

The Community Infrastructure Levy Governance Framework

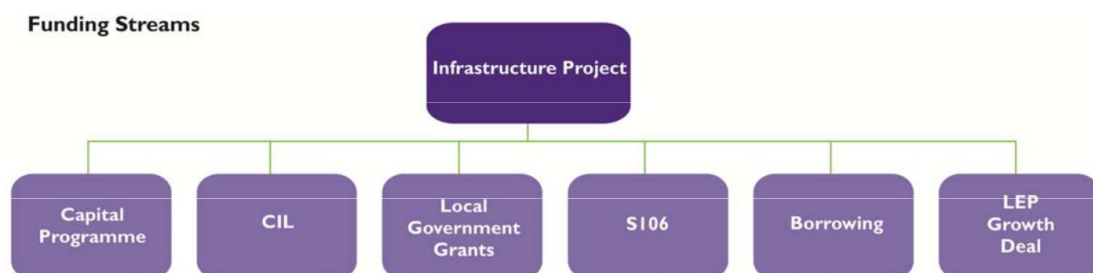
Folkestone & Hythe District Council

March 2020

Community Infrastructure Levy (CIL) Governance Framework and Funding Decision Protocol

1 Introduction

- 1.1 The introduction of the Community Infrastructure Levy (CIL) by Folkestone & Hythe District Council in August 2016 necessitates the development of governance arrangements for spending the money to be collected. This report is concerned with CIL administration and governance arrangements so as to ensure the collection and allocation of CIL monies (i.e. the deployment of CIL income) follows clear and appropriate processes.
- 1.2 Folkestone & Hythe District Council (F&HDC) is responsible for making the final decision on the allocation of funding raised through the Community Infrastructure Levy (CIL). The aim of the Governance Framework and funding decision protocol is to ensure the decision making process is transparent. Through it the Council will identify and agree priorities for the use of CIL.
- 1.3 The development of a detailed framework for Community Infrastructure Levy (CIL) expenditure for consideration and adoption by F&HDC is required as there is no set approach for CIL expenditure prescribed either by Central Government or through the CIL Regulations 2010 (as amended). As such, all Councils across the country where a CIL charging regime has been adopted and is being implemented have brought in their own schemes for how CIL monies are spent.
- 1.4 CIL is just one funding stream that can be used in conjunction with others to fund infrastructure projects. See examples of other funding streams in the diagram below.



- 1.5 Although the priority to date has been to devise the policy and set up processes to collect CIL, there is a need to formalise future governance arrangements for CIL spend/allocation.

2 Statutory Requirements

- 2.1 As a Charging Authority, F&HDC is responsible for determining CIL spend. The statutory guidance states that Charging Authorities should work closely with County/Town/Parish Councils in setting priorities on how CIL is spent.
- 2.2 Each year, 15% of CIL receipts will need to be spent on locally determined infrastructure in areas where development takes place – this is referred to

below as the 'Neighbourhood Allocation' (up to a maximum of £100 per existing Council Tax dwelling). This will rise to 25% for those areas with an adopted Neighbourhood Plan in place. At present St Mary in the Marsh is the only area in the district with an adopted Neighbourhood Plan in place.

- 2.2 A further 5% of CIL receipts can be retained by Charging Authorities for administrative costs. This apportionment is allowed for by the CIL Regulations, and will be used to cover the costs of monitoring payments, enforcing against non-payment and monitoring the delivery of infrastructure schemes. The CIL Charging Schedule must also be updated periodically to ensure that CIL charges keep pace with changing land values and development viability, and this requires consultation and independent examination, the costs of which will be paid for from the administrative income.

Prioritisation of CIL funds

- 2.3 The CIL Regulations stipulate that CIL monies which are collected must be spent on the provision, improvement, replacement, operation or maintenance of infrastructure¹ needed to support the development of the area. There is more freedom regarding the use of the Neighbourhood Portion which can also be applied to 'anything else that is concerned with addressing the demands that development places on an area'.
- 2.4 Spend of CIL receipts is intended to focus on the provision of new infrastructure and should not be used to remedy pre-existing deficiencies unless they will be made more severe by new development. CIL cannot be used to fund solutions to existing problems i.e. traffic calming/management or on repairs to existing infrastructure in an area that hasn't experienced housing growth.
- 2.5 Furthermore, it is important to recognise that CIL receipts can typically only be spent on capital projects, although associated revenue spending to maintain those capital items is also permissible. It can be used to increase the capacity of existing infrastructure or to repair failing infrastructure if that is necessary to support development. Funds may be released for project development work in advance of funds for specific projects, if necessary.
- 2.6 The Council is required to publish a list of infrastructure types that will be funded wholly or partially through CIL. This list, known as the "Regulation 123 List", was adopted by F&HDC and published in August 2016.

