

**Joint Report of: Director of City Development and the Deputy Chief Executive**

**Report to: Executive Board**

**Date: 11<sup>th</sup> February 2015**

**Subject: The Leeds Community Infrastructure Levy – Strategic and Neighbourhood Spending**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
		ALL
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

- Members are familiar with the development of the Community Infrastructure Levy (CIL) for Leeds, with the CIL Charging Schedule adopted by Full Council on 12<sup>th</sup> November 2014, for charging to commence on 6<sup>th</sup> April 2015. Central to the Vision for Leeds is the desire to ensure that the need for growth in jobs and housing is planned and delivered in a sustainable way, and that associated and necessary infrastructure is provided to help meet this Vision. Implementation of the CIL and gaining funding for infrastructure will also directly contribute towards the Best Council Plan objective of promoting sustainable and inclusive economic growth. The CIL will assist in meeting Leeds' priorities by generating some funding to help provide infrastructure while being at appropriate rates which will continue to attract investment, create jobs, and deliver new housing. In this way the CIL will be one of the delivery strands of the Core Strategy, and similarly will generate infrastructure funding from the development of sites identified in the emerging Site Allocations Plan. The CIL will be a part of the wider Council funding package that also includes aspects such as the New Homes Bonus and retained business rates, the City Region Infrastructure Fund and other public sector grants. It therefore links into the Capital Programme and so cannot be viewed solely as a stand-alone funding or infrastructure source.
- The Council has as yet not taken any decisions on the detailed spending of the CIL income, other than through the strategic level of the Council's approved 'Regulation 123 List'. Interest in spending including the balance between local and strategic

funds, has previously been expressed by Members (including Scrutiny Board), local communities, and a number of Services and infrastructure providers. Executive Board agreed (9<sup>th</sup> October 2013) to work in partnership with local councils, Area Committees (now Community Committees), and neighbourhoods to explore opportunities for maximising available resources through governance and implementation of the CIL spending to best meet their local needs. This has to be set against the need to streamline the process by using existing decision making structures where possible, and also the technical requirements of financial administration within the authority.

3. Within the parameters set out in the CIL Regulations this report therefore recommends approaches to spending, and the further consultation and engagement which is necessary to ensure that local communities are involved in receiving the benefits of the CIL income. It is necessary to identify and formalise the spending processes so that these can be shared with stakeholders and allow enough time for any consultation prior to receipt of meaningful levels of CIL income.
4. It is proposed that 5% of the CIL is retained for administrative costs, and that 15% 'meaningful proportion' of the CIL income is passed to local communities for spending as a neighbourhood fund, or 25% where they have an adopted neighbourhood plan. This should be passed over at 6 monthly intervals. Community Committees are proposed as best placed to direct spending of the neighbourhood funds for their areas where there is no parish/town Council, with the aim to maximise CIL resources by communities considering where income may be better pooled across areas.
5. The final proposal is that the Council's strategic portion of the CIL income should have priorities for its spending set on an annual basis as part of the Council's budget setting process.

## **Recommendations**

6. Executive Board is requested to agree:
  - i) The Council will retain 5% of the CIL to cover administration and implementation costs.
  - ii) 15% of CIL income to be the neighbourhood fund subject to the cap set in national regulations, or 25% in areas with an adopted neighbourhood plan.
  - iii) To retain the default timetable in the CIL Regulations for transferring the neighbourhood fund: 1<sup>st</sup> October to 31<sup>st</sup> March transferred by 28<sup>th</sup> April, and 1<sup>st</sup> April to 30<sup>th</sup> September transferred by 28<sup>th</sup> October each year.
  - iv) To continue to work closely with parish councils and other community groups and infrastructure providers, including through the Site Allocations Plan and Neighbourhood Planning, with the aim of shared infrastructure planning and maximising use of CIL resources.
  - v) To use existing Community Committee structures to direct spending of the neighbourhood fund.

