

Community Infrastructure Levy Governance Administration Procedures

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Executive Summary

Lichfield District Council adopted its Community Infrastructure Charging Schedule on the 19th April 2016. The following document provides details of the governance and administrative procedures that will be put in place to facilitate the allocation of CIL monies received by the Council.

The governance element of these procedures have been designed to facilitate corporate and political ownership of the delivery of infrastructure requirements within Lichfield District.

1.0 Community Infrastructure Levy

1.1 The Community Infrastructure Levy (CIL) is a planning obligation, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the sustainable development of their area. The Levy came into force on the 6 April 2010 as a result of the Community Infrastructure Levy Regulations 2010. The receipts created by the implementation of the CIL can be used to fund a wide range of infrastructure that is needed as a result of development.

1.2 The CIL Charging Schedule ⁽ⁱ⁾ sets out the CIL charging rates that will be levied across Lichfield District. Defined land uses and identified geographical areas are used to identify the rate of CIL and form the basis of the schedule. The Charging Schedule strikes an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the levy upon economic viability of development across the District.

1.3 Following independent examination the CIL Charging Schedule was adopted by the Council on the 19th April 2016. The Council will commence the collection of CIL on 13th June 2016. This process is governed by strict statutory requirements and procedures which have been put in place to calculate, administer and monitor CIL liable developments.

2.0 The relationship between the Community Infrastructure Levy and planning obligations

2.1 CIL funds are intended to assist in providing infrastructure necessary to support the development of an area rather than to make individual planning applications acceptable in planning terms. CIL therefore does not directly relate to offsetting the implications of an individual development, but relates to the overall cumulative effect of development in general.

As a result, there may be some site specific mitigation requirements without which a development should not be granted planning permission. In these circumstances Section 106 planning obligations will continue to be used.

2.2 Once the CIL is adopted, the regulations restrict the use of planning obligations to ensure that individual developments are not charged for the same items through both planning obligations and the CIL. Where the Council states that it intends to fund an item of infrastructure via CIL (i.e. it is contained on the Regulation 123 list ⁽ⁱⁱ⁾) then planning obligation contributions (Section 106 agreements) cannot be used towards the same item of infrastructure. From April 2015, any specific project or type of infrastructure will only be eligible for funding from five or fewer Section 106 obligations. It is also made clear in Planning Practice Guidance (PPG) ⁽ⁱⁱⁱ⁾ that the application of the five or fewer obligations per project/type of infrastructure will apply retrospectively from April 2010.

i <https://www.lichfielddc.gov.uk/Council/Planning/The-local-plan-and-planning-policy/Planning-obligations/Downloads/Community-Infrastructure-Levy-CIL/CIL-Charging-Schedule.pdf>

ii <https://www.lichfielddc.gov.uk/Council/Planning/The-local-plan-and-planning-policy/Planning-obligations/Downloads/Community-Infrastructure-Levy-CIL/Regulation-123-list.pdf>

iii <http://planningguidance.communities.gov.uk/blog/guidance/community-infrastructure-levy/>

2.3 A Developer Contributions Supplementary Planning Document (SPD) sets out the Council's approach to the use of planning obligations. It sits alongside the CIL and covers the types of development the Council intends to seek S106 contributions from, subject to meeting the legal tests set out in the relevant Planning Acts and associated regulations. ^(iv)

3.0 What is Infrastructure?

3.1 The Planning Act 2008 provides a wide definition of the infrastructure which can be funded by the CIL, including;

- roads and other transport facilities,
- flood defences,
- schools and other educational facilities,
- medical facilities,
- sporting and recreational facilities,
- open spaces

3.2 This gives local communities flexibility to choose what types of infrastructure they need to deliver their development plan. The Local Plan Strategy is the development plan for Lichfield District. It should be noted that the CIL regulations rule out the application of the CIL for the provision of affordable housing.

3.3 There are a number of key Local Plan Strategy ^(v) policies that identify infrastructure requirements for the District. The Local Plan Strategy includes two policies that provide the strategic context for infrastructure requirements:

- Core Policy 4: Delivering Our Infrastructure
- Policy IP1: Supporting & Providing our Infrastructure

3.4 The Infrastructure Development Plan ^(vi) (IDP) is a living document which identifies the strategic and local infrastructure fundamental to achieving our ambitions for shaping the District to 2029.

