

Decision Maker: **RENEWAL, RECREATION AND HOUSING POLICY DEVELOPMENT AND SCRUTINY COMMITTEE**

Date: **Monday 23 January 2023**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **COMMUNITY INFRASTRUCTURE LEVY: SPENDING**

Contact Officer: James Renwick, Infrastructure Delivery Team Leader
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Chief Officer: Assistant Director (Planning), Director of Housing, Planning, Property and Regeneration
Director of Housing, Planning and Regeneration

Ward: All Wards

1. Reason for decision/report and options

- 1.1 This report provides an update on the collection of the London Borough of Bromley Community Infrastructure Levy (CIL) and sets out a potential approach for spending of the 'neighbourhood proportion' (NCIL)
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2. **RECOMMENDATION(S)**

- 2.1 **That the Renewal, Recreation and Housing PDS Committee notes the 'key principles' to guide the appropriate expenditure of NCIL.**
- 2.2 **That the Renewal, Recreation and Housing PDS Committee notes the intention to convene a 'Neighbourhood CIL Spending Review Panel' to have an input on the expenditure of NCIL receipts**

Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
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Transformation Policy

1. Policy Status: Existing Policy: Policy 125 of the Local Plan
 2. Making Bromley Even Better Priority:
(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: BCIL
 4. Total current budget for this head: t.b.c – estimated to be £300k (of which £45k NCIL) by end of 2022/23
 5. Source of funding: BCIL Receipts
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Personnel

1. Number of staff (current and additional): 3ftes
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory Requirement: The Planning Act 2008 introduced legislation to allow the collection of a local Community Infrastructure Levy, with the Localism Act 2011 introducing a requirement to pass on CIL receipts to other persons.
 2. Call-in: Not Applicable: No Executive decision.
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Procurement

1. Summary of Procurement Implications: None
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Property

1. Summary of Property Implications: None
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: The Council secures improvements to Carbon Reduction and Sustainability measures as part of the award of planning permission. In some cases, where this cannot be met in the development design, alternative provision or the payment of an in-lieu contribution is made as a 'Carbon Offset Payment' through the use of Section 106 agreements. The Community Infrastructure Levy is a separate payment, that can be applied to a wide scope of infrastructure, which could include measures that address Carbon and sustainability issues that are not being secured via S106 agreements.
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Customer Impact

1. Estimated number of users or customers (current and projected): Community infrastructure Levy payments are potentially due on developments determined by the Council after 15 June 2021. The expenditure of CIL receipts is directed towards infrastructure required to, in the Council's judgement, enable or mitigate new development (in whole or in part) for the benefit of new and existing residents in the borough. The 'Neighbourhood Proportion' is specifically retained for expenditure on items raised as investment priorities by those who reside in the neighbourhood where CIL liable development has occurred.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 This report updates on matters discussed following a presentation given to Executive, Resources and Contracts PDS Committee on 26 January 2022 with respect to future CIL expenditure.

Background information

- 3.2 The Council introduced the Bromley Community Infrastructure Levy (BCIL) on 19 April 2021, which came into effect on new permissions granted on or after 15 June 2021.
- 3.3 BCIL becomes payable to the Council once liable development commences. Details of BCIL income and expenditure are required to be reported in the statutory annual 'Infrastructure Funding Statement' (IFS) which are published on the Council's website¹.

Bromley Community Infrastructure Levy: Update

- 3.4 The last published IFS, which covers the period from 01 April 2021 to 31 March 2022, reports BCIL income of £63,845. However, given that CIL was only in effect from permissions granted after 15 June 2021, and only payable on those permissions once they commence, the receipts exceeded officer predictions of nil income. Officers however predicted income of £300k during 01 April 2022 to 31 March 2023; current available data reports this will be met, with interim figures up to 04 November reporting £246k so far.
- 3.5 Under the CIL Regulations 2010 (pursuant to the Planning Act 2008, and Localism Act 2011), CIL Charging Authorities are required to retain a proportion of CIL receipts for 'neighbourhood expenditure (NCIL)'. The Regulations however only prescribe a direct requirement in respect of areas that contain Town / Parish Councils (as defined under Local Government Act 1972) – where 15% of receipts are directly transferred over (25% in the case of where there is a neighbourhood plan). The government does however expect those boroughs without such councils to adopt their own approach to achieve a similar effect. Any proposed use of CIL receipts as NCIL must support the development of the borough. This includes increasing the capacity of existing infrastructure and repairing failing existing infrastructure, if that is necessary to support development. NCIL does however benefit from CIL Regulation 59F – being that NCIL can also be spent on "anything else that is concerned with addressing the demands that development places on an area".
- 3.6 In broad terms, the expectation is that a sum of a minimum of 15% of the CIL receipts raised from development in a given 'neighbourhood' should specifically be dedicated to expenditure on infrastructure priorities raised by that 'neighbourhood'. Based on the predicted income of £300k by the end of 2022/23, this would provide a total NCIL pot of at least £45k. It is however predicted that BCIL should increase in revenues in the coming years, with the annual NCIL amount for 2023/24 projected to be at least £150k).
- 3.7 The term 'neighbourhood' is not defined in the Regulations, but most authorities - especially those who have only recently adopted CIL - interpret this to be the existing ward geography; some however have more recently adopted specific functional geographies (see appendix, which highlights approaches in other London Boroughs, and examples of the investments proposed to date).
- 3.8 However, national Planning Policy Guidance² does set out a clear expectation that the council should:

¹ <https://www.bromley.gov.uk/planning-policy/use-developer-contributions-bromley>

² Paragraph 145 - <https://www.gov.uk/guidance/community-infrastructure-levy#spending-the-levy>

“...engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding...set out clearly and transparently their approach to engaging with neighbourhoods using their regular communication tools... existing community consultation and engagement processes.....be proportionate to the level of levy receipts and the scale of the proposed development to which the neighbourhood funding relates.”

