

Committee Name and Date of Committee Meeting

Improving Places Select Commission – 07 March 2018

Report Title

Update on the Rotherham Community Infrastructure Levy

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Paul Woodcock, Strategic Director of Regeneration and Environment

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

The report provides an update on the implementation of the Rotherham Community Infrastructure Levy (CIL). It shows the potential CIL income generated by demand notices issued up to 31 January 2019. Information on monies received from Section 106 Agreements (S106) is also provided.

Recommendations

1. Members are asked to note the contents of the report as requested at Improving Places Select Commission on 20 September 2018.

List of Appendices Included

None.

Background Papers

Rotherham CIL Charging Schedule

https://www.rotherham.gov.uk/downloads/file/3426/rotherham_community_infrastructure_levy_-_charging_schedule

Rotherham CIL Regulation 123 List

https://www.rotherham.gov.uk/downloads/file/3425/rotherham_community_infrastructure_levy_-_regulation_123_list

Rotherham CIL Instalments Policy

https://www.rotherham.gov.uk/downloads/file/3424/rotherham_community_infrastructure_levy_-_instalments_policy

Rotherham CIL Annual Report 2017/18

https://www.rotherham.gov.uk/downloads/file/3991/rotherham_community_infrastructure_levy_-_annual_report_201718

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Council Approval Required

No

Exempt from the Press and Public

No

Update on the Rotherham Community Infrastructure Levy

1. Background

Community Infrastructure Levy

- 1.1 The Community Infrastructure Levy (CIL) is a financial charge via the Planning system, introduced as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. CIL was introduced by the Planning Act 2008 and is intended to largely replace Section 106 agreements on individual planning permissions. It is intended to help to fund infrastructure such as:
- Extra school places
 - Road improvements
 - Public transport improvements
 - Better green spaces
- 1.2 Rotherham's CIL was prepared in tandem with the Local Plan Core Strategy. The strategy includes an Infrastructure Delivery Plan summarising what infrastructure is required to support Local Plan growth. Government regulations set out that the Council can only spend CIL income on infrastructure to support the development of its area. It cannot be used for general funding. CIL will help to fund this infrastructure, however the total cost of the infrastructure required (£50m) far exceeds the likely income from CIL (£15m). Therefore, other sources of funding will still be required and the Council will have to prioritise how CIL income is spent.
- 1.3 The Rotherham CIL Charging Schedule was adopted by the Council in December 2016 (Council meeting 7/12/2016, minute 85). The charge came into force on 3 July 2017. CIL is mandatory for certain types of development and is charged on a £ per square metre basis for new development floorspace. Most new development which creates net additional floor space of 100 square metres or more, or creates a new dwelling, is potentially liable for the levy.
- 1.4 The charging schedule is available as a background paper to this report (see link on second page). The CIL rates payable by qualifying development are set out below:

| Development type | Charge area | CIL charge rate (£/m²) |
|-------------------------|--|--|
| Residential Zone 1 High | Broom, Moorgate, Whiston, Wickersley, Bramley & Ravenfield | £55 |
| Residential Zone 2 | Rural North West, the Dearne and South | £30 |

| | | |
|--|---|-----|
| Medium | Rotherham | |
| Residential Zone 3 Low | Rest of Rotherham Urban Area (part) | £15 |
| Residential Zone 4 | Bassingthorpe Farm Strategic Allocation | £15 |
| Retirement Living(1) | Borough-wide | £20 |
| Supermarket(2) | Borough-wide | £60 |
| Retail Warehouse/ Retail Park(3) | Borough-wide | £30 |
| All other uses | Borough-wide | £0 |
| <p>(1) Retirement Living are residential units which are sold with an age restriction typically over 50s/55s with design features and support services available to enable self-care and independent living. For the purposes of the CIL charge, this type of development has been excluded from the residential use category.</p> <p>(2) Supermarkets are shops above 370 square metres gross internal floorspace where weekly and daily food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit.</p> <p>(3) Retail Warehouses/Retail Parks are stores above 1,100 square metres gross internal floorspace (this includes any mezzanine floorspace) selling comparison goods such as bulky goods, furniture, other household and gardening products, clothing, footwear and recreational goods.</p> | | |

CIL income

- 1.5 CIL becomes payable when development commences (not when planning permission is granted). Builders usually have three years to implement a planning permission before it lapses, which causes a “time lag” between the grant of permission, for CIL-liable development, and income being received by the Council. The Council has also adopted an instalments policy for CIL payments, to ease concerns about development viability.
- 1.6 The Council is required to report on CIL income for each financial year, with the report published by the following 31 December. The first reporting year for the Rotherham CIL was from 3 July 2017 (when the charge was implemented) to 31 March 2018. There was no CIL income received in this period due to the above mentioned time lag. The annual report is available as a background paper to this report (see link on second page).

