

**Report of Director of Resources and Housing & Director of City Development**

**Report to Executive Board**

**Date: 27 June 2018**

**Subject: The Leeds Community Infrastructure Levy – Investment of the Strategic Fund**

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**

1. The investment of the strategic fund for the learning places deficit for schools helps address the Best Council Plan priorities of Inclusive Growth and providing 21st Century Infrastructure. The investment of the CIL strategic fund promotes these priorities. The Council has progressed and adopted 'The Leeds Community Infrastructure Levy' (CIL), which has now been in place and applies to new development since April 2015 when it was adopted. This report relates to the investment of the strategic fund only. The CIL monies, held in the CIL strategic fund, will help to meet Leeds' priorities by using funds generated by CIL to provide infrastructure while being at appropriate rates which will continue to create growth, investment, create jobs, and deliver new housing.
2. Executive Board in February 2015 agreed that investment of the strategic fund will be determined by Executive Board as part of the Council's overall budget setting process, in line with the Councils Regulation 123 list and taking into account the impact of specific and cumulative infrastructure needs arising from new development.
3. The CIL Regulation 123 list sets out how CIL monies can be invested. This is the infrastructure list the Council approved on the adoption of the CIL. This specifies those infrastructure projects or types of infrastructure that the Council intends will be, or may be, wholly or partly funded through the CIL. There are restrictions set out in the CIL Regulations as to how the strategic fund can be invested.

4. The Community Infrastructure Levy Charging Schedule was implemented on the 6th April 2015 and applies to all relevant developments granted permission since then. CIL liability is payable on commencement of development rather than the granting of planning consent and this often has a long lead in period/ time lag before the Council receives any meaningful CIL receipts as a result. It has now been just over 3 years since development in Leeds has been liable to pay CIL. Consideration has been given to the Infrastructure Delivery Plan (IDP) and major planning application activity. Within this context it is recommended that sums accumulated be used as a contribution to the learning places deficit for schools and this was subsequently approved by Executive Board who agreed injections into the capital programme from the CIL strategic fund at its July 2017 and February 2018 meetings.
5. This report provides details of sums accumulated within the CIL strategic fund.

### **Recommendations**

6. Executive Board is requested to:
  - i) Note the investment of the CIL strategic fund, as set out in table 1, to contribute to the learning places deficit for schools;
  - ii) Note that the responsible officer for implementing the recommendation is the Chief Officer (Financial Services).

## **1. Purpose of this report**

- 1.1 The purpose of this report is to inform Executive Board of the sums accumulated within the CIL strategic fund, as set out in table 1, and how it is being invested.

## **2 Background information**

- 2.1 The Community Infrastructure Levy (CIL) was adopted in April 2015, since its adoption the CIL strategic fund has gradually been accumulating (as set out in table 1). The liability of CIL is triggered on commencement of development which can often be up to a couple of years after the grant of a planning permission. It is only now that significant and meaningful sums of monies have been accumulated. Whilst section 106 funds are closely associated with a specific development and are often directed towards specific types of infrastructure, CIL strategic funds are directed towards more strategic infrastructure priorities.

## **3. Main issues**

- 3.1 Executive Board (February 2015), made key decisions around spending of the future CIL income, directing it into two main funding streams, a strategic fund, and a neighbourhood fund, plus up to 5% for administrative costs. The neighbourhood fund is 15% in an area without an adopted Neighbourhood Plan, and 25% in an area with an adopted Neighbourhood Plan or with a Parish Council. In town and parish council areas it is to be passed directly to those local councils, as required by national CIL regulations. In non-parished areas or areas without a neighbourhood plan the decisions about spending the Neighbourhood fund are delegated to the relevant Leeds City Council Community Committees.
- 3.2 In relation to the strategic fund Executive Board (Feb 2015) set out that priorities for its investment will be decided on an annual basis as part of the Council's budget setting process, in line with the CIL Regulation 123 List, taking into account the impact of specific and cumulative infrastructure needs arising from new development. The investment of the CIL strategic fund is a Resources & Strategy led issue. Table 1 summarises the total strategic fund which has been collected since CIL was adopted up to 1<sup>st</sup> March 2018.
- 3.3 Executive Board in July 2017 agreed the investment of the first tranche of the strategic fund collected up to Nov 2016, which amounted to £685,434.61, to the learning places deficit for schools. Executive Board, in setting the Capital Programme at its February 2018 meeting, agreed a further injection of £5m across the capital programme period, from the CIL strategic fund for the learning places deficit for schools. Since the investment of the first tranche, an additional £3,821,719.21 has been generated as set out in table 1 and will be used to offset the £5m injection. These funds have been generated by the commencement of developments throughout Leeds which were granted permission following the adoption of CIL and largely consists of some larger developments which have generated larger sums. The amount of CIL payable depends upon the size, type and location of developments.

