

Community Infrastructure Levy Spending Priorities

Planning and Transport Policy Sub Committee

8 October 2024

Key Decision – Yes

Community Infrastructure Levy Spending Priorities

Chair of Committee: Councillor Mike Rigby, Lead Member for Economic Development, Planning and Assets

Executive Member: Councillor Mike Rigby, Lead Member for Economic Development, Planning and Assets.

Local Members and Divisions affected: Councillor Henry Hobhouse, Councillor Kevin Messenger, Councillor Lock and Councillor Oakes, Councillor Kendall and Councillor David Woan, Councillor Caroline Ellis, Councillor John Hunt, Councillor Habib Farbahi, Councillor Dawn Johnson, Councillor Norman Cavill, Councillor David Fothergill, Councillor Dixie Darch, Councillor Derek Perry, Councillor Simon Coles, Councillor Federica Smith-Roberts, Councillor Lee Baker, Councillor Tom Deakin, Councillor Hazel Prior-Sankey, Councillor Fran Smith, Councillor Andy Dingwall, Councillor Diogo Rodrigues, Councillor Hilary Bruce, Councillor Leigh Redman, Councillor Kathy Pearce, Councillor Brian Smedley, Councillor Lance Duddridge, Councillor Gill Slocombe, Councillor Brian Bolt, Councillor Mike Caswell, Councillor Suria Aujla, Councillor Mark Healey MBE

Executive Director: Mickey Green, Executive Director, Climate and Place

Executive Summary

The report seeks to clarify and confirm existing Community Infrastructure Levy (CIL) spending priorities and allocations across Somerset Council. CIL monies contribute towards providing essential infrastructure for our communities across Somerset. This is in the context of a clear funding deficit and a need therefore to make choices in respect to the various competing calls on CIL funding.

Currently CIL is charged across three parts of Somerset, the former Sedgemoor District (SDC), South Somerset District (SSDC), and Taunton Deane Borough (TDBC) areas. CIL was not charged across the former West Somerset Council area; hence it only applies to part of the former Somerset West and Taunton area. There is no CIL provision in the former Mendip District area. CIL monies can only be spent within the former District Council area (Charging Authority) they are collected in.

The absence of CIL in the former Mendip District and West Somerset Council areas does not mean that contributions to new infrastructure required to support new development will not be provided as Section 106 agreements are used to secure contributions in these areas.

To ensure that CIL meets its purpose of supporting the delivery of development in Somerset it is also proposed to allocate £500,000 to forward fund infrastructure associated with the Up Mudford, Sustainable Urban Extension, planning application reference 14/02554/OUT. This funding is currently in the bank and is not allocated to

any other schemes. It will be recovered via the Section 106 agreement. This is a strategically important allocated site in Yeovil proposing 765 homes, employment land, a care home and other infrastructure.

Recommendations

That the Planning and Transport Policy Sub-Committee agrees:

- a to maintain the CIL infrastructure priorities and spending set out in this report.
- b that should planning permission be granted to use Community Infrastructure Levy (CIL) funding over the period 2026-2036 to provide cashflow to forward fund infrastructure to support the Up-Mudford Yeovil Sustainable Urban Extension. This funding will be fully recovered from the development via its s106.
- c Agreement for forward funding £500,000 of the walking and cycling infrastructure, secondary access and associated infrastructure at Up- Mudford, Yeovil Sustainable Urban extension is delegated to the Chief Planning Officer and Service Director for Infrastructure and Transport, in consultation with the Head of Legal Services.

Reasons for Proposals

- I. To provide clarity for communities regarding Somerset Council's CIL spending priorities
- II. To ensure CIL receipts are spent on infrastructure required to support development, in accordance with the CIL Regulations 2010 specifically as amended in September 2019 ('the CIL Regulations')
- III. To ensure CIL serves its purpose of supporting the delivery of the infrastructure necessary to support the development in Somerset.
- IV. It is a persistent issue raised in connection with large scale development that none of the infrastructure is delivered early, to provide work play and community facilities and establish linkages to provide for active travel. There are often very good reasons for this and often that reason is cashflow. The proposed approach at Up-Mudford allows some of this infrastructure to be forward funded to support place making.

