

MAIDSTONE BOROUGH COUNCIL

RECORD OF DECISION OF THE CABINET

Decision Made: 20 September 2023

Matters Referred to the Cabinet for Reconsideration - Reference from Overview and Scrutiny Committee – CIL Strategic Assessment & Spend Decision, following Call-In.

Issue for Decision

As per the approved CIL governance arrangements, and in relation to the Strategic CIL Bidding Cycle 2021/22, the Cabinet is delegated to approve projects for the allocation of the Strategic CIL Funding.

Four infrastructure projects were recommended for Strategic CIL funding: Linton Crossroads; Junction 7 of the M20; Heather House community facilities; and St Faith's Community Centre. These have all been subject to an external moderation report by Turley consultancy (Appendix 1 of the report) and internal officer preliminary evaluation (Appendix 2 of the report). Appendix 3 of the report sets out all the meetings held by the CIL Steering Board.

The decision made by Cabinet on 26 July 2023 was subject to call-in at the Overview and Scrutiny Committee on 15 August 2023 and had been amended following reconsideration of the decision.

Decision Made

1. That Community Infrastructure Levy (CIL) funding that has been collected is allocated (as minima) to the following strategic projects for the period to 31 March 2025:
 - M20 Junction 7 Upgrade - £1,836,729 in Strategic CIL monies, subject to appropriate due diligence by the Director of Finance, Resources & Business Improvement in consultation with the Cabinet Member for Corporate Services
 - Heather House Community Centre Redevelopment - £956,420
 - St Faith's Community Centre Redevelopment - £300,000; and
2. That a report evaluating the CIL process, including the proposed prospectus for the next round of funding, be added to the Forward Plan for a Cabinet meeting by January 2024.

Reasons for Decision

The Community Infrastructure Levy (CIL) commenced in October 2018 and is governed by the CIL Regulations 2010 (as amended). It allows local authorities to raise funds from developers who are undertaking new building projects. The principle behind CIL is that most development has some impact on infrastructure and so should contribute to the cost of infrastructure. All developments within

Maidstone Borough of a certain type and size are liable to 'pay' CIL which is due upon commencement of development. The Council developed a Charging Schedule alongside the Maidstone Borough Local Plan. The charge can be differentiated by geographical area, and by development type, and based on viability evidence within the Maidstone Community Infrastructure Levy - Charging Schedule 2017.

Infrastructure is needed to support the new development, and the Infrastructure Delivery Plan is reviewed on an annual basis with the latest being 2022. This highlights the infrastructure needed in the Borough to support new development (such as schools, health facilities, leisure, community facilities etc.) which supports the delivery of the adopted Local Plan. The Council is required under the Community Infrastructure Levy Regulations (2019 Amendment) to produce an Infrastructure Funding Statement to include a statement of the infrastructure projects or types which will be or may be, wholly or partly funded by CIL.

Available Strategic CIL Funds

As of 1st February 2023, the Council had collected Strategic CIL funds totalling £4,280,886. We forecast that a further £7,495,282 of Strategic CIL may be available by 31 March 2025.

In addition to the money collected as part of the strategic CIL spend, the Council is making a further £5,000,000 available from the Capital Budget that it can use to top up the amount of CIL monies available for the delivery of infrastructure.

Bidding Process

On 8 January 2019, the Strategic Planning and Infrastructure Committee approved the CIL governance arrangements for the Strategic Community Infrastructure Levy (CIL) spend. The CIL Steering Group was set up in June 2020 and met on 13 occasions between 2020-2022 (Appendix 3 of the report).

On 11 January 2022, the CIL Bidding Prospectus (22-25) was approved to allow for a bidding cycle for the allocation of strategic CIL receipts.

In line with the prospectus, bids were invited for strategic CIL funding from infrastructure providers in the period 3 May to 15 July 2022. Twenty-two bids were received and initially appraised by MBC officers. This was reported to the CIL Steering Group (established pursuant to the governance arrangements) on 13 December 2022 where it was decided that the bids and officer appraisal would be referred to a technical expert (Turley Associates Limited <https://www.turley.co.uk/>) for independent moderation (See Appendix 1 of the report: Turley Maidstone MBC Community Infrastructure Levy Allocations and Appendix 2 of the report: the officer appraisal).

Junction 7 of the M20

There is a clear policy justification for this highways infrastructure in policy RMX1(1) part 15(ii) of the Local Plan (Newnham Park – KMC allocation). Therefore, it is also included in the IDP in the "critical" list.

The amount of s106 monies collected as of 01/03/2023 is £1,473,415. The s106 agreements from 3 housing developments along the A274/Sutton Rd when

originally signed were to provide the full cost of the part signalisation works (£4.667m). Further s106 money of £3,250,469 (before indexation) is yet to be paid so a minimum of £4,723,884 is anticipated to be received.

The cost of the works identified by KCC is £6,621,610 and the shortfall from the s106 monies is £1,897,726. The amount of CIL for this project is rounded up to £1,900,000.

There have been failed attempts to secure government funding for the improvement works in order to get them undertaken as soon as reasonably possible as payments would come later being tied to housing occupation on those sites. Therefore, and outside the CIL process, the Council intends to top up the residual amount (£3.24M) to KCC from MBC's capital funding to accelerate delivery if this does not jeopardise recovery of anticipated s.106 receipts.

