

LEAD MEMBER FOR PLANNING AND INFRASTRUCTURE MEETING

Date: Monday 23 January 2023

Time: 9.00 am

Venue: Room 6A, Maidstone House, King Street, Maidstone

Membership: Councillor Cooper

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

<u>AGENDA</u>	<u>Page No.</u>
1. Urgent Items	
2. To consider whether any items should be taken in private due to the possible disclosure of exempt information.	
3. Minutes of the Meeting Held on 21 November 2022	1 - 4
4. Minutes of the Meeting Held on 22 November 2022	5 - 8
5. Reference from Planning Committee - Design and Longevity Robustness of Ecological Measures Sought in Developments	9 - 10
6. Governance and procedural arrangements for CIL Ward spend	11 - 28

Issued on 13 January 2023

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

MAIDSTONE BOROUGH COUNCIL

LEAD MEMBER FOR PLANNING AND INFRASTRUCTURE

MINUTES OF THE MEETING HELD ON MONDAY 21 NOVEMBER 2022

Attendees:

Lead Members:	Councillor Paul Cooper (Lead Member for Planning and Infrastructure)
----------------------	---

1. URGENT ITEMS

The Lead Member for Planning and Infrastructure intended to take Item 3 – Statements of Common Ground for Local Plan Review and Item 4 – Exempt Appendix to Item 3 – Statements of Common Ground for Local Plan Review as urgent items, as a decision was required to enable progress on the matter.

2. EXEMPT ITEMS

RESOLVED: That all items be taken in public, unless the Lead Member for Planning and Infrastructures wishes to specifically refer to Item 4 – Exempt Appendices to Item 3 - Statements of Common Ground for Local Plan Review

3. STATEMENT OF COMMON GROUND FOR LOCAL PLAN REVIEW

1. That the Draft Statement of Common Ground between Maidstone Borough Council, the Heathlands site promoters and Kent Downs Area of Outstanding Natural Beauty Unit, attached as Exempt Appendix 1 to the report, be approved; and
2. That the draft Statement of Common Ground between Maidstone Borough Council and Natural England, attached as Exempt Appendix 2 to the report, be approved.

4. EXEMPT APPENDIX TO ITEM 3 - STATEMENTS OF COMMON GROUND FOR LOCAL PLAN REVIEW

RESOLVED: That the item be considered alongside Item 3 – Statements of Common Ground for Local Plan Review.

5. DURATION OF MEETING

11.55 a.m. to 12.00 p.m.

MAIDSTONE BOROUGH COUNCIL

RECORD OF DECISION OF THE LEAD MEMBER FOR PLANNING AND INFRASTRUCTURE

Decision Made: 21 November 2022

Statement of Common Ground for Local Plan Review

Issue for Decision

The draft Statements of Common Ground (SoCG) summarise the key strategic matters between Maidstone Borough Council and other bodies. Both appendices were considered by the Planning and Infrastructure Policy Advisory Committee on 3 November 2022. The SoCG relate to the Heathlands site promoters and Kent Downs Area of Outstanding Natural Beauty Unit (Exempt Appendix 1), and between Maidstone Borough Council and Natural England (Exempt Appendix 2).

Decision Made

1. That the Draft Statement of Common Ground between Maidstone Borough Council, the Heathlands site promoters and Kent Downs Area of Outstanding Natural Beauty Unit, attached as Exempt Appendix 1 to the report, be approved; and
2. That the draft Statement of Common Ground between Maidstone Borough Council and Natural England, attached as Exempt Appendix 2 to the report, be approved.

Reasons for Decision

- 1.1 Pursuant to s.33A of the Planning and Compulsory Purchase Act 2004 (as amended) when preparing development plan documents local planning authorities and county councils (in two-tier areas) are subject to a legal duty to cooperate with each other, and with other prescribed bodies (as set out in regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)), on strategic matters that cross administrative boundaries. In order to demonstrate effective and on-going joint working, the National Planning Policy Framework (NPPF) requires strategic policy making authorities to prepare and maintain one or more statements of common ground (SoCG), documenting the cross-boundary matters being addressed and to describe progress in cooperating to address these.
- 1.2 SoCG are written records of the progress made by strategic policy-making authorities during the process of planning for strategic cross-boundary matters. It documents where effective cooperation is and is not happening throughout the plan-making process and is a way of demonstrating at examination that plans are deliverable over the plan period, and based on effective joint working across local authority boundaries even if there are still matters to be resolved. In the case of local planning authorities, it also

forms a key part of the evidence required to demonstrate that they have complied with the duty to cooperate.

