

**Committee Name and Date of Committee Meeting**

Cabinet – 29 July 2024

**Report Title**

Strategic Community Infrastructure Levy

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

Yes

**Strategic Director Approving Submission of the Report**

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**Report Author(s)**

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**Ward(s) Affected**

Borough-Wide

**Report Summary**

The purpose of this report is to set out the formal process for inviting and considering applications for Strategic Community Infrastructure Levy (CIL) funding for infrastructure projects. It also describes the approach to assessing project benefits and drawing up an overall programme of Strategic CIL-funded projects for Cabinet to consider. There has been no expenditure of Strategic CIL funds to date. The report does not concern Local CIL funds, which are passed directly to parish councils or spent in non-parished areas in consultation with local communities.

**Recommendations**

1. That Cabinet approve the formal process for the allocation of Strategic CIL funds and for the process to be applied annually.
2. That Cabinet approve delegation to the Strategic Director for Regeneration and Environment, in consultation with the Cabinet Member for Transport, Jobs and the Local Economy, to make further refinements to the Strategic CIL application form and assessment scoring (Appendices 1 and 2) if required by implementation experience or legislative changes. The allocation and spend of Strategic CIL funds would remain a Cabinet decision.

**List of Appendices Included**

Appendix 1 Strategic CIL application pack  
Appendix 2 Strategic CIL assessment scoring system

Appendix 3 Desktop review of the Rotherham IDS  
Appendix 4 Equality Assessment Part A  
Appendix 5 Carbon Impact Assessment

### **Background Papers**

National Planning Policy Framework

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Planning Practice Guidance – Community Infrastructure Levy

<https://www.gov.uk/guidance/community-infrastructure-levy>

Community Infrastructure Levy Regulations 2010

<https://www.legislation.gov.uk/ukxi/2010/948/contents/made>

Rotherham Local Plan 2013 – 2028

<https://www.rotherham.gov.uk/planning-development/guide-local-plan/1>

Cabinet Approval CIL Spending Protocol – 20/09/2021 – Item 50

<https://moderngov.rotherham.gov.uk/mgAi.aspx?ID=91640>

Rotherham CIL Documents

<https://www.rotherham.gov.uk/planning-development/community-infrastructure-levy/1>

Infrastructure Delivery Study 2021

<https://www.rotherham.gov.uk/downloads/file/2396/rotherham-2020-infrastructure-delivery-study-march-2021>

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## Strategic Community Infrastructure Levy

### 1. Background

- 1.1 The Community Infrastructure Levy (CIL) is a charge that local authorities can apply to new development in their area. It is an important tool for local authorities to use to help them deliver the infrastructure needed to support development in their area. Most new developments are potentially liable for the levy while some developments are eligible for relief or exemption from the levy. For example, social housing is eligible for relief.
- 1.2 The levy only applies in areas where a local authority has consulted on, and approved, a charging schedule that sets out its levy rates and has published the schedule on its website. The Council has a Community Infrastructure Levy in place for Rotherham and adopted a charging schedule on 3 July 2017 which sets out the levy rates. CIL payments are required alongside planning permission for certain types of development and work in tandem with (but are separate to) payments negotiated as Section 106 planning obligations. A range of CIL documents are available on the Council's website including information about fees, the charging schedule and infrastructure funding statements.
- 1.3 The total CIL income received by the Council is divided into three "pots":
  - Strategic CIL (80%) – for infrastructure to support new development from implementing the Local Plan.
  - Local CIL (15%) – passed to parishes for local infrastructure priorities (25% with a Neighbourhood Plan adopted); for non-parished areas, held by the Council to spend in consultation with local communities.
  - Admin (up to 5%) – retained by the Council to cover ongoing administration costs.
- 1.4 The CIL Regulations (which implement provisions in the Planning Act 2008) require CIL funds to be used for "the provision, improvement, replacement, operation, or maintenance of infrastructure needed to support the development of an area". They can be used to provide new public infrastructure or to repair or update existing infrastructure if it is necessary to support development or growth. However, they cannot be used to remedy existing infrastructure deficits or supplement revenue budgets.
- 1.5 The amount collected is constantly updated as developer CIL payments are received; at the time of writing, the Council holds approximately £8.4m in the Strategic CIL fund. The Council does not necessarily need to spend the full amount of Strategic CIL available; unlike Section 106 sums, CIL payments from developers are not time-limited and do not have to be repaid. This allows the Council to accumulate Strategic CIL income to fund projects that may exceed the income currently held and/or phase funding over the life of a longer term project. There has been no expenditure of Strategic CIL funds to date.