3.5 Regulation 123 sets out the need for local authorities to produce a list of 'relevant infrastructure' which will be funded in whole or part by the CIL. The Councils adopted Regulation 123 list ^(vii) is articulated in alphabetical order, priorities have not yet been identified.

3.6 Subject to relevant conditions, and at its discretion, an authority may enter into an agreement for payment towards the acquisition of land to be made to discharge part or all of a CIL liability. Charging authorities may also enter into agreements to receive intended infrastructure rather than a payment towards the same. For example, where any authority

iv <https://www.lichfielddc.gov.uk/Council/Planning/The-local-plan-and-planning-policy/Supplementary-planning-documents/Adopted-SPDs.aspx>

v <https://www.lichfielddc.gov.uk/Council/Planning/The-local-plan-and-planning-policy/Resource-centre/Local-Plan-documents/Downloads/Local-Plan-Strategy/Lichfield-District-Local-Plan-Strategy-2008-2029.pdf>

vi <https://www.lichfielddc.gov.uk/Council/Planning/The-local-plan-and-planning-policy/Resource-centre/Evidence-base/Infrastructure/Infrastructure-delivery-plan-IDP.aspx>

vii <https://www.lichfielddc.gov.uk/Council/Planning/The-local-plan-and-planning-policy/Planning-obligations/Downloads/Community-Infrastructure-Levy-CIL/Regulation-123-list.pdf>

has already planned to invest CIL receipts in a project there may be time, cost and efficiency benefits in accepting completed infrastructure from the party liable for payment of CIL. Payment in kind can also enable developers, users and authorities to have certainty about the timescale over which certain infrastructure items will be delivered. The Council has adopted a 'Payments in Kind' policy ^(viii) to provide for, at its discretion, in kind infrastructure payments.

viii <https://www.lichfielddc.gov.uk/Council/Planning/The-local-plan-and-planning-policy/Planning-obligations/Downloads/Community-Infrastructure-Lvy-CIL/CIL-Payment-in-Kind.pdf>

4.0 Charging Authority Responsibilities

4.1 Under the CIL Regulations the Council will be the designated 'Charging Authority'. This confers new responsibilities on the Council, which are set out in the CIL Regulations ^(ix) and policy guidance ^(x).

As the Charging Authority the Council has an obligation to:

- a. prepare and publish a CIL Charging Schedule
- b. apply the levy revenue it receives to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support development of its area, and;
- c. publish annual reports on the amount of levy revenue collected, on what it was spent, and any remaining unspent.

4.2 As such the introduction of CIL necessitates the establishment of suitable governance arrangements to provide a framework for the allocation of the monies levied.

5.0 How will the CIL Funding be distributed?

5.1 CIL funds levied by the Charging Authority (Lichfield District Council) will be distributed from a single centralised pot held by the Council. This arrangement will require closer working relationships with partners, and in particular, require the Council to define its relationship with infrastructure providers.

- Special Areas of Conservation
- Parish Council Funding
- Strategic Infrastructure
- Local Infrastructure
- Administration fees

6.0 Special Areas of Conservation

6.1 The adopted Lichfield District Local Plan Strategy sets out a local spatial policy framework to ensure that both the Cannock Chase and River Mease Special Areas of Conservation (SAC) are protected from the implications of planned development in the area, and that mitigation is secured in order to meet the requirements of European legislation. The Council has an obligation to 'ring fence' this CIL funding which is a set fee based on per dwelling built. This figure will be reviewed and where appropriate updated. These funds will be allocated biannually and will be removed before the Strategic and Local infrastructure percentages as discussed below are applied to the funds.

