



Cabinet
7 September 2020

**Report from the Strategic Director
Regeneration and Environment**

**Proposals for a Community Infrastructure Levy (CIL)
Governance Strategy**

Wards Affected:	All, excluding parts of Harlesden, Kensal Green, Stonebridge and Tokyngton where Old Oak and Park Royal Development Corporation is the Local Planning Authority
Key or Non-Key Decision	Key
Open or Part/Fully Exempt	Open
No. of Appendices:	None
Background Papers	None
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1 Purpose of the Report

1.1 This report suggests an approach for how the Council should manage its governance process around the spending of strategic CIL (SCIL).

1.2 It provides:

- A rationale for the need for a robust governance strategy around the spending of strategic CIL, linked to the growth trajectories set out in the draft Brent Local Plan and projects identified in the Infrastructure Delivery Plan (IDP) to support growth and related Borough Plan priorities; and
- A suggested approach to how the process could work, having regard to existing internal processes and arrangements.

2 Recommendations

2.1 That Cabinet agrees the suggested approach and arrangements for introducing a Governance Strategy for Strategic CIL as set out in section 3 of this report.

3 Detail

- 3.1 The Council has been collecting the borough's Community Infrastructure Levy (CIL) since July 2013. CIL is a levy applied to most developments granted planning permission that commence, and is for infrastructure to support the development of the area. CIL is also important in demonstrating to communities the benefits that new development can bring, including through key infrastructure projects, place-making and local improvements.
- 3.2 The emerging Brent Local Plan outlines an ambitious strategy to accommodate development in the borough to 2041. Over this time, the borough will continue to see a significant increase in its population, similar to levels seen over the last 20 years. This will require a substantial amount of new homes, jobs and associated physical and social infrastructure.
- 3.3 An Infrastructure Delivery Plan (IDP) supports the Local Plan. It sets out short, medium and longer-term infrastructure requirements to address growth needs. The IDP will be used to support the allocation of strategic CIL (SCIL) and S106 funding. It will be reviewed on a regular basis and treated as a 'live' document and will be updated as new information and evidence become available.
- 3.4 In September 2019 changes to the CIL Regulations came into effect which included a requirement for local planning authorities to publish an Annual Infrastructure Funding Statement – first of which is due before 31 December 2020 – outlining how much CIL and s106 income it has received for the previous year, what the income has been spent on and future project allocations.
- 3.5 The requirement to produce an annual Infrastructure Funding Statement presents a real opportunity for the Council to work proactively with infrastructure providers and communities, and set out in a clear and transparent manner what infrastructure has been delivered to date via CIL and s106 planning obligations, as well as identifying what future projects it intends to fund and deliver. It will also help communities understand how the level of growth outlined in the Local Plan can deliver tangible outcomes and investment in infrastructure projects such as new public realm, health, schools, transport and open space that will support long-term growth and development of the borough.
- 3.6 The Council also enters in to Section 106 agreements with developers - a mechanism which makes a development proposal acceptable in planning terms. S106 agreements are focused on site-specific mitigation of the impact of development such as securing affordable housing or requiring improvements to an access road. CIL, on the other hand, is designed to raise funds for infrastructure needed generally as a result of an increase in development in an area, and is spent on community infrastructure projects across the borough.
- 3.7 The current arrangements for agreeing SCIL spend are that when bids for capital projects are agreed via the relevant Boards, CIP and Cabinet, the project officer sets out the rationale for the project and the funding streams, in discussion with Capital Finance, prior to a report to Cabinet.

- 3.8 Whilst this is a transparent process, to date there has not been a strategy as to how SCIL should be allocated on a strategic rather than piecemeal basis.

The need to establish a Strategic CIL Governance Strategy

- 3.9 With the collection of the borough's CIL now mature and the draft Brent Local Plan at an advanced stage (submitted for examination on 17 March 2020, with hearings scheduled for September 2020) it is considered it is an appropriate time to establish a formal governance process and forward plan for the spending of the borough's Strategic CIL (SCIL). There is increasing interest, understandably, from members of the public, developers, stakeholders, e.g. the Clinical Commissioning Group and TfL and Councillors in how the Council is using SCIL to invest in infrastructure to support development, especially within the growth areas.
- 3.10 CIL receipts can be broken down into three distinctive portions – the Strategic CIL, the Neighbourhood CIL and the Administration CIL. A Mayoral CIL is also collected. This is passed on to TfL on a quarterly basis and will be used to fund Crossrail 1 (the Elizabeth Line) and Crossrail 2.

