

Strategic CIL Assessment & Spend Report

Timetable	
Meeting	Date
Planning, Infrastructure and Economic Development PAC	7 June 2023
Cabinet	28 June 2023

Will this be a Key Decision?	Yes
Urgency	Not Applicable
Final Decision-Maker	Cabinet Member for Planning, Infrastructure and Economic Development
Lead Head of Service	Rob Jarman
Lead Officer and Report Author	Rob Jarman
Classification	Public
Wards affected	All

Executive Summary

As per the approved CIL governance arrangements, and in relation to the Strategic CIL Bidding Cycle 2021/22, this report is to be considered before the Cabinet is delegated to approve projects for the allocation of the Strategic CIL Funding, as recommended within this report.

Four infrastructure projects are 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) and internal officer preliminary evaluation (Appendix 2). Appendix 3 sets out all the meetings held by the CIL Steering Board.

Purpose of Report

Decision on CIL spend

This report makes the following recommendations to the Cabinet:

1. Cabinet is recommended to agree that Community Infrastructure Levy funding that has been collected is allocated (as minima) to the following strategic projects for the period to 31 March 2025 (figures are approximate and based on early February 2023 data):
 - M20 Junction 7 Upgrade - £1,900,000 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
 - A229 Linton Crossroads Junction Improvement - £1,232,000
 - Heather House Community Centre Redevelopment - £956,420
 - St Faith's Community Centre Redevelopment - £200,000

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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 • Accepting the recommendations will materially improve the Council's ability to achieve 'Embracing Growth and Enabling Infrastructure'. 	Rob Jarman
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 recommendations support the achievements of all the cross-cutting objectives by reducing traffic congestion and providing new community facilities.</p>	Rob Jarman
Risk Management	Already covered in the risk section.	Rob Jarman
Financial	As set out in the officer report and the Appendix, the proposed allocations of CIL can be funded based on the amounts received and expected, so there are no direct budgetary implications. The appendix describes how capital programme funds are also used to support projects that will ultimately be eligible for CIL funding, and this is in accordance with the agreed capital programme.	Mark Green Director of Finance, Resources & Business Improvement &
Staffing	We will deliver the recommendations with our current staffing.	Rob Jarman

<p>Legal</p>	<p>The Planning Act 2008 introduced a discretionary planning charge known as the Community Infrastructure Levy (CIL). The legislative framework for CIL is contained within the Community Infrastructure Levy Regulations 2010 (as amended). The Council decided to implement CIL for new development with effect from October 2018, agreed "strategic" CiL governance procedures in January 2019 and approved the Bidding Prospectus in January 2022. 70-80% of the money raised by CIL is for 'Strategic CIL' which will be allocated to strategic infrastructure projects by the Council. This is the portion of CIL that is the subject of this Report. Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed. The levy can be used to fund a wide range of infrastructure (including transport) and can be used to fund a very broad range of facilities (such as cultural and sports facilities and community safety facilities). The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant Development Plan. Charging authorities may not, however, use the levy to fund affordable housing.</p>	<p>Russell Fitzpatrick (MKLS (Planning))</p>
<p>Information Governance</p>	<p>The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council Processes.</p>	<p>Information Governance Team</p>
<p>Equalities</p>	<p>We recognise the recommendations may have varying impacts on different communities within Maidstone. Therefore, we have completed a separate equalities impact assessment.</p>	<p>Senior Policy and Communities Officer.</p>
<p>Public Health</p>	<p>We recognise that the recommendations will have a positive impact on population health or that of individuals.</p>	<p>Public Health Officer</p>

Crime and Disorder	N/A	Rob Jarman
Procurement	N/A at this specific stage	Rob Jarman
Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered and there are no direct implications on biodiversity and climate change.	Biodiversity and Climate Change Manager

1. INTRODUCTION AND BACKGROUND

- 1.1 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.
- 1.2 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

- 1.3 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.
- 1.4 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

- 1.5 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).

- 1.6 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.
- 1.7 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 Turley Maidstone MBC Community Infrastructure Levy Allocations and Appendix 2 being the officer appraisal).

Junction 7 of the M20

- 1.8 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.
- 1.9 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.
- 1.10 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.
- 1.11 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 (£3.25M) 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.

