



City of Westminster

Cabinet Report

Meeting or Decision Maker:

Cabinet

Date:

17 October 2022

Classification:

General Release

Title:

Priorities for the Community Infrastructure Levy (CIL) and update to the CIL Spending Policy Statement and governance arrangements

Wards Affected:

All

Key Decision:

Key decision

Report of:

Pedro Wrobel, Executive Director of Innovation & Change

1. Executive Summary

- 1.1 This report recommends that local policy on the Community Infrastructure Levy (CIL) is updated to reflect new priorities and approaches.
- 1.2 The report also sets out new governance arrangements for the administration of CIL, most notably removing the Cabinet CIL Committee as a sub-committee of Cabinet and transferring the authority to take decisions previously reserved for the CIL Committee to other bodies or individuals. These changes will simplify governance arrangements while maintaining transparency and robust checks and balances within the system.
- 1.3 CIL is a financial contribution collected from developers to fund the provision, improvement, replacement, operation, or maintenance of infrastructure needed to support development and growth. Strategic CIL (current balance £78.5m) funds strategically important infrastructure projects across the City and Neighbourhood CIL (current balance £16.5m) funds projects identified by local people in the area the development took place.
- 1.4 Funding decisions are informed by national requirements and local policy. The existing local policy is too rigid in its understanding of infrastructure and reflects outdated priorities. The revised policy would establish a more inclusive and flexible definition of infrastructure, introduce policies including on revenue spending, and would prioritise projects to reflect the Fairer Westminster Strategy.

2. Recommendations

- 2.1 That Cabinet agree:
 - To adopt the revised CIL Spending Policy Statement, replacing the previous CIL Spending Policy Statement (adopted November 2017).
 - That all future CIL allocations be informed by the policies and priorities set out in the revised CIL Spending Policy Statement.
 - That the delegations to the Cabinet CIL Committee be withdrawn and the Committee be disbanded.
 - To note that the functions delegated to the CIL Committee will be re-delegated by the Leader as set out in section 4.5 of this report and that these delegations will be set out in the relevant sections of the Constitution.
 - That appropriate notices to give effect to the governance changes be served under section 12.4 of the Leader and Cabinet Procedure Rules contained in the Constitution.

3. Reasons for Decision

- 3.1 To update the CIL Spending Policy Statement which: reflects a broader, more flexible approach to infrastructure and infrastructure funding; updates CIL

funding priorities to reflect the Fairer Westminster Strategy; introduces new policies such as a policy on revenue spending; and rationalises and updates CIL eligibility considerations to ensure CIL funds are directed to projects which are deliverable, good value and will benefit local communities.

- 3.2 Governance arrangements for CIL require updating to enable better decision making and better enable the implementation of the policy changes proposed.

4. **Background, including Policy Context**

4.1 Introduction to CIL

The Community Infrastructure Levy (CIL) is a financial contribution collected by the council from developers. It is specifically designed to support the delivery of infrastructure needs arising from new development and to ensure that growth is effectively and positively managed in the interest of Westminster's communities.

By law, CIL money must be spent on the provision, improvement, replacement, operation, or maintenance of infrastructure needed to support development. CIL can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure if that is necessary to support development. It can also be used for anything else that is concerned with addressing the demands that development places on an area.

The council splits CIL revenue into three pots: Strategic CIL (SCIL); the Neighbourhood CIL (NCIL) and Administrative CIL. SCIL is at least 70% of all CIL and is spent by the council on strategic infrastructure projects across the City. NCIL is 15% for areas without a Neighbourhood Plan and 25% for areas with a Neighbourhood Plan and is directed to the local area to address the demands of development within that neighbourhood. The Administrative Portion is 5% retained to pay for the council's costs associated with collection and spending CIL.

The current balances are, as of the end of the financial year (31 March 2022):

SCIL: £78.5m

NCIL: £16.5m

Admin: £7.1m

SCIL funding decisions are taken annually as part of the capital programme. Projects are informed by broad understanding of the City's infrastructure requirements as set out in the council's Infrastructure Delivery Plan.

