

## Report of the Strategic Director, Place to the meeting of the Executive to be held on 9<sup>th</sup> July 2019.

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**Subject: Bradford Community Infrastructure Levy (CIL) – Investment of the Strategic Fund**

### **Summary statement:**

The Council has adopted the Bradford Community Infrastructure Levy (CIL), which has now been in place and applies to new development since July 2017. This report relates to the investment of the strategic CIL fund. The purpose of this report is to seek Executive approval for the investment of the CIL Strategic Fund for monies accumulated up until March 2019.

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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.
- 1.2 The purpose of this report is to seek Executive approval for the investment of the CIL Strategic Fund for monies accumulated up until March 2019, as set out in Tables 1 and 2.
- 1.3 This report includes a summary for the amount of CIL monies collected up to March 2019 and outlines recommendations for the allocation of monies from the Strategic CIL Fund to infrastructure priorities to support growth.

## **2. BACKGROUND**

- 2.1 The District CIL was adopted by Full Council on 21 March 2017, and the charges were implemented 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 to the Governance and Audit Committee on 28 February 2017, sets out the governance arrangements for allocating, spending and reporting on the Bradford CIL. This resolved that CIL receipts will be directed into two main funding streams; a CIL Strategic 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 CIL Strategic Fund.

The CIL Strategic 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 CIL Strategic Fund.

Investment of the CIL Strategic Fund will be determined 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 CIL Strategic Fund. This report outlines the amount of CIL monies collected to date, the previous financial year's Annual CIL Monitoring Report and sets out recommendations for the allocation of the CIL Strategic Fund towards infrastructure priorities.

## 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 March 2019 is £350,697.00.

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.

2.6 Appendix 1 provides a breakdown of the CIL payments received, the neighbourhood transfers and the administration sum retained by the Council.

2.7 The purpose of the CIL Strategic Fund is to contribute to the costs of infrastructure to support development, not for the money to be substituted for general spending, for which funding streams should continue as at present. The levy has to focus on the provision and maintenance of infrastructure and should not be used to remedy existing deficiencies unless those deficiencies will be made more severe by new development. CIL Strategic Funds can be accrued to fund key items which are listed on the Regulation 123 list

2.8 There are various options and pressures in relation to the investment of the CIL Strategic Fund, such as competing demands for the monies from varying different

types of infrastructure. There are also pressures in terms of where the monies are spent geographically. The Strategic Fund can be invested on strategic infrastructure throughout the District and is not restricted geographically; however this can also mean that there is not necessarily a direct connection between development activity and where the strategic fund is spent. There is therefore the potential to direct CIL funds towards more strategic infrastructure priorities.

- 2.9 Investment of the strategic fund will also need to reflect the connection between the demands that development generates and investment of the monies. In addition future investment will need to take into account the impact of cumulative infrastructure needs arising from new developments. Consideration has therefore been given to the impact of major development across the District, some of which will generate a need for infrastructure. However, smaller developments can also trigger smaller sums which can also accumulate CIL and create pressure for infrastructure provision.
- 2.10 It is important to note that CIL will not meet the total infrastructure needs as identified by the Infrastructure Delivery Plan (IDP). However, CIL can along with other funding sources make a contribution to the delivery of infrastructure. The IDP identifies as far as possible currently planned infrastructure provision in the District, including the infrastructure necessary for the delivery of the Local Plan within the context of the Core Strategy up until 2030.
- 2.11 It should be noted a number of council services and infrastructure providers have been consulted in producing the infrastructure evidence to inform the recommendations regarding the allocation the CIL Strategic Fund including; education, health, parks, landscape and countryside. Officers have considered the options for investing the CIL Strategic Fund, in light of the CIL and other demands resulting from growth and made recommendations in relation to the investment of the CIL Strategic Fund. It should also be noted that following the introduction of the pooling restrictions regarding Section 106 funding, the areas which have felt the largest impact in lost developer contributions are education and recreation.

### **3. OTHER CONSIDERATIONS**

#### **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 were considered necessary to ensure that the Council can continue to prioritise Strategic CIL Funds to support an appropriate range of infrastructure to support growth. These changes were approved for consultation by the Executive on 8<sup>th</sup> January 2019
- 3.3 Following local consultation the Council has revised the Regulation 123 List. Appendix 2 sets out the revised CIL Regulation 123 List. This specifies those infrastructure projects or types of infrastructure that the Council intends will be, or may be, wholly or partly funded through the CIL. In order to ensure that individual developments are not charged twice for the same infrastructure items, the CIL Regulations restrict Section 106 planning obligations in respect of infrastructure listed on the Regulation 123 List.

