

## **Community Infrastructure Levy - Guidance and Governance**

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### **Purpose of the Report**

1. To provide members with more detailed information about the Community Infrastructure Levy and to seek their endorsement of the proposed governance structure.

### **Public Interest**

2. The Community Infrastructure Levy will provide an important funding stream for infrastructure projects across the district. As such, it is essential that the council has in place a robust system of governance that will ensure that the monies collected are responsibly managed and monitored.

### **Recommendations**

3. That the District Executive note and consider the contents of the report and endorse the governance structure suggested and in particular:
  - a) Production of an annual CIL report to District Executive Committee that along with an updated Regulation 123 list identifying the key projects
  - b) Production of an infrastructure Business Plan that will provide further detail on the individual infrastructure projects
  - c) Delegation to the Local Development Scheme Board consideration of applications from services or external bodies for infrastructure funding against the Infrastructure Business Plan.

### **Summary/Background**

4. Members will be aware that the District Council implemented the South Somerset CIL charging regime on April 1<sup>st</sup> 2017. A requirement of the CIL regulations is that the local authority will establish a governance structure to oversee the collection, auditing and spending of CIL monies. South Somerset will therefore produce an annual report detailing CIL receipts, balances and spend for each financial year.
5. This report proposes a governance structure that will be the principal means by which CIL receipts are spent on the infrastructure necessary to support new development.
6. In order to justify adopting a CIL charge the council was required to demonstrate that there was a funding gap. This was calculated by carrying out an assessment of the infrastructure required to meet the needs of future development. This forms the Infrastructure Delivery Plan (IDP) that has been produced following consultation with a wide range of stakeholders including the providers of services such as health and highways.

7. The detailed viability assessment was considered by a Planning Inspector in 2016 and he concluded that the council's draft charging schedule was robust and reasonable. The key points from the charging schedule are:
- Residential development is charged at £40 per sq. m
  - Commercial/industrial development is not sufficiently profitable to make a CIL contribution
  - Out of town large retail is charged at £100 per sq. m
  - The urban extensions in Yeovil and the eastern growth area in Chard should be exempt from CIL as they will be making an equivalent contribution through the Section 106 requirements
  - Affordable housing and self-build are normally exempt from the charge
8. As part of the submission to the Inspector the council was required to submit what is known as a Regulation 123 list. This identifies the infrastructure that will continue to be funded by Section 106 contributions rather than through CIL. This is attached as **Appendix 1**.
9. Members should be aware that there has been a national review of CIL and extensive reform has been recommended. The suggested changes would result in a simpler low level Local Infrastructure Tariff (LIT) that covers all development but with a continuation of S106's for the larger strategic sites.

### **Estimated CIL Receipt for 2018/2019**

10. For the purposes of this illustration and simplicity the figure of 600 dwellings per annum has been used. Members will be very aware that not all new dwellings will be required to pay CIL and the reality is that it is likely that less than half of new dwellings will make a contribution. The reasons for this are:
- Most dwellings that will be constructed over the next 2 financial years will be a result of planning permissions granted under the previous S106 regime (this includes the existing key sites in Yeovil that are under construction and those sites in our market towns that haven't yet been implemented)
  - Single dwellings are treated as 'self-build' and are exempt under the Regulations (estimated at 20% of supply)
  - Affordable housing is exempt (likely to be in region of 35%)
  - The regulations give 'credit' for existing buildings/uses that are to be lost to redevelopment
11. It is likely that the income will increase as the historic permissions are completed. However, it also needs to be borne in mind that the major sites in Yeovil and Chard are not liable for CIL on the basis that they will be providing the required mitigation and facilities on site and these will be secured through the Section 106 process.
12. At the time of writing this report, 6 months after the introduction of CIL, the Council has not received any CIL monies. This is to be expected because nearly all of the new development constructed across the district was approved prior to the council charging CIL.
13. It is not considered appropriate to include an estimated receipt from large scale retail as any monies that are received are unlikely to be significant.

Table showing estimated CIL Receipts for next 3 years

	2018/2019	2019/2020	2020/2021
Units Completed	600	600	600
Eligible Units (approved post CIL and not within urban extensions)	200	300	400
Qualifying units remaining after removal of: -affordable housing @35% - self-build @15% - vacant building credit @ 5%	90	135	180
Estimated annual CIL @ £40 per sq. m (*based upon 80 sq. m unit)	£288,000	£432,000	£576,000
<b>Total amount available to SSDC after 15% passed to Parish or Town Council (inc 5% admin fee)</b>	<b>£244,800</b>	<b>£367,200</b>	<b>£489,600</b>

14. Members will note that the receipts likely to result through CIL are far smaller than the New Homes Bonus already received by the council as a result of delivering new housing development. Many local authorities have opted to invest their New homes Bonus in infrastructure related projects on the basis that it will facilitate additional development which will then generate its own social and economic benefits.