## **CIL Funding Principles**

- 1.6 The Rotherham Infrastructure Delivery Study (IDS) was updated in 2021 to support the review of the Local Plan. It identifies the infrastructure required to deliver the Local Plan. The schedule of projects set out in the IDS forms a 'long list' that could be funded by Strategic CIL along with other projects that may be identified. The involvement of infrastructure and service providers was a key aspect of the study. The inclusion of a potential project in the Study therefore provides the link required between Strategic CIL projects and Local Plan growth.
- 1.7 It is proposed to use Strategic CIL funds to provide infrastructure to enable and/or address the needs arising from Local Plan housing site allocations or unallocated brownfield sites that are expected to deliver homes in the ten-year period from 2024/25 to 2033/34. This being the type of development that has the most effects on surrounding infrastructure, such as roads, schools, health facilities, greenspaces etc.
- 1.8 The total amount allocated from Strategic CIL funds available will depend on the applications submitted and their expected outcomes. If there is Strategic CIL money left over this can be retained and rolled forward to fund infrastructure in the next 12-month period. Strategic CIL funding applications will be invited on an annual basis. If a project is not considered ready for this funding round by the prospective applicant, the process will reopen at similar times in future years.
- 1.9 To draw up a programme of Strategic CIL funded projects, a robust and transparent process is required to ensure that a fair approach is taken. A review of approaches elsewhere has been undertaken to examine how other local authorities prioritise and spend Strategic CIL. Common underpinning principles are that priority is given to:
- Quicker commencement and delivery of the project - the rationale being that if a project is not able to start delivering relatively quickly, then support from a future Strategic CIL funding round may be more appropriate.
  - Projects where proposed costs are based on obtained quotes or robust justification.
  - Projects that demonstrate that key delivery and future management/maintenance arrangements are in place and that project risks have been addressed.
- 1.10 Projects should have some match funding from other sources, in order to make the most of the Strategic CIL funding available. It is therefore intended that the Council's Strategic CIL will not entirely fund a project. Applications requesting 100% support from the Strategic CIL fund will not be excluded but justification will be required as to why match funding is not available.
- 1.11 In September 2021, Cabinet approved the broad approach to identifying and prioritising the spending of Strategic CIL and the use of Local CIL in non-

parished areas (Cabinet 20/09/2021, minute 50 refers). For Strategic CIL, this is summarised as:

- A Strategic CIL officer group considers current development trends against the requirements in the Infrastructure Delivery Study.
- Schemes are assessed and prioritised against relevant criteria that will be devised to determine the infrastructure that will most support new growth areas and help bring forward development sites to implement the Local Plan.
- A list of priority schemes is drawn up (or potentially the conclusion that funds should be carried forward that year).
- A final list of schemes is presented to Cabinet, seeking approval for the Strategic CIL funds to be spent as recommended.

1.12 As well as the process detailed above, other options for making decisions on spending Strategic CIL funds can be considered, for example to allocate the funds to a single major project or focus the funds on project(s) in the existing capital programme (subject to those project(s) meeting the requirements of the legislation and CIL Regulations). The Council decides how Strategic CIL is spent and therefore there will be flexibility to make decisions based on priorities at the point of making decisions.

## **2. Key Issues**

### **Identifying and Assessing Potential CIL Projects**

2.1 A common aspect of the Strategic CIL spending methodologies used by other local authorities is to assess the benefits arising from the project. Approaches include applicants being invited to state:

- What the economic, social, and environmental benefits of the scheme are.
- How the scheme meets corporate objectives and other relevant approved strategies and plans, such as for transport and health and well-being.
- How the project demonstrates clear public benefit or addresses need.

