
Meeting of the Cabinet – 23rd September 2020

Report of the Director of Regeneration and Enterprise

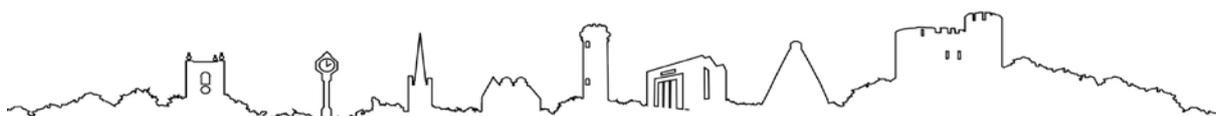
**Community Infrastructure Levy (CIL) Funding Approval
2020 and Revised CIL Instalments Policy to Reflect Covid-
19**

Purpose

1. To seek Cabinet approval for the partial spend of CIL receipts and temporary relaxation of the CIL payment deadlines and approve a revised CIL Instalments Policy to reflect recently updated government guidance.

Recommendations

2. It is recommended that:-
 - Cabinet approves the rolling forward of remaining CIL monies for consideration of spend.
 - Cabinet approves the transfer of up to £60,000.00 Capital and Revenue Infrastructure CIL receipts to Shell Corner Partnership following receipt of costings and completion for public realm improvements to Shell Corner. If work is not completed by September 2022, it is recommended that the £60,000.00 monies are made available to alternative projects.
 - Cabinet approves the transfer of £8,367.91 Capital and Revenue Infrastructure CIL receipts to Black Country Radio following receipt of detailed costings and completion of works for studio equipment relating to the new digital studio. If work is not completed by September 2022, it is recommended that the £8,367.91 monies are made available to alternative projects.
 - Cabinet approves the revised CIL Instalments Policy (September 2020).
 - Cabinet agree that the revised CIL Instalments Policy (2020) be adopted with effect from 24th September 2020



Background

- CIL is a mechanism to secure financial contributions from developers on certain viable developments to fund or part fund infrastructure required to support growth and regeneration within the Borough. CIL monies can be used to fund provision, improvement, replacement, operation or maintenance of infrastructure to support the development of the area.

Regulation 123 List Funding Approval

- Any council that implements a CIL is required to have a Regulation 123 List. This is a list of specific costed projects and types of infrastructure that have been identified by various infrastructure providers across the Borough as candidates to be funded or part funded by CIL monies. It should be noted that inclusion on the List does not guarantee that CIL monies will in the future be allocated to the project, however CIL monies cannot be allocated to a project that is not included on the List.
- The Regulation 123 List will cease to exist, in line with Government Regulations, by 31st December 2020. It will be replaced by the Infrastructure Funding Statement, which will incorporate all planning obligations.

Spend of CIL receipts

- Cabinet approved the process for the allocation and spend of CIL monies at its meeting on 26th October 2016. In relation to the spend of CIL receipts, the CIL regulations require that they are split into 3 categories as follows:

Capital and Revenue Infrastructure Funding	80% (or 70% where a Neighbourhood Plan* is in place)
Neighbourhood Funding	15% capped at £100 per dwelling (or 25% in areas where a Neighbourhood Plan* is in
Administrative Expenses	Up to 5%

**NB there are currently no Neighbourhood Plans in Dudley*

- Council agreed at its meeting on 9th April 2018, that any capital expenditure approved by Cabinet in future to be funded from CIL was to be included in the Capital Programme.

Capital and Revenue Infrastructure Funding CIL receipts

8. These CIL receipts can be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of an area.
9. At the end of the 2019/20 financial year, a total of £632,516.90 has been received since the introduction of CIL (of which £511,818.00 has been previously allocated). Three bids were submitted to the Council for consideration. These were as follows:
 - a) £58,560.00 – For the erection of the Stourbridge parapet enhancement and celebration of ‘Monarch’s Way’ (Public Art) (submitted by Transitions Stourbridge and Dudley Metropolitan Borough Council Artist).
 - b) £60,000.00 – For public realm improvements to Shell Corner (submitted by Shell Corner Partnership and Councillor Sahota).
 - c) £8,367.91 – Studio equipment for the new digital studio/station for Black Country Radio (submitted by Black Country Radio).
10. The bids were considered by a CIL Assessment Panel comprising of Dudley MBC officers in April 2020. The outcomes were as follows:
 - a) The upgrading of studio equipment for Black Country Radio satisfied criteria for CIL funding and scored 33 out of a possible 40 against the Scoring Prioritisation Matrix.
 - b) The public realm improvements to Shell Corner satisfied criteria for CIL funding and scored 29 out of a possible 40 against the Scoring Prioritisation Matrix.
 - c) The Stourbridge parapet enhancement and celebration of Monarch’s Way satisfied criteria for CIL funding and scored 25 out of a possible 40 against the Scoring Prioritisation Matrix.
11. The upgrading of studio equipment for Black Country Radio and public realm improvements at Shell Corner have both satisfied the criteria for CIL funding and scored the highest against the Scoring Prioritisation Matrix.
12. Members should note that, at the time of the panel meeting (April 2020), there were insufficient CIL funds available to fund any further project proposals.

Capital and Revenue Infrastructure Funding CIL receipts

13. The remaining CIL monies (as of March 2020) and funding received from April 2020 onwards will be incorporated into the forthcoming Infrastructure Statement.

