

Meeting: Cabinet

Date: 11 August 2020

Wards Affected: All

Report Title: Community Infrastructure Levy Funds – Administration and Governance of Neighbourhood Proportion

Is the decision a key decision? No

When does the decision need to be implemented? No critical deadline

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1. Proposal and Introduction

- 1.1 The Council has implemented the Community Infrastructure Levy (CIL), which generates funds from defined new developments which pay a set levy type contribution towards local infrastructure. The majority of the funds are already allocated to key infrastructure projects, including for example the costs of providing the South Devon link road. However, 25% of the levy funds form what is called the local, or neighbourhood proportion, which should be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on the area. The neighbourhood proportion should be spent within the neighbourhood of the development which paid the levy, which in the Torbay context would normally be expected to relate to the Neighbourhood Plan areas namely, Brixham, Paignton and Torquay.
- 1.2 With regard to CIL chargeable development which falls within the administrative boundary of Brixham Town Council, national guidance is clear and explains that the Charging Authority (Torbay Council) must pass 25% of the relevant CIL receipts to the parish council (in this case Brixham Town Council) for that area. The town council must use the CIL receipts passed to it to support the development of the Town Council's area by funding the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on the area. There is scope for the Town Council to allow Torbay Council to retain the neighbourhood funding to spend on agreed larger infrastructure (eg a school) if this should arise. If an area does not spend its levy share within 5 years of receipt, or does not spend it on initiatives that support the development of the area, Torbay Council has scope to require it to repay some or all of those funds. Unfortunately at the time of drafting this report no CIL payments have been received for Brixham. It should be noted that part of the Brixham Peninsula Neighbourhood Plan area falls outside of the administrative boundary of Brixham Town Council, however for administrative convenience it is

recommended that any neighbourhood proportion CIL funds received within the Brixham plan area are passed to the Town Council to administer.

- 1.3 With regard to the development falling outside of the Brixham Town Council administrative area, Torbay Council is required to consult with the community about how the neighbourhood proportion funds can be used, including to support priorities set out in neighbourhood plans. The national guidance in such cases is as follows:-

'If there is no parish or town council, the charging authority will retain the levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding. Charging authorities should set out clearly and transparently their approach to engaging with neighbourhoods using their regular communication tools for example, website, newsletters, etc. The use of neighbourhood funds should therefore match priorities expressed by local communities, including priorities set out formally in neighbourhood plans.'

The law does not prescribe a specific process for agreeing how the neighbourhood portion should be spent. Charging authorities should use existing community consultation and engagement processes. This should include working with any designated neighbourhood forums preparing neighbourhood plans that exist in the area, theme specific neighbourhood groups, local businesses (particularly those working on business led neighbourhood plans) and using networks that ward councillors use. Crucially this consultation should be at the neighbourhood level. It should be proportionate to the level of levy receipts and the scale of the proposed development to which the neighbourhood funding relates.

Where the charging authority retains the neighbourhood funding, they can use those funds on the wider range of spending that are open to local councils. In deciding what to spend the neighbourhood portion on, the charging authority and communities should consider such issues as the phasing of development, the costs of different projects (for example, a new road, a new school), the prioritisation, delivery and phasing of projects, the amount of the levy that is expected to be retained in this way and the importance of certain projects for delivering development that the area needs. Where a neighbourhood plan has been made, the charging authority and communities should consider how the neighbourhood portion can be used to deliver the infrastructure identified in the neighbourhood plan as required to address the demands of development. They should also have regard to the infrastructure needs of the wider area.

The charging authority and communities may also wish to consider appropriate linkages to the growth plans for the area and how neighbourhood levy spending might support these objectives.'

Also within the *Understanding Community Infrastructure Levy (CiL)* guidance produced by Locality, on the matter is also clear in that: *In areas without a parish or town council, local communities, including Neighbourhood forums, should be consulted on expenditure of the proportion of CIL funds that would otherwise have been passed to a parish, or town council.*

- 1.4 In summary (outside of the Brixham Town Council administrative boundary) Torbay Council retains the 25% neighbourhood proportion and determines how this should be spent accounting for the guidance detailed above. At the time of drafting this report the total neighbourhood proportion amounts to circa £100,000 (although one

payment is the subject of an appeal). Of the £100,000 the greater proportion relates to the Paignton Neighbourhood Development Plan area.