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Main report and supporting information



Background and purpose of report

1. CIL takes the form of a charge per square metre of net additional floor space (new build or extensions). The money raised through CIL is used to help deliver prioritised infrastructure that is needed to support the growth proposals set out in the relevant development plans of the charging Authorities. It is for individual authorities to determine the rates of CIL and the types of development it is charged against.
2. A proportion of CIL is given to Town and Parish Councils (meaningful proportion) as set out in Regulation 59 of the CIL Regulations. For areas where there is no neighbourhood plan in place, 15% of CIL receipts from development within that Town/Parish area are given up to a maximum of £100 per Council tax dwelling per annum. This rises to 25% where a neighbourhood plan is in place.
3. According to the Community Infrastructure Levy (Amendment) Regulations 2012 the Council as Charging Authority, can spend its portion of CIL on:

“the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area.”

The Planning Act 2008 states that ‘infrastructure’ includes roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities, and open spaces.

4. Planning obligations through S.106 are specific to individual planning applications and can only be sought where they meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. Paragraph 57 the National Planning Policy Framework, December 2023 (NPPF):
Planning obligations must only be sought where they meet all of the following tests:
 - a) *necessary to make the development acceptable in planning terms;*
 - b) *directly related to the development; and*
 - c) *fairly and reasonably related in scale and kind to the development.*
5. CIL spending priorities were previously set out under the Regulation 123 List, but this requirement has now been deleted and effectively replaced by Regulation 121A(1)(a) that requires the infrastructure funding statement to include a statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL. This is known as the ‘infrastructure list’. With the amendments to the CIL Regulations the Council will now also have more opportunity to use CIL to address funding shortfalls and ‘top-up’ projects

that have not secured all the required funding for their delivery. This can now include combining CIL money with financial contributions secured through other funding mechanisms, including Section 106 legal agreements.

6. The tables below summarise the priorities listed in the current infrastructure lists and further details can be found within the individual IFS at ([Infrastructure Funding Statements \(somerset.gov.uk\)](https://www.somerset.gov.uk/infrastructure-funding-statements)). Appendix A includes a table showing the CIL charging rate, from when it was established in each of the former district areas and the current rate charged to developments, based on the BCIS index rate.

Former SDC Charging Area

Infrastructure Topic	Funding scheme/area	Planned Delivery
Flood Risk Management	Bridgwater Tidal Barrier * Burnham-on-Sea and Highbridge Tidal Flood Defence	2024 - 2027 Throughout plan period
Transport and public realm	Environmental improvements to walking, cycling and public transport infrastructure and public realm across the District	Throughout plan period
Education	Does not include infrastructure required to support the delivery of the following sites allocated in the Local Plan; B2 Land at West Bridgwater, B3 Land at East Bridgwater, and BH1 Land South of Brue Farm	Throughout plan period
Off-site outdoor sport and recreation	Specific sites and schemes that are identified in the play area audit and other relevant strategies	Throughout plan period
Off-site green infrastructure	Meads Eco Park	Throughout plan period

Former SWT Charging Area (covering the former Taunton Deane Borough Council area only)

Infrastructure Topic	Planned Delivery
Cycle & Pedestrian Improvements	2023-2025
Contribution towards the new primary school at Orchard Grove, Comeytrowe	2023-2024 onwards
Taunton Town Centre Regeneration	2024-2026 onwards
Surface Water & Flood Risk Mitigation	2024-2026 onwards
Community Development	

Wellington Station access road (forward/loan funding)	2024-2025
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Former SSSC Charging Area

Infrastructure Topic	Funding scheme/area	Planned Delivery
Strategic Fund	The Triangle Project, Yeovil	2024
Strategic Fund	Wyndham Street area public realm works, Yeovil	2024
Strategic Fund	Chard Leisure Centre Public Access	Completed

7. The current CIL funding position for the three charging authorities is set out in the tables below and represents the position as of 31 March 2024:

Former SSSC Charging Area

Balance at 31/03/2024 – total received since CIL adopted	5% Admin	Town and Parish Council Payments	Balance of Strategic Fund	Spent	Available
£3,134,445	£156,386	£526,951	£2,451,108	£1,945,552	£505,556