- vi) For guidance/protocols to be established to ensure a consistent approach to defining the locality for spending and consultation purposes. Community Committees may then publish their own parameters for the spending of the neighbourhood fund in their area. This will need to include consultation and joint working with adjoining Committees to determine the approach to CIL spending from development that may occur on or near Committee boundaries, and with parish councils in recognising the control parishes have over the neighbourhood fund for their own parish.
- vii) That priorities for strategic CIL spend are decided on an annual basis as part of the Council's budget setting process, in line with the Regulation 123 List, and taking into account the impact of specific and cumulative infrastructure needs arising from new development.

7. Executive Board is requested to:

- viii) Note that the following steps will be undertaken in order to deliver the decisions of the Board:
  - a. The appropriate internal procedures will be put in place to set up the necessary systems for collection, distribution, and monitoring of the CIL income.
  - b. The timescales for the implementation of the decisions are that Leeds City Council will start charging the CIL from 6<sup>th</sup> April 2015 and so the necessary procedures will be in place from that date and ongoing.
  - c. The Chief Planning Officer is the officer responsible for implementation.

## **1 Purpose of this report**

- 1.1 This joint report from the Director of City Development and the Deputy Chief Executive proposes the key parameters for spending of the CIL income across Leeds, including the proportion given to local communities, governance and engagement arrangements for that proportion, and strategic spending principles.

## **2 Background information**

- 2.1 The Government's intention for the CIL is to specifically break the link between an individual development, and the infrastructure it funds, in order to provide pooled funds for strategic infrastructure necessary as a cumulative result of development. There is also a national requirement for a 'meaningful proportion' of the CIL revenue to be passed directly to local communities. The Council can determine how the CIL revenue will be split between these competing demands and what infrastructure projects to contribute towards. Alongside associated scaling back of S106s it should be noted that a number of services and infrastructure providers have asked to be involved in spending decisions, including in particular Parks and Countryside, Flood Risk Management, the Environment Agency, and the West Yorkshire Combined Authority.

- 2.2 In meeting the challenges associated with the Council's ambition for Leeds to be the best city in the UK, central to the Vision for Leeds is the desire to ensure that the need for growth in jobs and housing is planned and delivered in a sustainable way together with providing appropriate supporting infrastructure. The CIL income over the first two years from April 2015 is anticipated to be around £3.4m based on current housing completions, increasing to an average of £10.9m per year after 5 years based on full Core Strategy targets. Alongside affordable housing there is also expected to be a S106 'on-site' income of around £1m per year alongside the CIL, reducing down from the current average S106 £3.5m per year as extant planning permissions are built. These projections are inevitably subject to a number of caveats. The Council will need to account for income and expenditure through an annual report.
- 2.3 The CIL income clearly will not meet all the District's infrastructure needs but will provide an important contribution, and in that sense is no different to the current key mechanism of asking for S106 payments from new development which also does not pay for all the local needs. The Council has no choice but to work within the restrictions placed on it by the CIL Regulations. The CIL will be a key element of securing funding to deliver the Core Strategy ambitions, and for the strategic infrastructure projects which will be required alongside the development of new sites in the Site Allocations Plan. Adoption of the CIL is included as an objective in the Best Council Plan as part of promoting sustainable and inclusive economic growth.
- 2.4 The CIL becomes liable on the grant of planning permission, but is paid when development commences on site. Executive Board previously approved the instalments policy (17th September 2014) which phases payments over a longer period for larger sums.
- 2.5 There are a number discrete elements of CIL spending on which there are national guidance and regulations but where the final decision is essentially a matter for the Council. These are:
- The use of CIL funds to meet the costs of administering the CIL system;
  - The "meaningful proportion" to be spent locally and governance arrangements in non-parished areas; and,
  - Spending the remaining strategic CIL funds, including governance and priorities.

### **3 Main issues**

#### Administration costs

- 3.1 The Regulations allow the Council to retain up to 5% of the CIL receipts in the first three years to fund set up and ongoing costs, and 5% annually for ongoing costs thereafter.
- 3.2 It is therefore proposed that 5% of the CIL be retained for costs, subject to annual monitoring and reporting which will identify if costs are lower than 5% and redirect any surplus for strategic spend.