- 1.5 The guidance suggests that we should consider using existing community consultation and engagement processes, which is logical in that it can avoid setting up a separate process which in itself could take up already limited resources. One option in this respect is the opportunity to consider the use of Crowdfunding which has just come into operation in Torbay. This could be used as a very effective means of identifying potential local infrastructure projects, provide additional income by way of pledges which the CiL neighbourhood proportion could contribute and importantly provide for people to indicate their support for suitable projects. In Plymouth for example it was reported that Crowdfund Plymouth raised over £434,593 for 100+ city projects from 4,550 pledgers, from an initial funding pot of £60k.
- 1.6 Given that the Crowdfunding option is now in use by the Council there is the potential for use in respect of the CiL Neighbourhood proportion. Such an approach is considered to be appropriate with regard to some of the messages provided from the Community Conference. However, Crowdfunding in Torbay is a new process and has yet to be tested so it is not known how successful it will prove.
- 1.7 In the interim, pending a review of the success of crowdfunding it is recommended that the Council invites bids at six monthly interviews (depending on the CiL collection amounts received) from the community and community organisations, to identify potential projects which might reasonably be funded from the CiL Neighbourhood proportion. It is expected that the Neighbourhood Forums/Community Partnerships would have a key role in terms of identifying and presenting priority projects. Any such bids would need to be assessed to ensure that they meet suitable criteria which accords with the national guidance on the types of projects which might be funded (including meeting infrastructure requirements compatible with or identified in the relevant Neighbourhood Plans). It is suggested that the detail of the criteria for assessment should be finalised in consultation with the Neighbourhood Forums/Community Partnerships, who will be a key stakeholder in the process.
- 1.8 It is recommended that bids are evaluated against an agreed set of criteria by a panel (CiL Spend Board) consisting of representatives from the Neighbourhood Forum and representatives of the Community Partnership in which the project is planned, the Cabinet member for Infrastructure, Environment and Culture and Ward member(s) for the area which the bid concerns. The final decision to award funding for the bid will be made by the Director of Place in consultation with the Cabinet member for Infrastructure, Environment and Culture. In all cases Torbay Council will only fund projects and release monies in accordance with its financial, procurement and legal rules and regulations.
- 1.9 In search of good practice elsewhere members of the Co-operative Councils Network including Bristol City Council and Oxford City Council have this same approach, as they too have non-parish council areas within their jurisdiction. In addition many others across the country including Poole, Epsom & Ewell, Elmbridge and Leeds City Council all have similar arrangements.

2. Reason for Proposal and associated financial commitments

- 2.1 Whilst the law does not prescribe a specific process for agreeing how the neighbourhood portion should be spent, the guidance indicates that the Council should identify a suitable administration process in order to ensure that CIL is spent appropriately. The process can however be reviewed at any time and it is recommended that this should take place annually with consideration given to either using the crowdfunding option or possibility a combination of the bidding process and crowdfunding in the future.
- 2.2 There is an ongoing financial commitment to use the Neighbourhood proportion of CIL to fund suitable projects however, as the funds are paid specifically for this purpose there is no financial burden for the Council.
- 2.3 The proposals contained in this report will commit the Council financially in respect of:
- Spending the Neighbourhood proportion of CIL collected by the Council on an ongoing basis.
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3. Recommendation(s) / Proposed Decision

That Cabinet agree the following:

- (i) That the neighbourhood proportion collected in respect of development located within the Brixham Neighbourhood Plan area shall be passed directly to the Brixham Town Council to administer. With the spend of any funds received by the Brixham Town Council in respect of development located outside of the administrative area of the town council, (but located within the neighbourhood development plan area), shall be in consultation with the relevant Torbay Council members for the wards concerned.
- (ii) A standalone bidding process is introduced to determine what local projects the CIL Neighbourhood proportion should be spent on (as set out in the main body of the report). The establishment of the panel (CiL Spend Board) and its operation will be the responsibility of Torbay Council, but shall include representatives of the Neighbourhood Forums, Community Partnerships, Local Member(s) and the Cabinet Member for Infrastructure, Environment & Culture.
- (iii) Within a year of operation, or sooner if necessary, the bidding procedure, the make-up of the 'CiL Spend Board' and its operation should be reviewed. It will then be re-assessed against the success of Crowdfunding Torbay to determine whether the bidding process should continue, or be subsumed in whole, or part by Crowdfunding.