7.0 Parish Council Funding

7.1 As a statutory requirement, under CIL Regulation 59, the District Council must make provision for passing a 'meaningful proportion' of CIL receipts to communities in areas where development comes forward which in the case of Lichfield District Council means the Parishes. The CIL Regulations require Charging Authorities to transfer a 'meaningful proportion' of

ix <http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>

x <http://planningguidance.communities.gov.uk/blog/guidance/community-infrastructure-levy/>

CIL receipts generated in these areas directly to these Councils on a biannual basis, the scale of which is dependent upon whether a relevant neighbourhood plan is in place. For Parishes where no neighbourhood plan is in place or is still emerging, 15% of CIL (capped per new dwelling as per the CIL Regulations) will be passed to the Parish Council where the development has taken place and must be spent on local priorities as outlined in CIL Regulation 59C^(xi). Where a Parish has an approved neighbourhood plan in place, 25% of CIL (uncapped) will be passed to the Parish Council.

8.0 Parish Council Payment Periods

8.1 Payment periods associated with the transfer of the meaningful proportion will be in accordance with regulation 59D of the CIL Regulations.

- 59D 4, The charging authority must make payment in respect of the CIL it receives from 1st April to 30th September in any financial year to the local parish/town council by 28th October of that financial year.
- 59D 5, The charging authority must make payment in respect of the CIL it receives from 1st October to 31st March in any financial year to the local parish/town council by 28th April of the following financial year.

8.2 A Parish Council will be free to spend these funds on facilities that serve to address the demands that development places on its area, but will be obliged to report annually on CIL expenditure. The District Council would expect to receive annual financial reports four working weeks after the 31st March.

8.3 Once the levy is in place, Parish and Town Councils should work closely with their neighbouring councils and the charging authority to agree on infrastructure spending priorities. If the Parish or Town Council shares the priorities of the charging authority, they may agree that the charging authority should retain the neighbourhood funding to spend on that infrastructure. It may be that this infrastructure (e.g. a school) is not in the Parish or Town's administrative boundary, but will support the development of the area.

8.4 If a Parish or Town Council does not spend its levy share within five years of receipt, or does not spend it on initiatives that support the development of the area, the charging authority may require it to repay some or all of those funds to the charging authority. Parish Councils that receive CIL funding will be invited to an infrastructure planning meeting with the IOWG.

9.0 Strategic and Local Infrastructure

9.1 CIL receipts remaining after administration, SAC payments and the meaningful proportion paid will go into a centralised pot for the purpose of supporting the delivery of strategic and local improvements on a district wide basis. Strategic and Local infrastructure elements are identified and defined within the Infrastructure Delivery Plan. The centralised pot will be split, enabling it be available to support the strategic infrastructure component and also allocated to local infrastructure components.

xi <http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>

9.2 Strategic infrastructure refers to facilities or services serving a wide geographical area or population and can relate to part of the District, the whole District or beyond. Local infrastructure is about facilities or services that are essential in meeting day-to-day needs of the population in a specific locality. A detailed definition of Strategic and Local infrastructure can be found in the introduction section of the IDP ^(xii) and includes a definition of the three main categories of infrastructure.

9.3 The strategic and local infrastructure for which CIL is payable are identified on a Regulation 123 list ^(xiii). Infrastructure providers, including for example Staffordshire County Council or a Parish Council, will formally bid for the release of funds from this centralised pot via a formal application process to assist in delivering the infrastructure detailed on the Regulation 123 list. The onus will be on applicants to produce strong evidence based arguments, which will include clear delivery plans for proposed projects along with potential and secured match funding information.

10.0 Administration fees

10.1 The introduction of CIL and the day-to-day discharge of the Council's duties as the 'Charging Authority' will likely be resource intensive. In line with the CIL Regulations, the Council will utilise 5% of total CIL receipts to finance the expense of administering CIL.

11.0 Surcharges

11.1 Funding generated through the administration of surcharges (as per the CIL Regulations) will be added to the local and strategic infrastructure funding pot to be allocated by the District Council for the delivery of infrastructure needs identified in the Regulation 123 listed.

xii https://www.lichfielddc.gov.uk/Council/Planning/The-local-plan-and-planning-policy/_Resource-centre/Evidence-base/Infrastructure/Infrastructure-delivery-plan-IDP.aspx

xiii <https://www.lichfielddc.gov.uk/Council/Planning/The-local-plan-and-planning-policy/Planning-obligations/Downloads/Community-Infrastructure-Levy-CIL/Regulation-123-list.pdf>

12.0 CIL Allocation: Structure

12.1 In order for the Council to be able to consider how best to deliver infrastructure priorities, a governance structure to administer the Local and Strategic element of CIL funding secured, related processes and procedures will be put in place. The detailed arrangements are set in the following paragraphs and shown diagrammatically in Figure 1.

