obligations from individual developments where required by Core Strategy Policies</p>
<p>Cultural facilities (e.g. libraries, built community space), except improvements which are directly related to a development.</p>	<p>Cultural facilities including libraries and built community space, except for site specific provision required by Core Strategy Policies as a direct result of development.</p>	<p>To provide clarity about the use of CIL to contribute to funding strategic cultural facilities infrastructure, while not precluding site specific planning obligations from individual developments where required by Core Strategy Policies</p>
<p>Public realm improvements, except for on-site provision or where this is required as a direct result of an adjacent development</p>	<p>Public realm improvements, except for site specific provision required by Core Strategy Policies as a direct result of development.</p>	<p>To provide clarity about the use of CIL to contribute to funding strategic public realm infrastructure , while not precluding site specific planning obligations from individual developments where required by Core Strategy Policies</p>
<p>Environmental improvements (e.g. recycling, local flood risk alleviation, pollution abatement), except improvements which are directly related to a development</p>	<p>Environmental infrastructure schemes including:</p> <ul style="list-style-type: none"> • Recycling • Flood risk alleviation • Pollution abatement • Air quality improvements measures • Infrastructure to support brownfield land remediation. <p>except for site specific provision required by Core Strategy policies as a direct result of development.</p>	<p>To provide clarity about the use of CIL to contribute to funding strategic environmental infrastructure schemes, including specific reference to air quality improvement measures and infrastructure to support brownfield land remediation in support of Core Strategy Policy EN8: Environmental Protection, while not precluding site specific planning obligations from individual developments where required by Core Strategy Policies.</p>
<p>District heating networks</p>	<p>Renewable and Low Carbon Energy Infrastructure Schemes</p>	<p>To provide clarity about the use of CIL to contribute to renewable and low carbon schemes in</p>

	<p>including District heating networks, except for site specific provision required by Core Strategy policies as a direct result of development.</p>	<p>support of Core Strategy Policies SC2: Climate Change and Resource Use and EN6: Energy, while not precluding site specific planning obligations from individual developments where required by Core Strategy Policies.</p>
<p>Community safety and health projects, including</p> <ul style="list-style-type: none"> • Emergency services (police, fire, ambulance) • Public health facilities 	<p>Community safety and health projects, including:</p> <ul style="list-style-type: none"> • Emergency services (police, fire, ambulance) • Public health facilities <p>except for site specific provision required by Core Strategy policies as a direct result of development.</p>	<p>To provide clarity about the use of CIL fund community safety and health projects, while not precluding site specific planning obligations from individual developments where required by Core Strategy Policies.</p>

Appendix 2: Government's Response to Developer Contributions Consultation

The Government's response to supporting housing delivery through developer contributions is now available:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752183/Developer_Contributions_Government_Response.pdf

The key points are as follows:-

- The Government intends to take forward the proposals on which it has consulted by making changes to planning guidance. This will support local authorities to adopt and revise Community Infrastructure Levy charging schedules.
- The Government intends to take forward a proposal to ensure that regulations continue to require charging authorities to consult on draft charging schedules, whilst removing the current statutory requirement for two separate rounds of consultation in every circumstance. This will ensure that Charging Authorities can decide the most proportionate approach to consultation, speeding up the time taken to introduce and amend charging schedules. It will also ensure stakeholders have clarity over how they can respond to proposals.
- The Government intends to lift the pooling restriction for Section 106 Planning Obligations in all areas. However, the government still sees the Community Infrastructure Levy as an effective mechanism for collecting contributions towards addressing the cumulative impact of development and so will ensure measures are in place to incentivise uptake and continued use of the Levy.
- The Government proposes to make changes to planning guidance to support local authorities to set differential rates more effectively.
- The Government has started to introduce measures to improve transparency around the system of developer contributions. The Government intends to strengthen this approach by taking forward proposals to require reporting of developer contributions from the Community Infrastructure Levy and section 106 planning obligations through the Infrastructure Funding Statement on a statutory basis.
- The Government proposes to remove restrictions in regulations that currently prevent section 106 planning obligations being used to collect contributions towards infrastructure included on a Charging Authority's 'regulation 123 list'. New reporting standards, which are set out in the Infrastructure Funding Statement, will address concerns about double dipping by ensuring that there is transparency over how developer contributions from both CIL and section 106 planning obligations are being used, rather than by placing formal restrictions in regulations.
- The Government has decided to take forward a modified proposal, to enable Combined Authorities with strategic planning powers to take forward a Strategic Infrastructure Tariff, and to encourage groups of charging authorities to use existing powers to more effectively support the delivery of strategic infrastructure through the pooling of their local Community Infrastructure Levy receipts. The Government will amend guidance to encourage other groups of charging authorities to use the Levy more effectively to support the delivery of cross boundary strategic infrastructure that benefits multiple authorities through pooling their local CIL.