

# CABINET



|                   |   |
|-------------------|---|
| Report subject    | <b>Community Infrastructure Levy (CIL)</b>  |
| Meeting date      | 12 February 2020  |
| Status            | Public Report   |
| Executive summary | <p>To seek approval for the governance of BCP Council CIL receipts. The report covers proposed governance for both strategic and neighbourhood portion CIL monies.</p> <p>The first part of the report sets out the proposed arrangements for the strategic element of CIL (which can be used to fund major infrastructure projects such as strategic transport, school places, flood defences, Dorset Heathlands mitigation and open spaces).</p> <p>This includes seeking approval to progress the Council's first Infrastructure Funding Statement, which once published will set out the strategic infrastructure needs across the BCP area, costs and expected delivery timescales. As part of this it is recognised that work needs to start on adopting a new, single CIL Charging Schedule for BCP in order to provide a consistent approach to charging and related collection policy.</p> <p>The second part of the report focuses on the CIL Neighbourhood Portion, which requires 15% to 25% of CIL to be set aside for local projects. The report highlights that BCP Council inherited different systems for this from the legacy Councils. Moving forward, CIL Neighbourhood Portion in Christchurch is now a matter of transferring the monies to the Town and Parish Councils in accordance with the statutory requirements. However, a decision is also required to transfer the 15% neighbourhood proportion collected in the previously unparished area of Christchurch to Christchurch Town Council and Highcliffe and Walkford Parish Council. A consistent approach is needed in Bournemouth and Poole.</p> <p>The options for this are to either adopt the system of collecting the Neighbourhood Portion on a ward basis or pooling the monies into a single pot to which any community across Bournemouth and Poole can bid into. The relative merits of both these options are reviewed in the report with the recommendation being to introduce Option 2 as a consistent approach across the Bournemouth and Poole parts of the BCP Council area.</p> |

|                            |  |
|----------------------------|--|
| Recommendations            | <p><b>RECOMMENDED that Cabinet are asked to:</b></p> <ul style="list-style-type: none"> <li><b>(a) Authorise the Director for Growth &amp; Infrastructure to lead production of the BCP Infrastructure Funding Statement (IFS) by December 2020. The IFS will outline the allocation of strategic CIL proportionately across the BCP area once published;</b></li> <li><b>(b) Authorise the Director for Growth &amp; Infrastructure to commence work on a consolidated BCP Charging Schedule that will replace the legacy charging schedules in due course;</b></li> <li><b>(c) Agree that the 15% neighbourhood proportion collected in the previously unparished areas of Christchurch is passed on to Christchurch Town Council and Highcliffe and Walkford Parish Council.</b></li> <li><b>(d) Agree that Option 2 as set out in this report will be introduced and replace the legacy CIL Neighbourhood Portion arrangements in Bournemouth and Poole on 1<sup>st</sup> October 2020. The legacy arrangements will remain in place until they are superseded on 1<sup>st</sup> October 2020; and</b></li> <li><b>(e) Delegate the set-up arrangements for the BCP CIL Neighbourhood Portion scheme to the Director for Growth &amp; Infrastructure in consultation with the Portfolio Holders for Strategic Planning and Communities.</b></li> </ul> |
| Reason for recommendations | To provide a unified approach to the allocation of BCP CIL receipts and to start work on the Council's first Infrastructure Funding Statement.   |
| Portfolio Holder(s):       | Margaret Phipps, Portfolio Holder for Strategic Planning<br>Lewis Allison, Portfolio Holder for Communities  |
| Corporate Director         | Bill Cotton, Corporate Director for Regeneration and Economy<br>Kate Ryan, Corporate Director for Environment  |
| Contributors               | Julian McLaughlin, Director for Growth and Infrastructure<br>Kelly Ansell, Director for Communities<br>Cat McMillan, Head of Communities<br>Nicholas Perrins, Head of Planning and Building Control<br>Mark Axford, Planning Policy Manager  |
| Wards                      | ALL  |
| Classification             | For Recommendation   |

## **Background**

1. Community Infrastructure Levy (CIL) is a charge on development introduced by the Planning Act 2008, as a tool for local authorities to help deliver infrastructure required to support the development of their area. CIL charges are set out in a Charging Schedule.
2. BCP Council inherited a Charging Schedule from each of the legacy councils that remain operational across the BCP Council area. These Charging Schedules, based on current rates of development delivery, generate around £4m to £5m of CIL receipts for BCP Council.
3. The collection and expenditure of CIL is governed by the CIL Regulations 2010 (amended), which establish the following parameters for how CIL is to be spent:

### Administration

4. Up to 5% of all CIL receipts can be spent on the administration aspects of collecting and spending CIL. The legacy councils all set up robust collection processes involving officers in planning, finance and communities who all have a crucial role in ensuring the money owed is collected and spent on delivering infrastructure to meet the area's need. Using the maximum 5% of the total CIL as permissible within the CIL Regulations, will result in between £200,000 and £250,000 being available to help fund the collection process per annum.