- 1.3 A SoCG may also be used as an effective tool for demonstrating cooperation between the Local Planning Authority and those who play a part in helping deliver their Plan. This is pertinent to the Maidstone Local Plan Review, which was submitted to the Secretary of State for Examination in Public on 31 March 2022. The examination hearings are currently in process. SoCG are being used by the Council to demonstrate legal compliance in terms of the plan-making process, as well as to demonstrate progress in resolving issues of plan soundness that the Planning Inspector is considering following representations made during the Regulation 19 consultation and the examination.
- 1.4 This report brings to the Lead Member of the Planning and Infrastructure two of the draft Statements of Common Ground considered by the PI PAC on the 3 November 2022. The main topic areas or matters addressed by each of the SoCG presented in this report is summarised below, with a focus on key updates to existing SoCG where relevant. It is also important to point out that the SoCG process is iterative and has continued throughout the Local Plan Review examination process.
- 1.5 The SoCG in Exempt Appendix 1 has been produced by the Heathlands site promoters and Kent Downs Area of Outstanding Natural Beauty Unit, with the Local Planning Authority as a co-signatory.
- 1.6 The SoCG in Exempt Appendix 2 has been produced by Maidstone Borough Council and Natural England. It provides an update to the current SoCG on several matters including air quality, nutrient neutrality and the Kent Downs Area of Outstanding Natural Beauty (AONB). The SoCG reflects updated work undertaken by the Heathlands site promoters (in addressing issues in relation to Natural England guidance on nutrient neutrality) and the Lidsing site promoters (in mitigating potential quality issues on the Kent Downs AONB) in response to findings of the Habitats Regulations Assessment and comments from the Kent Downs Area of Outstanding Natural Beauty Unit.

Alternatives considered and why rejected

Option 1: That the draft Statements of Common Ground (Exempt Appendices 1 & 2) are approved by the Lead Member for Planning and Infrastructure. This would allow these documents to be finalised and signed, in accordance with the agreed protocol, in order that they may be published as part of the Council's evidence base for the Local Plan Review examination; and

Option 2: That the draft Statements of Common Ground (Exempt Appendices 1 and 2) are not approved by the Lead Member for Planning and Infrastructure. However, this would mean the documents could not be finalised and signed, thus potentially prejudicing national requirements associated with the production of the Local Plan Review and discharge of the Council's duty to cooperate with other authorities.

Background Papers

None

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

Signed: _____

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned over a horizontal line.

Lead Member for Planning and Infrastructure

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](#).

Call-In: This decision is urgent due to the need to be implemented by 9am on 22 November 2022 for the Local Plan Review. Call-In therefore does not apply in accordance with Part C3, 7 – Call-In and Urgency.

MAIDSTONE BOROUGH COUNCIL

LEAD MEMBER FOR PLANNING AND INFRASTRUCTURE

MINUTES OF THE MEETING HELD ON TUESDAY 22 NOVEMBER 2022

Attendees:

Lead Members:	Councillor Paul Cooper (Lead Member for Planning and Infrastructure)
----------------------	---

6. URGENT ITEMS

The Lead Member for Planning and Infrastructure intended to take Item 3 – Statements of Common Ground for Local Plan Review and Item 4 – Exempt Appendices 1, 2 and 3 for Item 3 – Statements of Common Ground for Local Plan Review (exempt appendices 1 and 3 to follow), as a decision was required to enable progress on the matter.

It was noted that Exempt Appendices 1 and 3 had not been provided ahead of the meeting.

7. EXEMPT ITEMS

RESOLVED: That all items be taken in public unless the Lead Member for Planning and Infrastructure wished to refer to the information contained within Item 4 – Exempt Appendices 1, 2 and 3 to Item 3 – Statements of Common Ground for Local Plan Review (Exempt Appendices 1 and 3 to follow), due to the possible disclosure of exempt information.

8. STATEMENTS OF COMMON GROUND FOR THE LOCAL PLAN REVIEW

That the Draft Statement of Common Ground between the Council, Lidsing Promoters and Kent Downs AONB (Exempt Appendix 2 to the report), be approved.

9. EXEMPT APPENDICES 1, 2 AND 3 FOR ITEM 3 - STATEMENTS OF COMMON GROUND FOR THE LOCAL PLAN REVIEW (EXEMPT APPENDICES 1 AND 3 TO FOLLOW)

RESOLVED: That the item be considered alongside Item 3 – Statements of Common Ground for Local Plan Review.

10. DURATION OF MEETING

9.00 a.m. to 9.30 a.m.