#### Neighbourhood Fund (meaningful proportion)

- 3.3 The Regulations require the percentages in the table below to be the minimum amount of the CIL income to be passed to local communities for spending as a

‘meaningful proportion.’ It varies depending on whether the area has an adopted Neighbourhood Plan, and whether the area is parished or not:

<p style="text-align: center;"><u>Parish Council area</u> without Neighbourhood Plan <b>15% of CIL income in that area</b> <b>capped at £100 per existing dwelling per year</b> given to parish council</p>	<p style="text-align: center;"><u>Parish Council area</u> with Neighbourhood Plan <b>25% of CIL income in that area</b> given to parish council</p>
<p style="text-align: center;"><u>Non-parished area</u> without Neighbourhood Plan <b>15% of CIL income in that area</b> <b>capped at £100 per existing dwelling per year</b> spent by LCC in consultation with that community</p>	<p style="text-align: center;"><u>Non-parished area</u> with Neighbourhood Plan <b>25% of CIL income in that area</b> spent by LCC in consultation with that community</p>

- 3.4 Even at this minimum level some communities will therefore receive substantial CIL funds from development in their area, especially those in the highest CIL residential charging zone, and/or where there is an adopted Neighbourhood Plan. This neighbourhood fund has to be spent on:
- “The provision, improvement, replacement, operation or maintenance of infrastructure; or,
  - Anything else that is concerned with addressing the demands that development places on an area” (CIL Regulations 59C and 59F).
- 3.5 There is therefore considerable discretion on how these local CIL receipts may be spent, which is wider than the Council’s strategic portion. However, the need for the sort of infrastructure that CIL is intended to deliver as a replacement for S106 (such as schools and greenspace) will remain a priority. It is important that the bulk of CIL receipts be retained to direct to these priorities and therefore appropriate that the meaningful proportion to be transferred for community use should be the minimum set in the Regulations.
- 3.6 It should be recognised that the neighbourhood fund will not be the only CIL spending in localities. Whilst some strategic spend will be on schemes of city wide significance such as NGT or flood alleviation, many projects will directly benefit the localities in which development generating CIL has taken place. The funding of a new school is a clear example, with new or extended school locations to be set out in the Site Allocations Plan in order to mitigate cumulative impact of new development sites. The balance of CIL spending will be a matter of priorities for the Council taking account of its decisions on other sources of funding for local infrastructure projects, and the different challenges and aspirations across the District.
- 3.7 It is therefore proposed that 15% of the total CIL income is directed into the neighbourhood fund (subject to the cap set in national Regulations), or 25% in areas with an adopted neighbourhood plan.
- 3.8 It is also proposed to retain the default timetable in the CIL Regulations for transferring the neighbourhood fund: 1<sup>st</sup> October to 31<sup>st</sup> March transferred by 28<sup>th</sup> April, and 1<sup>st</sup> April to 30<sup>th</sup> September transferred by 28<sup>th</sup> October each year.

