

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.
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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>
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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.
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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.
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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
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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)