2.2 The proposed approach for Rotherham is based on five specific Strategic CIL objectives:

- Improving people's physical and mental health and well-being.
- Reducing the Borough's contribution to and helping to adapt to the effects of climate change.
- Improving movement and enabling better accessibility, particularly by public transport, walking & cycling.
- Expanding economic opportunity & supporting a dynamic economy.
- Creating and supporting safe and sustainable communities.

This broadly reflects what the Local Plan Core Strategy, Rotherham Council Plan 2022-2025, and Rotherham Climate Change Emergency Declaration seek to achieve.

- 2.3 Based on the objectives stated above, an application form has been drawn up, as attached in Appendix 1:
- Part 1 sets out a series of eligibility tests that are aimed at ensuring that projects are eligible and suitable for Strategic CIL funding, this includes whether the project is identified in the Infrastructure Delivery Schedule that forms part of the 2021 Infrastructure Delivery Study. The Schedule was specifically drawn up with infrastructure and service providers to identify the infrastructure required to deliver the Local Plan.
  - Part 2 requires key information about the nature and timing of the project.
  - Part 3 addresses key potential deliverability concerns.
  - Part 4 reflects important funding and financial issues.
  - Part 5 provides an important link between the infrastructure project and development growth, examining the links to allocated sites in the Local Plan and the need for the infrastructure.
  - Part 6 enables an assessment of the benefits of the infrastructure project including its contribution to Social Value.

2.4 The application form reflects key information requirements to ensure applications provide sufficient detail and that projects are deliverable. Applications will then be assessed under a scoring system based on the Strategic CIL objectives (attached at Appendix 2). The shortlisting approach could be influenced by the received applications, such as the number of submissions, their nature, size, geographical location, project delivery timeframe, and other funding opportunities.

### **Pilot Exercise**

- 2.5 A pilot exercise was undertaken internally in January/February 2024 to help test the process, with ten draft applications submitted by the Council's Transportation, Highways and Flood Risk, and Greenspaces services, with one example of a 'health' project drawn up internally.
- 2.6 The application form and assessment scoring system have worked effectively in the pilot exercise. The degree and level of information set out in the application form and provided as supporting information is a critical factor in assessing projects, and some refinements were made to the form to clarify this for applicants.
- 2.7 To have an up-to-date picture of the infrastructure priorities in light of recent growth patterns, a desktop review of the Infrastructure Delivery Schedule contained in the 2021 Infrastructure Delivery Study has been undertaken to assess broadly whether any significant changes have occurred, for example any schemes that have already been delivered and/or any schemes no longer required. The schedules for Transport, Community, and Education facilities have been reviewed (see Appendix 3) and the rest of the Schedule will be reviewed as part of the Strategic CIL allocation process, as these have greater reliance on input from external parties.