	<b>TOTAL STRATEGIC FUND PAID TO DATE</b>
<b>2015/2016</b>	<i>£101,502.58</i>
<b>2016/2017</b>	<i>£2,793,395.49</i>
<b>2017/2018 (1<sup>st</sup> March 2018)</b>	<i>£1,612,255.75</i>
<b>CIL Strategic Fund – Total Accumulated Sums</b>	<b>£4,507,153.82</b>
<b>Minus Strategic Fund already spent (July 2017)</b>	<i>£685,434.61</i>
<b>Balance left in Strategic Fund (1<sup>st</sup> March 2018)</b>	<b>£3,821,719.21</b>

Table 1

- 3.4 The purpose of the CIL strategic fund is to contribute to the costs of hosting development, not for the money to be substituted for general spending, for which funding streams should continue as at present. The levy has to focus on the provision and maintenance of infrastructure and should not be used to remedy pre-existing deficiencies unless those deficiencies will be made more severe by new development. Funds can be accrued to fund key items which are listed on the Regulation 123 list or passed onto any other body e.g. the Highways Authority. Investment of the strategic fund as such needs to take into consideration the restrictions set out in the Regulation 123 list. The Councils Regulation 123 list identifies both secondary and primary education as an infrastructure type however, primary provision does not extend to that triggered by large scale residential development identified in the Site Allocations Plan, as that is expected to provide primary schools either as an integral part of the development or as the result of no more than 5 separate planning obligations.
- 3.5 The approved CIL Regulation 123 list, specifies those infrastructure projects or types of infrastructure that the Council intends will be, or may be, wholly or partly funded through the CIL. This includes infrastructure such as green infrastructure, sustainable transport schemes, and education. In order to ensure that individual developments are not charged twice for the same infrastructure items, the CIL Regulations restrict section 106 planning obligations in respect of infrastructure listed on the CIL Regulation 123 list. Where the CIL Regulation 123 list includes a generic type of infrastructure (such as 'education' or 'transport'), section 106 contributions should not be sought on any specific projects in that category.
- 3.6 There are various options and pressures in relation to the investment of the strategic fund, such as competing demands for the monies from varying different types of infrastructure to include schools, public transport and flood alleviation. There are also pressures in terms of where the monies are spent geographically. The strategic fund can be invested on strategic infrastructure throughout Leeds and is not restricted geographically, however this can also mean that there is not necessarily a connection between development activity and where the strategic fund is spent. Whilst section 106 funds are closely tied to the local area around the relevant development and are often directed towards specific types of infrastructure, there is the potential to direct CIL funds towards more strategic infrastructure priorities.