MAIDSTONE BOROUGH COUNCIL

RECORD OF DECISION OF THE LEAD MEMBER FOR PLANNING AND INFRASTRUCTURE

Decision Made: 22 November 2022

Statements of Common Ground for the Local Plan Review

Issue for Decision

The draft Statements of Common Ground (SoCG) relating to this report summarise the key strategic planning matters between Maidstone Borough Council and other bodies. The exempt appendices were considered by the Planning and Infrastructure Policy Advisory Committee on 3 November 2022. The exempt Appendices to this report are:

MBC, Lidsing Developers and Kent Downs AONB (Exempt Appendix 2)

Exempt Appendices 1 and 3 referenced in the report were unavailable for signing at the time of the meeting (MBC and National highways, and MBC and Kent County Council).

Decision Made

That the Draft Statement of Common Ground between the Council, Lidsing Promoters and Kent Downs AONB (Exempt Appendix 2 to the report), be approved.

Reasons for Decision

- 1.1 Pursuant to s.33A of the Planning and Compulsory Purchase Act 2004 (as amended) when preparing development plan documents local planning authorities and county councils (in two-tier areas) are subject to a legal duty to cooperate with each other, and with other prescribed bodies (as set out in regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)), on strategic matters that cross administrative boundaries. In order to demonstrate effective and on-going joint working, the National Planning Policy Framework (NPPF) requires strategic policy making authorities to prepare and maintain one or more statements of common ground (SoCG), documenting the cross-boundary matters being addressed and to describe progress in cooperating to address these.
- 1.2 SoCG are written records of the progress made by strategic policy-making authorities during the process of planning for strategic cross-boundary matters. It documents where effective cooperation is and is not happening throughout the plan-making process and is a way of demonstrating at examination that plans are deliverable over the plan period, and based on effective joint working across local authority boundaries even if there are still matters to be resolved. In the case of local planning authorities, it also

forms a key part of the evidence required to demonstrate that they have complied with the duty to cooperate.

- 1.3 A SoCG may also be used as an effective tool for demonstrating cooperation between the Local Planning Authority and those who play a part in helping deliver their Plan. This is pertinent to the Maidstone Local Plan Review, which was submitted to the Secretary of State for Examination in Public on 31 March 2022. The examination hearings are currently in process. SoCG are being used by the Council to demonstrate legal compliance in terms of the plan-making process, as well as to demonstrate progress in resolving issues of plan soundness that the Planning Inspector is considering following representations made during the Regulation 19 consultation and the examination.
- 1.4 This report brings to the Lead Member of the Planning and Infrastructure two of the draft Statements of Common Ground considered by the PI PAC on the 3 November 2022. The main topic areas or matters addressed by each of the SoCG presented in this report is summarised below, with a focus on key updates to existing SoCG where relevant. It is also important to point out that the SoCG process is iterative and has continued throughout the Local Plan Review examination process.
- 1.5 The Statement of Common Ground between the Council and Lidsing Promoters and Kent Downs AONB (Exempt Appendix 2) has the Local Planning Authority as a co-signatory covers areas around the proposed policy 6 in the submission version of the Local Plan Review, and proposed infrastructure improvements that would impact the Kent Downs AONB
- 1.6 The Statements of Common Ground between the Council and Kent County Council was not available for signing at the time of the meeting.
- 1.7 The Statement of Common Ground between the Council and National Highways was not ready for signing at the time of the meeting.

Alternatives considered and why rejected

Option 1: That the draft Statements of Common Ground attached at Exempt Appendix 2 are approved by the Lead Member for Planning and Infrastructure. This would allow these documents to be finalised and signed, in accordance with the agreed protocol, in order that they may be published as part of the Council's evidence base for the Local Plan Review examination.

Option 2: That the draft Statements of Common Ground attached at Exempt Appendix 2 are not approved by the Lead Member for Planning and Infrastructure. However, this would mean the documents could not be finalised and signed, thus potentially prejudicing national requirements associated with the production of the Local Plan Review and discharge of the Council's duty to cooperate with other authorities.

Note – Exempt Appendices 1 and 3 were not ready for signing at the time of the meeting and were therefore not included in the available options.

Background Papers

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

Signed: _____

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned over a horizontal line.

Lead Member for Planning and Infrastructure

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](#)

Call-In: This decision is urgent due to the need to be implemented as soon as possible for the ongoing Local Plan Review. Call-In therefore does not apply in accordance with Part C3, 7 – Call-In and Urgency.

**LEAD MEMBER FOR PLANNING
AND INFRASTRUCTURE**

23 January 2023

Reference from Planning Committee – Design and Longevity Robustness of Ecological Measures Sought in Developments

Timetable	
<i>Meeting</i>	<i>Date</i>
Planning Committee	20 October 2022
Lead Member for Planning and Infrastructure	23 January 2023

Wards affected	All
-----------------------	-----

Executive Summary

The Planning Committee has recommended that clarification be provided in the proposed Design and Sustainability Development Plan Document regarding the design and longevity robustness of ecological measures sought in developments to enable a tougher approach in terms of monitoring.