### **Strategic CIL Funding Process**

- 2.8 The Strategic CIL funding application process will invite organisations and infrastructure/service providers (which includes internal Council services) who contributed to and have schemes in the Infrastructure Delivery Study to submit applications to confirm which of their previous submissions they consider a priority for Strategic CIL funding. New schemes would not be sought at this stage. Strategic CIL should be allocated by the Council on the project's merits and a transparent and fair process should be in place. Inviting applications from infrastructure and service providers would help achieve this aim.
- 2.9 A Strategic CIL funding application pack (application form and information on the 10-year housing development projection) will be finalised and distributed to key infrastructure stakeholders for submissions for Strategic CIL funding (attached at Appendix 1). This would seek to prioritise infrastructure schemes that are considered most urgent and provide a focus on the benefits of Strategic CIL-funded projects being realised in a reasonable time frame, as opposed to benefits being achieved beyond 10 years' time, while acknowledging that infrastructure projects can be complex and take time to deliver.
- 2.10 The application package will highlight projects that would be funded within the range of £100,000 to £3m, given that the Rotherham Strategic CIL pot is currently around £8.4m. This range is designed to avoid a high number of small projects that would have limited strategic impact and to ensure that one project cannot use more than half of the total available funding. These thresholds can be reviewed in future rounds.
- 2.11 All valid applications (those that meet all seven eligibility criteria of the gateway test in part 1 of Appendix 1) would be assessed by the Strategic CIL Officer Group against the full application criteria.
- 2.12 The Strategic CIL forms will generate a list of potential Strategic CIL projects ranked by how closely they meet the investment objectives and the delivery, funding, and development-related questions. It is possible that the projects passing the assessment process exceed the available Strategic CIL funds and so a phased approach may be required. The list of projects can therefore provide the basis for drawing up a Rotherham CIL Programme, which can also specify the timetable for Strategic CIL-funded projects.
- 2.13 Different types of infrastructure projects can be assessed together, and their relative benefits considered in moving toward a Strategic CIL programme. Projects would then be ranked and grouped into three categories based on their overall score (recommended for support; recommended for support if extra funding is available; not recommended for support).
- 2.14 The programme stage represents an opportunity to consider the geographic spread of projects across the Borough, and the mix of projects (which could be based on project types or project costs as to the extent to which bigger or smaller projects are included in the programme). A particular theme or

themes may also be used to help prioritise the projects included in the programme.

### **3. Options considered and recommended proposal**

#### **3.1 Option 1: Adopt the CIL funding process and proceed to its implementation**

The implementation of the Strategic CIL funding process will help to deliver the required infrastructure within the Borough, benefitting communities in line with the Council's priorities. The Council is currently taking forward a Partial Update of the Core Strategy. This includes updating the assessment of housing and other requirements over an extended period up to 2040. The 2021 Infrastructure Delivery Study has identified the need to improve the infrastructure within the borough to support future development and growth up to 2040. Progressing the Strategic CIL funding process will begin to meet these infrastructure needs. The allocation and spend of Strategic CIL would be reported in the Council's annual Infrastructure Funding Statement, providing transparency for local communities.

#### **3.2 Option 2: Do not adopt the CIL funding process**

Should Cabinet decide not to approve the process set out in this report, then progress cannot be made on delivering the infrastructure set out in the Infrastructure Delivery Study, hindering future development and growth within the borough. As an alternative approach, the Council could decide to merge Strategic CIL funds into the Council's capital budget. However, this would break the link between spending decisions and an assessment of the infrastructure needs flowing from growth in the Local Plan. As such, it would not be in accordance with the CIL Regulations and lack transparency in reporting on spend decisions. Importantly, it would risk local communities considering that the Council had not addressed the pressures that new developments place on their areas.

3.3 Option 1 is the recommended option.

### **4. Consultation on proposal**

4.1 The consultation with infrastructure/service providers would be for eight weeks to allow stakeholders to have internal discussions and gain necessary approvals prior to their submissions to the Council.

4.2 During the consultation period, a virtual Q&A session with officers would allow answers to any queries that may arise in completing the application form.

4.3 Applicants would have one opportunity to answer any queries officers have or provide further clarification where required. This is to ensure a consistent approach across all applications yet allow comprehensive consideration of the projects.



## **5. Timetable and Accountability for Implementing this Decision**

- 5.1 Subject to Cabinet approval, it is anticipated that the consultation with infrastructure and service providers, and subsequent assessment of bids, would be undertaken in autumn 2024. This consists of the eight week consultation with stakeholders, any Q&A sessions required, assessment of bids and finalising a shortlist of projects for member consideration.
- 5.2 Officers would prepare a Cabinet report setting out the process taken and recommendations, with a draft shortlist of schemes from the programme for consideration. Depending on the outcome of the consultation with stakeholders, and the number of bids and their complexity, it is anticipated that a report would be brought back to Cabinet in December 2024 or January 2025. Member briefing prior to Cabinet report submission could be arranged, subject to a steer on a suitable approach/forums.
- 5.3 Government regulations require CIL charging authorities to publish annual statements on their website to provide transparency on CIL income and spending. The Council should also have a robust, documented process in place to evidence its Strategic CIL spending decisions, should these be challenged by any third party. The application process would be carried out once a year and reflected in the Council's Infrastructure Funding Statement.

