POLICY AND RESOURCES COMMITTEE

10th MARCH 2025

PART I

COMMUNITY INFRASTRUCTURE LEVY (CIL) - GOVERNANCE ARRANGEMENTS
(DCES)

1. Summary

1.1 This report seeks Member approval of an amended CIL Governance process. This report proposes an amended governance structure which will be the principal means by which CIL monies will be spent on the infrastructure necessary to support new development.

1.2 The protocols proposed will ensure that CIL is managed in an open and transparent way and in accordance with the Community Infrastructure Regulations (2010) (Regulations).

2. Details

2.1 Three Rivers District Council introduced a Community Infrastructure Levy (CIL) on 1 April 2015. CIL is the main way in which the Council now collects contributions from developers to pay for infrastructure that is needed to support development in the Local Plan.

2.2 Since the introduction of the CIL Charging Schedule in April 2015 a total of £13,950,377[1] has been collected. Of this, if the Parish/Community Council has an adopted neighbourhood plan they receive 25% of the CIL pot for their area and the district receives 70%. Otherwise it is a 15%/80% split. At present, Chorleywood and Croxley Green are the only two Parish Councils that have an adopted neighbourhood plan. The remaining 5% is set aside for the Council's administration and Exacom software costs to support the CIL in line with the CIL legislation.

2.3 With regards to the Neighbourhood Pot, CIL monies collected from developments in parished areas are passed directly to the Parish or Community Council twice a year. The Council retains the Neighbourhood CIL monies raised from developments in the unparished area in Rickmansworth and is responsible for spending these funds in consultation with that community.

2.4 A governance methodology for Strategic CIL is required to ensure that the money collected through the Community Infrastructure Levy is spent in the most appropriate way to support development. The Neighbourhood CIL governance methodology identifies and engages on projects suitable for funding from the Neighbourhood Pot in relation to the unparished area. This report solely amends the Governance arrangements relating to Strategic CIL spend.

2.5 The current Governance arrangements were agreed at P&R Committee on 13 March 2023 (and subsequently Full Council). These were immediately published on the Council's website notifying of the opportunities to apply for CIL monies. Officers have monitored the Governance arrangements through the assessment of CIL applications received. It is evident some further clarity is required to ensure CIL is

[1] To date a total of £5,627,984.of these CIL monies has been approved for infrastructure projects since financial year 2021/22

utilised for strategic projects and prioritised. CIL applications also require staffing resource and the application and review process needs to be carefully planned to ensure resource is available and sufficient.

3. What can CIL be spent on?

3.1 Regulation 59 of the CIL Regulations states:

(1) A charging authority **must** apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure *to support the development of its area, and*

(2) A charging authority ***may*** apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure outside its area where to do so *would support the development of its area.*

3.2 The definition of infrastructure in relation to CIL is set out in section 216(2) of the Planning Act 2008 (as amended by regulation 63 of the Community Infrastructure Levy Regulations);

a) roads and other transport facilities,
b) flood defences,
c) schools and other educational facilities,
d) medical facilities,
e) sporting and recreational facilities, and
f) open spaces

3.3 The Infrastructure Funding List[2] sets out the types of infrastructure that the Council intends will be, or may be, wholly or partly funded by CIL.

- Education
- Strategic and local transport proposals
- Publicly accessible leisure facilities,
- Open Space Provision (including, children play areas and outdoor/indoor sports and leisure facilities, allotments)
- Health Care Facilities
- Other Social and Community Facilities including: - community halls, youth facilities, library services
- Emergency Services

3.4 The inclusion of a project or type of infrastructure on the Infrastructure List does not signify a commitment from the Council to fund (either whole or in part) the listed project or type of infrastructure.

[2] Infrastructure Funding List was the Regulation 123 List adopted by the Council but now replaced bythe Annual Infrastructure Funding Statement as a result of changes to the CIL Regulations. The Annual Infrastructure Funding Statement is published in December each year on the Council's web site https://www.threerivers.gov.uk/egcl-page/cil-reports

3.5 The levy cannot be used to fund affordable housing or for any on-going or revenue spend (such as consultancy fees, viability/feasibility studies, staff costs etc.) relating to the provision of infrastructure.

3.6 The emerging Infrastructure Delivery Plan[3] being prepared alongside the emerging Local Plan will set out the strategic infrastructure required to support planned development and once adopted will be the main consideration for the spending of CIL.

3.7 The Council is required to publish an Infrastructure Funding Statement setting out the amount of CIL collected and how it has been spent in the previous year and also states which infrastructure projects will be, or may be, funded wholly or partly by CIL.

4. Governance Arrangements

4.1 CIL does not generate enough funds to cover the whole cost of infrastructure needed to support planned development, as such there will be competing demands on the collected money. With this in mind there needs to be robust, transparent and accountable governance in place to prioritise spend.

4.2 It will be in the Council's interest to make CIL monies collected go further by availing of opportunities such as 'match funding'. Any new governance arrangements should explore such possibilities.