12.2 A key initial task of the groups involved in the process will be to agree terms of reference. Those terms will relate to the overall process as set out below and will take into consideration the need for the structure to operate efficiently and effectively.

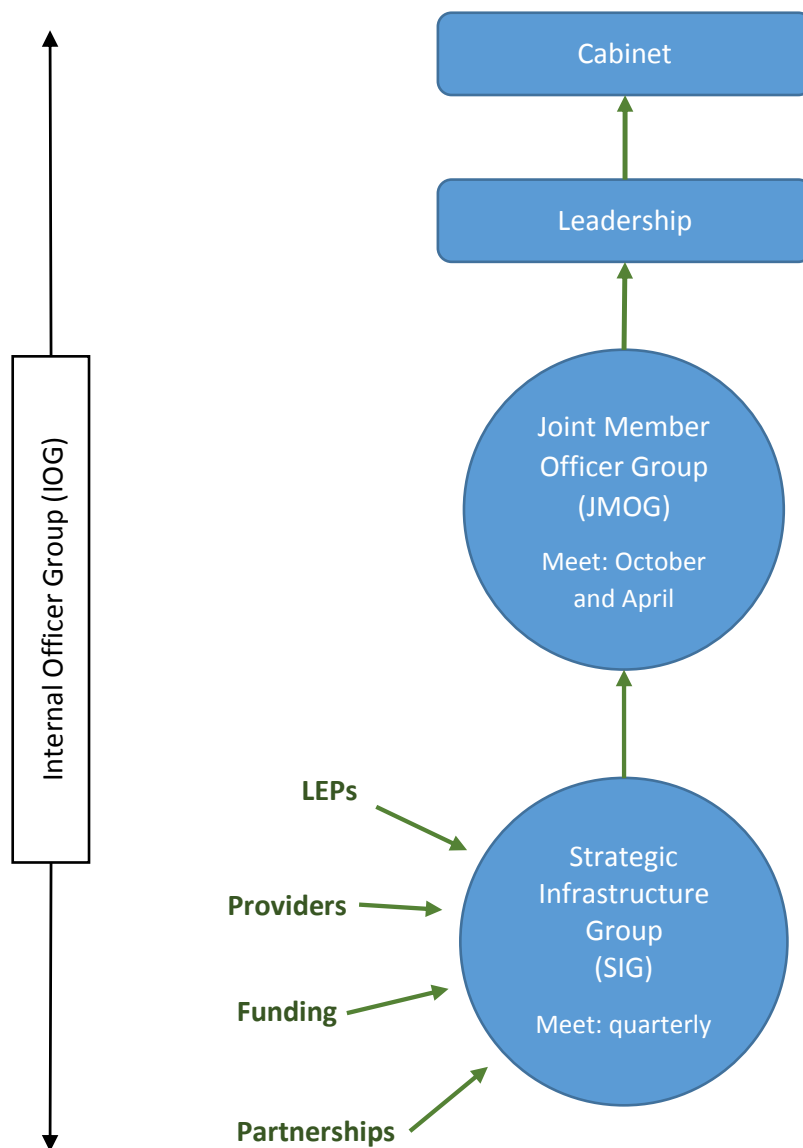


Figure 1

13.0 Cabinet: Role

13.1 Decisions on the allocation of CIL monies to strategic and local infrastructure will be made by the Council's Cabinet and be informed by recommendations made to it by a CIL Joint Member and Officer Group. Recommendations made to Cabinet by the JMOG can be called in by the relevant Overview and Scrutiny Committee. The reporting process to Cabinet will include as per internal reporting procedures consideration of draft reports and recommendations by Leadership Team.