Former SDC Charging Area

Balance at 31/03/2024 – total received since CIL adopted	5% Admin	Town and Parish Council Payments	Balance of Strategic Fund	Spent	Available (including allocated funds)
£13,864,377	£693,218	£1,799,827	£11,371,331	£222,500	£11,148,831
20% of total CIL allocated to the Bridgwater Tidal Barrier					£2,772,875.40
Balance					£8,375,955.60 This balance is not committed but it is anticipated

					that it will contribute towards education provision at Puriton and South Bridgwater
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Former Somerset West and Taunton area (covering the former Taunton Deane Borough Council area only)

Balance at 31/03/2024 – total received since CIL adopted	5% Admin	Town and Parish Council Payments	Balance of Strategic Fund	Spent	Committed
£19,501,980	£769,139	£3,457,667	£15,275,174	£8,062,195	£7,212,979

CIL Strategic Pot collected since 2014	£15,275,174
Taunton Station Improvements	-£91,518
Coal Orchard, Taunton Public Realm improvements	-£420,000
Public open space, Wellington	-£550,677
Orchard Grove New Primary School, Taunton	-£7,000,000
Balance as at 31/3/24	£7,212,979

Capital CIL Allocations

	2024/25	2025/26	2026/27	2027/28	Totals £
Cycle & Pedestrian Improvements	£999,999			£449,323	£1,449,322
Taunton Town Centre Regeneration	£500,000				£500,000
Surface Water & Flood Risk Mitigation	£412,757	£2,200,442	£3,148,851		£5,762,050
Community facilities		£150,000		£2,000,000	£2,150,000

Wellington Station access road (forward/loan funding)	£5,000,000				£5,000,000
Total Expenditure	£6,912,756	£2,350,442	£3,148,851	£2,449,323	£14,861,372

8. The amended CIL allocation table includes a provisional CIL allocation of £2.15m to assist with the delivery of community facilities at the Orchard Grove development (Taunton). Whilst the CIL allocations currently project an overspend of £1,648,393 by 2027/28, the CIL allocation for the Wellington Station access road is a forward funding loan. All the CIL allocations will need to be reviewed on an annual basis as the costs (following detailed design work) and delivery timescales for the infrastructure projects are confirmed. The infrastructure priorities will be considered in partnership with Taunton Town Council, to understand their CIL spending priorities for the CIL income they are due to receive.

Up-Mudford Sustainable Urban Extension

9. The Up-Mudford Sustainable Urban Extension, application 14/02554/OUT, is a strategically important application for Yeovil, proposing 765 homes, employment land, a care home, neighbourhood centre and primary school expansion site. It is allocated via Policy YV2 of the SSDC Local Plan. The application site is CIL exempt.
10. The application was resolved to approve in October 2019 but was later caught by the Natural England advice in August 2020 which required all non-approved applications to demonstrate nutrient neutrality. Three years later a solution has been found at a cost of £1.5m and the application has been refreshed and updated and is due to be considered at South Committee in October 2024. This has required a new viability assessment which concludes the site cannot deliver all the required planning obligations, reiterating the situation from 2019 which found the same.
11. The approach has therefore been to retain affordable housing at 15% rather than the policy requirement of 35% which was the percentage resolved to approve in 2019. This has enabled all other obligations to meet requirements. Notwithstanding this fact, an issue remains regarding cashflow and this has impacted on the trigger points that have been able to be agreed as to when certain cash payments can be made or certain works can be undertaken. In order to pay for certain infrastructure any developer needs to sell homes to create income to balance (or seek to) the outgoings, often the up-front costs of development are too much to be affordable, and certain triggers are pushed back (delayed) in order to smooth cashflow by allowing more homes to be sold until a certain piece of infrastructure or a specific payment is made.