### Neighbourhood Portion CIL (NCIL)

5. The CIL Regulations require that 15% of CIL is to be spent on local projects required to support areas where there is development; this is known as the Neighbourhood Portion, referred henceforth as NCIL. NCIL increases to 25% for an area where there is a Neighbourhood Plan in place. In areas with Parish or Town Councils the Council must pass the NCIL directly to those local councils. In areas without a Parish or Town Council, the local authority retains the NCIL but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding.

### Strategic CIL

6. This represents all remaining CIL monies after administration and neighbourhood portion have been set aside for those purposes. For the purposes of this report this element is henceforth referred to as the 'strategic CIL' as it is the element available to spend on delivering the strategic infrastructure projects required to support the overall development of the area.
7. This report now considers arrangements for how BCP Council should administer the Strategic and Neighbourhood CIL having regard to the existing processes.

## **Part 1 – Governance Arrangements for Strategic CIL**

8. The allocation of strategic CIL was previously governed by maintaining what was known as the Regulation 123 list, which set out the projects that CIL would be spent on. The CIL Regulations were amended in 2019 that removed the

requirement to have a Regulation 123 list and replaced it with a requirement to publish an Infrastructure Funding Statement (IFS).

9. The Council's first IFS must be published by December 2020 and is required to report on the collection and expenditure of both CIL and Section 106. The deletion of the Regulation 123 list also removes previous restrictions on the use of CIL and Section 106, which could support greater use of Section 106 type tariffs for specific infrastructure in the future.
10. The IFS is the opportunity for the Council to establish what it will now spend its CIL on as well report its use of Section 106 in an open and transparent way. It is recommended that work is commenced on the IFS as soon as possible in order to identify BCP's strategic infrastructure needs based on existing Local Development Plans and the Corporate Plan. There are a number of key areas of infrastructure that the legacy Regulation 123 lists identified CIL would deliver and would likely form the basis for the IFS projects. These include Dorset Heathland and Poole Harbour mitigation (such as SANGs), regeneration initiatives in the area's town centres, strategic flood defences, school places and strategic transport.
11. There will only be a finite amount of CIL available at any given time so consideration needs to be given to the infrastructure funding priorities to support development across BCP. The IFS production process will identify a series of short, medium and long term priorities that CIL and Section 106 tools can be used to help deliver over time. This process will also need to ensure that the delivery of infrastructure is proportionate to the needs across the Bournemouth, Christchurch and Poole area.
12. As part of this, it is proposed that at the point the BCP IFS is published the collection processes will also need to be harmonised and aligned as is being done on a range of other Council services and charges. In terms of collection, it is therefore proposed that instead of the legacy arrangements that collect the monies separately in each area, the finance team could set up a single system for pooling all strategic CIL collected across BCP that is then allocated to the funding to the projects set out in the IFS.
13. The production of the IFS will be prepared by the Planning Policy team given its link to development in Local Plans but with liaison with all services that have responsibility for infrastructure. It is proposed that the Director for Growth & Infrastructure is authorised to coordinate the production of the IFS to be brought back for approval via the Council decision making process before December 2020.
14. At the same time as starting work on the IFS, it is advisable that work also starts on a new Charging Schedule for BCP so there is a single document in place setting out the charging approach across the area. Charges across BCP are different depending on development types and areas and must be developed based on robust evidence on viability and infrastructure needs.

15. It is work that has to take place alongside the Local Plan in any event and therefore given that work has started on that, it is sensible to also formally start work on a CIL review. The charging schedule will also provide the opportunity to review any areas from the legacy charging schedules that require a change in approach based on local circumstances. A new charging schedule would take approximately 12-18 months to prepare and adopted following examination in public.