This reference makes the following recommendation to the Lead Member for Planning and Infrastructure:

That clarification be provided in the proposed Design and Sustainability Development Plan Document regarding the design and longevity robustness of ecological measures sought in developments to enable a tougher approach in terms of monitoring.

Reference from Planning Committee - Design and Longevity Robustness of Ecological Measures Sought in Developments

1. REASONS FOR RECOMMENDATION

- 1.1 At its meeting on 20 October 2022, the Planning Committee granted planning permission for a garage and loft conversion at Wents Wood, Weaving. Arising from consideration of the application, the Committee agreed to recommend to the Lead Member for Planning and Infrastructure that clarification be provided in the proposed Design and Sustainability Development Plan Document regarding the design and longevity robustness of ecological measures sought in developments to enable a tougher approach in terms of monitoring.
-

2. ALTERNATIVES CONSIDERED AND WHY NOT RECOMMENDED

Not applicable.

3. REPORT APPENDICES

None.

4. BACKGROUND PAPERS

Minutes of the meeting of the Planning Committee held on 20 October 2022

**LEAD MEMBER FOR PLANNING
AND INFRASTRUCTURE
MEETING**

23 January 2023

**Governance and Procedural Arrangements for CIL Ward
& (Non-Parished Areas) spend**

Timetable	
Meeting	Date
Planning and Infrastructure PAC	9 November 2022
Lead Member for Planning and Infrastructure	23 January 2023

Will this be a Key Decision	No
Urgency	Not Applicable
Final Decision-Maker	Executive
Lead Head of Service	Rob Jarman (Head of Development Management)
Lead Officer and Report Author	Carole Williams (CIL & S106 Team Leader)
Classification	Public
Wards affected	All

Executive Summary

This report proposes the governance and procedural arrangements for spending the CIL neighbourhood portion within the non-parished areas of Maidstone Borough.

Purpose of Report

To provide guidance to local ward members on community consultation for CIL allocation and how to apply for CIL neighbourhood funding for their wards.

This report asks the Lead Member for Planning and Infrastructure to consider the following recommendation:

1. That Appendices A and B to the report be agreed;
2. That the principle that local ward councillors should engage with local communities directly to agree how best to spend the neighbourhood funds from their area, be agreed;
3. That ward councillors should apply directly to the Council for allocation of available local CIL funds to projects, using the application form attached as B to the report; and
4. That such applications will be assessed by officers against the agreed funding criteria, as contained within Appendix A to the report.

Governance and Procedural Arrangements for CIL Ward & (Non-Parished Areas) spend

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place • We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's overall achievement of its aims as set out in section 3. 	Rob Jarman Head of Development Management
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report recommendation potentially supports the achievement of the above cross cutting objectives by providing funding at a ward level.</p>	Rob Jarman Head of Development Management
Risk Management	Already covered in the risk section.	Rob Jarman Head of Development Management
Financial	<ul style="list-style-type: none"> • These monies need to be accounted for correctly and distributed to the non-parished areas in accordance with any agreed procedures. 	Paul Holland, Senior Finance Manager

Staffing	<ul style="list-style-type: none"> We will deliver the recommendations with our current staffing. 	Rob Jarman Head of Development Management
Legal	<ul style="list-style-type: none"> Accepting the recommendations will fulfil the Council's duties under Regulation 59A Community Infrastructure Levy Regulations 2010 (as amended) (SI 2010 No. 948) and be in accordance with the National Planning Practice Guidance in respect of the Community Infrastructure Levy Failure to accept the recommendations without agreeing suitable alternatives may place the Council in breach of the same Regulations 	Cheryl Parks (Mid Kent Legal Services (Planning))
Information Governance	<ul style="list-style-type: none"> The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council Processes. 	Information Governance Team
Equalities	<ul style="list-style-type: none"> We recognise the recommendations may have varying impacts on different communities within Maidstone. Therefore, we have completed a separate equalities impact assessment [at reference]. 	Equalities & Communities Officer
Public Health	<ul style="list-style-type: none"> We recognise that the recommendations will have a positive impact on population health or that of individuals. 	Public Health Officer
Crime and Disorder	n/a	Rob Jarman Head of Planning & Development
Procurement	n/a	Rob Jarman Head of Development Management & Section 151 Officer

<p>Biodiversity and Climate Change</p>	<ul style="list-style-type: none"> The implications of this report on biodiversity and climate change have been considered and pending decision funding can be utilised for climate adaptation measures (such as flood prevention) and biodiversity enhancements (such as tree planting and rewidening). Similarly as part of the consultation process, options for renewable energy generation, EV charging infrastructure, and cycling infrastructure should be included to support Parish and align with the MBC Action Plan. 	<p>Biodiversity and Climate Change Manager</p>
---	---	--