Portion	% of receipts	Process
Brent Strategic CIL	70% plus	Spend decided by the Council according to its strategic infrastructure priorities. Spend must support development in Brent, although does not have to be spent by Brent
Neighbourhood CIL	15% to neighbourhoods or 25% where a neighbourhood plan is in place	A round of bids inviting communities to suggest projects for NCIL funding
CIL Administrative Expenses Portion	Up to 5%	Spend applied to costs of administrative expenses for collection and enforcement in line with legal restrictions on the use of this funding. (NB 4% of the Mayoral CIL collected by the Council can also be retained for this purpose).

- 3.11 For the avoidance of doubt, this governance strategy focuses on the strategic element of CIL. It looks to combine what currently happens in terms of using the established boards to agree spend but introduces a more coordinated approach to developing an actual strategy for how we prioritise spend to support growth, linked to our Local Plan, IDP and capital programme, and the priorities set out in the Borough Plan, the Inclusive Growth Strategy and other council strategies.

- 3.12 Having formal governance arrangements in place for SCIL spend will:

- Ensure that CIL is monitored and managed to meet relevant legal requirements and inform the preparation of the Council's statutory Annual Infrastructure Funding Statement;
- Enable CIL to be allocated in a transparent, consistent and accountable way – in line with the Brent Local Plan, IDP and capital pipeline contributing to the delivery of the council's priorities;
- Provide a proportionate update to the IDP projects on at least an annual basis;
- Enable CIL and/or s106 expenditure and project delivery to be monitored effectively; and
- Provide transparency to residents, Members and the development industry on what CIL has been spent on.

3.13 The following steps are recommended in establishing the council's governance strategy for SCIL spend:

1. Evidence gathering and updates of plans and programmes – a process which enables the updating of the IDP projects and the council's capital pipeline (and other programmes) in a more co-ordinated and integrated way.
 - A critical stage and will help inform the process of bringing forward projects for funding in the short (1 year), medium (5 years) and long term (life of the Local Plan) linked to supporting development;
 - Internal service areas (education, housing, health, transport, parks, finance) as well as external infrastructure providers must be involved in this process;
 - Establish an Infrastructure Officer Working Group with representatives from different service areas (with buy in from chief officers) (to be chaired by the Operational Director for Regeneration, Growth and Employment) (separate terms of reference to be produced for this Group);
 - This group will help develop capacity and confidence by making the process clear and would meet on a quarterly basis; and
 - Member involvement at this stage is important – particularly portfolio holders. Service representatives on the group should keep their lead member informed.

Stage 1: Evidence gathering and updates

Workstreams:

- Local Plan growth priorities
- Capital pipeline
- External infrastructure providers
- Lead member involvement

Annual IDP
Update

Creation of an Infrastructure Officer Working Group to oversee the above updates (*external infrastructure providers could be on this Group however, it has been challenging in the past to have representation at meetings, but certainly worth considering*)

2. Prioritisation Framework - work carried out under Stage 1 will allow the Council to create a framework for prioritising infrastructure projects from the "live" IDP and capital pipeline to be taken forward as priority projects for funding through SCIL, linked to growth priorities.

To prioritise projects for SCIL funding that would inform an overall strategy for spend the following criteria are suggested (this process would be overseen by the Infrastructure Officer Working Group):

- **Priority driven:** they must strike an appropriate balance between strategic and more locally based placemaking infrastructure to support the development of Brent and help address the demands that this will place on an area;
- **Delivery focused:** insofar as the infrastructure is 'critical', 'necessary' or 'desirable' in supporting development. The right infrastructure must be provided at the right time and in the right place - short (1 year), medium (5 years) and long term (life of the Local Plan);
- **Service Area and Partner priorities:** have regard for priorities from education, health, transport, open space. Partners will include those providing social infrastructure (e.g. health and care) as well as physical (e.g. high-speed fibre and utilities). Proposals must show how they support development and deliver benefits and outcomes for residents as well as the priorities of the Borough Plan;
- **Forward looking:** ensure where necessary that there is ongoing funding available for future management and maintenance of the facility without being dependant on further CIL funding other than in exceptional circumstances;
- **Cost effective:** proposals must look for opportunities to maximise the scope for using CIL to lever in other resources and minimise long term demands on resources; and
- **Local Plan led:** proposals must address the principles and policies set out in the Brent Local Plan, supporting IDP and capital programme. These could include the need to deliver new health and education

facilities in our Growth Areas, a contribution towards the West London Orbital to help unlock growth in Neasden and Staples Corner, A5 Corridor improvements to improve connectivity and attract future investment.