Linton Crossroads

- 1.12 Transport is a critical issue for the delivery of the strategic objectives as well as the individual site allocations in the Local Plan. This is to improve the capacity in order to reduce congestion. KCC highways have designed a detailed junction improvement scheme. This project has clear policy justification in that the adopted Local Plan requires this infrastructure under policies SP13 (Coxheath Larger Village) and specific housing allocation policies H1(57, 58, 59, 60)

1.13 The cost of the works identified by KCC is £2,071,392 and the shortfall from s106 monies is £1,232,000 with £846,557 (index linked) collected as of 01/02/23. This represents the total amount of what can be collected from the specific housing developments that have been built out and the IDP recognises this financial gap and specifically refers to CIL funding to 'close the gap' with the scheme being on the "critical" list.

Heather House

1.14 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.

1.15 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

1.16 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.

1.17 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.

2. AVAILABLE OPTIONS

2.1 These are self-explanatory in that all or none or a combination of the recommended bids could be chosen by councillors.

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

3.1 All of the recommended bids are preferred as justified in both this report and the moderation report.

4. RISK

4.1 There are three sets of risk:

- a) Costs will continue to rise given the rate of inflation and supply shortages leading to more CIL monies being required to fund schemes.
- b) The two highway schemes are well developed in design terms and delay may well require revised designs and, moreover, slippage in KCC's delivery programme: There is some ambiguity in the interpretation of the s.106 agreements relating to the J7(M20) improvement works. Officers are in discussion with the developers with a view to resolving this potential ambiguity. A failure to resolve this could jeopardise the delivery of the proposed works.
- c) The burden of the extra growth without the supporting infrastructure in terms of greater congestion and declining air quality with regard to the junction improvement schemes and the continued lack of needed social infrastructure in terms of the two community centres.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 The recommended bids were the subject of a public prospectus (see above).

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 The Planning, Infrastructure and Economic Development Policy Advisory Committee considered the report at its meeting on the 7 June 2023. The recommendations made by the Committee are outlined below:

RESOLVED: *That the Cabinet be recommended to:*

1. *Agree the Community Infrastructure Levy funding that has been collected be allocated (as minima) to the following strategic projects for the period to 31 March 2025 (figures are approximate and based on early February 2023 data):*
 - a. *M20 Junction 7 Upgrade - £1,900,000 in Strategic CIL monies subject to appropriate due diligence by the Director of Finance & Business Improvement in consultation with the Cabinet Member for Finance & Corporate Services*
 - b. *A229 Linton Crossroads Junction Improvement - £1,232,000*
 - c. *Heather House Community Centre Redevelopment - £956,420*
 - d. *St Faith's Community Centre Redevelopment - £200,000*
2. *Agree that Maidstone Borough Council and the Infrastructure Provider for the A229 Linton Crossroads Junction Improvement includes a time limited delivery date; and*

3. *Agree to reopen the Community Infrastructure Levy funding process with effect from 1 October 2023 to 15 December 2023 (10 week period) for a further round of bids to be received according to the terms and conditions of the process.*
- 6.2 To ensure that CIL expenditure remains in accordance with the Regulations all successful applicants will need to accept the terms and conditions and sign a grant funding agreement. Where relevant, the CIL funding will also be conditional upon the applicant obtaining any necessary authorisations. Funding agreements may specify a specific delivery timescale.
- 6.2 Payments will be made to successful submissions as per the milestones outlined in the business plans to the satisfaction of the Council and after submission of verifiable invoices, as proof of expenditure. Following the completion of the project, any unspent allocated monies (e.g., unspent contingency funds) will be returned to the Strategic CIL fund.
- 6.3 The costs are current estimates, and these will inevitably rise with time and there will be the need for further scheme detail before any CIL monies are released.
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7. REPORT APPENDICES

- 7.1 The following documents are to be published with this report and form part of the report:
- Appendix 1: Turley Maidstone MBC Community Infrastructure Levy Allocations
 - Appendix 2: Officers Appraisal
 - Appendix 3: CIL Steering Group Meeting Dates
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8. 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%20Community%20Infrastructure%20Levy%20Charging%20Schedule.pdf>)
- Strategic CIL Bidding Prospectus (2022-2025) – (<https://maidstone.gov.uk/home/primary-services/planning-and-building/additional-areas/community-infrastructure-levy/tier-3-primary->

- [areas/community-infrastructure-levy-bidding-prospectus-2022-2025](#))
- The Infrastructure Delivery Plan 2022
(<https://localplan.maidstone.gov.uk/home/adopted-local-plan/community-infrastructure-levy-supporting-documents>)
- The Infrastructure Funding Statement (2021-2022)
<https://maidstone.gov.uk/home/primary-services/planning-and-building/additional-areas/community-infrastructure-levy/tier-3-primary-areas/infrastructure-funding-statement-202122>