## **6. Financial and Procurement Advice and Implications**

- 6.1 At the time of writing this report, the Council has collected around £8.4m Strategic CIL. This money will be used to support the funding of infrastructure projects to support growth, in line with the CIL Regulations. Under the Regulations, a percentage of CIL income is passed to parished areas. In addition, the Council retains up to 5% of CIL income to cover the revenue costs of administering the charge, such as software systems, staffing and enforcement.
- 6.2 There are no direct procurement implications associated with the approach detailed in this report. However, it is important to note that any funding allocated to internal services, which require delivery by a third party will need to be procured in compliance with the relevant procurement legislation Public Contracts Regulations 2015 (as amended) / Procurement Act 2023 as well as the Council's own Financial and Procurement Procedure Rules (FPPRs).

## **7. Legal Advice and Implications**

- 7.1 Legal implications, the recommendations and contents of this report are fully in compliance with the requirements of the Community Infrastructure Regulations 2010 as amended.
- 7.2 That if Option 1 is the chosen way forward in accordance with officer recommendation a period of consultation must then take place in accordance the Regulations.

## **8. Human Resources Advice and Implications**

8.1 There are no direct human resource implications arising from this report.

## **9. Implications for Children and Young People and Vulnerable Adults**

9.1 There are no direct implications for children and young people and vulnerable adults arising from this report. The allocation and spend of Strategic CIL funds may eventually benefit this group if the spend is directed to educational provision, either for the general school population or for special needs facilities. Similarly, Strategic CIL spend on facilities may benefit vulnerable adults.

## **10. Equalities and Human Rights Advice and Implications**

10.1 An equalities screening assessment has been carried out and is attached at Appendix 4.

10.2 The equalities screening assessment for this report concludes that equalities analysis is not required given the overarching nature of the protocol to allocate Strategic CIL, whilst recognising that equalities consideration is included in the criteria to assess and prioritise individual schemes.

## **11. Implications for CO2 Emissions and Climate Change**

11.1 Climate change poses a significant threat to environments, individuals, communities, and economies on local, national, and international scales. In recognition of this the Council has aimed to be net carbon neutral as an organisation by 2030, and for Rotherham as a whole to achieve the same position by 2040.

11.2 A carbon impact assessment has been carried out and is attached at Appendix 5. (Ref. CIA 276)

11.3 The assessment concludes that the Strategic CIL spending protocol is designed to prioritise and allocate Strategic CIL funds to infrastructure schemes to support growth promoted by the Local Plan. The Local Plan itself was subject to and refined by Sustainability Appraisal as part of its drafting, so its implementation inherently promotes sustainable development. Reducing emissions is included in the criteria used to assess and prioritise schemes for Strategic CIL funding.

## **12. Implications for Partners**

12.1 Partners and stakeholders have been consulted and engaged in the Infrastructure Delivery Study. This work has captured the plans, programmes and costings from providers and input this into the study's list of infrastructure required to support growth. The Council will continue to engage with providers and stakeholders in allocating and spending Strategic CIL income and future updates to the study.

### 13. Risks and Mitigation

- 13.1 The Council is required to spend Strategic CIL income in line with the CIL Regulations. There is a risk that without appropriate protocols in place, decisions on Strategic CIL spend may not accord with the regulations. This could put the Council at risk of external audit and could harm public perceptions of the Council's probity. The processes set out in the report are designed to mitigate these risks. Legal advice will be sought as appropriate to ensure the Council meets its legislative obligations in the allocation and spending of Strategic CIL income.

### 14. Accountable Officers

Andrew Bramidge

Interim Strategic Director of Regeneration and Environment

Approvals obtained on behalf of Statutory Officers: -

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp OBE	27/06/24
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	18/06/24
Assistant Director, Legal Services (Monitoring Officer)	Phil Horsfield	18/06/24

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