

Report of the Strategic Director, Place to the meeting of the Executive to be held on 5th July 2022

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Subject:

Bradford Community Infrastructure Levy (CIL) – Investment of the CIL Infrastructure 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 CIL Infrastructure Fund. The purpose of this report is to seek Executive approval for the investment of the Fund collected 1st April 2021 to 31st March 2022.

EQUALITY & DIVERSITY:

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

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Portfolio:

Regeneration, Planning and Transport

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 Infrastructure Fund for monies accumulated up until March 2022, 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 2022 and outlines recommendations for the allocation of monies from the 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 (now referred to as the CIL Infrastructure Fund) and a Neighbourhood CIL Fund. The Council will retain 5% of the total CIL receipts collected to cover administration and implementation costs.

Neighbourhood CIL Fund

- 2.3 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.
- 2.4 The neighbourhood proportion will be transferred twice annually by the 28th April and 28th October each year.
- 2.5 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.

CIL Infrastructure Fund

- 2.6 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 Infrastructure Fund.

- 2.7 The CIL Infrastructure Fund monies can be spent anywhere across the District on infrastructure needed to support growth.
- 2.8 The Council's Regulation 123 List previously set out the types of strategic infrastructure within the District that could be funded through the CIL Infrastructure Fund.
- 2.9 Investment of the CIL Infrastructure Fund will be determined by the Council's Executive, taking into account the impact of specific and cumulative infrastructure needs arising from new development. It should be noted that the Infrastructure Funding Statement (IFS) introduced in December 2020 should detail the types of infrastructure the Council intends to fund, either wholly or partly, by CIL income and replaces the Regulation 123 List.
- 2.10 This report outlines the amount of CIL monies collected to date and sets out recommendations for the allocation of the Fund towards infrastructure priorities.

Monitoring and Reporting

- 2.11 To ensure that the levy is open and transparent the Council must prepare and publish on its website a CIL Annual Monitoring Report, which sets out CIL receipts, balances and spend, for the previous financial year. The CIL Annual Monitoring Report was replaced by the IFS in December 2020.
- 2.12 It should be noted that the Bradford CIL 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.
- 2.13 The total amount of CIL monies collected between 1st April 2021 and 31st March 2022 was **£1,108,083.23**.
- 2.14 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.
- 2.15 Appendix 1 provides a breakdown of the CIL payments received, the neighbourhood transfers and the administration sum retained by the Council. It should be noted that the surcharges are not included in the neighbourhood transfers or the 5% administration sum retained by the Council. All surcharges collected are retained and placed in the strategic pot for allocating.
- 2.16 The purpose of the CIL Infrastructure 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 Infrastructure Funds can be accrued to fund key infrastructure items.

- 2.17 There are various options and pressures in relation to the investment of the Fund, such as competing demands for the monies from varying different types of infrastructure. It can be invested on strategic infrastructure throughout the District and is not restricted geographically. There is therefore the potential to direct CIL funds towards more strategic infrastructure priorities.
- 2.18 Investment of the 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.
- 2.19 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 planned infrastructure provision in the District, including the infrastructure necessary to support the delivery of the Local Plan.
- 2.20 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 of the CIL Infrastructure Fund including; education, health, parks, transport planning, landscape, countryside, clean air (pollution) and libraries. Officers have considered the options for investing the Fund, in light of the amount of CIL and other demands resulting from growth and made recommendations in relation to the investment of the Fund. It should also be noted that following the introduction of CIL the areas which have felt the largest impact in reduced developer contributions, previously secured through Section 106 Agreements, are education and recreation.

Requests for CIL funding received

- 2.21 After the neighbourhood allocations and 5% administration fee has been retained the amount of CIL available for allocation is **£886,978.39**.

Education

Recommended amount to be allocated £312,216.39

- 2.22 An assessment is made during the planning application process of the impact a new development may have on the existing educational infrastructure. This assessment includes calculating the potential number of additional children a new development may create.
- 2.23 CIL funding may be used towards the development of additional mainstream school places, and specialist places for Children and Young People with Special Educational Needs and Disabilities. Of the developments that have generated a CIL payment, it is concluded that the following will cause an additional impact on the existing educational facilities, the amount requested per development is also noted:

17/04594/MAF: Land at Bingley Road, Menston, £284,116.56

18/04238/MAF: Former Hallmark Cards, Bingley Road, Bradford, total £63,352.27 (two payments of £31,676.13 and £31,676.14)

19/01710/MAF: 27 Kings Road, Ilkley, total £245,063.78 (two payments of £122,531.89 and £122,531.89)

Parks and Green Spaces

Recommended amount to be allocated £191,587.34

- 2.24 The monies will be allocated to Parks & Green Spaces projects to address the impact of developments upon existing recreational facilities and open space amenities primarily to address any shortfall in provision created by the developments and to support the Playable Spaces Strategy agreed by Executive 7th January 2020.
- 2.25 The projects will improve the Districts outdoor play and sport facilities, open spaces and green and blue infrastructure and their on-going maintenance, to support the wellbeing of our citizens by providing opportunities to live a healthy and active lifestyle.