CIL income held by the Council – the “strategic” CIL

- 1.7 CIL income should be spent on infrastructure required to support growth from the Local Plan. The Council’s Regulation 123 list sets out the strategic priorities for spending CIL income to achieve this aim. The list was approved by the Council at its meeting on 7 December 2016 (minute 85) and provides detail of the infrastructure where the Council will not seek Section 106 contributions – to

ensure developments are not “double charged”. The Regulation 123 list is available as a background paper to this report.

- 1.8 As the list was drawn up some time ago, to support the independent examination of the CIL Charging Schedule, it is outdated in some respects and its review is being considered. However, the Government are proposing changes to the CIL regime, which may remove the requirement to publish a Regulation 123 list but replace it with an annual “Infrastructure Funding Statement”. Progress on any review is pending confirmation of the Government’s changes to the CIL regulations.
- 1.9 When a CIL-liable development commences, the builder is required to notify the Council. The Council then issues a “demand notice” (an invoice) to the builder confirming the CIL payable and the timetable for payments. Officers are therefore able to estimate projected CIL income from the demand notices issued to date. The table below shows the CIL income actually received by the Council and the income due from demand notices that were issued by 31 January 2019. This is a snapshot in time as demand notices are issued as a continuous process when CIL-liable developments start on site.

| Table 2: CIL income (received and due) | | | |
|---|----------------|--------------------|--------------------|
| Year | 2017/18 | 2018/19 | 2019/20 |
| Amount received | £0.00 | £200,662.49 | £0.00 |
| Amount due | £0.00 | £24,620.00 | £747,171.55 |
| Total for year | £0.00 | £225,282.49 | £747,171.55 |

Decisions on spending CIL income

- 1.10 A corporate officer group is established to monitor S106 monies and more recently, CIL income. This group has representatives from Planning, Transportation, Education and Greenspaces, and acts as a forum to consider which infrastructure should be prioritised to support new development flowing from implementation of the Local Plan. A parallel officer group is also considering Sheffield City Region (SCR) investment opportunities and there is some useful cross-over between these groups to identify infrastructure and projects that could benefit from CIL spend and/or SCR spend.
- 1.11 The Planning Service is monitoring the take up of Local Plan development sites and feeding that information into the process. Officers are considering the amount of growth, and where it is taking place, and comparing that picture to the Infrastructure Delivery Plan in the Core Strategy and the Regulation 123 list to consider which infrastructure should be prioritised for spend. For instance, if new development in a particular location occurs earlier than planned, then there may be a case for bringing forward spend on specific infrastructure in that general area. Conversely, if some sites do not progress as expected then the

infrastructure identified in that area could be postponed. The Infrastructure Delivery Plan and Regulation 123 list set out requirements to support growth in general areas. This approach represents a strategic overview of the growth across the borough, rather than an explicit link between any particular development site and CIL funds.

- 1.12 There may also be a case for prioritising spend on a particular scheme in the Regulation 123 list if it would help the Council to secure match funding from Central Government or Sheffield City Region. For example, there may be a window for bids for transport projects that may secure much larger sums than the CIL alone but which may require a particular scheme to be brought forward.
- 1.13 Member approval and oversight will be critical to this process. It is suggested that the detail will be reported to the Housing and Regeneration Programme Delivery Board, proposing that infrastructure identified for CIL spend could be considered by the Board to provide member and senior management input. Decisions on where CIL monies will be invested would be made by Cabinet. The diagram below summaries this proposed approach:



Payments to town and parish councils – the “local” CIL

- 1.14 Town and parish councils are due CIL income raised from new development within their parish boundary. The default is payment of 15% of CIL income raised within their area; parishes with an adopted Neighbourhood Plan receive 25% of CIL income.
- 1.15 There are currently no adopted Neighbourhood Plans in the borough, so payments to parishes are calculated as 15% of payments received from CIL-liable development within the parish. Dinnington, Wickersley, Maltby and Dalton have started the process of preparing a Neighbourhood Plan, with Dinnington being the most advanced. When any Neighbourhood Plans are adopted, the parish payments for that area will increase to 25%.
- 1.16 CIL income is passed on to town and parish councils on a six monthly basis, with any income received between 1 April and 30 September being due by 28 October, and any income received between 1 October and 31 March being due by 28 April.

1.17 No CIL income was received from 1 July 2017 to 31 March 2018, so there was no proportion to pass on to parishes. For the 1 April 2018 to 30 September 2018 period, the only applicable CIL income was in Aston Cum Aughton Parish. A payment of £319.50 was made to Aston Cum Aughton Parish on the 28 October 2018.