- 3.9 To maximise the impact of the CIL communities need to be assisted with infrastructure planning and prioritisation of their neighbourhood fund, ideally complementing the decisions of the City Council. This will in particular require close and ongoing links with development of the Site Allocations Plan and Neighbourhood Plans. As some local communities will directly receive large sums from the CIL it would be entirely appropriate that they contribute some of those funds to help meet the key pressures from new development, for instance especially the need for school places, greenspace, and highways improvements. However, it is recognised that communities' priorities or projects may not be the same as the Council's. The message should be shared that under the current S106 system financial contributions are generally taken from larger new developments for education, greenspace improvement projects, and strategic public transport schemes, and therefore the CIL cannot be expected to fund these matters plus a wide and long list of other very local improvements, however desirable. New developments will also be subject to policies requiring necessary infrastructure on site such as greenspace and drainage/flood alleviation and access. Site specific impacts of new developments will therefore be mitigated.
- 3.10 Executive Board also needs to consider the Scrutiny Board recommendation for Scrutiny involvement in spending of the CIL income through forming a working group (Scrutiny Board Housing and Regeneration, 30th October 2012). The Scrutiny group was not established because until now the CIL work has focused on the technical issues in the Charging Schedule rather than on spending. The separate Scrutiny report 'Strengthening the Council's relationship with local Parish and Town Councils' (Scrutiny Board Safer and Stronger Communities, May 2013) also contained recommendations relating to a commitment from parish councils and Area Committees (now Community Committees) to work closely together for open and meaningful dialogue, and that "Area Leaders proactively work with local councils and Area Committees to identify opportunities for maximising available resources to best meet the needs of their local communities." For the reasons set out above it will be important that there is a continuing and constructive dialogue with parish and town councils to ensure that the local element of CIL funding is used to best effect to meet the infrastructure needs arising from development.
- 3.11 It is therefore proposed that the Council continues to work closely with parish councils and other community groups and infrastructure providers, including through the Site Allocations Plan and Neighbourhood Planning, with the aim of shared infrastructure planning and maximised use of CIL resources.
- 3.12 Where there is no town/parish council the "meaningful proportion" is retained by the Council but has still to be spent in the locality of the development generating the funds in consultation with the local community. Given that the Council has already put in place a Community Committee structure to manage activity at a locality level it is proposed that this be used for managing local CIL spend of the neighbourhood fund. What constitutes the locality of the development and the local community is not defined in the Regulations. The Council will need to put in place further guidance to ensure that there is transparency and consistency on these issues. Where neighbourhood plans are in preparation then the designated neighbourhood forum will provide one route for local consultation and it can be expected that the neighbourhood plan will identify local spending priorities.

- 3.13 It should be noted that some Committees can expect to receive little CIL funding in this way given that in some areas there will be limited development, and/or low CIL rates. For those Committee areas where all or the majority of their areas are parished there is still a useful role for the Committees to play in bringing parishes together to discuss maximising the benefit of the CIL income by thinking and planning strategically across the area.
- 3.14 It is proposed that guidance/protocols should be established to ensure a consistent approach to defining the locality for spending and consultation purposes. Community Committees may then publish their own parameters for the spending of the neighbourhood fund in their area. For instance, this could include how far away from the development site that generated the funds the money could be spent, taking into account local geography and use of infrastructure facilities. This will also need to include consultation and joint working with adjoining Committees to determine the approach to CIL spending from development that may occur on or near Committee boundaries, and with parish councils in recognising the control parishes have over the neighbourhood fund for their own parish.
- 3.15 These discussions need to consider that the CIL income will not be immediate on adoption of the CIL due to the time lags in submission of planning applications (including any sites which can only come forward after the Site Allocations Plan and any associated phasing), then delay until start on site, with larger payments via instalments, and then up to 6 months before LCC passes money over to communities.
- 3.16 Parish councils have to produce an annual report of their own CIL income and spending. They will therefore have political accountability if there is an urgent need for a particular infrastructure project but their CIL neighbourhood fund has been spent on another project, or for instance if it is spent on a project not identified as a priority in a Neighbourhood Plan or through another community agreed list. The Regulations also allow the City Council to 'clawback' any CIL money not spent within 5 years or not spent on appropriate infrastructure (as set out in 3.4 above). There is discretion in this for instance if a parish makes clear that it is purposefully 'banking' its amount of the CIL until it has collected sufficient to pay for a specific larger infrastructure scheme.