2. INTRODUCTION AND BACKGROUND

2.1 The report of 11 September 2018 entitled 'Maidstone Community Infrastructure Levy Administration and Governance' (*sections 1.27-1.33*) [your-councillors \(maidstone.gov.uk\)](http://your-councillors.maidstone.gov.uk), was approved at the meeting of the former Strategic Planning, Sustainability and Transport Committee. This report highlighted that where there is chargeable development within an area of a parish council, under the CIL regulations, the Council must pass the proportion of receipts on to the parish to spend, even where a parish falls within a ward. Unlike this neighbourhood portion of CIL funds passed to parish councils, non-parished areas such as wards had no prescribed processes for how CIL should be spent in areas that are not a town or parish council.

2.2 For wards which have no parishes, neither the Planning Act 2008 nor the Community Infrastructure Levy Regulations 2010 prescribe how local engagement should take place or whether neighbourhood CIL should be allocated to a particular geographic area or what projects it should be spent on within an area. The Council has the discretion as to how it allocates this money. However, it must have regard to government guidance which is contained in the CIL Planning Practice Guidance (PPG) (see - www.gov.uk/guidance/community-infrastructure-levy).

CIL Planning Practice Guidance (updated April 2022)

2.3 The CIL PPG states: *Communities without a parish or town council can still benefit from the neighbourhood portion. If there is no parish or town council, the charging authority will retain the levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding.*

2.4 *Charging authorities should set out clearly and transparently their approach to engaging with neighbourhoods using their regular communication tools for example, website, newsletters, etc. The use of neighbourhood funds should therefore match priorities expressed by local communities, including priorities set out formally in neighbourhood plans.*

- 2.5 *The law does not prescribe a specific process for agreeing how the neighbourhood portion should be spent. Charging authorities should use existing community consultation and engagement processes. This should include working with any designated neighbourhood forums preparing neighbourhood plans that exist in the area, theme specific neighbourhood groups, local businesses (particularly those working on business led neighbourhood plans) and using networks that ward councillors use.*
- 2.6 *Crucially this consultation should be at the neighbourhood level. It should be proportionate to the level of levy receipts and the scale of the proposed development to which the neighbourhood funding relates. Where the charging authority retains the neighbourhood funding, they can use those funds on the wider range of spending that are open to local councils, for example CIL (Regulation 59) towards;*
- the provision, improvement, replacement, operation, or maintenance of infrastructure; or*
 - anything else that is concerned with addressing the demands that development places on an area*
- 2.7 *In deciding what to spend the neighbourhood portion on, the charging authority and communities should consider such issues as the phasing of development, the costs of different projects (for example, a new road, a new school), the prioritisation, delivery and phasing of projects, the amount of the levy that is expected to be retained in this way and the importance of certain projects for delivering development that the area needs. Where a neighbourhood plan has been made, the charging authority and communities should consider how the neighbourhood portion can be used to deliver the infrastructure identified in the neighbourhood plan as required to address the demands of development. They should also have regard to the infrastructure needs of the wider area.*
- 2.8 *The charging authority and communities may also wish to consider appropriate linkages to the growth plans (Infrastructure Delivery Plan) for the area and how neighbourhood levy spending might support these objectives.*

Proposed Governance and Process

- 2.9 Specific consideration needed to be given to the consultation process within unparished areas. A remote meeting was held in July 2020 with ward councillors, the Head of Development Management and the CIL Project Officer. The approach of entrusting community engagement to individual ward members was discussed. Ward councillors were keen to take an active role to spend the CIL within their areas. This would involve local ward councillors going out to their communities to canvas opinions on projects which would benefit the community most. Ward councillors would have an important role to play using their networks and assisting the Council with the consultation process by using their usual forms of engagement with their constituents to inform a wider audience and gauge the priorities.

- 2.5 As most CIL chargeable development in Maidstone is built within parished areas, the CIL receipts have been considerably lower for wards. Due to this, the Council deferred the governance arrangements for the spending of the neighbourhood portion of CIL in wards to allow enough CIL receipts to accumulate.
- 2.6 The Council currently has available for spending a total of £122,995.34 collected from 10 wards in the Borough.