5. Proposals for New Governance Arrangements

5.1 Strategic Component

In order for the Council to help deliver larger, costlier infrastructure schemes, and given the relatively small scale of CIL receipts received by the Council, it is necessary to let CIL receipts accumulate. Some infrastructure schemes are estimated to cost several million pounds. Allowing CIL receipts to accumulate in this way will mean there is a larger funding pot to draw from when these important infrastructure schemes are ready to implement. It is also important to balance the delivery of large schemes with smaller schemes that will benefit the District. To date a mixture of these schemes have been approved.

The Strategic pot will be pooled and used for the purpose of delivering strategic improvements on a District wide basis. The allocation of CIL money toprojects will be made twice yearly. This is all as the current arrangements.

As currently infrastructure providers will formally bid for the release of funds via a formal application process by completing and submitting a Community Infrastructure Funding Request (**Appendix 1**). Bidding rounds open in January and June each year for a 6-week window. Limiting the application process allows CIL applications to be fully considered by Officers with a planned resource and more importantly allow some form of prioritisation.

5.2 An assessment of the applications will continue to be undertaken by a CIL Officer Working Party andinvolves the following Officers:

Senior CIL Officer

[3] Infrastructure Delivery Plans are prepared alongside the Local plan in consultation with infrastructureproviders to set out the infrastructure required to support planned development.

Head of Regulatory Services

Head of Finance

Head of Strategy and Partnerships

Head of Policy & Conservation

Solicitor to the Council

5.3 A formal assessment will continue to be undertaken using a CIL Scoring Criteria (attached at **Appendix 2**) – this has been amended at question 9 to refer to pre application advice sought when considering deliverability of a project. There are minimum requirements which an application must comply with to enable it to go to the next stage. This allows full scrutiny of the proposed projects to be undertaken, ensuring they meet the Council's objectives and priorities and can be successfully delivered. This process also allows proposed projects to be prioritised and considered on a more strategic basis.

5.4 The Scoring Criteria will be reviewed regularly to ensure it remains up to date and reflects the Council's objectives and priorities especially in view of the evolving Local Plan.

5.5 Once the Officer Working Party has reviewed and scored, the proposals they will be moderated by a wider CIL Moderation Group involving the Council Leader, the Lead Member of Planning Policy and Conservation and the Lead Member of Resources.

5.6 As currently, projects will be favoured where they will be supported by other funds that wouldn't otherwise be available, particularly where those funds may not be available in future years. Projects will also be prioritised where it can be satisfactorily demonstrated that the particular infrastructure would otherwise not be delivered (for example, there are no other possible sources of funding or other funding sources are insufficient).

5.7 In addition, it needs to be clear that CIL requests will be prioritised. Even if a bid complies with CIL eligibility tests and meets the CIL scoring threshold, further consideration and a judgement will be applied by the Working Groups in terms of priorities of projects for the District. This will take into account factors that form part of the scoring criteria, such as amount of match funding, likelihood of delivery, amount of community support, but also considerations such as the amount being requested and previous CIL funding applied for by the same organisation. Repeat requests for the same area will be carefully considered to allow funds to be allocated fairly across the District and prioritised accordingly.

5.8 Also in addition, and as amended, it may be that in seeking to prioritise bids and how the CIL money is spent, not all the requested funding will be granted. Additional consideration will be given to the demonstration of match funding, and bids that are for programmed work. Sports facility projects must satisfactorily demonstrate that hire fees will be reasonable and affordable to local clubs and residents of TRDC and priority given to those based within the district thus supporting the development of its area. Officers will seek to legally secure such prioritisation where possible.

5.9 With regard to the submission of an Equalities Impact Assessment, in addition to this being required as part of the bid, it will now be a consideration in the decision making process to ensure all projects identify and consider how it might affect different groups protected in law (the Equality Act 2010).

5.10 Officers will continue to prepare a series of recommendations for the release of CIL funds. These recommendations will be reported to the most appropriate Corporate Management Team in the first instance before being reported to Policy & Resources Committee and finally to Full Council for approval. Recommendations will then be fed into the capital programme reported to Council in February and once funds have been released will reported in the appropriate Infrastructure Funding Statement.

6. Relevant Portfolio Holder and Leader

6.1 Where funding is agreed, the infrastructure provider will be expected to provide regular updates until the scheme has been completed and all CIL funding has been spent.As a minimum, a project report will need to provide information on the progress of each scheme that funding has been allocated to. A requirement to submit this information will form part of the agreement that the successful applicant will be required to enter into with the Council. Payment will be made in arrears and will exclude VAT. For charities or voluntary organisations staged payments will be considered provided we were in receipt of invoices covering the payment made. These will be customised as appropriate and detailed within the agreement.

6.2 If an applicant does not spend CIL money within five years of receipt or does not spend it as agreed, then the Council may require the applicant to repay some or all of those funds.

7. Neighbourhood Component

7.1 This component of CIL and its Governance arrangements remain as previously agreed.

7.2 In the unparished area the 15% Neighbourhood Allocation is held separately by the Council. In line with the CIL Regulations the levy can be spent to 'support the development of the local council's area' by funding the provision, improvement, replacement, operation, maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on an area.