#### Strategic CIL Funds

- 3.17 After the administration cost and the neighbourhood fund is taken off, the majority of the CIL receipts (amounting to 70% or 80% depending on whether a neighbourhood plan has been adopted in the area of a development) will be retained by the Council. The CIL Regulations state that the Council "must apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area." The Council has discretion on how this money is used subject to it being directed to fund infrastructure of a type identified in the Regulation 123 list. It cannot be spent on affordable housing.
- 3.18 Currently the Council requires many larger developments to pay a pooled S106 contribution for greenspace, education, public transport improvements, and public realm if development is in the Holbeck Urban Village. After the 6<sup>th</sup> April 2015 these

S106 payments will no longer be possible in the same way. CIL Regulation 123 requires the Council to set out a list of those projects or types of infrastructure that it intends will be, or may be, wholly or partly funded through the CIL. In order to ensure that individual developments are not charged for the same infrastructure items twice, a S106 contribution or a S278 agreement cannot then be made towards an item already on the List. Executive Board agreed the Leeds Regulation 123 List on 17<sup>th</sup> September 2014.

- 3.19 Infrastructure spending by the City Council through the Capital Programme already requires identification of priorities as informed by a range of aspects including the Infrastructure Delivery Plan, Strategic Investment Board, and Member views (e.g. Executive Board, Community Committees and Ward Members). There needs to be more clarity on how these decisions will in future include the context of the CIL income, while recognising that the CIL is just one funding stream of many. There also needs to be a joined up approach to best maximise spend of extant S106 funds alongside the CIL. With the associated scaling back of S106s some Members and communities are concerned that local infrastructure will not get a fair share.
- 3.20 As an example, the Council's current Public Transport Improvements Supplementary Planning Document (SPD) (extant until 6<sup>th</sup> April 2015) requires major planning permissions to contribute funds via a S106 towards the list of public transport schemes in its Appendix 1. Once a trigger point has been reached (as defined by the S106) the developer will be invoiced. Transport Development Services holds a record of all the contributions secured and paid and a judgement on what they might be allocated to. The process for identifying new schemes is generally reactive whereby Transport Policy make contact about a new pipeline scheme or that a bid is being submitted, and request whether there is any developer funding available. The records then show what is currently or imminently available based on the scheme's location and the terms of the S106s and the SPD, balanced against competing needs, e.g. the NGT or Leeds Southern Station Entrance. If there are available public transport contributions S106 funds which can reasonably be used towards a scheme, then a report is taken to Planning Board to release the required amount.
- 3.21 The ongoing work on the Site Allocations Plan is considering which large sites may require significant on site facilities and be of sufficient scale to fund these through S106 obligations, as well as paying the CIL. This is likely to require future alterations to the R123 List and the CIL charging rates for those sites. With agreement by LCC applicants may also pay their CIL through passing over of land/infrastructure, although the Regulations set out that such infrastructure cannot be necessary to make the development acceptable in planning terms (i.e. it has to be unrelated to the specific site granted permission), and the use of this provision is therefore expected to be minimal.
- 3.22 There are many options for how strategic CIL spending might be organised. It would for instance be possible to agree at the outset that the strategic fund is split with an agreed percentage to be spent in the locality in which the funds are generated, and the remainder being allocated to strategic schemes of city-wide significance. The problem with this is that it lacks flexibility. The local proportion may be insufficient to fund a key infrastructure need, some areas will have significant development but raise little funding, and the ability to match with other funding sources may be limited.



There is also the uncertainty of when funds will be received from a particular planning permission, compounded by the agreement to phased payments.