Active Travel

Recommended amount to be allocated £70,958.27

- 2.26 To be used towards improving/providing active travel schemes across the District. Schemes which were not successful in receiving funding from the Active Travel Fund will benefit from a CIL allocation, such schemes may include the Buck Lane Bridleway and Esholt Path works.

Habitat mitigation

Recommended amount to be allocated £70,958.27.

- 2.27 The funds will be used to mitigate the additional recreational pressure on the South Pennine Moors SPA/SAC which arises from increases in residential dwellings within range of these areas within Bradford.
- 2.28 Research evidence from the Local Plan Habitats Regulations Assessment showed that the majority of people will travel up to 7kms from where they live to visit the moors. This creates additional erosion, disturbance, risk of wildfire and so forth which can impact upon the conservation objectives of these sites – something that we have a duty to avoid or mitigate under the Habitats Regulations.
- 2.29 The CIL payments made by developers will therefore fund a range of mitigation and management measures such as improvements to routes and sites which deflect pressure away from the moors, route improvements on the moors to reduce erosion, public information, wardening, and habitat repair.

Libraries

Recommended amount to be allocated £63,862.44

2.30 Libraries are a statutory service that must be comprehensive and accessible to all who live work and study in the District. They are often the only place in communities that is free, neutral and open to people of all ages and backgrounds, providing access to essential resources and facilities, help and support, a wide range of family activities and events, and a safe space to meet others. New development places additional demands on library services, particularly from traditional user groups such as families with young children and older people, as well as job seekers and newcomers needing information and to make connections in the community to settle in. The Council's new vision and model for the Service, approved by Executive in March 2020, is seeking to deliver more services from libraries that meet the Council's priorities, in partnership with other services and organisations as part of our Localities approach to working in communities. For these reasons libraries require CIL contributions of 20% of total in order to meet these expectations and provide the stock and facilities required to meet these growing demands and to refresh and replenish as needed. Example projects include expanding business and employment support across libraries, upgrading our library gardens as outdoor spaces for health and wellbeing, additional furniture and equipment – including supplies for our library volunteers, and refurbishment due to wear and tear.

2.31 If awarded, CIL funding will provide the stock and facilities required to meet these growing demands and to refresh and replenish stock as needed. It will also assist in delivering a mobile library service which will cover the harder to reach areas and communities in areas that tend to not have a library in close proximity. The mobile service would be a fantastic addition for young families and older residents who currently struggle to travel to a library and make use of the facilities.

Public Realm

2.32 CIL funding is requested to assist in delivering the Top of Town Public Realm Improvements.

2.33 The project, an extensive public realm improvement scheme within the 'Top of Town' neighbourhood of Bradford City Centre on North Parade, Rawson Square and Northgate, benefits from two external funding sources. The Bradford City Centre Townscapes Heritage Scheme supported by the National Lottery Heritage Fund, and the European Structural & Investment Funding Programme, administered by the European Regional Development Agency.

2.34 Townscape Heritage seeks to enhance the heritage quality of the conservation area, specifically around the listed statue of Richard Oastler.

2.35 The European funding seeks to introduce blue green infrastructure improvements to increase biodiversity and reduce flood risk.

- 2.36 The project will create a high quality environment that will facilitate the delivery of new residential and commercial projects, providing a vibrant, safe and attractive place where people will want to live, work and socialise; and businesses will want to trade, invest and grow.
- 2.37 This is important as the site of the soon to be vacant Oastler Market (once the new Darley Street Market opens) is immediately adjacent, and has colleagues in Economic Development working on the concept of a City Village regeneration scheme centre at this location. The quality of what can be delivered in the Top of Town Public Realm Improvements project will set a benchmark for the quality that will be expected of developers for City Village.
- 2.38 The use of the Fund will help ensure that all the new infrastructure delivered in Top of Town Public Realm Improvements achieves all the ambitions of the stakeholders in the Council and local community for a desirable and sustainable streetscape, as well as helping to set an aspiration level of quality needed for the future City Village.
- 2.39 The request for funding will be considered for the Strategic CIL Pot (see paragraph 3.6 below), rather than the CIL Infrastructure Fund.

3. OTHER CONSIDERATIONS

Habitat Mitigation

Habitat Mitigation

- 3.1 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). The Council when exercising its planning function is responsible for assessing the potential impact of the proposed development on the European Sites and for securing appropriate mitigation. 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).
- 3.2 Up to present the Council has included Habitat Mitigation in CIL allocations. 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. A Supplementary Planning Document (SPD) was adopted in 2022 and is now in place. The SPD sets out the mechanisms for securing developer contributions or securing other site based mitigation where a development is within a set distance of the South Pennine Moors SPA/SAC and will cause a harmful impact on Moors due to increased recreational pressures.
- 3.3 The SPD came into effect for all planning applications received 1st April 2022 and onwards. For planning applications identified as having to comply with the SPD requirements, the mitigation provided by the developer must be confirmed prior to the

application being validated.