14.0 CIL Joint Member/Officer Group (JMOG): Role and membership

14.1 The Joint Member/Officer Group will consider applications made by infrastructure providers for CIL funding and based on an assessment make recommendations to Cabinet. It will meet biannually with timescales for those meetings coordinated with the allocation of funding, meaningful proportions to the Parish Councils, in addition to considering applications, receive reports for consideration that provide updates on the delivery of the Infrastructure Delivery Plan (IDP) and the Regulation 123 list. Applications will only be considered that deliver infrastructure needs identified in the Regulation 123 list and address requirements articulated within the Infrastructure Delivery Plan.

14.2 The JMOG will have a core membership of four District Council elected members who will be selected by the Leader of the District Council at Annual Full Council. The Chair of the group will be selected from this pool of members. In addition an invite will be extended to Staffordshire County Council to nominate one elected member to sit on the group.

14.3 The group will also include the following officers:

- Director Place & Community - LDC
- Head of Finance and Procurement- LDC
- Head of Economic Growth - LDC
- Staffs County Council representative

15.0 Strategic Infrastructure Group (SIG): Role and membership

15.1 There already exists a Lichfield District Council Infrastructure Officer Working Group which has supported the development and adoption of CIL as a means of contributing towards meeting the infrastructure needs of the District. This is to be re-named the Strategic Infrastructure Group (SIG).

15.2 The group meets and will continue to meet quarterly and has a strategic focus wider than simply the allocation of CIL monies. Its purpose is to identify District wide infrastructure requirements and act as a forum for providers and potential CIL applicants to engage with the District on how infrastructure can be delivered and determine what funding opportunities are available to achieve this.

- Encourage and oversee the development of a programme of infrastructure projects that could be part funded by CIL
- Engage with individual infrastructure providers to consider the scope for developing CIL funding applications

- Advise the JMOG of the percentage split of the centralised CIL pot to enable the support of both strategic infrastructure component and also a local infrastructure component
- Monitor and review implementation and content of the CIL Regulation 123 list in the context of infrastructure requirements set out in the Council's Infrastructure Delivery Plan.

15.4 The group will be chaired by the Head of Economic Growth. The membership of the group will be at the discretion of the Chair but it is expected that suitable representation will be sought from across relevant Council services. Membership could be partly fluid and will be dependent on the infrastructure requirements being developed or discussed at a particular moment in time. An invitation will be extended to relevant Staffordshire County Council officers to join the group.

16.0 Internal Officer Working Group (IOWG): Role & Membership

16.1 The CIL governance arrangements as set out above will be supported by an Internal Officers Working Group. The group will be chaired by the Spatial Policy and Delivery Manager. The group will meet in advance of SIG with additional meeting when required, up to eight times per annum with membership mainly consisting of officers from within Community & Place Directorship. There may be times that other internal officers are invited to attend to inform specific infrastructure discussions. The group will also feed into specific internal project groups set up to take forward infrastructure requirements.

17.0 Levy Allocations Process

17.1 There will be a transitional period between the new and old systems of planning obligations and as such a constant flow of annual CIL receipts is not expected until sometime into the implementation period. It is therefore possible that the above CIL groups will not need to meet or if so will not be called upon to make recommendations for a while. In any event allowing for a centralised pot to grow to meaningful levels enabling potential project allocations to be considered would make sense. Initial meetings therefore will likely involve explaining and agreeing procedure and offering an opportunity to updating members on the level of receipts received to date and progress with infrastructure generally across the District.

17.2 All allocations of Levy money will be made in response to the submission of applications to the District Council as charging body and decisions made subsequently by the Council. Applications will need to be made in accordance with standardised procedures which will include criteria to enable prioritisation, which will be developed by the IOWG and presented to the SIG for approval.

17.3 To ensure the appropriate and timely delivery of projects, conditions will be attached to the allocation of CIL funding from the centralised pot to a Strategic or Local infrastructure requirement. The infrastructure provider who has secured CIL from the centralised pot will be required to enter into a grant agreement which will confirm the detail of conditions.

17.4 The grant agreement will include a commitment to complete quarterly monitoring returns to the Council. These returns will form the basis of quarterly monitoring reports to the Joint Member/Officer Working group.

17.5 When CIL funding is allocated to infrastructure provider, the CIL funding can only be used to deliver the agreed infrastructure type or project. As the Charging Authority, the Council will retain the right to recover CIL receipts that have been 'misapplied' or not spent within agreed timescales.

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