### What can the Local Authority CIL Receipts be Spent on?

15. The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities. This definition allows the levy to be used to fund a very broad range of facilities such as play areas, parks and green spaces, cultural and sports facilities, district heating schemes and police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their Local Plan. Charging authorities may not use the levy to fund affordable housing.
16. South Somerset's [Regulation 123](#) list excludes education as the County Council was of the view that it would be preferable to request education contributions through the existing Section 106 regime.
17. Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed. The levy is intended to focus on the provision of new infrastructure and should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development.
18. The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development.
19. It is important for members to bear in mind that CIL receipts should be reinvested in infrastructure to allow further growth to occur. These receipts are not some form of 'compensation' for the district accepting new development but instead are an important element in creating conditions whereby further economic benefits can be facilitated.

## **Proposed Structure for Spending**

20. It is proposed that the council will produce an **Infrastructure Business Plan (IBP)** that is updated annually. The CIL Annual Report will be appended to the IBP which will
  - Identify the projects from the Regulation 123 Infrastructure List that will benefit from CIL receipts;
  - Set out the process and criteria to enable members to prioritise infrastructure;
  - Identify other funding sources
  - Provide a cash-flow and spending plan;
  - Provide a review of the infrastructure that is contained within the Regulation 123 list
21. The IBP will provide members, officers and external stakeholders with a list of the projects that are suitable for CIL investment. Members should be aware that these may not all be SSDC projects.
22. It is suggested that until the CIL receipts reach a meaningful level that the Local Development Scheme (LDS) Board ( which comprises the four area Chairs , Chair of Scrutiny ,and Leader ) can monitor the CIL collection and formulate with officers spending plans. It is further suggested that this is an appropriate group to consider the allocation of CIL receipts, against the Infrastructure Delivery Plan. A formal annual report can be made from this group to District Executive Committee, to inform proposed priority schemes and overall funding proposals for these including CIL contributions – as part the annual capital programme budget process.
23. All allocations of Levy money will be made in response to the submission of applications to the District Council as charging body and decisions made subsequently by the Council. Applications will need to be made in accordance with standardised formats, the final details of which will need to be agreed.
24. To ensure the appropriate and timely delivery of projects, conditions will be attached to the allocation of CIL funding from the centralised pot to a Strategic or infrastructure requirement. The infrastructure provider who has secured CIL from the centralised pot will be required to enter into a grant agreement which will confirm the detail of conditions. The grant agreement will include a commitment to complete monitoring returns to the Council. These returns will form the basis of monitoring reports to the Joint Member/Officer Working group. When CIL funding is allocated to infrastructure provider, the CIL funding can only be used to deliver the agreed infrastructure type or project. As the Charging Authority, the Council will retain the right to recover CIL receipts that have been 'misapplied' or not spent within agreed timescales.
25. There will be a transitional period between the new and old S106 systems of planning obligations and as such a constant flow of annual CIL receipts is not expected until sometime into the implementation period. It is therefore possible that the above CIL group will not need to meet or if so will not be called upon to make recommendations for a while. In any event allowing for a centralised pot to grow to meaningful levels enabling potential project allocations to be considered would make sense. Initial meetings therefore will likely involve explaining and agreeing procedure and offering an opportunity to updating members on the level of receipts received to date and progress with infrastructure generally across the District.

## **Parish and Town Councils**

26. Parish councils will receive 15% (referred to as a 'meaningful proportion' of all CIL received within their administrative boundary. This rises to 25% if the town or parish has a 'made' Neighbourhood Plan. A simple illustration below:

10 x 80 sq m 3 bed house @£40per sq. m = £32,000.

Parish/Town receive 15% = **£4,800**

27. The neighbourhood portion of the levy can be spent on a wider range of things than the rest of the levy, provided that it meets the requirement to 'support the development of the area'. The wider definition means that the neighbourhood portion can be spent on things other than infrastructure. For example, the pot could be used to fund affordable housing where it would support the development of the area by addressing the demands that development places on the area.
28. Once the levy is in place, parish, town and community could work closely with their neighbouring councils and the charging authority to agree on infrastructure spending priorities. If the parish or town shares the priorities of the charging authority, they may agree that the charging authority should retain the neighbourhood funding to spend on that infrastructure. It may be that this infrastructure (e.g. a school) is not in the parish or town's administrative area, but will support development.
29. Payment periods associated with the transfer of the meaningful proportion to the parish/town council will be in accordance with regulation 59D of the CIL Regulations:
- The charging authority must make payment in respect of the CIL it receives from 1st April to 30th September in any financial year to the local parish/town council by 28<sup>th</sup> October of that financial year.
  - The charging authority must make payment in respect of the CIL it receives from 1st October to 31st March in any financial year to the local parish/town council by 28<sup>th</sup> April of the following financial year.
30. A Parish Council will be free to spend these funds on facilities that serve to address the demands that development places on its area, but will be obliged to report annually on CIL expenditure. The District Council would expect to receive annual financial reports four working weeks of the end of financial year.
31. Once the levy is in place, Parish and Town Councils should work closely with their neighbouring councils and the charging authority to agree on infrastructure spending priorities. If the Parish or Town Council shares the priorities of the charging authority, they may agree that the charging authority should retain the neighbourhood funding to spend on infrastructure that benefits their area.
32. If a parish or town does not spend its levy share within 5 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.