1.18 Based on expected CIL income for the period from 1 October 2018 to 1 April 2019, the next parish payments due on 28 April 2019 are as follows:

| Table 3: CIL income due to parishes | |
|--|---|
| Town/parish council | Projected payment on 28 April 2019 |
| Aston Cum Aughton | £319.50 |
| Catcliffe | £29,151.00 |
| Wickersley | £2,751.38 |
| North and South Anston | £981.00 |
| Total | £33,202.88 |

1.19 Town and parish councils can spend CIL income on infrastructure in their parish. The CIL regulations give more leeway to how parishes spend CIL income than applies to the borough Council.

Section 106 Agreements

1.20 Historically, Section 106 Agreements were planning obligations attached to the grant of planning permission to secure community infrastructure. The Community Infrastructure Levy was introduced to replace S106 and is now used to secure funding for strategic infrastructure. S106 agreements now focus on site specific investment to mitigate the impact of development or to meet the needs of residents in new developments. S106 Agreements can also be used to restrict the development or use of land in a specified way or require specific operations or activities to be carried out on the land.

1.21 Benefits are secured either in kind or via financial contributions depending on what is required to mitigate the impact of the scheme. The main areas to benefit are generally:

- Affordable housing
- Primary and secondary education
- On site green space
- Local highways improvements (specific to the development)
- Public transport

- 1.22 This list is not exhaustive and any other relevant and necessary matter may be included within a planning obligation that cannot be secured through the normal planning process.
- 1.23 Each development is judged on its own merits; however there are certain requirements that apply to most major developments, e.g. affordable housing and education provision.
- 1.24 The use of planning obligations is governed by the fundamental principle that planning permissions cannot be bought or sold. Planning obligations are only required to make a development acceptable in planning terms, where otherwise it would be refused permission.
- 1.25 In order to ensure that the correct process is followed, a corporate S106 policy is in place governing the procedure from planning application to grant of permission, invoicing and collection and spend of the contribution.
- 1.26 A corporate officer group monitors, updates and reviews S106 policy and process and resolves any individual issues. In order that the group can also deal with the Community Infrastructure Levy it has been renamed the “Infrastructure Delivery Group”.
- 1.27 The table below provides a summary of the S106 Agreements entered into, monies collected and monies expended/transferred from the S106 (central) account up to 31 March 2018. The balance at year end contains all the monies received in that year plus the monies that were left over in the S106 account from the previous year. Therefore, the balance at year end of the 2017/18 financial year includes unspent monies from previous financial years.

| Table 4: S106 account summary 2013/14 to 2017/18 | | | | | |
|---|----------------|----------------|----------------|----------------|----------------|
| | 2013/14 | 2014/15 | 2015/16 | 2016/17 | 2017/18 |
| (a) Number of S106 Agreements signed | 17 | 16 | 15 | 13 | 4 |
| (b) Total agreed (sums in signed S106 Agreements) | £1,317,958.41 | £653,651.76 | £494,426.72 | £317,809.00 | £170,000.00 |
| (c) Balance brought forward from previous year | £720,791.18 | £1,432,981.28 | £2,706,780.39 | £2,392,021.68 | £1,249,773.56 |
| (d) Total monies | £991,321.13 | £1,681,510.55 | £354,112.03 | £844,347.09 | £310,003.34 |

| | | | | | |
|-------------------------------------|---------------|---------------|---------------|---------------|-------------|
| received in year | | | | | |
| (e) Total monies spent in year | £279,131.03 | £407,711.44 | £668,870.74 | £1,986,595.21 | £695,393.23 |
| (f) Balance at year end (c + d - e) | £1,432,981.28 | £2,706,780.39 | £2,392,021.68 | £1,249,773.56 | £864,383.67 |

1.28 There have been seven S106 Agreements signed in the current financial year of 2018/19 to date, with S106 contributions actually received up to 31 December 2018 totalling £139,433.25.

1.29 The money held in the S106 account is to be spent on the items specified in signed S106 agreements (S106 commitments), as summarised in the table below. Some items are subject to “trigger” clauses so the spend may not be required until a development is partially completed, eg “after 100 dwellings are completed, a new primary school shall be provided”. However, financial contributions gained via S106 are usually subject to a claw back period of five years, so if unspent must be returned to the developer. The Council has always ensured S106 monies have been spent and has not had to return any financial contributions to date.

| Type | Amount held |
|--------------------|-------------|
| Recreation | £101,000 |
| Transportation | £108,000 |
| Affordable housing | £264,000 |
| Education | £257,000 |
| Libraries | £125,000 |
| Ecology | £9,000 |