Stage 2: Prioritisation Framework



3. Allocation of SCIL – the established monthly Capital Investment Panel (CIP) to have responsibility for considering all SCIL proposals and approving their in principle allocation (based on the work carried out by the Infrastructure Working Group under Stage 2).
 - If appropriate, proposals to be agreed by the relevant programme Boards;
 - Each service area project manager/Head of Service presents their bids to CIP by completing a CIP template;
 - The proposal must link back to the prioritisation framework, indicate early discussion/agreement with their cabinet member/Head of Service, how it fits with the Local Plan, IDP, project costs, future milestones for delivery (all to be set out in CIP template);
 - SCIL funding will not be granted for proposals that are seeking to remedy failing infrastructure (e.g. repairs to potholes or cracked pavements) as this is not allowed by legislation. However, a balanced judgement will need to be exercised where it is necessary to facilitate growth and/or overcome obstacles to successful development. For example, new public realm initiatives may be important to ensure a more complete regeneration takes place;
 - Projects that are currently on the pipeline (but may not have had funding allocated) or those that may need additional funding will be considered and checked at CIP;

- Capital Investment Panel to be responsible for making recommendations on the allocation of SCIL funding;
 - Director of Finance be given delegated authority to approve spend up to £250,000 SCIL in consultation with CIP Panel; and
 - Proposals (above £250,000) will then progress through the necessary checks at Capital Programme Board, CMT, PCG and then Cabinet for final approval. Cabinet should maintain final approval, however, in exceptional circumstances due to unforeseen time pressures, delegated authority should be given to the Strategic Director of Regeneration and Environment, in consultation with the Lead Member to speed up decisions.
4. Ongoing monitoring – to ensure monitoring of expenditure and income collected is carried out in a more efficient way.
- CIP to receive on a monthly basis a record of CIL expenditure for the previous quarter month and for that financial year (to be produced by the Infrastructure Planning team and Oracle reports to be produced by Finance);
 - Decisions taken at Cabinet, CMT and PCG must be fed back to the Infrastructure Planning team to ensure robust monitoring of decision and expenditure is recorded which will inform production of the Annual Infrastructure Funding Statement;
 - On completion of projects the IDP to be updated as part of Stage 1 outlined above;
 - A project tracker to be presented to Capital Programme Board on a quarterly basis setting out decisions, project delivery completions; and
 - The same project tracker to be reported to the Cabinet Member for Regeneration, Property and Planning on a quarterly basis.

3.14 The process outlined above aims to combine what is currently happening in terms of using the established boards to formalise decisions on SCIL funding, but more importantly, it ensures the strategy in place for spending SCIL is developed and linked to support the growth ambitions of the Local Plan, the IDP and capital programme.

3.15 The process will seek approval of short-term priorities and ideally medium projects, the latter to be reviewed in annual updates to the IDP, capital programme and other service area programmes.

Infrastructure delivery in Brent

3.16 The delivery of infrastructure is a corporate priority. The Council is committed to taking a positive partnership approach to ensure that the necessary services and community facilities are provided and that regeneration is inclusive and

benefits both existing and new communities. This is a key priority identified in the Borough Plan, the Local Plan and supporting Infrastructure Delivery Plan (IDP).

- 3.17 It is important to highlight that although a significant amount of SCIL has been collected (with a proportion of it allocated to projects as outlined in para 5.2) over the past couple of years, the Council has nevertheless secured a significant amount of infrastructure investment through other mechanisms. These include planning consents, infrastructure provided within developments and funding for infrastructure secured via s106 legal agreements. Community infrastructure has also been secured through work that has been undertaken with partners such as the Department for Education and TfL.
- 3.18 Examples of some of the projects delivered or committed to from both s106 and CIL receipts include the following:
- A contribution towards the redevelopment and 2FE expansion of Alperton Community School;
 - Preston Park Primary School expansion;
 - King Edward VII Park Improvements;
 - Refurbishment of Barham Park Play Area;
 - Kingsbury Town Centre improvements;
 - Affordable housing delivery in Wembley & Alperton Housing Zones;
 - Wembley Hill Road junction improvement scheme;
 - TFL general Bus Improvements Project;
 - More than £350,000 towards affordable workspace in Alperton area; and
 - 201 projects (such as parks & open spaces, town centre improvements, community library initiatives, tree planting, employment and public realm) have been awarded Neighbourhood CIL monies, totalling a value of £12m.
- 3.19 The Council will continue to focus the spending of CIL and s106 receipts on essential infrastructure to support the level of growth outlined in the Local Plan. It will do this jointly with partners through effective and ongoing engagement ensuring key infrastructure is delivered at the right time and in the right place to support growth and development.
- 3.20 Whilst the IDP sits alongside the Local Plan in setting out a comprehensive growth strategy – the Infrastructure Funding Statement will be an annual report communicating how the Council and its partners are actively planning, monitoring and reporting on (planned and actual) spend and delivery of key infrastructure. The Statement will reference upcoming spend, which will be reported to Cabinet every December. As this is supported by a rational governance structure, as outlined above, it will ensure live reporting and

engagement with communities, members and the development industry on what infrastructure is needed and when, in an open and transparent way.