NCIL is retained centrally by the council but is tracked to each of the 21 neighbouring areas in which the contributing development was built; the list of designated neighbourhood areas and the value of their NCIL pots is set out in Appendix A. Allocations are taken as part of a quarterly application process

intended to allow the local community to propose infrastructure projects that positively shape the area and help residents achieve their vision for their neighbourhood. Requests can be made by any individual or organisation, including the Neighbourhood Forums, other local community groups or community members, or the council. The council is working to enhance awareness and accessibility of NCIL so that it is spent.

4.2 Current CIL policy

Funding decisions must comply with national legislation and regulations and should be informed by local Council policy.

Local policy is comprised of the CIL Spending Policy Statement, approved in November 2017. The document establishes indicative percentages for how much SCIL should be allocated to five infrastructure types: half of all SCIL to be spent on public realm/transport, with remaining funds divided between health and community services (10%), utilities/waste (10%), education (5%) and parks/leisure (5%), with the remaining 20% for 'other'. The document also establishes criteria for projects to be funded by CIL.

The existing policy is based on an inflexible understanding of infrastructure and reflects outdated priorities. There is a need to update the policy with a revised document that reflects a broader, more flexible approach to infrastructure and infrastructure funding and that updates the priorities. The revised document also provides an opportunity to add and amend policies and criteria to ensure CIL funding supports the best value projects that will deliver tangible benefits for local communities.

4.3 Revised CIL policy

The revised policy establishes a more inclusive and flexible definition of infrastructure for the purposes of CIL.

It sets new priorities for CIL spending, in line with the Fairer Westminster Strategy:

- Affordable housing (enabling)
- Green transition
- Sustainable and active travel
- Community facilities
- Accessible and inclusive public spaces

Each priority is justified by evidence demonstrating a need for that infrastructure as well as by alignment with ambitions articulated in other council strategies. The related evidence and strategies are set out in Appendix B.

A new policy makes clear that CIL can be spent on revenue costs associated with the operation and maintenance of infrastructure. Given that CIL is a finite resource with no guarantee of future income, the policy limits allocations for

this use for a specified period and only to projects which can demonstrate future self-sufficiency or other sources of funding.

Finally, the policy updates the criteria applied to determine CIL funding decisions. It would avoid the repetition of the previous document by setting criteria which applies to both SCIL and NCIL, with some additional funding-source-specific criteria for each. The criteria are designed to ensure that funding goes to projects with strong community support, with a focus on deliverability, value for money and securing benefits for the community.

4.4 Current governance arrangements

The Cabinet CIL Committee was established to undertake the following executive functions:

- To provide Member oversight of implementation and collection of CIL
- To provide Member oversight of the engagement processes with neighbourhoods and others.
- To agree the regulation of the statutory list of infrastructure that might be funded through CIL.
- To take decisions on spend proposals for CIL and strategic section 106 funds submitted by the officer working group or to refer decisions to Cabinet as appropriate.
- To steer the two yearly reviews of the Westminster CIL already committed to.

The Committee is a sub-Committee of Cabinet and accordingly its existence and purpose are in the gift of the Leader in terms of the functions delegated to it and the Cabinet in terms of its existence.

Following a review of how CIL operates within the council as well as how it interacts with our communities, it has been noted that existing governance arrangements, most notably the existence and function of the CIL Committee, are inefficient and do not add sufficient value to the decision-making process. Furthermore, in light of the proposed policy changes, more flexible yet robust governance arrangements are required to maximise benefit of CIL to the city.

The particular issues identified which lead to the proposed new arrangements set out at section 4.5 are:

- There is no requirement for such decisions to be made by Committee and in fact CIL is an outlier in this regard across the council. Most other such decisions are taken either by individual Cabinet Members or by officers under delegated authority.
- Decisions on allocation of Neighbourhood CIL are often of relatively low financial value and do not warrant the use of a committee's time.
- Allocation of strategic CIL as well as wider strategic issues linked to infrastructure requirements currently delegated to the CIL Committee generally require input from a wider set of Cabinet Members than those which make up the Committee. While it is possible for views to be canvassed separately, the current arrangement does not give

adequate opportunity for all relevant executive members to participate in the decision-making process.