- 3.23 On the other hand maximum flexibility is achieved if the strategic funds are retained as a central pot. This would enable funds to address needs arising from growth anywhere in the District, subject to compliance with the Reg123 list, and having regard to any identified infrastructure requirements or pressures arising from specific developments. The CIL could be used to part fund schemes where funding is available from other sources, including outstanding S106 funds and the CIL neighbourhood fund. With this approach the CIL spend could be agreed as a rolling annual programme as part of the budget setting process. This would enable the CIL spend to reflect corporate priorities and the actual funds available at the time.
- 3.24 It is anticipated that much of the agreed spending would be based in the general localities where the development occurred or caused infrastructure pressures, reflecting Members' views on priorities at the time. This could be expected to reflect in turn where significant development had taken place or was on-going as well as other funding sources. It would also enable Members to balance spend on LCC schemes with pressures for funding in other areas such as public transport or health. Flexibility enables the balance to vary year on year to respond to changing circumstances and the timing and location of developments and CIL income. A process for determining this strategic spending during the budget setting will need to be put in place, however, due to very limited CIL receipts in the first few months there is sufficient time for this to be considered further.
- 3.25 In terms of equality impacts there are pros and cons for both approaches. Ultimately, retaining as a central pot would then allow considerations of equality during the budget setting phase, which would encompass the potential situation where some areas may have had development take place which only generated little CIL (due to lower CIL rates or 'exemptions' such as for social housing or existing floorspace). Working closely with parish councils and local communities to identify shared priorities will also be a positive quality action.
- 3.26 Members should note that Services and providers such as Parks and Countryside and the West Yorkshire Combined Authority have also raised concerns that their income will be reduced or less certain compared to as gained currently through S106s. A number of Council services and infrastructure providers have also asked to be involved in CIL spending decisions, including Parks and Countryside, Flood Risk Management, the Environment Agency, and the Canal and River Trust.
- 3.27 It is therefore proposed that priorities for strategic CIL spend should be agreed on an annual basis as part of the Council's budget setting process.
- 3.28 Members should also note that CIL income will be limited in the first year or two of operation as much development will be based on applications that pre-date the CIL regime. Whatever the arrangements for spending the strategic CIL funds, Members may wish to consider 'banking' the first year's receipts so that decisions on spend only commence once a reasonable amount of funding is available.

## **4. Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The strategic overview for the CIL spending as set by the Reg123 List, has already been agreed by Executive Board following periods of consultation with internal and external stakeholders, and some of those raised comments relevant to the issue of detailed spending.
- 4.1.2 Draft versions of this Executive Board report outlining the multiple options for spending (and resulting in refinement to the final recommendations proposed) have previously been reviewed by City Development Directorate, Strategic Investment Board, and Corporate Leadership Team.
- 4.1.3 Sustainable Economy and Culture Scrutiny Board met on the 3<sup>rd</sup> February to undertake pre-decision scrutiny on this CIL report, in line with the Board's recommendation to the Executive Board in September 2013. This included an agreement that a member of the Housing and Regeneration Scrutiny Board would join for this piece of work. The Scrutiny Board has produced a separate report which is reproduced in Appendix 2 (to follow).
- 4.1.4 A number of Services, external infrastructure providers, and local communities will be affected by the way the CIL is spent no matter what parameters are placed on it. No further consultation is proposed with those bodies on the overall parameters, i.e. recommendations 1, 2, 3, and 7. However, recommendations 4, 5, and 6 are directly concerned with ensuring further involvement and influence on local CIL spending.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 A number of Equality, Diversity, Cohesion, and Integration Screenings were undertaken relating to the adoption of the CIL Charging Schedule, the latest being for Executive Board on the 17<sup>th</sup> September 2014. Those screenings identified that the consideration of most relevance to equality, diversity, cohesion, and integration will be relating to the choices to be made in spending the CIL.
- 4.2.2 A new Screening is attached as Appendix 1 of this report. The conclusions of the report are that there are no equality impacts that have not been given due regard or which are not planned to be mitigated through future work. A key element of the recommendations to Executive Board are concerned with ensuring that the governance structure for allocating CIL will be transparent and ensure that the allocation of funds to projects is undertaken in a fair and consistent manner. Crucially, this will include considerations of equality and cohesion within those decisions. Overall the CIL will be a benefit for the people of the District.
- 4.2.3 It is anticipated that much of the agreed spending would be locality based, reflecting Members' views on priorities at the time, and in turn reflecting views of their local communities. This is expected to reflect where significant development had taken place or was on-going as well as other funding sources. Flexibility enables the balance to vary year on year to respond to changing circumstances, and any

impacts (real or perceived) on equality. Annual monitoring of a number of elements of the CIL will be important in managing and responding to any real or perceived risks and any other implications on equality which have not been identified or addressed.