(ii) Appendices

None

Background Documents

Existing Torbay Council CIL documents including fact sheet and charging schedule can be viewed at:-

<https://www.torbay.gov.uk/council/policies/planning-policies/local-plan/cil/>

Section 1: Background Information

1.	<p>What is the proposal / issue?</p> <p>Agreement of the administrative process most appropriate for the Community Infrastructure Levy Neighbourhood proportion funds.</p>
2.	<p>What is the current situation?</p> <p>There is currently no process in place although funds are being collected.</p>
3.	<p>What options have been considered?</p> <p>The body of the report explains that the option of using the crowdfunding exists and this has the potential to successfully deal with bids for CIL funding in a transparent and open manner and also allows form community support to be confirmed and match funding achieved. On the face of it this presents a potentially ideal long term solution but has yet to be proven in the context of Torbay. Hence, an alternative bidding arrangement has been presented as a short term solution but could equally form the long term solution. The make-up of the selection panel does present options, however it is considered important to ensure that there is both community representation but critically democratically elected members of Torbay Council, as the Council are ultimately responsible for the collection of CIL and ensuring that it is spent appropriately.</p>
4.	<p>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</p> <p>Priorities:</p> <ul style="list-style-type: none">• Thriving People and Communities• A Thriving Economy• A Climate Fit for the Future• A Council Fit for the Future <p>Principles:</p> <ul style="list-style-type: none">• Use reducing resources to best effect• Integrated and joined up approach
5.	<p>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</p> <p>No conflicts identified.</p>

<p>6.</p>	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>The proposal seeks to administer funds for local infrastructure provision which has the potential to address deprivation and reduce inequalities.</p>
<p>7.</p>	<p>How does the proposal/issue impact on people with learning disabilities?</p> <p>The proposal does not directly impact on those with Learning Disabilities/ autism or those living with mental health issues, however suitable infrastructure projects might be funded which could help to provide positive impacts on identified needs.</p>
<p>8.</p>	<p>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</p> <p>The proposal relies on community support to both bid for proposals, but also for a clear indication of community support for projects to be a success. The funds for example can be used to empower communities to provide their own infrastructure projects.</p>

Section 2: Implications and Impact Assessment

9.	<p>What are the financial and legal implications?</p> <p>The CIL funds are collected for the express purpose of providing local infrastructure and are ring-fenced for this purpose.</p>
10.	<p>What are the risks?</p> <p>Whilst not a formal legal requirement, the relevant guidance provides for a clear expectation for the process to be transparent and directly involve the community. Funding of projects will require a robust process of financial management to ensure that funds are spent appropriately.</p>
11.	<p>Public Services Value (Social Value) Act 2012</p> <p>N/A</p>
12.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The CIL funding regime is the subject of national guidance.</p>
13.	<p>What are key findings from the consultation you have carried out?</p> <p>No formal consultation carried out with regard to proposed process, however consultation will be critical to identify potentially successful project bids.</p>
14.	<p>Amendments to Proposal / Mitigating Actions</p> <p>Not directly applicable however options have been identified in the body of the report.</p>

Equality Impacts

15.	Identify the potential positive and negative impacts on specific groups			
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact	
Older or younger people	The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities.			
People with caring Responsibilities	The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities.			
People with a disability	The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities.			
Women or men	The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities.			
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>	The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities.			
Religion or belief (including lack of belief)	The aim of the process of CIL funding is to have a positive impact recognising the need to			

	ensure access for all the selected bidding opportunities.		
People who are lesbian, gay or bisexual	The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities.		
People who are transgender	The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities.		
People who are in a marriage or civil partnership	The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities.		
Women who are pregnant / on maternity leave	The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities.		
Socio-economic impacts (Including impact on child poverty issues and deprivation)	The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities.		
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities.		
16. Cumulative Impacts – Council wide (proposed changes elsewhere which might	Consideration of the cumulative impacts across the Council will be undertaken during a review of the operation of the selected process.		

	worsen the impacts identified above)	
17.	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	Consideration of the cumulative impacts across the Council will be undertaken during a review of the operation of the selected process.