1.30 The table below provides a breakdown of S106 spend by service area.

| Year spent | Green Spaces | SYPTTE | Transportation | Housing | Education | Total per year |
|------------|--------------|-------------|----------------|-------------|---------------|----------------|
| 2013/14 | £8,309.62 | £240,521.41 | £20,000.00 | £0.00 | £0.00 | £279,131.03 |
| 2014/15 | £0.00 | £32,000.00 | £1,240.60 | £10,000.00 | £364,470.84 | £407,711.44 |
| 2015/16 | £62,429.70 | £32,000.00 | £0.00 | £339,445.00 | £234,996.04 | £668,870.74 |
| 2016/17 | £150,838.73 | £18,146 | £55,000 | £220,514.41 | £1,542,096.07 | £1,986,595.21 |

| | | | | | | |
|--------------------------------|-------------|-------------|-------------|-------------|---------------|---------------|
| 2017/18 | £281,820.01 | £0.00 | £95,067.25 | £203,050.05 | £115,455.92 | £695,393.23 |
| Total spend 2013/14 to 2017/18 | £503,398.06 | £322,667.41 | £171,307.85 | £773,009.46 | £2,257,018.87 | £4,037,701.65 |

Examples of projects funded by S106 monies

1.31 Historically, the areas with the largest spend and commitments in recent years are Education with the majority of these funds going towards school places in various areas around the borough. Waverley and the development of the new school has accounted for nearly £750k received and committed in 2017/18, with the actual total build costs payment going out for tender in early 2019. In future, CIL monies may be used for education provision for schools identified on the Regulation 123 list. Affordable housing projects are the next largest of S106 funds received and committed.

2. Key Issues

2.1 If the planning permissions linked with Section 106 Agreements are not implemented, then these contributions will not be received by the Council. Furthermore, the choice to implement, and when, is down to the developer and can happen at any point three years from the date of the grant of planning permission. There can be a long time lag between the grant of planning permission and payment of monies in some cases, especially if the S106 Agreement includes trigger clauses.

3. Options considered and recommended proposal

3.1 The report is presented for information.

4. Consultation on proposal

4.1 The report is presented for information.

5. Timetable and Accountability for Implementing this Decision

5.1 The report is presented for information.

6. Financial and Procurement Advice and Implications (to be written by the relevant Head of Finance and the Head of Procurement on behalf of s151 Officer)

- 6.1 There are no procurement implications for consideration within this report.
- 6.2 Income from CIL and Section 106 contributions is used to support the Council's approved Capital Programme, as outlined in Section 1 above. Systems and processes have been put in place by the Planning Service and Financial Services to ensure that CIL and Section 106 contributions are accounted for in line with the appropriate regulations, including the Community Infrastructure Levy Regulations 2010. These regulations state that the Council should recognise income from CIL immediately. In addition, the Council is allowed to retain up to 5% of CIL income to help fund the revenue costs associated with the establishment and administration of the CIL system. This equates to a sum of £56k to date.

7. Legal Advice and Implications (to be written by Legal Officer on behalf of Assistant Director Legal Services)

- 7.1 There are no direct legal implications arising from the recommendations within this report.

8. Human Resources Advice and Implications

- 8.1 There are no Human Resources implications arising from this report.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 There are no implications for Children, Young People and Vulnerable Adults arising from this report.

10. Equalities and Human Rights Advice and Implications

- 10.1 There are no implications for Equalities and Human Rights implications arising from this report.

11. Implications for Partners

- 11.1 When the Government issues revised CIL regulations, the Council will need to consider these and decide on a replacement for the Regulation 123 list. There will be a need to engage infrastructure partners regarding their forward investment plans when revising the infrastructure list to be funded by CIL.

12. Risks and Mitigation

Financial governance

12.1 A corporate procedure is in place to ensure sound financial governance of the S106 and CIL processes. Up to 5% of CIL income can be used for the administration of CIL, so over time the monitoring costs of CIL will become self-financing after the initial lead in time needed for planning permissions to be implemented.

Monitoring and reporting

12.2 The Council must ensure all S106 funds received are spent within the deadlines and on the projects specified by each agreement. CIL funds received must be reported at each year end and funds to parishes must be transferred six monthly as per the CIL regulations and guidelines. A procedure is in place to ensure this.

13. Accountable Officer(s)

Paul Woodcock, Strategic Director of Regeneration and Environment

Approvals obtained on behalf of:

| | Named Officer | Date |
|--|----------------------|-----------------------------|
| Chief Executive | | Click here to enter a date. |
| Strategic Director of Finance & Customer Services (S.151 Officer) | Graham Saxton | 07/02/19 |
| Assistant Director of Legal Services (Monitoring Officer) | Stuart Fletcher | 08/02/19 |
| Assistant Director of Human Resources (if appropriate) | John Crutchley | 05/02/19 |
| Head of Human Resources (if appropriate) | Joanne Kirk | 06/02/19 |

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