### **How is payment of the Community Infrastructure Levy enforced?**

33. Almost all parties liable to pay the levy are likely to pay their liabilities without problem or delay, guided by the information sent by the collecting authority in the liability notice. However, where there are problems in collecting the levy, it is important that collecting authorities are able to penalise late payment and discourage future non-compliance.

34. The regulations provide for a range of proportionate enforcement measures, such as surcharges on late payments. In most cases, these measures should be sufficient.
35. In cases of persistent non-compliance, collecting authorities may take more direct action to recover the amount due. For example, a collecting authority may issue a Community Infrastructure Levy Stop Notice which prohibits development from continuing until payment is made and the stop notice is withdrawn.

### **Monitoring**

36. The Development Management service currently administers the CIL process and it is recommended that this continues however the Transformation process will be considering this in more detail.
37. Officers are currently using the existing planning database however they are currently investigating procuring a bespoke system (Exacom) that is used by many other local authorities.
38. The regulations allow the council to retain up to 5% of CIL receipts for the administration of the system thereby reducing the burden on the council tax payer.

### **Reporting**

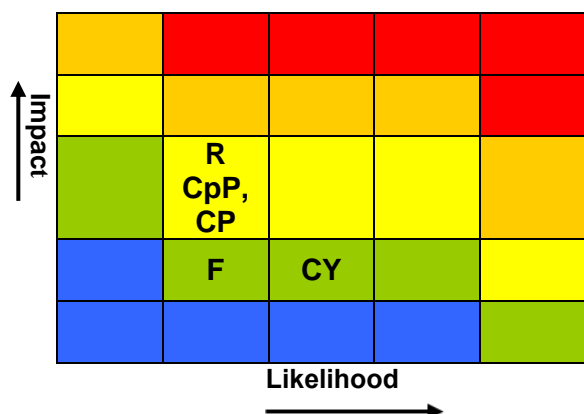
39. Regular reporting on the progress and management of the CIL process will be combined with our existing S106 management and be delivered together to give a comprehensive picture of monies and infrastructure secured through planning obligations. This will ensure continued transparency and provide the latest position of monies collected through to delivery.

### **Financial Implications**

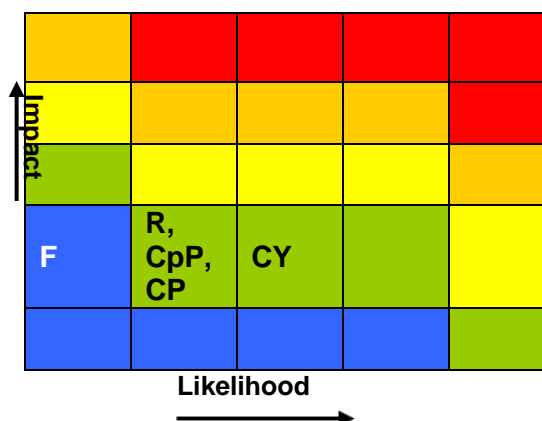
40. The Regulations recognise that the implementation of a CIL charging regime does have a cost and as such local authorities are entitled to use 5% of receipts for administering the process. It is considered that CIL can be managed using existing staff and this will be taken into account during the creation of the new operating model and the 5% CIL allocation will contribute to these costs within the budget.
41. It is likely that there will be a requirement for a further resource once the council has accrued sufficient CIL receipts to enable proposed projects to be considered. This is likely to be a project management role which may be funded from the 5% administration if receipts are sufficient and more likely be a cost to individual capital schemes.
42. The funding of the Infrastructure Delivery Plan will exceed the CIL receipts (net of town and parish allocations and 5% admin costs). It is therefore envisaged that proposals for 42. schemes will be presented with the CIL forming a proportion of the funding alongside other resources such as capital reserves, grants/contributions from other organisations and prudential borrowing. It is also conceivable that the Council may consider using CIL to fund capital grants towards relevant schemes that are delivered by other bodies such as the County Council. This would be set out early through the capital budget process.

## Risk Matrix

Risk Profile before officer recommendations



Risk Profile after officer recommendations



## Key

Categories	Colours (for further detail please refer to Risk management strategy)
R = Reputation	Red = High impact and high probability
CpP = Corporate Plan Priorities	Orange = Major impact and major probability
CP = Community Priorities	Yellow = Moderate impact and moderate probability
CY = Capacity	Green = Minor impact and minor probability
F = Financial	Blue = Insignificant impact and insignificant probability

## Council Plan Implications

The delivery of infrastructure to facilitate appropriate levels of quality growth is fundamental to creating prosperous, healthy communities.

## Carbon Emissions and Climate Change Implications

No obvious implications

## Equality and Diversity Implications

No obvious implications

## Background Papers

<https://www.southsomerset.gov.uk/planning-and-building-control/spatial-policy/community-infrastructure-levy/>

<https://www.gov.uk/guidance/community-infrastructure-levy>