### **4.3 Council Policies and City Priorities**

4.3.1 The CIL is a process which local authorities can use, as supported by the CIL Regulations 2010 (and Amendment Regulations 2011, 2012, 2013, 2014). The CIL will be a document within the Local Development Framework. The intention to develop the CIL broadly reflects Council policies and City priorities in that it emphasises incentivising growth, both to the development industry and local communities. Adoption of the CIL will contribute funding towards infrastructure which will therefore directly support the Best Council Plan objective to promote sustainable and inclusive economic growth. In this way it is a delivery mechanism for the Core Strategy and the Site Allocations Plan.

### **4.4 Resources and Value for Money**

4.4.1 The implementation of the CIL in Leeds is expected to result in increased funding for infrastructure across the District overall, alongside the context of a forced reduction in the current use of S106s from April 2015 (via national Regulations).

4.4.2 Executive Board agreed in December 2011 to progress work on the CIL, including the release of the necessary funds. The Government recognises that costs will be incurred and so the Regulations allow up to 5% of future CIL receipts to be reclaimed for the CIL set up and ongoing administration costs. Recommendation 1 provides for this 5% to be retained to meet these costs.

4.4.3 Recommendation 2 provides the best value for money for the Council in retaining the maximum amount for strategic infrastructure spending, and the other recommendations allow for maximising value for money by encouraging communities to work with the Council and each other, for instance by further pooling across boundaries where appropriate.

4.4.4 The CIL Regulations state that the Council “must apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area.” The CIL from the neighbourhood fund has a slighter wider remit as it must support the development of the local area or any part of that area, by funding “(a) the provision, improvement, replacement, operation or maintenance of infrastructure; or (b) anything else that is concerned with addressing the demands that development places on an area.” This could therefore include affordable housing, or the costs of setting up a neighbourhood plan.

4.4.5 The Regulations set limits on spending of S106s, so after the 6<sup>th</sup> April 2015 income from only five or less S106 obligations can be pooled towards a specific item or type of infrastructure. Affordable housing S106s are exempt from this pooling and will

continue as at present; the Council's strategic CIL cannot be spent on affordable housing.

#### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The Community Infrastructure Levy Regulations (2010 as amended) set out that a charging authority can choose to charge the CIL on new development in its area. The Council has adopted its Charging Schedule and associated policies, and the period for a Judicial Review of that decision has now passed. From 6<sup>th</sup> April 2015 it will no longer be possible to secure S106s for District wide requirements such as greenspace, transport schemes, education, or the Holbeck Urban Village Public Realm.
- 4.5.2 This report is a key decision and is therefore subject to call-in following Executive Board.

#### **4.6 Risk Management**

- 4.6.1 The Council adopted the CIL on 12<sup>th</sup> November 2014 and charging is to commence on 6<sup>th</sup> April 2015. CIL income will not be immediate due to the time lag between permissions being granted after that date and their starting on site, therefore it is not imperative that all detailed spending decisions have been made by April. However, clearly in the interests of transparency and to allow for forward planning it is important to gain approval of the overall approach.
- 4.6.2 It is proposed that the CIL will be an income stream which is treated in a similar manner to other income streams within the Capital Programme, and thereby risk will be assessed and managed through the Council's standard financial management procedures as part of that process.
- 4.6.3 Officers will continue to work with local communities in giving advice on maximising and managing their CIL spending, including through developing neighbourhood plans and shared priority arrangements as appropriate. There is a risk that some local communities or groups will consider they should receive a larger proportion of the CIL income, and will be dissatisfied with the recommendations if they are approved. However, ongoing dialogue and working with them through for example neighbourhood planning, the Site Allocations Plan, and Community Committees (as per recommendations 4, 5, and 6) should help to mitigate this. The progression towards adoption of the Site Allocations Plan and therefore the increasing certainty on the amount of CIL which individual areas may generate will also help with this process.
- 4.6.4 There is a risk that some types of infrastructure or some areas may result in lower infrastructure spending than they have received through the previous (S106) system, but this can be mitigated through the annual priority setting, which will also consider the balance of other funding sources and development and infrastructure pressures.
- 4.6.5 Monitoring a number of elements of the CIL will be important in managing and responding to the risks identified above.