3.0 The 2019 CIL Regulations – implications for CIL going forward

- 3.1 Regulations laid before parliament in June 2019 proposed a series of changes to the way in which local authorities charge, collect and report on developer

¹ "Infrastructure" includes roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities, and open spaces. (S216, Planning Act 2008, as amended by Regulation 63)

contributions raised through section 106 and the Community Infrastructure Levy (CIL). Parliament officially approved the government's CIL and section 106 changes on 15th July 2019. The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 amend the Community Infrastructure Levy 2010 Regulations in England only and came into effect on the 1st September 2019.

- 3.2 The regulations introduce a requirement for councils to publish "infrastructure funding statements". These statements will replace existing Regulation 123 lists and should include details of how much money has been raised through developer contributions and how it has been spent. Statements must be published on local authority websites at least once a year. Councils will be required to publish their first statements by 31 December 2020.
- 3.3 The regulations state that the Infrastructure Funding Statement is to include details of how much money has been raised through developer contributions, both from CIL and section 106 planning gain agreements, and how it has been/is to be spent.
- 3.4 The Council considers that the requirement to prepare and annually publish an Infrastructure Funding Statement presents a real opportunity to work proactively with infrastructure providers and communities to set out in a clear and transparent manner the infrastructure that they have, and may be funding through CIL and section 106 planning obligations. The Ministry of Housing, Communities and Local Government (MHCLG) is to publish new guidance detailing how councils should produce their Infrastructure Funding Statement.

4.0 Monitoring and reporting of CIL income and spend

[CIL Annual Report](#)

- 4.1 There is a requirement for F&HDC, as the Charging Authority, to prepare an annual report detailing CIL receipts, balances and spend for each financial year. The progress on spends will be monitored and reported to the S106/CIL working group. All parish and town councils that are in receipt of CIL monies shall have to produce a similar annual report relating to their Neighbourhood Allocation. In the same fashion the County Council will be required to prepare an annual report relating to their allocation of 35% from the strategic pot.

[CIL receipts to date and forward income profile](#)

- 4.2 As of the end of the 2018/19 tax year (up to 5th April 2019), the Council had collected £0.295m in CIL receipts, broken down as follows:

2017/18	2018/19
£30,367.50	£265,575.18

In addition, following the close of the 2018/19 tax year, further receipts have been collected as follows:

2019/20*

£47,971.90 TOTAL: £343,914.58

*amount collected thus far in 2019/20 financial year

- 4.3 A further £2.5m of CIL receipts are expected from development which has been granted planning permission, but the consent has not yet been implemented to trigger the CIL payment. Up to a further £7m is expected from sites that are proposed to be allocated within the Places and Policies Local Plan (PPLP), which is timetabled to be adopted in early 2020. A number of sites that benefit from a proposed allocation in the PPLP have already been granted planning consent and are coming forward to implementation.
- 4.4 For residential development, based on the projected growth and approximate timing of delivery outlined by the Core Strategy Local Plan, it is currently estimated that in the region of £9 million could be from CIL income over the plan period of the Places and Policies Local Plan to 2031. Although the plan period of the Core Strategy Review is up to 2037, as the three sites proposed to be allocated within the Core Strategy Review shall be exempt from CIL in accordance with the revised Charging Schedule (two sites at Sellindge and the new garden settlement), it is only possible to profile sites from the Places and Policies Local Plan to 2031.
- 4.5 These figures are broad estimates based on an average floor area for new dwellings, and affordable housing in accordance with the prevailing policy requirement. CIL receipts will be affected by a number of other factors, which are more difficult to forecast, such as pace of development, CIL relief for self-build dwellings and windfall development.