Revised Community Infrastructure Levy Instalments Policy to Reflect Covid-19

14. On 13th July 2015 the Council adopted its CIL Charging Schedule, with implementation in 1st October 2015, and introduced an instalments policy which allowed for payments to be phased on CIL charges that were in excess of £20,000. The purpose of the instalments policy was to assist the viability and delivery of development by taking account of financial restrictions associated with the development industry. Without such a policy the total CIL charge would be required to be paid within 60 days of commencement of a development.
15. In light of Covid-19 and the expected economic impact on the development and construction industries, a revised instalments policy is proposed in order to temporarily relax the CIL payment deadlines. This reflects recently updated government guidance which encourages Councils to amend existing CIL instalment policies considering Covid-19 for yet un-commenced chargeable development.
16. The revised policy will apply to both CIL liable planning applications that are granted permission following the adoption of the revised policy and to existing permissions which have not yet commenced. Those developments that have already commenced will be required to comply with the original 1st October 2015 policy, which is required by regulations. Once the financial effects of Covid-19 have eased the intention is for the instalments policy to revert to the original version, which will require Cabinet approval at the appropriate point in time. The revised policy alters the existing policy by adding 6 months (180 days) to each of the payment deadlines. The benefit of this is that it will help with all scales of developments and types of developers across the District equally.
17. A period of 6 months is considered enough time to sufficiently overcome the financial impacts of Covid-19. The existing and proposed revised CIL Instalments Policies are set out in Appendix 1.

Finance

18. As of the end of March 2020, a total of £790,646.13 of income has been received since the introduction of CIL. As detailed in the body of the report, this has been allocated as follows:

Capital & Revenue Infrastructure Funding (80%)	£632,516.90
Neighbourhood Funding (15%)	£118,596.92
Administrative Expenses Funding (5%)	£39,532.31
Total	£790,646.13
Allocation to Canal & River Trust	£30,000.00
Allocation to Dudley MBC Borough Artist	£44,500.00
Allocation to Dudley MBC Project Engineer	£200,000.00
Allocation to Friends of Mary Stevens Park	£72,318.00
Allocation to Dudley MBC Design & Delivery	£165,000.00
Allocation to Woodsetton Charitable Trust (WCT were unable to sign the CIL contract and therefore monies have been returned to the CIL pot)	(£496.00)
Total Allocated as of March 2020	£511,818
To be allocated (subject to Cabinet approval)	
Shell Corner - public realm improvements	£60,000.00
Black Country Radio	£8,367.91
Overall Allocated Funds	£580,185.91

19. Of the Capital and Revenue Infrastructure amount, including the amounts detailed in this report, £580,185.91 has been allocated to projects. This leaves £52,330.99 which will be now incorporated into the forthcoming Infrastructure Statement.
20. To date, no monies have been allocated through the Neighbourhood Funding. As of March 2020, £118,596.92 had still to be allocated.
21. The revising of the instalments policy will not affect the amount of CIL to be paid on liable developments, it temporarily provides more flexibility to developers as to when their payments are required to be made. Whilst there will be an inevitable temporary delay to the receipt of CIL payments to the Council, it will not affect the total amount that will ultimately be paid.

Law

22. CIL, including the requirement for a Regulation 123 List and the spend of CIL receipts, came into force on 6th April 2010 through the Community Infrastructure Levy Regulations (as amended). The Planning Act 2008 provides a wide definition of the infrastructure that can be funded by the Levy, including flood defences, health, transport and social care facilities (list is not exhaustive).
23. The Regulations do not permit Affordable Housing to be funded through CIL as this will continue to be collected through traditional planning obligations. The three mandatory tests which must, as a matter of law, be satisfied when seeking planning obligations are set out in Regulation 122 of the CIL Regulations 2010 (as amended) namely: they must be 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.
24. A revised instalments policy is proposed in order to temporarily relax the CIL payment deadlines. This reflects recently updated government guidance¹ which came into force in July 2020 and which encourages Councils to amend existing CIL instalment policies considering Covid-19 for as yet un-commenced chargeable development.

Equality Impact

25. The proposals take into account the Council's Policy on Equality and Diversity, and monitoring of the use of funding will be undertaken, including by groups with protected characteristics, in a similar way to has recently been introduced for Community Forum Grants. An up to date spend procedure for S106 and an appropriate CIL regime will assist in ensuring that the mitigation and benefits of development are addressed across the Borough. This will include meeting the needs of children and young people by seeking to provide sufficient facilities for them as well as having a positive impact on future generations.

Human Resources/Organisational Development

26. Applying the revised policy can be met within existing resources and there are no implications on human resources. It is proposed to bring the revised policy into effect from 24th September 2020.

Commercial / Procurement

27. There are not considered to be any commercial or procurement implications as a result of this report.

Health, Wellbeing and Safety

28. It is considered that the successful allocation and spend of CIL monies which will benefit the local communities.
29. The schemes proposed for CIL funding approval in this report are likely to have a positive impact on the health, wellbeing and safety of the local communities, by providing improvements to community infrastructure across the Borough



Helen Martin
Director of Regeneration and Enterprise

Contact Officer: Carl Mellor
Telephone: 01384 814157
Email: carl.mellor@dudley.gov.uk

Background Documents

[Coronavirus Community Infrastructure Levy Guidance](#)