7.3 The neighbourhood portion of CIL requires community engagement before spending. When funds have been received for development in this area it is proposed that the Council will consult with Ward Members who will in turn consult with their residents to identify suitable infrastructure projects. Any receipts will be reported to the Ward Members in April and October of each year in the same way the Parish Councils are informed. A Community Infrastructure Funding Request will then be completed and will be processed in the same way as those for the Strategic pot.

7.4 In summary:

This report solely amends the Governance arrangements relating to strategic CIL spend.

The governance arrangements remain as previously agreed (date) with the following amendments:

Funds are limited, therefore, CIL funds CIL requests will be prioritised. Even if a bid complies with the CIL eligibility and meets the CIL scoring threshold, further consideration and a judgement will be applied by the Working Groups in terms of the priority of the project for the District.

In seeking to prioritise bids and how the CIL money is spent, it may be that not all the requested funding will be granted. Additional consideration will be given to the demonstration of match funding, and bids that are for programmed work.

Repeated requests for the same area will be carefully considered to allow funds to be allocated fairly across the district

Sports facility projects must demonstrate the fees are affordable and reasonable to local clubs and residents within the district

The Scoring criteria remains as existing with a small addition to question 9 regarding pre application advice sought

With regard to the submission of an Equalities Impact Assessment, in addition to this being required as part of the bid, it will now be a consideration in the decision making process to ensure all projects identify and consider how it might affect different groups protected in law (the Equality Act 2010).

Payment will be made in arrears and exclude VAT. For charities or voluntary organisations staged payments will be considered

8. Next Steps

8.1 Once adopted the amended CIL Governance process will be published online.

8.2 The Infrastructure Delivery Plan will be updated alongside the new Local Plan to identify infrastructure projects needed to support the growth identified.

9. Options and Reasons for Recommendations

9.1 This report recommends an enhanced approach that would see clear and robust governance arrangements that will ensure the Council is then in a position to prioritise projects and allocate CIL money in accordance with the CIL Regulations.

10. Policy/Budget Reference and Implications

10.1 The recommendations in this report are within the Council's agreed policy and budgets.

11. Equal Opportunities, Environmental, Community Safety, Public Health, Customer Services Centre, Implications

11.1 None specific.

12. Financial Implications

12.1 None specific. The 5% of total CIL receipts collected each year cover the costs of the administration of CIL as allowed in the Regulations.

13. Staffing Implications

13.1 The revised process will require further Senior Officer input. Whilst this will be contained within existing resource the additional demands on these roles should be noted. In addition, further CIL resource is expected as the number of CIL applications increases. It is anticipated this will be delivered within the 5% of total CIL receipts allowed for administration detailed above.

14. Legal Implications

14.1 There are no legal implications arising from this report. The governance arrangements will be implemented in accordance with the relevant legislation.

15. Communications and Website Implications

15.1 Once adopted the amended CIL Governance process will be published online.

16. Risk and Health & Safety Implications

16.1 The Council has agreed its risk management strategy which can be found on the website at http://www.threerivers.gov.uk. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

16.2 The subject of this report is covered by the Regulatory Services Service Plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this plan.

Nature of Risk	**Consequence**	**Suggested Control Measures**	**Response** *(tolerate, treat terminate, transfer)*	**Risk Rating** *(combination of likelihood and impact)*
Failure to progress/manage and maintain Community Infrastructure Levy income and expenditure.	Council could be challenged on CIL expenditure	Governance Arrangements	Tolerate	4

16.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Likelihood: Very Likely ▼ Remote				
	Low 4	**High 8**	**Very High 12**	**Very High 16**
	Low 3	**Medium 6**	**High 9**	**Very High 12**
	Low 2	**Low 4**	**Medium 6**	**High 8**
	Low 1	**Low 2**	**Low 3**	**Low 4**

	Impact
	Low ----------► Unacceptable

Impact Score	Likelihood Score
4 (Catastrophic)	4 (Very Likely (≥80%))
3 (Critical)	3 (Likely (21-79%))
2 (Significant)	2 (Unlikely (6-20%))
1 (Marginal)	1 (Remote (≤5%))

16.4 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

17. Recommendation

17.1 That the Committee recommend to approve:

(i) the CIL Governance arrangements as set out in paragraphs 5.3 to 6.2 of thisreport

(ii) final details on the implementation of the amended Governance arrangements are delegated to the Director of Finance in consultation with the Lead Member with an anticipated commencement date of April 2025.

Report prepared by: Kimberley Rowley, Head of Regulatory Services

Data Quality

Data sources: Exacom (Planning Obligations Software)

Data checked by: Debbie Wilson, CIL Officer

1	**Poor**	
2	**Sufficient**	
3	**High**	**x**

Background Papers

The Community Infrastructure Regulations (2010) (As amended) https://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents

Section 216(2) of the Planning Act 2008 (as amended by regulation 63 of the Community Infrastructure Levy Regulations);

Infrastructure Funding Statement https://www.threerivers.gov.uk/egcl-page/cil-reports

Policy & Resource Committee Report CIL Spending Request https://www.threerivers.gov.uk/download?id=51350

APPENDICES
Appendix 1 Community Infrastructure Funding Request
Appendix 2 CIL Scoring Criteria