Ward	CIL Collected
Boxley	£ 2,761.07
Bridge	£ 19,355.36
Detling & Thurnham	£ 1,135.31
East	£ 13,163.73
Fant	£ 12,923.84
High Street	£ 30,273.78
North	£ 29,643.22
Park Wood	£ 1,692.29
Shepway North	£ 10,411.96
Shepway South	£ 1,634.78
Total	£ 122,995.34

- 2.7 Appendix A sets out proposed guidance on engagement and governance in the application of the use of non-parished neighbourhood funds to be prioritised. The guidance proposes ward councillors preparing a CIL spending plan to draw up projects which match the priorities expressed by local communities and those projects identified in the Council's Infrastructure Delivery Plan. These would then be consulted upon, and that consultation should be proportionate with the amount of CIL received and the scale of the development to which the neighbourhood funding relates. Using Appendix B, ward councillors could then apply by application form to the Council on behalf of the project provider requesting CIL funds from their ward.

3. AVAILABLE OPTIONS

- 3.1 No other option is assessed.

4. RECOMMENDATION

- 4.1 That the Lead Member for Planning and Infrastructure approves the governance and process guidance set out in Appendix A and B and associated recommendations of the report.

5. RISK

- 5.1 If the CIL governance and procedural arrangements are accepted then this would reduce the risk of CIL monies not being spent in accordance with addressing the demands that development places on an area.
-

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The Strategic Planning, Sustainability and Transport Committee noted the administrative and engagement progress to date as outlined in the 'Maidstone Community Infrastructure Levy Administration and Governance' report of 11 September 2018 (*sections 1.27-1.33*).
- 6.2 At its meeting on 9 November 2022 the Planning and Infrastructure Policy Advisory Committee supported the recommendation in this report.
-

7. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Community Infrastructure Levy (CIL) – Governance and Procedural Arrangements for CIL Ward spend (October 2022)
 - Appendix B: Community Infrastructure Levy (CIL) –Application Form to Request Neighbourhood (Ward) CIL Funding
-

8. BACKGROUND PAPERS

The report of 11 September 2018 entitled 'Maidstone Community Infrastructure Levy Administration and Governance' (*sections 1.27-1.33 attached*) [your-councillors \(maidstone.gov.uk\)](https://www.maidstone.gov.uk/councillors)



Community Infrastructure Levy (CIL) – Governance and Procedural Arrangements for CIL Ward spend (October 2022)





Introduction

The following guidance has been prepared to assist ward councillors for Maidstone Borough over the use and administration of CIL.

What is CIL?

CIL is a way of collecting contributions from developments towards the provision of infrastructure required to support growth within the Borough. It is a tariff that will be applied per square metre of new development and varies by scale, use and geography. Different CIL charges for settlements and zones within the Borough have been established based on scheme viability.

What are the CIL Charges?

The Borough Council is the Charging Authority for CIL and has set the following charges in Maidstone:

<u>Development Type / Location</u>	<u>CIL charge per square metre</u>
Residential (Within the Urban Boundary)	£93
Residential (Outside the Urban Boundary)	£99
Site H1 (11) Springfield, Royal Engineers Road, Maidstone	£77
Retirement and extra care housing	£45
Retail - wholly or mainly convenience	£150
Retail - wholly or mainly comparison (Outside the Town Centre Boundary)	£75
All other forms of CIL liable floorspace	£0

Affordable housing, self-build housing, residential annexes and residential extensions are exempt from payment of CIL but may need to claim an exemption.

CIL Process and the Neighbourhood Proportion of CIL

The CIL Regulations (Regulation 59) require the Charging Authority (Maidstone Borough Council) to pass on the neighbourhood proportion of CIL (15% or 25% with a Neighbourhood Made Plan) to parishes, forums, and town councils. The Borough Council is required to retain levy receipts and engage with communities over the use of the neighbourhood proportion where no parish, forum or town council is in place.

The Borough Council has concluded that local ward councillors should, in these situations, engage with local communities directly and agree how best to spend the neighbourhood funds.

CIL Collection

The Borough Council undertakes the collection of CIL and a neighbourhood proportion for each CIL receipt will be set aside for individual parishes and wards in accordance with the CIL Regulations (as amended). It should be noted that the payment of CIL receipts may be subject to instalments. Officers will advise ward councillors of the neighbourhood funds available from development within their areas on an annual basis.

How much CIL has been collected from development in wards?

Ward	CIL Collected
Boxley	2,761.07
Bridge	19,355.36
Detling & Thurnham	1,135.31
East	13,163.73
Fant	12,923.84
High Street	30,273.78
North	29,643.22
Park Wood	1,692.29
Shepway North	10,411.96
Shepway South	1,634.78
TOTAL	£ 122,995.34

Spending CIL Receipts

The neighbourhood proportion of the CIL can be spent on a wide range of items required to “support the development of an area including:

- a) The provision, improvement, replacement, operation, or maintenance of infrastructure; or
- b) anything else that is concerned with addressing the demands that development places on an area”

This gives ward councillor’s considerable freedom to spend their allocated proportion of CIL on the items which address the impacts of development upon their area. Notwithstanding this freedom, the use of neighbourhood funds **must be identified in consultation with the local community and reflect their priorities**. There are a number of factors that should be considered when developing a CIL spending plan.