- 3.7 Consideration has been given to major development. Some of this development activity will generate a need for education infrastructure. However smaller developments can also trigger smaller sums which can also accumulate CIL and pressure for infrastructure provision. CIL will not meet the total infrastructure needs as identified by the Infrastructure Delivery Plan (IDP). However CIL can, along with other funding sources, make a contribution to the delivery of infrastructure. The IDP identifies as far as possible currently planned infrastructure provision in the Leeds District, including the critical infrastructure necessary for the delivery of the Site Allocations Plan (SAP) and Aire Valley Leeds Area Action Plan (AVLAAP) within the context of the Core Strategy up until 2028. The Site Allocations Plan has now been submitted to the Secretary of State for Examination and is undergoing stage two examination in July this year. The IDP provides an overarching framework for other service providers' plans and programmes, to bring them into one place and to ensure that all providers are planning for the predicted locations of future growth as set out in the SAP and AVLAAP whilst also reflecting current infrastructure needs. Any future investment of the strategic fund will also need to reflect the continuing connection between the demands that development generates and investment of the monies. In addition future investment will need to take into account the impact of specific and cumulative infrastructure needs arising from new developments.
- 3.8 The Council continues to monitor the overall deficit in funding which will arise from the need for new school places. This takes into account the latest demographic projections for primary and secondary places, the existing capacity in schools and projected funding assumptions up to 2019-20. However, this calculation is primarily based on EFA funding rates, which is known to be insufficient to meet current scheme cost estimates. This does not include the cost for additional nursery and sixth form places where required. The need for additional places in these areas is likely to increase the funding gap. Executive Board, in setting the Capital Programme at its February 2018 meeting, recognised this funding gap of £71.7m as the largest significant pressure that the capital programme faces and as such agreed to cashflow the expected programme of works during 2018/19 by injecting additional funding of £25m; £20m of LCC Borrowing and £5m from the CIL strategic fund. Investment of the CIL strategic fund for the learning places deficit for schools is appropriate within the context outlined above.

## **4. Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 At previous stages of CIL the adoption of CIL has required consultation at key stages of the process. The charging schedule has also been the subject of public examination by an inspector.

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

- 4.2.1 An Equality, Diversity, Cohesion and Integration screening has been undertaken in considering the equality impact considerations of this report and due regard has been given. The recommendation proposes investment of the strategic fund to contribute to the learning places deficit for schools. This assists with the provision of vital infrastructure. In particular the key groups to benefit from this are young children who will directly benefit from the provision of schools.

### **4.3 Council policies and Best Council Plan**

- 4.3.1 The investment of the strategic fund for the learning places deficit for schools addresses the Council's policies, and in particular the Best Council plan aims of inclusive growth and providing 21<sup>st</sup> Century infrastructure.

### **4.4 Resources and value for money**

- 4.4.1 The investment of the strategic fund to contribute to the learning places deficit for schools provides value for money as it assists with the provision of vital infrastructure. 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."
- 4.4.2 The demand for infrastructure across Leeds is inevitably wide ranging and challenging, however CIL is only one component of the delivery of infrastructure within Leeds. The Infrastructure Delivery Plan (IDP) (Feb 2017) identifies other funding sources which can be used to deliver infrastructure.

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

- 4.5.1 The Community Infrastructure Levy Regulations 2010 (as amended) set out that CIL monies collected can only be used to fund (or part fund) infrastructure projects or infrastructure types specified in the Council's CIL Regulation 123 List.
- 4.5.2 The recommendations in this report are a key decision and are subject to call-in.

### **4.6 Risk Management.**

- 4.6.1 In order to ensure that individual developments are not charged twice for the provision of the same infrastructure, the CIL Regulations restrict section 106 planning obligations in respect of infrastructure listed on the Regulation 123 list. The use of the strategic fund should not be invested where a section 106 as part of a planning application has already been granted to ensure double charging does not happen.

## **5 Conclusions**

- 5.1 The CIL is a key part of the delivery of the Best Council Plan objectives of creating growth and resilient communities. This report notes the investment of the strategic fund for the learning places deficit for schools, this also provides linkages with the Capital Programme. Consideration has been given to the 'Infrastructure Delivery Plan' (IDP) (February 2017), and to the major developments since April 2015. Spend of the strategic fund for the learning places deficit for schools is recommended as the most appropriate investment of the strategic fund accumulated up to March 2018.

## **6. Recommendations**

- 6.1 Executive Board is requested to:

- i) Note the investment of the CIL strategic fund as set out in table 1 to be used to contribute to the learning places deficit for schools;
- ii) Note that the responsible officer for implementing the recommendation is the Chief Officer (Financial Services).

## **7. Background documents<sup>1</sup>**

7.1 None.

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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.