- Cabinet already provides an appropriate forum for such cross-Cabinet decisions. Other internal processes such as the Capital Review Group can make high quality recommendations to Cabinet and Full Council remains the ultimate policy making body.

4.5 Revised governance arrangements

For the reasons set out in section 4.4, it is proposed that the Cabinet CIL Committee is disbanded and Cabinet as a decision-making body retains the strategic functions it had previously delegated, namely, to provide the Member level oversight of CIL in terms of collection, administration, community engagement and review.

Similarly, it is proposed that decisions on projects funded by Strategic CIL are considered by the Capital Review Group and the council's Executive Leadership Team before approval is sought from Cabinet and Full Council as necessary as part of the council's capital programme

It is proposed that decisions on Neighbourhood CIL are made by the Cabinet Member for Planning and Economic Development. By exception NCIL decisions will require a different process. Where the Cabinet Member is conflicted or concludes that an alternative decision process is required for any other reason, the Leader of the Council will either take the decision or delegate to an appropriate alternative Cabinet Member. Where the value of a proposed project exceeds £250,000, or the Cabinet Member for Planning and Economic Development otherwise deems that the decision is of a sufficient level of complexity or scale, that decision will be brought to a meeting of Cabinet. Officers will recommend the appropriate decision process for each submission received following the closure of the quarterly application round. A summary of these recommendations will be published in an appropriate place on the council's website.

These processes are part of a broader audit and review of CIL processes to inform potential changes to optimise efficiency, effectiveness, and transparency.

5. Financial Implications

- 5.1 CIL income is not guaranteed and is subject to economic trends and fluctuations in development activity, including rates of development and the location, size, and types of those developments. The revised policy will not impact CIL income, which is calculated by the council's adopted CIL Charging Statement.
- 5.2 The policy to allow CIL to be spent on revenue costs associated with the operation and maintenance of infrastructure has financial implications. Any CIL directed to revenue cannot be spent on capital costs. The policy is financially prudent because it limits revenue allocation to specified time

periods and to projects which can demonstrate future self-sufficiency or other sources of funding, and sets an advisement triggers to ensure awareness of the proportion of CIL allocation dedicated to revenue spend.

6. Legal Implications

- 6.1 The legislation governing the development, adoption, and administration of CIL is contained within the Planning Act (2008) and the Community Infrastructure Levy Regulations 2010 (as amended). The associated government National Planning Policy Guidance is also important in guiding this process.
- 6.2 There are other areas of law which should also be considered in regard to the collection and appropriate expenditure of CIL income. These include matters relating to social housing, procurement, charitable institutions, and state aid.
- 6.3 The Director of Law has reviewed this report and the Revised CIL Spending Policy Statement, and is satisfied that the measures proposed comply with the relevant legislation and guidance set out in paragraphs above.

7. Carbon Impact

- 7.1 The decision will not have a direct carbon impact, but the revised policy will encourage carbon neutral/low carbon infrastructure and infrastructure which reduces carbon.
- 7.2 The revised policy prioritises infrastructure which supports the green transition. It also prioritises sustainable travel, thereby reducing carbon from private vehicles and public transport. The policy establishes zero carbon impact as a criteria for CIL allocations.

8. Equalities Implications

- 8.1 The policy statement applies to all relevant projects equally. The revised statement introduces a new policy on equalities.
- 8.2 An Equalities Impact Assessment screening found that a full equalities impact assessment is not required.

9. Consultation

- 9.1 The revised policy is a targeted update to the existing policy, which does not warrant consultation. The subsequent guidance will be workshopped with community members, including Neighbourhood Forums.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Alex Csicsek, Principal Policy Officer, acsicsek@westminster.gov.uk

APPENDICES

Appendix A: CIL Spending Policy Statement

Appendix B: Neighbourhood Areas and their NCIL amounts

Appendix C: Updated Priorities Evidence and Related Strategies

Appendix D: EqIA