For all the reasons stated above this represents a reasonable and deliverable choice of infrastructure project.

Heather House

Policy Justification: Policy DM20 refers to mitigating the need for new community facilities through conditions, legal agreements, or CIL. The IDP also has a category relating to this type of infrastructure. Socio-economic data strongly supports public sector investment in this infrastructure in this location and this is what MBC has chosen to with a recent planning permission (subject to a s106 legal agreement). The scheme is highly deliverable.

The total cost of the replacement community centre is £1,771,100 but it is estimated that this Council will generate income of £814,681 from approved housing development leaving the amount of monies from CIL to be £956,420.

St Faith's Community Centre

Local Plan Policy DM20 refers to mitigating the need for new community facilities through conditions, legal agreements, or CIL. The council also commissioned (following a resolution from planning committee) a 'Feasibility Study on the Need for Community Facilities in the North Ward – Maidstone' (2017) which is listed as 'additional studies and guidance' on our website and states it is a material consideration. As stated above, this type of infrastructure is a category in the IDP. The socio-economic data backs the need for this social infrastructure and there is a complete vacuum in this area. Lastly, this is a highly deliverable scheme given that the external building works were completed last year and now the internal fit out is required.

The total cost of the replacement community centre is £1,863,000. The £200,000 required from CIL is a modest amount in comparison with the amount of s106 collected (£ 471,760) and Church of England monies.

The decision was subject to call-in to Overview and Scrutiny Committee on 15 August 2023 and the matter was referred back to Cabinet for re-consideration. The recommendations to the Cabinet were: To

1. Reconsider the issues around the Linton Crossroads Junction Improvement scheme, in particular concerning pedestrians and road safety, land delivery and

the feasibility of delivering the project and consider whether there should be a claw-back mechanism; and

2. Consider what action can be taken in conjunction with prospective future rounds of CIL bids, in bringing forward the Hart Street and Fountain Lane – Hermitage Lane Junctions.

In an urgent update to the item it had been confirmed, following 26 July 2023, that an additional £50,000 was required for St Faith's Community Centre. Taking that into account the total Strategic CIL monies are £300,000 to the St Faith's Community Centre.

The deadline for a report evaluating the CIL process to Cabinet would be added to the Cabinet Forward Plan and scheduled for January 2024.

Alternatives considered and why rejected

An additional recommended bid set out in the report and recommended by the Planning Infrastructure and Economic Development Policy Advisory Committee (PAC) for funding Linton Crossroads was considered.

This scheme was not allocated CIL funding at this time as though there was recognition that junction improvements here are supported by the adopted Local Plan on balance investment of CIL was not supported because:

- there was uncertainty over the ability of the Highways Authority to deliver the scheme which would tie up the funding;
- other highway improvement schemes included in the Infrastructure Delivery Plan and supported by the adopted Local Plan were perceived to have stronger justification for progression to implementation and consuming resources at Linton Crossroads may prejudice progress on these alternative future opportunities; and
- this was not felt to be a suitable course of action given that the Planning Inspector, as part of the ongoing Local Plan Review, had written to the Council supporting an additional site allocation in Coxheath close to the junction (Site LPRSA312) which may yield funding to improve the junction.

Putting a time limit on the funding being spent was considered, as recommended by the PAC, but was rejected in favour of re-evaluating the CIL bidding process and considering a round 2 of bids.

Background Papers

- Strategic Planning, Sustainability and Transportation Committee Report and Minute of 11 September 2018 – Maidstone Community Infrastructure Levy Administration and Governance
- Strategic Planning, Sustainability and Transportation Committee Report and Minute of 8 January 2019 – (Strategic) CIL Governance Report
- Full Council Report and Minute of 27 February 2019 – CIL Governance and Administration
- Strategic Planning, Sustainability and Transportation Committee Report and Minute of 11 January 2022 - Strategic CIL Bidding Prospectus (2022-2025)
- Maidstone Community Infrastructure Levy - Charging Schedule 2017 ([http://services.maidstone.gov.uk/docs/October%202017%20Approved%](http://services.maidstone.gov.uk/docs/October%202017%20Approved%20CIL%20Charging%20Schedule%202017.pdf)

- 20Community%20Infrastructure%20Levy%20Charging%20Schedule.pdf)
- Strategic CIL Bidding Prospectus (2022-2025) – (<https://maidstone.gov.uk/home/primary-services/planning-andbuilding/additional-areas/community-infrastructure-levy/tier-3-primaryareas/community-infrastructure-levy-bidding-prospectus-2022-2025>)
 - The Infrastructure Delivery Plan 2022 (<https://localplan.maidstone.gov.uk/home/adopted-local-plan/communityinfrastructure-levy-supporting-documents>)
 - The Infrastructure Funding Statement (2021-2022) (<https://maidstone.gov.uk/home/primary-services/planning-andbuilding/additional-areas/community-infrastructure-levy/tier-3-primaryareas/infrastructure-funding-statement-202122>)

I have read and approved the above decision for the reasons (including possible alternative options rejected) as set out above.



Signed: _____

Councillor David Burton, Leader of the Council

Full details of both the report for the decision taken above and any consideration by the relevant Policy Advisory Committee can be found at the following area of the [website](#)

Published following reconsideration. Not subject to Call-In.