- 3.4 In the main, developers are opting to make a financial contribution towards mitigation and these payments have started to be received.
- 3.5 As the new process was not in place in year 2021/2022, a CIL allocation is still required to assist in mitigating the impact on the SPA/SAC and to ensure Bradford Council is meeting its obligations under the Habitats 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 This funding pot would be separate to any CIL funds allocated to internal infrastructure providers such as education, recreation and green infrastructure.
- 3.9 To date, two deposits have been placed within the Strategic CIL pot. Table 1 below details the deposits and the current balance held.

Table 1: Strategic CIL Pot sums retained and current balance held

Allocation year	Amount retained	Balance
2017/2019	£56,421.72	£56,421.72
2019/2020	£89,718.18	£146,139.90
2020/2021	£200,480.46	£346,620.36

- 3.10 Prior to the meeting of this Executive, there has been one request received for funding to be released from the Strategic CIL Pot in order to support the public realm improvements in Bradford City Centre (see paragraphs 2.32 – 2.39). This is currently under consideration.

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. These reports are made available on the Council's website each year.
- 4.3 The total amount of CIL monies collected up to March 2022 is £1,108,083.23. In line with the CIL regulations the Council has 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 dates set out in the Regulations. 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 amendments). From April 2015 the CIL regulations introduced restrictions on the use of S106 Agreements to secure infrastructure, commonly referred to as the “Pooling” restrictions (these restrictions were removed in September 2019). If the Council does not follow appropriate governance and spending arrangements consistent with the CIL Regulations, then the Council runs the risk of challenge over the use of CIL monies.
- 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) when exercising its planning functions.

7. OTHER IMPLICATIONS

7.1 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.

7.2 GREENHOUSE GAS EMISSIONS IMPACTS

None

7.3 COMMUNITY SAFETY IMPLICATIONS

None

7.4 HUMAN RIGHTS ACT

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

7.5 TRADE UNION

None

7.6 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.

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

None

7.8 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE

None

7.9 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 priority. This report recommends the investment of the Fund for the infrastructure priorities as set out in Tables 2 and 3 below, with justifications. Consideration has been given to the consultation with infrastructure service providers. Spend of the Fund for education, green infrastructure, recreation and open space, habitats mitigation, active Travel and libraries is recommended as the most appropriate investment of the CIL Infrastructure Fund accumulated up to March 2022.

Table 2:**Strategic CIL Pot**

Collection period	Total CIL receipts less Neighbourhood funds and 5% admin	Minimum 20% to be retained	Pot total* includes previous years retained sums
April 2021 – March 2022	£886,978.39	£177,395.68	£524,016.04

Table 3:

Infrastructure Type	Allocation of CIL Infrastructure Fund 2020/2021	Reason for allocation
Education including primary and secondary provision	30% of the balance after Strategic CIL pot deposit £312,216.39	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	20% of the balance after Strategic CIL pot deposit £191,587.34	There is a proven link between the provision of new houses in a given area and increased pressure on existing recreational facilities.
Active Travel	10% of the balance after Strategic CIL pot deposit £70,958.27	There is a proven link between the provision of new houses and an increased pressure on the existing cycle network.
Habitat mitigation schemes including Suitable Alternative Natural Greenspace	10% of the balance after Strategic CIL pot deposit £70,958.27	Required by European legislation see section 3.
Libraries	5% of the balance after Strategic CIL pot deposit £63,862.44	New developments create additional strain on existing facilities. The council has an Executive approved Vision for the District to help mitigate demand.

9.2 Option 1: Approve allocation of the CIL Infrastructure Fund as recommended in Tables 2 and 3

9.3 The allocation of the Fund as recommended in Tables 2 and 3 is considered the most appropriate investment of the CIL that reflects current strategic infrastructure priorities.

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

9.5 Option 2: Approve the allocation of the CIL Infrastructure Fund to alternative infrastructure priorities.

9.6 The Fund may be allocated to alternative infrastructure priorities.

10. RECOMMENDATIONS

Recommended -

10.1 That the Executive agree the allocation of the CIL Infrastructure Fund as set out in Tables 2 and 3 (up to March 2022) be used to contribute to education, recreation and open space, active travel, habitat mitigation, and libraries.

10.2 That the decision on the spend of the Strategic CIL Pot in Table 1 and Table 2 be delegated to the Strategic Director (Place) in consultation with the Portfolio holder.

10.3 That the Strategic Director (Place) delegates to the Assistant Director of Planning Transportation and Highways to liaise with other Assistant Directors and Portfolio Holders to remind of the purpose of the Strategic CIL Pot and how the funds retained within it may be accessed to help deliver infrastructure projects.

11. APPENDICES

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

12. BACKGROUND DOCUMENTS

- Bradford District CIL Charging Schedule (2017)
- Report 'Governance Arrangements for the Bradford CIL Charging Schedule' to the Governance and Audit Committee on 28 February 2017
- Infrastructure Funding Statement 2020/2021