Next steps and implementation

- 3.21 Should Cabinet endorse the SCIL governance approach, officers will implement arrangements as outlined above.
- 3.22 As per the amended CIL Regulations, the first annual Infrastructure Funding Statement will be produced by 31 December 2020.

4 Alternative Options Considered

- 4.1 The requirement to produce an Annual Infrastructure Funding Statement (as per the amended CIL regulations in 2019) alongside the amount of CIL collected to date and the fact that the draft Local Plan has been submitted for examination all provide a sound basis for the establishment of a formal governance process and forward plan for the spending of the borough's SCIL.
- 4.2 A formal governance strategy will enable robust, transparent and consistent decisions to be made about what the council should spend SCIL on – in line with the Brent Local Plan, IDP and capital pipeline, contributing to the delivery of the council's priorities.
- 4.3 Not having a governance strategy in place will prevent us from producing the Annual Infrastructure Funding Statement in line with CIL regulations.
- 4.4 For these reasons, no alternative options have been considered.

5 Financial Implications

- 5.1 As of 31 March 2020, approximately £44m of SCIL receipts have been allocated/committed towards schemes within the existing capital programme and pipeline. There is £47m of unallocated SCIL receipts.
- 5.2 The committed funding includes expenditure on:
- Olympic Way public realm improvements;
 - Park Royal Liveable Neighbourhood;
 - To the CCG for contribution towards the fit out of 3 medical centres (South Kilburn);
 - Morland Gardens (adult education establishment); and
 - A contribution to works at College of North West London (CNWL).

6 Legal Implications

- 6.1 The CIL Regulations (as amended, 2019) require local planning authorities to produce an Annual Infrastructure Funding Statement, the first of which must be produced by 31 December 2020. It will include:

- The total value of CIL set out in all demand notices issued in the reported year
- The total amount of CIL receipts for the reported year
- The total amount of CIL receipts, collected by the authority before the reported year but which have not been allocated
- The total amount of CIL receipts, collected by the authority before the reported year and which have been allocated in the reported year
- The total amount of CIL expenditure for the reported year
- The total amount of CIL receipts, whenever collected, which were allocated but not spent during the reported year.

6.2 In relation to CIL expenditure for the reported year, summary details of:

- i. the items of infrastructure on which CIL (including land payments) has been spent, and the amount of CIL spent on each item;
- ii. the amount of CIL spent on repaying money borrowed, including any interest, with details of the items of infrastructure which that money was used to provide (wholly or in part); and
- iii. the amount of CIL spent on administrative expenses pursuant to regulation 61, and that amount expressed as a percentage of CIL collected in that year in accordance with that regulation.

6.3 In relation to CIL receipts, whenever collected, which were allocated but not spent during the reported year, summary details of the items of infrastructure on which CIL (including land payments) has been allocated, and the amount of CIL allocated to each item.

6.4 The Statement must address CIL collection and spend, infrastructure projects and S106 collection and spend. This governance strategy supports the CIL spend and infrastructure priorities.

7 Equality Implications

7.1 The SCIL Governance Strategy will ensure a more robust, credible and accountable process is in place to prioritise infrastructure projects for SCIL funding. The infrastructure projects have been established as part of the evidence work to support the draft Local Plan which has been subject to Equality Impact Assessment. This has informed the policies and projects including analysis of potential alternatives, to seek to reduce adverse impacts and wherever possible improve the outcomes for those with protected characteristics and the social, economic and environmental outcomes of the Plan.

8 Any Other Implications (HR, Property, Environmental Sustainability - where necessary)

8.1 No implications at this stage.

9 Proposed Consultation with Ward Members and Stakeholders

- 9.1 Early and regular engagement with the Cabinet Member for Regeneration, Property & Planning and other portfolio members via Senior Leadership Group is critical to inform the annual updates of the key infrastructure projects. By ensuring project managers have had prior approval/check in with the relevant portfolio holder before presenting their proposals for SCIL funding to the Capital Investment Panel will also result in member support and buy in.
- 9.2 Quarterly reporting on projects as well as CIL expenditure and income will provide robust updates to Cabinet Member for Regeneration Property & Planning providing clear links back to decisions, which in turn help to deliver priorities and objectives of the Brent Local Plan.

Report sign off:

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