- What are the Infrastructure Needs?

Ward councillors should carefully consider whether the expenditure addresses the demand on infrastructure and services that are caused by development within their area and be clear on the links between infrastructure and growth as identified in the Councils Infrastructure Delivery Plan (IDP). These priorities should not be considered in isolation noting that there may be a number of town-wide infrastructure priorities which may be outside the ward boundaries but supported by local residents.

Projects should match the priorities expressed by the local community. They should strive to mitigate the impact of development in the area by supporting the demands development places on the area. They should either be in the IDP which includes priorities and smaller non-strategic schemes. Or smaller schemes that the local community wish to see that have not been identified in the IDP which may be a priority to the community or may have evolved as a direct consequence of the new development. These can be a locally consulted upon and publicly supported scheme. This support can be evidenced by surveys, petitions, consultation, or other agreed plans.

Active community groups, including neighbourhood action groups, should consider producing a statement identifying community infrastructure projects to act as a useful starting point for the distribution of neighbourhood funds by their ward councillor. Individual ward councillors would be encouraged to lead the production of such plans.

- Using CIL Funds Effectively

Neighbourhood expenditure should be agreed in the full knowledge of both the needs of a local area and, in so far as it is possible, an understanding of where other strategic investment will be made in the area by the Council and its partners. Ward councillors should be clear that there may be on going operational and maintenance costs associated with the provision of new infrastructure and will need to be clear how any costs will be met for the life of the infrastructure. Maintenance costs would not be borne by the Borough Council, although they are a legitimate use of one-off CIL funding.

- Examples of types of projects:

These could include, for example, environmental improvements (one-off litter clearances, landscaping, or open space works) new play equipment, new library equipment, street furniture, additional parking spaces or pedestrian crossing facilities, cycleways, community hall improvements, open land improvement and enhancement, CCTV camera, youth worker/ play scheme, hanging baskets, Changing Places accessible toilets, shop front and high street improvements, park benches, improved sport and play equipment and pitches. This does not extend to feasibility studies for items of infrastructure for which funds are not already available.

- How can we engage with the local community to determine their infrastructure needs?

The Council is expected to allocate neighbourhood funding to infrastructure projects in consultation with the local community.

Ward councillors will need to consider the capacity of existing groups and local residents to engage in the CIL spending process and to ensure that such processes are inclusive. All members of the community should have the opportunity to contribute to determining how local CIL may be spent, including those who are least vocal and most vulnerable.

Ward councillors should build on relationships and networks with existing community groups and are encouraged to utilise existing neighbourhood/community groups as a forum for discussing the use of the “neighbourhood proportion” of CIL funds. This may also help to identify infrastructure projects based upon their experiences and interactions with the local community.

Any public consultation on the use of CIL funds should be proportionate to the scale of funds identified to be spent, such consultation could range from discussions with neighbouring parties to a particular application site, a third-party infrastructure provider for example Kent County Council, through to a formal vote for a preferred project within a local community building or at a public meeting. Advertisements could be placed within the Borough Insight magazine, MBC Facebook, and Twitter pages as well as ward councillor’s resident newsletters highlighting the relevant CIL sums and encouraging members of the public to suggest appropriate projects to their ward councillors.

Ward councillors may also be aware of projects which may benefit from funding through the daily interaction with members of the community and would be encouraged to assist in the delivery of these projects where appropriate. Ward councillors should clearly identify the extent of consultation and mechanisms employed for consulting with the local community and document this process when requesting the releasing of CIL funds. Such applications should be made on the appended form (Appendix B).

- How can CIL funds be maximised?

Although ward councillors will not be required to spend their neighbourhood funds in accordance with the Charging Authorities priorities, it would be good practice for ward councillors to work closely with the Council to agree priorities for spending the neighbourhood funding. This will also allow other funding sources to be explored including the potential use of S.106 funds, and any other funding and community grants which could all contribute to the delivery of the infrastructure project or be used as an alternative to CIL.

The Council recognises that infrastructure projects are not constrained to electoral wards and where appropriate would encourage councillors to work jointly with councillors in adjoining electoral wards where there is a perceived benefit (either financial or otherwise) to the delivery of infrastructure items including those infrastructure issues which effect the whole town.

The Borough Council is committed to advising ward councillors of the CIL sums secured within a financial year and to advise ward councillors when the next Strategic CIL bidding round arrangements would be taking place to encourage them to prepare or match CIL bids for core CIL funding where appropriate infrastructure projects are identified within their wards and the Council’s Infrastructure Delivery Plan.

