

POLICY AND RESOURCES COMMITTEE – 17 JULY 2023

PART I – NOT DELEGATED

6. CIL SPENDING APPLICATIONS – King George V Play Area, Sarratt

1 Summary

- 1.1 The report seeks to allocate a total of £170,000 of CIL funding to local infrastructure projects to support growth in Three Rivers.

2 Details

- 2.1 Three Rivers became a Community Infrastructure Charging Authority on 1 April 2015. CIL is the main way in which the Council now collects contributions from developers for infrastructure provision to support development in the area.

- 2.2 The Council has the responsibility for spending the CIL on infrastructure needed to support the development of the area, it is primarily a tool to support capital infrastructure. The Council has the opportunity to choose what infrastructure is prioritised in order to support development.

- 2.3 Since the introduction of the CIL Charging Schedule in April 2015 a total of £10,199,690 has been collected.

- 2.4 The CIL monies collected are divided into three pots – Main CIL Pot (70/80%) Neighbourhood Pot (15/25%) and the remaining 5% set aside for the administration and the Exacom software costs to support the CIL in line with the CIL Regulations.

- 2.5 This report relates only to the Main CIL Pot which, as of 19 June 2023, amounts to £7,989,706 (excludes previously agreed spend)

- 2.6 Whilst this is a substantial amount, 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 Main Pot from infrastructure providers who used to rely on S106 developer contributions (such as Hertfordshire County Council, NHS and TRDC etc.) going forward.

2.7 What can CIL be spent on?

- 2.8 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.*

- 2.9 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

2.10 The Infrastructure List¹ 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

2.11 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.

2.12 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 Applications for CIL Funds

3.1 We have received an application for CIL funds from Sarratt Parish Council to replace and update the children's play area at King George V playing fields in Sarratt. The land is owned by the Parish and the original play area/equipment was provided by TRDC in 1975. The original equipment has been replaced intermittently with new equipment over the years, however, the majority of the equipment now in situ is end of life and is incurring increasing maintenance costs. The annual safety reports (RoSPA) have identified failings over the past few years, for example the swings and climbing frame are no longer compliant and the floor surface needs replacing. The increasing costs of maintenance are uneconomical.

3.2 The current equipment is geared to younger primary school age children. The Parish have consulted with the local community and it has been expressed that this facility is updated/replaced to cater for a broader age range. The proposed new multi activity playground would provide facilities for all ages of children and teenagers.

3.3 Sarratt Parish Council have confirmed they would welcome the advice and guidance from Three Rivers Leisure Dept. regarding the proposals before

¹ Infrastructure List was the Regulation 123 List adopted by the Council but now replaced by the 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>

submitting a planning application to the Council. Signage would be erected that detailed TRDC contributed towards the cost of the new play facilities.

3.4 Potential Match Funding

Sarratt Parish Council has approached various organisations regarding potential match funding, however none of these enquiries has currently led to a positive response, although one application to the National Lottery is pending. If successful the grant offered will be in the region of £10k.

3.5 Focus has been on the smaller funding streams (up to £10k) given their eligibility criteria, albeit a number of funding requests is likely to lead to delays in the project implementation and further complexities in project administration.

3.6 If the National Lottery funding bid is successful (expected decision October 2023) or other funding sources Officers consider this additional money would enable further works to be carried out on site in the form of benches, landscaping, bins, and the possibility of an additional piece of play equipment or alternatively support any further increase in project costs.

3.7 The table below provides a brief summary with the full details contained in Appendix 1 to this report. Whilst £176k was initially sought SPC have recently received a further £6k of CIL income and have confirmed this will be contributed towards the project reducing the requested amount to £170k.

Table 1.

| Applicant & Project Name | Infrastructure | Total Cost | Additional Funding | CIL Amount | Year funds required |
|---|--|-------------------|-----------------------------------|-------------------|----------------------------|
| Sarratt Parish Council King Georges Field, Sarratt (Appendix 1) | Replacement of children's play area with a multi-activity site | £184,000 | Sarratt Parish Council £14,000 | £170,000 | 2023/2024 |

3.8 An assessment of the application has been undertaken by the Community Infrastructure Officer and the Head of Regulatory Services to determine whether the applications meet the definition of 'infrastructure', meet the requirement to 'support the development' of the area and are included on the Infrastructure List. The assessment is contained in Section H of the applications in Appendices 1.

3.9 In summary, the assessment determined that the application meets the above requirements.

3.10 Next Steps

3.11 As the CIL Charging Authority it is for the Council to decide how to spend the CIL Main Pot.

3.12 A decision needs to be made as to whether CIL funds are allocated to these infrastructure projects and, if so, the amount to be allocated.

- 3.13 Where funding is agreed, a legal agreement will be put in place between TRDC and Sarratt Parish Council to ensure any allocated CIL funding is spent in the correct way. The infrastructure provider will also be expected to provide information until the scheme has been completed and all CIL funding has been spent. In addition an annual 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 legal agreement that the successful applicant is required to sign
- 3.14 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.
- 3.15 Details about planning obligation receipts and anticipated expenditure in relation to CIL and S106 is published in the Infrastructure Funding Statement by the 31 December each year in accordance with Regulation 121A of the CIL Regulations.