## **Habitat Mitigation**

- 3.4 European legislation (the Habitats and Wild Birds Directives), transposed into the Conservation of Habitats and Species Regulations 2017, as amended, requires local authorities to avoid or mitigate the impact of increased human activity on certain habitats and species in European protected areas, namely Special Areas of Conservation (SAC) and Special Protection Areas (SPAs). Local authorities are responsible for securing adequate mitigation for European site impacts. The council therefore must ensure it meets its obligations under the Habitats Regulations considering whether the impact of additional residential development can be adequately mitigated. This requirement is described in policies SC8 & EN2 of the adopted Local Plan Core Strategy (2017).
- 3.5 The Council currently include Habitat Mitigation on the Regulation 123 List (Appendix 2). In order to ensure compliance with the Directives, the Council must put in place a system which ensures that mitigation is delivered at a time and place when it will be effective and be clear that it intends to prioritise the use of the levy to deliver habitat mitigation. As stated in the Core Strategy (2017) a Supplementary Planning Document (SPD) will be produced to identify contributions and secure mitigation measures, in relation to provision of natural greenspace, where this is required to mitigate the effects of increased recreation pressure upon the South Pennine Moors SPA/SAC. However, prior to the adoption of this it is considered that a proportion of the Strategic Fund must be allocated to habitat mitigation to ensure compliance with the habitat regulations.

## **Creation of a Strategic CIL pot**

- 3.6 As the intention of CIL is a means to fund infrastructure required to support the delivery of the Local Plan, the Council is able to set aside a percentage of each year's CIL receipts into a Strategic CIL pot.
- 3.7 The aim of this funding pot would be to support the delivery of future strategic infrastructure projects which may come forward in the future.
- 3.8 CIL funds can be used for match funding for any project which will fall within the remit of the infrastructure listed on the Regulation 123 list.
- 3.9 This funding pot would be separate to any CIL funds allocated to internal infrastructure providers such as education, recreation and green infrastructure.

## **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 2018 to 31 March 2019 and will be made available on the council's website.
- 4.3 The total amount of CIL monies collected up to March 2019 is £350,697.00. In line with the CIL regulations the Council transferred 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 2019. Appendix 1 details the sums transferred to the parish and town councils.

## **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 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.
- 6.3 European legislation (the Habitats and Wild Birds Directives), transposed into the Conservation of Habitats and Species Regulations 2017, as amended, requires local authorities to avoid or mitigate the impact of increased human activity on certain habitats and species in European protected areas, namely Special Areas of Conservation (SAC) and Special Protection Areas (SPAs).

## **7. OTHER IMPLICATIONS**

### **7.1 EQUALITY & DIVERSITY**

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

### **7.2 SUSTAINABILITY IMPLICATIONS**

The CIL will support the delivery of infrastructure and sustainable development across the District and help to mitigate the impacts arising from 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 AD (Planning, Transportation and Highways) in consultation with relevant ward councillors 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**

9.1 The CIL is a key part of the delivery of the Council Plan priorities and can be spent on any infrastructure heading set out on the attached Regulation 123 list. This report recommends the investment of the Strategic Fund for the infrastructure priorities as set out in tables 1 and 2 below, with justifications. Consideration has been given to the consultation with service infrastructure providers, and to the major developments since July 2017. Spend of the strategic fund for education, green infrastructure, recreation and open space and habitats mitigation is recommended as the most appropriate investment of the strategic fund accumulated up to March

2019.

**Table 1:**

**Strategic CIL pot**

<b>Collection period</b>	<b>Total CIL receipts less Neighbourhood funds and 5% admin</b>	<b>Minimum 20% to be retained</b>	<b>Pot total</b>
July 2017- March 2019	£282,108.62	£56,421.72	£56,421.72

**Table 2:**

<b>Regulation 123 List Infrastructure Type</b>	<b>Allocation of CIL Strategic Fund (July 2017 to March 2018)</b>	<b>Reason for allocation</b>
Education including primary and secondary provision	40% of £225,686.90 balance after Strategic CIL pot deposit <b>£90,274.76</b>	There is a proven link between the provision of new houses in a given area and increased pressure for additional school places.
Recreation and open space	30% of £225,686.90 balance after Strategic CIL pot deposit <b>£67,706.07</b>	There is a proven link between the provision of new houses in a given area and increased pressure on existing recreational facilities.
Green infrastructure, public realm and air quality	15% of £225,686.90 balance after Strategic CIL pot deposit <b>£33,853.04</b>	It is a Council priority to mitigate the adverse impacts on air quality created by new development.
Habitat mitigation schemes including Suitable Alternative Natural Greenspace	15% of £225,686.90 balance after Strategic CIL pot deposit <b>£33,853.04</b>	Required by European legislation see paragraph 3.4.

**9.1 Option 1: Approve allocation of the CIL Strategic Fund as recommended in Tables 1 and 2**

9.1.1 The allocation of the Strategic Fund as recommended in Table 1 and 2 is considered the most appropriate investment of the CIL that reflects current strategic infrastructure priorities.

9.1.2 This will enable the Council to direct strategic CIL monies to a range of necessary infrastructure types to support the development of the District.

**9.2 Option 2: Approve the allocation of the Strategic CIL fund to alternative infrastructure priorities.**

9.2.1 The strategic CIL fund may be allocated to alternative infrastructure priorities.

**10. RECOMMENDATIONS**

Recommended -

10.1 That the Executive agree the allocation of the CIL strategic fund as set out in Table 1 and 2 (up to March 2019) be used to contribute to Education. Green infrastructure, recreation and open space and Habitats Mitigation.

10.2 That the decision on the spend of the Strategic CIL Pot in Table 1 be delegated to the Strategic Director (Place) in consultation with the Portfolio holder.

**11. APPENDICES**

Appendix 1: CIL payments received, neighbourhood transfers and the administrative sum retained

Appendix 2: Regulation 123 List (2019)

**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