

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

Report to Executive Board

Date: 10 February 2021

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

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will the decision be open 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

1. Main issues

- In meeting the many opportunities and challenges associated with the ambition to be the best city in the UK, central to the Best Council Plan priorities is the desire for inclusive growth and provision of sustainable infrastructure (within the context of a climate emergency). The investment of the Community Infrastructure Levy (CIL) Strategic Fund promotes these priorities. The Council adopted 'The Leeds Community Infrastructure Levy' in April 2015, with CIL being the way in which monies from development are collected to be spent on Neighbourhood and Strategic Infrastructure. This report relates to Strategic Infrastructure only.
- The focus of the report is upon two main areas. Firstly to the investment of the CIL Strategic Fund in terms of spending priorities for the forthcoming financial year (2021/2022). The Strategic Fund, will help to meet Leeds' priorities to provide infrastructure to assist growth, investment, create jobs, and deliver new housing. A recommendation is made for the Strategic Fund to be prioritised for the Learning Places Programme for education for the forthcoming financial year. Secondly since CIL was adopted there have been national changes to the statutory legislation that governs CIL and thereby CIL processes which the Council is obliged by law to follow. An overview of these changes is outlined in the report, in particular how the changes relate to the Strategic Fund.

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

- The investment of the CIL Strategic Fund meets the Best Council Plan priorities of promoting inclusive growth and also the provision of sustainable infrastructure. The provision of infrastructure to support growth contributes directly to the ambition to be the best city in the UK.

3. Resource Implications

- The demand for infrastructure across Leeds is inevitably wide ranging and challenging, however CIL is just one component that contributes to the delivery of infrastructure within Leeds. The Infrastructure Delivery Plan (IDP) (2017) identifies other funding sources which can be used to deliver infrastructure. The Capital Programme report is also presented to this Executive Board and has linkages in relation to the investment of the Strategic Fund.

Recommendations

- a) Agree the spending priority for investment of the CIL Strategic Fund (financial year 21/22) for the Learning Places Programme, given the continued need in particular for secondary and SEN places.
- b) Note that the responsible officer for implementing the recommendation is the Chief Officer (Financial Services) and that, following agreement of the spending priority, the Chief Officer (Financial Services) will proceed to implement the recommendation under their delegated powers with the assistance of their delegated officers.

1. Purpose of this report

- 1.1 The purpose of this report is to seek Executive Board approval for the investment of the CIL Strategic Fund in terms of spending priorities for the forthcoming year and to align this with the Capital Programme. The report also provides an update on national legislative changes to the CIL process, in particular those that impact the Strategic Fund.

2. Background information

- 2.1 Executive Board (February 2015), made key decisions around spending of future CIL income, directing it into two main funding streams, a Strategic Fund, and Neighbourhood Fund, plus up to 5% for administrative costs. The amount of CIL payable is calculated on an 'incoming' application for development (where the development is such that CIL can be levied). Liability for payment is then assumed by the relevant party (most usually the developer or landowner) and a development becomes liable to pay CIL when chargeable development is commenced. is triggered on commencement of development. Whilst Funds secured by way of planning obligations (i.e. in s 106 Agreements) are closely associated with specific development proposals and are often directed towards specific types of infrastructure, however in comparison CIL Strategic Funds are directed towards more strategic infrastructure priorities.

2.2 It has now been over 5 years since chargeable development in Leeds has been liable to pay CIL. Since the CIL Charging Schedule was adopted, by Full Council (November 2014 and charges implemented from April 2015), it applies to all relevant developments granted permission from that date. Spending priorities for investment of the Strategic Fund, have largely focused around education and flood alleviation to date. This report considers spending priorities for the next financial year (21/22), and makes recommendations in the context of infrastructure need.

3. Main issues

3.1 In relation to the Strategic Fund Executive Board (February 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 '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. The Regulation 123 list, which set out a list of potential types of infrastructure that the Strategic Fund could be prioritised for has now been removed by national legislation, it is replaced by and the Infrastructure Funding Statement (IFS). The first Infrastructure Funding Statement was published in December 2020 ([link](#)), and sets out auditing information for the financial year 2019 to 2020, relating to CIL and developer contributions received via Section 106 Agreements, as well as forthcoming infrastructure priorities for the financial year 2020/21. The priorities identified for the previous financial year were for the Learning Places Programme and the Flood Alleviation Scheme.