12. This includes funding the following:
- Hedgerow and tree protection
 - Site clearance and early landscaping
 - Further ground investigation and mitigation measures
 - Archaeological investigation
 - Roundabout access with Bus stops and ancillary works
 - Onsite roads, footpaths and cycleways
 - Surface water drainage and pond 1
 - Foul drainage including offsite improvements to existing network
 - Utilities provision to site including improvements to existing off site networks
13. It should be noted that phosphate mitigation needs to be paid for prior to consent being granted. This will change to a pre-commencement condition going forwards.
14. The total s106 package is valued at circa £21m for affordable housing, transport, health, sport, play, community and open space.
15. The cashflow implications means that the full extent of approved infrastructure such as the off-site walking and cycling routes/connections cannot be delivered as early as is desirable. The delivery of a key junction at Lyde Road/Mudford Road would also be aided if more money was available towards the start of the development, but it simply is not available without pushing back other obligations later in the spend profile. Education Authority colleagues and the Wyndham Park Community Association working with Mudford PC and Yeovil Without PC on delivery of the school and community hall respectively would prefer 'their' monies to be triggered earlier than is proposed.
16. For reasons set out above it is proposed to allocate the existing £500,000 in the Area South CIL pot to unlock and frontload infrastructure provision on the Up-Mudford, Yeovil Sustainable Urban Extension. This funding is in the bank and not allocated to any other schemes. It will be recovered via the S.106 agreement. Further detailed information about the scheme is attached as Appendix B.

Future CIL spending

17. As has been demonstrated above many of the existing spending priorities are on-going long-term projects. This means that the opportunity to divert funds to alternative projects will depend on the time and expenditure required to deliver existing priorities. This will also depend on the amount of CIL income generated which in turn is dependent on the amount of chargeable development that comes forward in the area.
18. A decision on whether to introduce a Somerset wide CIL when the Local Plan has progressed will need to be taken in the light of the provisions and the best approach at that time. Currently CIL monies collected must be

spent within the former district Council area (charging authority) they are collected in.

19. Future CIL spending will be discussed council wide across relevant services through the Creating Communities Officer Working Group and the Senior Leadership Team with recommendations to the Planning and Transport Policy Sub Committee. and agreed by the Planning and Transport Policy Sub Committee.

Links to Council Plan and Medium-Term Financial Plan

20. CIL is an important source of funding for infrastructure necessary to mitigate the impact of new development. Funding is also secured through s.106 agreements. The report seeks to provide clarity around priorities for spending CIL in the context of expected income. Details of CIL and S.106 income and spending are required to be published annually in the Infrastructure Funding Statement.

Other options considered

21. No alternative options were considered as the mechanisms are not yet in place to change spending commitments and there is only a limited pot of money available to spend.

Key considerations for the Council

Scrutiny comments / recommendations:

22. The proposed decision has not been considered by a Scrutiny Committee as it seeks to confirm existing spending priorities.

Consultation and feedback

23. Relevant Divisional members have been consulted and the report was discussed at the Creating Communities Officer Working Group on 5 September 2024.

Financial and Risk Implications

24. The priorities for the allocation of CIL monies towards specific infrastructure projects will mean that not all infrastructure projects across Somerset will be able to access the limited pot of money.
25. The committed CIL allocations set out in this report have previously been agreed by the former district councils. The proposed allocation of £500,000 of the CIL monies in the former SDDC area uses money that has already been collected. The main risk is tying up a portion of the CIL collected in Area South, however we will have delivered infrastructure for the benefit of existing residents in the area and future residents of the site sooner than would have otherwise been the case and reaped the benefits of doing so

earlier. The re-payment of the monies will be secured through the s.106 legal agreement. The main risk is if the site slows, or stalls and the re-payment trigger is delayed.

Current Risk Score:

Likelihood	5	Impact	3	Risk Score	15
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Projected risk score if recommended actions are agreed and delivered:

Likelihood	5	Impact	3	Risk Score	15
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Legal and Procurement Implications

26. The functions of the Planning and Transport Policy Executive Sub-Committee include:
- To oversee matters on behalf of the Council arising from the Planning Act 2008 and subsequent legislation in connection with the Community Infrastructure Levy (CIL), including the approval of draft stages of the CIL Charging Schedule for consultation and to recommend the approval of the CIL Charging Schedule to Full Council.
 - To agree infrastructure priorities and approve Community Infrastructure Levy and s106 spending priorities to support the development of the area and infrastructure funding bids

HR / Workforce Implications

27. There are no HR implications as the report seeks to confirm existing spending priorities.

Equalities Implications

28. There are no direct equalities impacts arising from the recommendation to re-confirm CIL spending priorities. The allocation of future spending priorities will need to consider whether the distribution of funds would have an impact on protected groups or whether priorities will have positive benefits. The Council has a proactive responsibility to make reasonable adjustments for disabled people and this will be included within the design of works delivered as part of this funding.
29. When the decision is made to release the money for the Up Mudford forward funding due regard will be given to the Equality Act 2010.