5.0 Proposed governance arrangements for the spend of CIL

- 5.1 This is the first Governance Framework that F&HDC has prepared. The requirements are designed to ensure:
- Fairness in the allocation of CIL funds between different areas of the district and different demands for spending;
 - The best use of resources, taking into account other potential sources of funding;
 - Openness in decision-making; and
 - Accountability.
- 5.2 The Council will review the process in future years based on stakeholders' experience and to reflect best practice developed by other charging authorities.
- 5.3 The process begins with the gathering of information, as detailed below:
- If timely to do so, update the Infrastructure Delivery Plan in accordance with the requirements of the Local Plan
 - To collate data to inform projections of the likely amount of CIL available for allocation to infrastructure projects

Proposed allocation of CIL receipts to Kent County Council

- 5.4 The District Council acknowledges the crucial role played by the County Council in the delivery of key strategic infrastructure. Indeed, charging authorities must consult and should collaborate with the County Council in setting the levy and should work closely with them in setting priorities for how the levy will be spent in 2-tier areas. Collaborative working between County Councils and charging authorities is especially important in relation to the preparation of infrastructure funding statements (see Schedule 2 introduced by the 2019 Regulations) bearing in mind the potential impact on the use of highway agreements by the County Council and the timely delivery of schools.
- 5.5 Under the proposed governance arrangements the District Council is pledging to assign 35% of CIL receipts from the strategic pot to Kent County Council in order to enable KCC to spend this proportion of the receipts in accordance with their own priorities.
- 5.6 A requirement of the proposed governance arrangements is that the County Council's priority infrastructure schemes shall be recorded within the Infrastructure Funding Statement; the associated spend of CIL receipts by the County Council must be in accordance with the prioritisation of CIL funds, as detailed under paragraphs 2.4 and 2.5; and the County Council will be required to prepare and submit annual reports to the District Council to profile the total amount of CIL receipts held and where there has been draw-down to deliver associated infrastructure.
- 5.7 It is proposed that the component allocation of 35% will be transferred to the County Council every 6 months, that being the 31st March and 30th September of each calendar year.

Scheme prioritisation through reference to the Infrastructure Funding Statement

- 5.8 As the District Council is to prepare an IFS in conjunction with the County Council, and other stakeholders, the scheme prioritisation process for the allocation of CIL spend is to cross-reference the IFS once this document has been prepared and has been endorsed by the District Council.
- 5.9 Decisions to be taken by the District Council on spend of CIL receipts from the strategic pot would be taken in accordance with the IFS priorities and through the involvement/discussions between the Planning Policy team which leads on preparation of the IFS one of the following Directors, depending on the directorate area where a particular project falls:
- Director of Place
 - Director of Housing and Operations

- Director of Development
- 5.10 The proportionate component of the strategic CIL monies to be managed by F&HDC is to be divided by service function under the leadership of each of the Director positions cited above.
- 5.11 In terms of reporting, it is proposed that a Cabinet statement is prepared every 6 months to provide an update on CIL receipts received and expenditure.

Interim arrangements for allocation of District Council spend

- 5.12 In the intervening period until the IFS has been prepared the District Council proposes to allow delegated authority to a named Director (from those listed under paragraph 5.9) in consultation with the Cabinet Member for Finance (to ensure Member oversight for any investment decisions made) up to a specified financial limit of £50,000 on any single project to be CIL awarded funding.
- 5.13 Under interim arrangements it is expected that the allocation of CIL funding up until the end of December 2020 is to be in general conformance with the Regulation 123 list, although it is recognised that as the December 2020 deadline for abolition of the Regulation 123 list approaches delegated authority for the spend of CIL monies up to the capped amount of £50,000 will increasingly be made in accordance with those projects referenced within the emerging IFS.

Payment of Funds

- 5.14 The District Council shall ensure timely release of funds when invoices are received for satisfactorily completed works. If the body awarded funding does not satisfactorily demonstrate spend within five years of receipt, or does not spend it on initiatives that support the development of the area, the Charging Authority may require it to repay some or all of those funds to the Charging Authority (refer to CIL Regulation 59E(10) for details).

Further information

- 5.15 If you have any questions about the operation of this framework, further guidance is available on the council's website. Alternatively you can contact James Hammond, Strategic Policy Officer (James.Hammond@folkestone-hythe.gov.uk).