Release of CIL- Funding Criteria

Following local community consultation, ward councillors will be invited to submit formal CIL funding applications to the Council’s CIL team.

Applications should state why the project has been chosen, who would deliver it and the timescale for commencement. Evidence of local community consultation must be included. Project ideas must be deliverable, achievable, and maintainable. They must be good value for money, with any matched funding sources being identified.

Submissions should clearly show whether further approvals are needed for example if land needs to be purchased, planning consent or licenses sought etc. It should explain how it

represents good value for money with cost estimates provided if known and matched funding being identified where possible. Any known future on going costs should be highlighted in the application. If this is a scheme on Council land or is ultimately going to be the responsibility of the Council to maintain, then these on-going maintenance costs will need to form part of the Councils usual budget setting procedures under the remit of the Councils Policy and Resource committee.

Depending on the nature of the contribution sought the Council will expect projects of low value under £10,000 to have procured one written quotation and above this up to £75,000 in value to procure 3 written quotes in accordance with the Council's procurement services.

-Assessment of submissions

Applications will be checked and signed off by the Head of Development Management and other relevant staff for compliance with the CIL Regulations. Applications may be submitted at any time during the year provided CIL funds are available for that ward. Funds will be released to those responsible for the delivery of the item of infrastructure requested.

CIL funding is allocated to a third-party infrastructure provider on the proviso that the CIL funding can only be used to deliver the agreed infrastructure set out within the application submission.

Dependent on the scale of the sums involved, third parties **may** be expected to enter into a legal agreement with the Council prior to the transfer of funds. These would cover the specifics of the project, timescales for release of money, the deadlines for the delivery of the project, the submission of reports and evidence of delivery and any repercussions for non-compliance with an agreement. Funds will then be released directly into the account of the third party who will normally be expected to produce receipts relating to the procurement of the infrastructure within 3 months of delivery.

Organisations may be required to provide the Council with a copy of the following documents in support of an application:

- a copy of the group's constitution
- insurance certificates
- a full set of most recent accounts, audited or otherwise certified
- planning or building regulation consents (if appropriate)
- Quotes for works (if the application involves purchasing goods or services)
- Equalities policy or statement

EXAMPLE – A local ward football club would like to install a 3G synthetic pitch within the grounds of the football club and have asked for some CIL funding to be provided to assist in the cost of its provision. The pitch would be available to hire, and local ward councillors agree that it would support the local community as a whole. The project is supported by the local primary school. An alternative project is suggested for the use of CIL funds by a nursery group within the locality. The councillors for the area decide that it would be appropriate to consult local residents via a newsletter. The responses favour the football club. An application for funds is submitted with relevant evidence and agreed by the Council. The football club enter into a legal agreement covering the use of the funds, together with a recent planning approval for a pitch and copy of the club accounts. Funds are released and the project commence on site. The project takes 5 months to complete. The Council is provided with a receipt for payment the following month by the football club.

Monitoring CIL Expenditure

The Borough Council are required to report on its CIL expenditure, including the neighbourhood funding held and spent on behalf of the local community. As such there will be an obligation on ward councillors to assist the Council's CIL teams record claims for their proportion of CIL and properly account for expenditure. Such matters will be reported annually through the Council's Infrastructure Funding Statement before the 31st December following the reporting year (1st April to 31st March).

For further information please contact Carole Williams, CIL & S106 Team Leader on 01622 602074 or by using the email cil@maidstone.gov.uk

APPENDIX B



Community Infrastructure Levy (CIL) –Application Form to Request Neighbourhood (Ward) CIL Funding

Section A: Application Details	
Ward Councillor(s):	
Details of Organisation funded (where applicable) Name: Address: Contact Number: Email:	
Project Title:	
Funds Requested:	

Section B: Project Details

Project Summary (max 500 words):

Please explain how this project supports the development of the ward or meets the needs arising as a result of development and identify those who will benefit (max 500 words):

Please provide details of who will deliver the project and if it can commence in the next financial year and outline if there are risks to delivering the scheme (max 300 words):

Please provide details of other approvals that maybe required for example does land needs to be purchased, planning consent or licenses sought etc (max 300 words):

Please provide details of how the project is value for money, and if any additional funding has been secured for this project. Also provide any details of future on-going management and maintenance costs associated with the project (max 300 words):

Section C – Consultation and Engagement

Please explain how you became aware of the need to carry out this project (max 300 words)

Please provide details and evidence of any local public consultation carried out in relation to this project and its outcomes (max 1000 words):

Administration (FOR OFFICE USE ONLY)

Name: Carole Williams

Name: Rob Jarman

Role: CIL & S106 Team Leader

Role: Head of Planning and Development

Signature:

Signature:

NOTES