Community Safety Implications

30. There are no direct community safety implications from the report. As this relates to CIL spending any such implications would be considered on a case-by-case basis when a decision is made to spend funds on particular infrastructure projects in the future.

Climate Change and Sustainability Implications

31. As the recommendation/s relate to existing agreed CIL spend, any such implications would be considered on a case-by-case basis when a decision is made to allocate money to other projects.
32. Current CIL spending priorities do directly support the Climate change strategy identifying spend on sustainable transport and active travel for example. Flood mitigation measures, a key element of climate change adaptation, are specifically identified in two of the current infrastructure lists and for the former SDC area, a minimum of 20% of CIL receipts are ring fenced for the Bridgwater Tidal Barrier.

Health and Safety Implications

33. As the recommendations primarily relate to existing agreed CIL spend, any such implications would be considered on a case-by-case basis when new spend allocations are made.

Health and Wellbeing Implications

34. As the recommendations relate to existing agreed CIL spend, any such implications would be considered on a case-by-case basis when future spend is made.

Social Value

35. CIL funding priorities include projects and priorities that specifically provide for increased social value.

Background Papers

Community Infrastructure Levy (CIL) relief policies report to Planning and Transport Policy Sub-Committee 25/01/2024 [Agenda for Planning and Transport Policy Sub-Committee on Thursday, 25th January, 2024, 2.00 pm - Modern Council](https://www.somerset.gov.uk/agenda-for-planning-and-transport-policy-sub-committee-on-thursday-25th-january-2024-2.00-pm-modern-council) ([somerset.gov.uk](https://www.somerset.gov.uk))

Appendices

Appendix A CIL Charging Rates

Appendix B Further Information, Up-Mudford Yeovil Sustainable Urban Extension.

**Report assurance checklist ahead of report publication
(for Audit, Executive, Full Council and Scrutiny Committees)**

	Officer Name	Date Completed
Legal & Governance Implications	David Clark	16/09/24
Finance & Procurement	Nicola Hix	24/09/24
Workforce (*)	Dawn Bettridge	11/09/24
Asset Management (*)	Oliver Woodhams	N/A
Executive Director	Mickey Green	25/09/24
Executive Lead Member	Councillor Mike Rigby	23/09/24
Consulted:		
Local Division Members	Councillor Henry Hobhouse, Councillor Kevin Messenger, Councillor Lock and Councillor Oakes, Councillor Kendall and Councillor Woan, Councillor Caroline Ellis, Councillor John Hunt, Councillor Habib Farbahi, Councillor Dawn Johnson, Councillor Norman Cavill, Councillor David Fothergill, Councillor Dixie Darch, Councillor Derek Perry, Councillor Simon Coles, Councillor Federica Smith-Roberts, Councillor Lee Baker, Councillor Tom Deakin, Councillor Hazel Prior-Sankey, Councillor Fran Smith, Councillor Andy Dingwall, Councillor Diogo Rodrigues, Councillor Hilary Bruce, Councillor Leigh Redman, Councillor Kathy Pearce, Councillor Brian Smedley, Councillor Lance Duddridge, Councillor Gill Slocombe, Councillor Brian Bolt, Councillor Mike Caswell, Councillor Suria Aujla, Councillor Mark Healey MBE	13/09/24
Opposition Spokesperson(s)	Councillor Mark Healey	23/09/24
Relevant Scrutiny Chair(s)	Councillor Martin Dimery	22/09/24
Executive Director Adults Services	Mel Lock	10/09/24
Executive Director Children, Families & Education Services	Claire Winter	25/09/24
Executive Director Community Services	Chris Hall	10/09/24

Note:

Directors may nominate additional officers to act on their behalf
(* – these areas only need to be consulted on proposals if the proposals have workforce or asset management implications

Reports will not be published if assurance checklist has not been adequately completed – report author to liaise with Democratic Services well ahead of publication deadline