3.2 Looking ahead to spending priorities for the financial year 21/22, there are various options and pressures relating to the investment of the Strategic Fund, such as competing demands from varying different types of infrastructure to include schools, public transport, transport projects, flood alleviation, climate change related projects, regeneration, health and response to Covid-19 projects to include responding to Local Centres and City Centre recovery. In addition 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. The purpose of the CIL Strategic Fund is to contribute to the costs of hosting development, not for the income to be substituted for general spending, for which funding streams should continue as at present. The CIL has to focus on the provision and maintenance of infrastructure the need for which arises as a consequence of development and should not be used to remedy pre-existing deficiencies (i.e. infrastructure shortfalls), unless those deficiencies will be made more severe by new development.

3.3 Consideration has been given to major development. Some of this development activity will generate a need for education infrastructure and a need for new school places. However smaller developments can also trigger smaller sums which can also accumulate as part of the CIL Strategic Fund and bring with them pressure for infrastructure provision. CIL will not meet the total infrastructure needs as identified by the Infrastructure Delivery Plan (IDP) (2017) ([link](#)). However CIL can along with other funding sources make a contribution to the delivery of infrastructure. It should be emphasised that it was never the Government's intention that CIL should cover the entire capital costs of all infrastructure but is a source of 'gap funding' to assist with priority infrastructure projects.

3.4 The IDP, identifies as far as possible currently planned infrastructure provision in the Leeds Metropolitan District, including the key infrastructure necessary for the delivery of the Site Allocations Plan (SAP) and Aire Valley Leeds Area Action Plan (AVLAAP) within the context of the overall scale and distribution of regeneration and growth set out in the Core Strategy. 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.

Table 1

Year	Learning Places Allocation	FAS Allocation
17/18	£5,685.4k	-
18/19	-	-
19/20	£5,000.0k	£3,000.0k
20/21	£9,700.0k	£2,700.0k

3.5 Since CIL was adopted the Strategic Fund to date has been allocated to the Learning Places Programme from 2017/18 and more recently (2019/20) to the Flood Alleviation Scheme. Table 1 above sets out Strategic Fund allocations to date. A total of over £20 million has been allocated to the Learning Places Programme and £5.7 million to the Flood Alleviation Scheme. Annual estimates forecast that on average £3-4 million per year is generated by the Strategic Fund.

3.6 Looking ahead to the next financial year, it is recommended that investment of the Strategic Fund for the Learning Places Programme for schools is appropriate within the context outlined above given the continued need for education. A significant amount of capital investment in school projects will continue to be needed in 2021/22 to meet the growing demand for learning places, particularly secondary and special education need (SEN) places. There is an identified need for 43.5 forms of entry (1,305 places) of secondary capacity to meet demand for September 2021 and a further 21.7 forms of entry (651 places) forecast to be needed for September 2022. This demand is primarily within the inner ring road area of the City. Proposals have also been brought forward to create new SEN provision for 2021 and 2022 at several education sites across the city, anticipated to create the hundreds of additional SEN places needed to meet rising demand.

3.7 In terms of need for Capital, the Capital Programme shows that planned expenditure for the financial year 21/22 is predominantly for secondary sector provision; this is directly related to previous primary sector growth (from previous years), which is now feeding through to the secondary sector. This is in addition to new housing generated growth. There has been a further delay to the opening of the Laurence Calvert Free School (Department for Education led scheme) on the former Middleton High School site and will now not open until September 2022 at the earliest. As a consequence, it is necessary to open Laurence Calvert Free School on a temporary site for September 2021 with an LCC funding contribution to the scheme and this will be the subject of a future Executive Board report. Secondly there is a continued need for SEN. This is driven by an increase in all 3 sectors which has had a consequential impact on need

for SEN places. In terms of the primary sector there is a small amount of growth in the sector in the City, this is because primary need has predominantly been met in previous years and the majority of remaining primary growth is directly linked with new housing. It is also important that ongoing investment programmes by Education are complementary to this proposed use of the Strategic Fund, These ongoing investment programmes are also set out in the Capital Programme report also before February's Executive Board.

