

Meeting of the Cabinet – 27th June 2019

Report of the Strategic Director Place

Community Infrastructure Levy (CIL) –2018/19 Spend and Reviewed Spend Process

Purpose

1. To seek Cabinet approval for:
 - the partial spend of CIL receipts;
 - the reviewed process for spending CIL receipts.

Recommendations

2. It is recommended that:-
 - Cabinet approves the reviewed process for spending CIL receipts, to include twice-yearly bidding and funding cycles together with the proposed timetable as set out in paragraphs 11 and 12 of the report.
 - Cabinet approves the rolling forward of remaining CIL monies to the next financial year for consideration of spend.
 - Cabinet approves the transfer of up to £496.00 Capital and Revenue Infrastructure CIL receipts to Woodsetton Charitable Trust following receipt of costings and completion for a replacement notice board and relocation to the junction of Setton Drive, Turls Hill Road and Queens Road. If work is not completed by July 2021 it is recommended that the £496.00 monies are made available to alternative projects.
 - Cabinet approves the transfer of £44,500.00 Capital and Revenue Infrastructure CIL receipts to Dudley Metropolitan Borough Council following receipt of detailed costings and completion of works for Round Oak Steelworks Memorial (Public Art) at Dudley Road (opposite Fire Station). If work is not completed by July 2021 it is recommended that the £44,500.00 monies are made available to alternative projects.
 - Cabinet approves the transfer of £200,000.00 Capital and Revenue Infrastructure CIL receipts to Dudley Metropolitan Borough Council following receipt of detailed costings and completion of works for a flood management and sustainable drainage scheme at Delph Road and Turners Lane. If work is not completed by July 2021 it is recommended that the £200,000.00 monies are made available to alternative projects.

Background

3. 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.

4. Regulation 123 List

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.

5. 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 be included in the Capital Programme.

6. Capital and Revenue Infrastructure Funding CIL receipts

These CIL receipts can only be spent on projects or types of infrastructure that are listed within the Council's Regulation 123 List and can be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of an area.

7. A total of £477,834.35 has been received since the introduction of CIL, with £356,947.17 received in 2018/19. Six bids were submitted to the Council for consideration. They were as follows:

- a) £2,000.00 – For removal of fly tipping from the watercourse near Ten Acre Road, Gornal (submitted by Woodsetton Charitable Trust).
- b) £75,000.00 – For provision of a 7x7 3G football pitch at Bishop Milner School, Dudley (submitted by BCFA Football Foundation).

- c) £180,000.00 – For the erection of Saltwells Wardens Base at Saltwells Nature Reserve (submitted by the Council's Countryside Services) – with an additional £120,000.00 identified within the Council's Capital Programme.
- d) £496.00 – For replacement and relocation of a noticeboard on Turls Hill Lane (submitted by Woodsetton Charitable Trust).
- e) £44,500.00 – For the erection of the Round Oak Steelworks Memorial (Public Art) (submitted by the Council Borough Artist).
- f) £200,000.00 – For flood management and sustainable drainage scheme at Delph Road and Turners Lane (submitted by the Council's Section Engineer) – with an additional £25,000.00 provided through the Council's Central Government/DEFRA National Grant.

8. Following a meeting of a CIL Assessment Panel of officers in March 2019, the outcomes were:

- a) The removal of the fly tipping did not provide sufficient information on which organisation was due to carry out the works.
- b) The 3G football pitch application could not confirm that the receipt of CIL funding would result in the completion of the project, and could not confirm the total cost of the project.
- c) The Saltwells Wardens Base application did not provide sufficient match funding and was approximately £86,000.00 short of total funding.
- d) The replacement and relocation of the noticeboard satisfied criteria for CIL funding and scored 23 out of a possible 45 against the Scoring Prioritisation Matrix.
- e) The Round Oak Steelwork Memorial satisfied criteria for CIL funding and scored 23 out of a possible 45 against the Scoring Prioritisation Matrix.
- f) The flood management and drainage scheme satisfied criteria for CIL funding and scored 27 out of a possible 45 against the Scoring Prioritisation Matrix.

9. Capital and Revenue Infrastructure Funding CIL Receipts

The remaining CIL monies would be rolled over to the next bidding process. These will be combined with any further CIL income and be available for bids from project on the Regulation 123 List.

10. Currently there is a total of £202,838.35 remaining, after allocation to the above named projects.

11. During the recent bidding process it became apparent that a number of bids were unsuccessful due to either a lack of information or points of clarity. It is considered that in order to maximise opportunity for allocating money that the bidding process takes place twice per annum. This would allow unsuccessful bids to reapply without having to await until the following year to do so.
12. The following timetable is proposed each year:

Initial Date	Stage	Deadline
FIRST ROUND OF BIDDING		
Mid-January	Consultation on the Regulation 123 List to commence to identify eligible projects	End of February
Mid-February	Seek bids for funds for schemes on the revised Regulation 123 List	Mid-March
April	CIL Panel considers bids and recommends allocation	April
First meeting of the Municipal Year	Report to Cabinet for approval	June
SECOND ROUND OF BIDDING		
Mid-June	Consultation on the Regulation 123 List to commence to identify eligible projects	End of July
Mid-August	Seek bids for funds for schemes on the revised Regulation 123 List	Mid-September
October	CIL Panel considers bids and recommends allocation	October
First meeting after October	Report to Cabinet for approval	December

Finance

13. Since the introduction of CIL, a total of £597,292.94 of income has been received. As detailed in the body of the report, this has been allocated:

Capital and Revenue Infrastructure funding (80%)	£447,834.35
Neighbourhood Funding (15%)	£89,593.94
Administrative Expenses Funding (5%)	£29,864.65
Previous allocation to Canal & River Trust	£30,000.00

Of the Capital and Revenue Infrastructure amount, including the amounts detailed in this report, £274,996.00 has been allocated to projects. This leaves £202,838.35 still to be allocated.

To date, no monies have been allocated through the Neighbourhood Funding, meaning the full £89,593.94 is still available for allocation.

Law

14. The 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 floor defences, health, transport and social care facilities (list is not exhaustive). On the adoption of the Levy the regulations restrict the Local Planning Authority use of planning obligations for pooled contributions that are capable of being funded through CIL.
15. The Regulations do not permit Affordable Housing to be funded through CIL and 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.

Equality Impact

16. The proposals take into account the Council's Policy on Equality and Diversity. An up to date Regulation 123 list will assist in ensuring that the mitigation and benefits of development are address 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 effect on future generations. Details of the consultation will be promoted through a range of methods, including social media to encourage children and young people to get involved.

Human Resources/Transformation

17. It is considered that by increasing the bidding opportunities available for projects that more of the available money will be allocated and speed up the process for progressing the project in need thus improving service transformation. There are considered to be no human resources implications resulting from the proposals.

Commercial Implications

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



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List of Background Papers

None