## **Part 2 - Governance Arrangements for Neighbourhood Portion CIL**

16. The legacy arrangements for NCIL are as follows:

- Bournemouth operates a ward system where the NCIL collected in the ward is allocated and ringfenced to be spent only in that ward. Ward councillors were responsible for submitting bids on behalf of their residents that are then determined by a decision-making panel made up of senior officers and portfolio holders. The Communities team manage the majority of the bidding process with the Planning team involved in the decision making.
- Christchurch area did not have a process set up at the time of Local Government Reorganisation. The former Christchurch Borough did, however, have two Parish Councils and work was focused on setting up the passing of the NCIL to them. The remaining Christchurch urban area was unparished and governance arrangements had not been established for the 15% NCIL collected for this area prior to formation of BCP. The 15% NCIL collected in the previously unparished area must be spent in what is now the Christchurch Town Council and Highcliffe and Walkford Parish areas. Therefore, it is appropriate for this 15% NCIL to be passed on to the Town Council and Highcliffe and Walkford Parish.
- Since LGR, virtually all of the former Christchurch area is now covered by Parish or Town Councils. Therefore, the process of NCIL in these areas will be straightforward going forward as NCIL collected in their areas will be passed over to the Parish and Town Councils.
- In the Poole area the NCIL was pooled into a single pot whereby communities outside of Neighbourhood Forum areas could submit bids for their projects. A cross-party member working party would meet to assess the bids with the final decision being taken by the Director for Growth & Infrastructure. The Planning Policy team manage the bidding process.

17. The legacy arrangements all remain in place until such time they are replaced by a BCP Council system. The Bournemouth decision-making panel met in November 2019 and the Poole working party will meet in February 2020.

18. In terms of adopting a BCP approach to NCIL, it is important to recognise that the allocation of NCIL will be different in the Bournemouth and Poole areas when compared with the Christchurch area. This is due to the coverage in Christchurch by Parish and Town Councils. As NCIL is required by law to be passed to Parish

or Town Councils then no specific allocation arrangements need to set up for Christchurch other than the actual process of releasing the relevant monies. These arrangements are being set up at the present time.

19. In respect of Bournemouth and Poole, officers from Planning and Communities have been working together to identify potential options for how BCP Council could operate NCIL. Whilst a number of options have been considered it is considered that members should introduce one of the two following options that are based on the legacy arrangements in Bournemouth and Poole:

**Option 1 –Ward-based model**

20. In this option each ward would retain the NCIL that was collected from development that took place in their ward area. This approach would retain a link between providing community projects where development happens.
21. It is proposed that the ward councillors will be responsible for working with their communities as well as council departments to submit bids that will be reviewed by a member panel made up of relevant portfolio holders. The final decision on the award of projects will be taken by the Director for Growth & Infrastructure subject to the thresholds in the Council's financial regulations.
22. The process for inviting and assessing bids will be developed between the communities and planning policy teams.
23. Where Neighbourhood Plans are adopted the relevant areas would then have the 25% NCIL ringfenced for use in those plan areas.

**Option 2 – Pooling model**

24. This approach would be to introduce a system whereby the NCIL collected across Bournemouth and Poole is pooled into a single pot that communities can then submit bids to seek funding for their local projects.
25. It is proposed that Council departments would also be able to submit bids for local infrastructure projects that meet community and corporate objectives and where they have engaged with and have the support of residents and ward councillors.
26. Ward councillors will be expected to support the bidding process for projects in their areas and providing liaison with their communities to identify local priorities that need NCIL funding support.
27. The pooling approach has the benefit of enabling communities to access greater sums of monies than if being limited to only what is collected in the ward and it could help with delivering larger projects with a greater community benefit. Recognition will also need to be given around the amount of development across the area to ensure infrastructure is being provided where needed.

28. As with Option 1, a member panel would be set up made up of the relevant Portfolio Holders to review the bids with the final decision made by the Director for Growth & Infrastructure in line with the thresholds in the financial regulations. The bidding process would need to be established in terms of how frequent the rounds would take place and explore opportunities to have different themes over the year.

#### Town and Parish Councils Neighbourhood Forums and Plans and NCIL

29. It is important to clarify how NCIL will operate in Town and Parish Council, Neighbourhood Forum and Neighbourhood Plan areas in conjunction with the wider NCIL scheme:

- Town and Parish Council areas – The legislation requires the NCIL 15% (that rises to 25% where the local council has adopted a Neighbourhood Plan) to be passed over to the relevant Town or Parish Council. This means that in Christchurch, NCIL will be passed directly to the Town and Parish Councils that cover that the former Christchurch Borough Council area. The 15% is subject to a cap of £100 per dwelling in the relevant area.
- Neighbourhood Forums (without a Neighbourhood Plan) – There is not a statutory requirement to ringfence the 15% NCIL collected in Neighbourhood Forum areas for their use. Therefore, the 15% NCIL will not be ringfenced for any Neighbourhood Forums that do not have a Neighbourhood Plan, and any NCIL collected in these areas will form part of the Council's NCIL scheme (either Option 1 or Option 2). However, Neighbourhood Forums without a Neighbourhood Plan in Bournemouth and Poole will be eligible to bid into the Council's NCIL scheme so will be able to access funding in the same way as other parts of the community.
- Neighbourhood Plan areas – Where a Neighbourhood Plan has been adopted 25% of the levy collected from development in a Neighbourhood Plan area is available for NCIL. The expectation is that the Neighbourhood Plan area has the 25% NCIL ringfenced for use in its area, and then would not then be part of the Council's NCIL scheme. Arrangements for how the Neighbourhood Plan areas access the NCIL will be confirmed in the set-up arrangements for the overall scheme and in accordance with the Council's financial regulations.

However, it is acknowledged that Neighbourhood Plan areas may want the choice to either retain their 25% for their own use or remain part of the Council's scheme. It is therefore proposed that Neighbourhood Plan areas are given the choice of 'opting in' or 'opting out' of the Council's scheme. Where the Neighbourhood Plan area opts 'in' to the Council's NCIL scheme, it would mean its NCIL would remain part of the central or ward pots (depending on which option is agreed), and where it opted 'out' the NCIL would be available for use only in that plan area but not be able to bid into the central pot.

The choice on whether to opt in or opt out of the Council's scheme will then need to be in effect for a prescribed amount of time i.e. 1, 2 or 3 years. The

Director of Growth & Infrastructure will confirm the time period for this as part of the setup arrangements.

#### Recommended Option and Implementation

30. Based on the success of a similar pooling system that operated in the former Poole scheme in engaging its communities and pooling funds together to deliver projects (over £2m of NCIL has been allocated), it is recommended that Option 2 is taken forward and introduced across Bournemouth and Poole. It allows communities that would otherwise not have money available to bid for funding to improve their areas and considered to be a fair and equitable approach.
31. Officers from planning and communities will prepare the set-up arrangements including updating the bidding guidance and clarifying how Council departments and Neighbourhood Forums can also bid for monies in a fair and equitable way. This will also include exploring more innovative arrangements for bidding and raising money from other sources such as crowdfunding to ensure the process is open and engaging.
32. It is proposed that the new system will be open for bidding from 1<sup>st</sup> October 2020. This provides over 6-months for a transition period whereby the legacy arrangements will remain in place for communities to access. From the 1<sup>st</sup> October 2020 all unallocated NCIL will be transferred into the new scheme.
33. It is also acknowledged that as more Neighbourhood Plans are adopted and the Council looks more widely at its governance arrangements, the NCIL system that it is brought in now will need to evolve over time. As a result, the NCIL arrangements will need be subject to annual review by the Director of Growth & Infrastructure to ensure they remain effective for the BCP area. Where a change is needed this will be subject to a future cabinet decision.

#### **Summary of financial implications**

34. CIL across the BCP area currently generates between £4m and £5m per annum. This is an important source of income for infrastructure at both the strategic and neighbourhood level. There is also up to 5% available to help fund the Council's expenditure on administration. There is a lot of work to be done in setting up a new BCP Neighbourhood Portion scheme as well as starting work on the Infrastructure Funding Statement and creation of a new Charging Schedule. This will need to be resourced going forward. At the present time there is budget available in the Local Development Framework Reserve to produce the IFS and a new Charging Schedule. It will be important to ensure this reserve is retained to enable the delivery of these projects.

#### **Summary of legal implications**

35. CIL is governed by the CIL Regulations 2010 (amended). All work that is undertaken will need to comply with the CIL Regulations.



### **Summary of human resources implications**

36. The Neighbourhood Portion element of CIL can be resource intensive. The final option that is chosen for NCIL will need to be supported by sufficient resources in both communities and planning.

### **Summary of environmental impact**

37. CIL collection can be used for a wide range of projects, many of which will deliver positive impacts to the environment.

### **Summary of public health implications**

38. CIL could help provide new public open space and improved paths, providing a positive effect upon public health.

### **Summary of equality implications**

39. It will be important to ensure that the final option for NCIL fairly represents all our communities with everybody having an equal opportunity to seek funding.

### **Summary of risk assessment**

40. CIL collection is dependent on market conditions. In this respect it will be prudent for projects to be funded in whole or in part by CIL to be based on realistic projections on CIL receipts.

### **Background papers**

Review of CIL Neighbourhood Portion in BCP.

### **Appendices**

None