- 3.8 Since CIL was adopted national reforms have been made to the CIL process. These changes have addressed infrastructure funding requirements by removing existing restrictions on the pooling of planning obligations towards a single piece of infrastructure. In addition the removal of Regulation 123 and introduction of the IFS came into effect from the 31st December 2020. The main areas required to be included in the IFS are a statement of the infrastructure projects or types of infrastructure which the Charging Authority (Leeds City Council), intends will be, or may be, wholly or partly funded by CIL ("the infrastructure list"); a report about CIL, in relation to the previous financial year ("the reported year"); and a report about s106 planning obligations, in relation to the reported year. Previous Regulations were also amended to improve the transparency around indexation, retaining the existing approach by indexing the Levy to the Building Cost Information Service's (BCIS) All-in Tender Prices Index to reflect changes in building costs in CIL rates.
- 3.9 The Government has more recently consulted on the 'The Planning White Paper; Planning for the Future' (with the consultation closing on 29th October 2020). The outcome of the consultation and details of any measures that will subsequently be implemented are awaited. However, reforms proposed included a reformed infrastructure levy set nationally based on development value which could combine both CIL and sections 106 planning contributions. Other proposals included making the Levy applicable to all uses (including Permitted Development), and allowing Local authorities to borrow against future levy revenues to forward fund infrastructure.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 At previous stages of CILs development and adoption consultation has been required at key stages of the process. The charging schedule has also been the subject of public examination by an inspector.
- 4.1.2 Strategic Investment Board (SIB) have considered the option for investing the CIL, in light of the CIL and other demands and made recommendation in relation to the investment of the strategic fund. SIB can approve governance and progress monitoring arrangements for programmes and projects with significant capital investment to ensure such risks are mitigated and managed.

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 provision of vital infrastructure. To date the key groups to benefit

from the allocation of the Strategic Fund are young children who have directly benefited from the provision of school places and all of the protected characteristics in relation to the Flood Alleviation Scheme.

4.3 Council policies and the Best Council Plan

4.3.1 The investment of the Strategic Fund addresses Councils policies (to include CIL policy requirements) and in particular the Best Council Plan priorities of Inclusive Growth and Sustainable Infrastructure'. The investment of the Strategic Fund addresses Councils policies (to include CIL policy requirements) and in particular the Best Council plan aims of inclusive growth and providing sustainable and resilient infrastructure. In addition the investment of the Strategic Fund meets the Leeds Best Council ambition of being an Efficient, Enterprising and Healthy Organisation by meeting the making the best use of our resources value.

Climate Emergency

4.3.2 The investment of the CIL Strategic Fund for education assists in creating sustainable infrastructure to promote inclusive growth which is climate resilient.

4.4 Resources, procurement and value for money

4.4.1 The investment of the Strategic Fund to contribute to strategic infrastructure 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 IDP (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 (Amendment) (England) (No. 2) Regulations 2019, set out that CIL monies collected can only be used to fund (or part fund) infrastructure projects. The recommendations within this report align with this statutory requirement and would bring about fulfilment of the same.

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 The recent Government consultation 'Planning White Paper', sets out proposals for the CIL process, the outcome of this is awaited, and may have implications for the Strategic Fund. CIL can be used to fund a wide range of infrastructure as set out 2012 and 2013 CIL Regulations. This flexibility gives local areas the opportunity to choose what infrastructure is needed to deliver relevant Development Plans. Local Authorities must spend CIL on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed. CIL can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development. The investment of the

Strategic Fund, is in line with these requirements set out in national planning legislation, in particular linking the IDP and IFS.

5. Conclusions

5.1 The CIL helps to deliver the Best Council Plan objectives of creating inclusive growth and providing strategic infrastructure (within a climate emergency). This report considers changes to national planning legislation and sets out future spending priorities for the investment of the Strategic Fund, this also provides linkages with the Capital Programme. In terms of future priorities, there is continued need for new school places and education infrastructure for the financial year 21/22. Investment of the Strategic Fund for the Learning Places Programme is recommended as the most appropriate investment, given the continued need in particular for secondary and SEN.

6. Recommendations

6.1 Executive Board is recommended to:

- a) Agree the spending priority for investment of the CIL Strategic Fund (financial year 21/22) for the Learning Places Programme, given the continued need in particular for secondary and SEN places.
- b) Note that the responsible officer for implementing the recommendation is the Chief Officer (Financial Services, and that, following agreement of the spending priority, the Chief Officer (Financial Services) will proceed to implement the recommendation under their delegated powers with the assistance of their delegated officers.

7. Background documents¹

7.1 None.

¹ 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.