4 Future CIL Income

- 4.1 Up to 19 June 2023, liability notices for a potential value of £2,698,468 have been issued. These notices are raised following the grant of planning permission and set out what the liable charge would be should work on the development start and no exemptions are applied. The realisation of the remainder of these monies is therefore totally dependent on a developer implementing their planning permission and not benefiting from any exemptions. It is common to have multiple planning permissions on a site, for a permission not to be implemented and exemptions to be granted (mainly for self-build). This figure, while informative, should not therefore be treated as guaranteed future income.
- 4.2 Where a demand notice has been issued, this means that development has commenced and that CIL is now due for payment. The council's CIL instalment policy allows developers fixed timescales at 60, 120 and 360 days (post-commencement) to pay the amount due. The number of instalments available is dependent on the total amount of CIL due, with higher CIL charges allowing for more time to pay. A further £1,898,313. is due to be collected over the next year on developments that have already commenced. Further demand notices may also be issued if other developments commence.

5 Options and Reasons for Recommendations

- 5.1 To ensure the delivery of important community infrastructure to support growth and development strategic CIL can be spent anywhere within the district, it is not bound by the area of development where funds are received. CIL receipts for the Sarratt area are limited, however, King George V Playing Fields is visited by the wider community making this an important recreational site. It is the only public open space with children's play equipment within the Sarratt area.
- 5.2 The Open Space Sport and Recreation Study (2018) is part of the evidence for the Local Plan which identifies areas for improvement/provision to support development in the District. This Study recognises the importance of quality open space and benefits of play in terms of healthy, active lifestyles, social inclusion and interaction between children and recognised back in 2018 that King George V playing fields could be improved.
- 5.3 The report identifies that the quality and value threshold for open space provision for children and young people is set to a minimum of 65%, however, King George V

Playing Fields score was 51% back in 2018 so will undoubtedly be lower now. The importance of play and of children's rights to play in their local communities is essential.

5.4 Additionally, the Corporate Framework 2023-26 identifies the need for sustainable communities. To support and enable sustainable communities Three Rivers DC will improve the wellbeing of our residents by *'reducing health inequalities and maintain and, where possible expand our leisure and cultural offer.'* The proposals to improve the play area in Sarratt accords with this corporate objective.

5.5 The current equipment is failing and needs to be replaced. Without the financial assistance from the Community Infrastructure Levy it is most likely the project can not progress and definitely not a project of the proposed scale which would serve the wider community.

6 Policy/Budget Reference and Implications

6.1 The recommendations in this report are within the Council's agreed policy and budgets. The relevant policy is entitled Community Infrastructure Funding Statement and was agreed on 24 February 2015.

7 Equal Opportunities, Staffing, Environmental, Community Safety, Public Health, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications

7.1 None specific.

8 Financial Implications

8.1 The commitment of CIL funds of £2,403,877 previously agreed, plus £170,000 will leave a balance of £5,415,829 in the CIL Main Pot for infrastructure projects going forward. This funding is held within the Council's Capital Grants and Contributions Reserve and must be spent within the terms of the CIL regulations as set out above. It should be noted that a further application for the sum of £320,524 is being considered and if agreed the balance will be reduced to £5,095,305.

8.2 As with previous CIL applications it is recommended to allow an amount for contingency given the current market conditions and timescales which can lapse between quotes and implementation. This contingency amount will be delegated to the Director of Finance in discussions with the Lead Member to agree if requested. It is recommended that a 10% uplift of cost be put in place should the updated quotation prove to be more expensive under delegated decision (equating to £17,000).

9 Legal Implications

9.1 The legislation governing the development, adoption and administration of a Community Infrastructure Levy (CIL) is contained within the Planning Act (2008) and the Community Infrastructure Levy Regulations 2010 (as amended). Risk and Health & Safety Implications

10 Risk Management

10.1 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

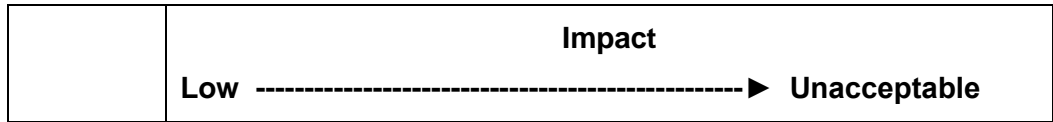
Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

10.2 The subject of this report is covered by Regulatory Services. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this/these plan(s).

| Nature of Risk | Consequence | Suggested Control Measures | Response <i>(tolerate, treat, terminate, transfer)</i> | Risk Rating <i>(combination of likelihood and impact)</i> |
|---|--|---|--|---|
| Failure to progress/manage and maintain Community Infrastructure Levy income and expenditure. | Council could be challenged on CIL expenditure | Governance Arrangements | Tolerate | 4 |
| Sarratt Parish Council unable to replace play area | Failure to provide local play facilities for their and wider community | Maintain equipment, reduce scale of project, signpost alternative funding | Tolerate | 6 |

10.3 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.

| | | | | |
|--|-----------------|--------------------|------------------------|------------------------|
| Very Likely Remote ↓ Likelihood | 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 Score

- 4 (Catastrophic)
- 3 (Critical)
- 2 (Significant)
- 1 (Marginal)

Likelihood Score

- 4 (Very Likely (≥80%))
- 3 (Likely (21-79%))
- 2 (Unlikely (6-20%))
- 1 (Remote (≤5%))

10.4 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.

11 Recommendation

11.1 That Members approve CIL funding for the following scheme detailed in Table 1 of this report and summarised in the table below for 2023/2024:

| Applicant & Project Name | Infrastructure | CIL Amount |
|---|--|------------|
| Sarratt Parish Council King Georges Field, Sarratt | Replacement of children’s play area with a multi-activity site | £170,000. |

11.2 As per item 8.2 of the report any request for additional monies for this specific project is delegated to the Director of Finance, in consultation with the Lead Member, to determine having regard to the economic context and timescales for implementation and would consider an increase of up to 10% of the total CIL monies agreed.

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>

Guidance provided by the Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government

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

APPENDICES

Appendix 1 King George V Sports Playing Fields – CIL Spending Request