## **5 Conclusion**

- 5.1 The CIL will be one of the delivery strands of the Core Strategy and is a key part of delivering the Best Council Plan objective of promoting sustainable and inclusive economic growth. It will be a part of the wider Council funding package that also includes aspects such as the New Homes Bonus and retained business rates, the City Region Infrastructure Fund and other public sector grants. It therefore links directly into the Capital Programme and so cannot be viewed solely as a stand-alone funding or infrastructure source.
- 5.2 Within the parameters set out in the CIL Regulations this report considers the wide range of options available to the Council in spending the future CIL income. It is necessary to identify and formalise these arrangements. Recommended approaches to the spending are proposed, including the further consultation and engagement which is necessary to ensure that local communities are involved in receiving the benefits of the CIL income. The need to work with local councils and neighbourhoods to explore opportunities for maximising available resources has to be set against the need to streamline the process by using existing decision making structures where possible, and also the technical requirements of financial administration within the authority.
- 5.3 Therefore this report proposes that 5% of the CIL is retained for administrative costs, and that 15% 'meaningful proportion' of the CIL income is passed to local communities for spending as a neighbourhood fund, or 25% where they have an adopted neighbourhood plan. This should be passed over at 6 monthly intervals. Community Committees are proposed as best placed to direct spending of the neighbourhood funds for their areas where there is no parish/town Council, with the aim to maximise CIL resources by communities considering where income may be better pooled across areas.
- 5.4 The final proposal is that the Council's strategic portion of the CIL income should have priorities for its spending set on an annual basis as part of the Council's budget setting process, with no further restrictions/requirements other those required by the Regulations including the Council's Reg123 List.

## **6 Recommendations**

- 6.1 Executive Board is requested to agree:
- i) The Council will retain 5% of the CIL to cover administration and implementation costs.
  - ii) 15% of CIL income to be the neighbourhood fund subject to the cap set in national Regulations, or 25% in areas with an adopted neighbourhood plan.
  - iii) To retain the default timetable in the CIL Regulations for transferring the neighbourhood fund: 1<sup>st</sup> October to 31<sup>st</sup> March transferred by 28<sup>th</sup> April, and 1<sup>st</sup> April to 30<sup>th</sup> September transferred by 28<sup>th</sup> October each year.
  - iv) To continue to work closely with parish councils and other community groups and infrastructure providers, including through the Site Allocations Plan and

Neighbourhood Planning, with the aim of shared infrastructure planning and maximising use of CIL resources.

- v) To use existing Community Committee structures to direct spending of the neighbourhood fund.
- vi) For guidance/protocols to be established to ensure a consistent approach to defining the locality for spending and consultation purposes. Community Committees may then publish their own parameters for the spending of the neighbourhood fund in their area. This will need to include consultation and joint working with adjoining Committees to determine the approach to CIL spending from development that may occur on or near Committee boundaries, and with parish councils in recognising the control parishes have over the neighbourhood fund for their own parish.
- vii) That priorities for strategic CIL spend are decided on an annual basis as part of the Council's budget setting process, in line with the Regulation 123 List, and taking into account the impact of specific and cumulative infrastructure needs arising from new development.

6.2 Executive Board is requested to:

- viii) Note that the following steps will be undertaken in order to deliver the decisions of the Board:
  - a. The appropriate internal procedures will be put in place to set up the necessary systems for collection, distribution, and monitoring of the CIL income.
  - b. The timescales for the implementation of the decisions are that Leeds City Council will start charging the CIL from 6<sup>th</sup> April 2015 and so the necessary procedures will be in place from that date and ongoing.
  - c. The Chief Planning Officer is the officer responsible for implementation.

## **7 Background Papers<sup>1</sup>**

7.1 There are no background papers associated with this report.

## **8 Appendices**

Appendix 1 – Equality, Diversity, Cohesion, and Integration Screening

Appendix 2 - Sustainable Economy and Culture Scrutiny Board – CIL Spending Report (to follow)

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.