3.9 The total NCIL receipts highlighted above would vary significantly across each ward, especially during the early collection of CIL, where some wards may not see BCIL liable development implemented. It is important to note that, although there may be development ongoing in a number of wards, it is likely that such development was granted planning permission prior to 15 June 2021, and therefore does not carry a BCIL liability.

3.10 Based on BCIL receipts collected so far (to 04 November 2022), some wards have accrued noticeably more than others, while the majority have yet to see any NCIL income; however the distribution is expected to radically change over the coming years:

- Orpington and Mottingham have an estimated NCIL balance of circa £10k each
- Biggin Hill, Chislehurst, Petts Wood and Bromley Common circa £3k each
- Plaistow, Bickley, Crystal Palace and Chelsfield circa £1k each.

3.11 The remainder of the BCIL receipts (following deduction of NCIL and the 5% administration top-slice) is to be allocated towards existing committed infrastructure projects identified by the Council.

Spending Neighbourhood CIL in Bromley.

3.12 It is proposed that NCIL will be raised and spent in the ward that has generated BCIL receipts. The expenditure of CIL will however be an Executive function of the Council and is fully delegated to officers. Any expenditure of NCIL must follow any existing financial processes adopted by the Council. Elected members for the given ward should however be the principal advisor for selecting potential funding bids. Furthermore, to ensure officers are able to take advantage of members' local knowledge, it is recommended that a member panel (NCIL Spending Review Panel) should be formed to advise on individual proposals and to provide direction on overall process for use of NCIL funds. Officers will support the panel with any technical assessments it should deem necessary.

3.13 At present officers do not believe that a dedicated 'scoring' system is required, and that until such a time that revenues and proposed expenditure reach significant amounts (currently projected by the end of 2023/24), ward members should solely determine spend priorities. Officers will however provide ward members with regular updates on NCIL income in their ward and advise of any interest in accessing NCIL, e.g. from local groups or individuals.

3.14 Once NCIL reaches more substantial levels, the NCIL Spending Review Panel may wish to consider whether the Council adapts its approach to expenditure, in particular whether a more specific approach to determining local priorities with the local community is required – for example a consultation exercise or 'bidding rounds'.

3.15 Even without a dedicated 'scoring' system, it is important to establish some initial baseline principals for NCIL expenditure, ensuring that proposed investment represents value for money and adheres to the overarching priorities of the Council.

NCIL Spending – Key Principles

3.16 In determining whether to allocate NCIL to a particular project, officers consider that all proposals should:

- Not place any further revenue implications on the Council by way of ongoing operational or maintenance costs;
- Be consistent with the existing strategic priorities of the Council, particularly those set out in the Corporate Strategy, and not implement measures which would not normally be supported by the Council;
- Not request funding for measures that have a realistic potential to be delivered through other means;
- Be supported by sufficient evidence that any external parties to receive funds are bona fide and that sufficient assessment of risk has taken place (e.g. any requirement for statutory consents has been secured); and
- Require any parties that receive NCIL funds to sign up to a funding agreement, that will stipulate the terms of the funding and provide for monitoring data and potential refund of the sums if key deliverables are not met.

NCIL Spending Review Panel

3.17 This panel could:

- Meet on a quarterly basis (with the first meeting potentially in spring 2023);
- Note investment proposals and recommend the release of NCIL funds for projects put forward by ward members, as reported by officers;
- Receive updates from officers on emerging matters – such as the latest trends in NCIL collection and investment requests; and
- Be informed of the overall allocation of NCIL and advise of any changes to the allocation process.

3.18 Officers from relevant Council services (with respect to specific investment proposals) could attend to advise members.

3.19 Any panel formed should prepare terms of reference to provide clarity on how the panel will operate. Terms of reference could include nominated contacts from different Council services who could be asked to advise the panel where necessary. Further details on the make-up of the panel need to be agreed, such as the number of members and geographical / political proportionality.

Next Steps

3.20 This report has been prepared to allow for discussion by RRH PDS members. Following the RRHPDS meeting, officers will prepare a final proposal, for consideration by the Council's Executive in early 2023. Officers will report back to RRHPDS to update on NCIL progress.

4. TRANSFORMATION/POLICY IMPLICATIONS

- 4.1 Development Plan policies play a crucial role in defining the infrastructure requirements of the borough, with Policy 125 of the Local Plan (2019) setting out the Council's approach infrastructure investment from planning obligations (including CIL) and supports the Council's corporate priorities.
- 4.2 The Government sets out its expectation for Neighbourhood CIL expenditure in the National Planning Practice Guidance (NPPG)³.
- 4.3 A revised Supplementary Planning Document (SPD) on Planning Obligations was adopted by the Council in June 2022. The SPD provides non-statutory guidance on the Council's general approach to planning obligations, and where possible the requirements, and mechanisms for infrastructure contributions. The SPD also incorporates the implication of Community Infrastructure Levy (CIL) regulations which came into force on 06 April 2010. The use of NCIL however is specifically defined separately from BCIL as a whole, and as such can be spent without conflict to the balanced use of S106 agreements and CIL as reported in the SPD⁴.
- 4.4 The Council is required to report on CIL receipts and expenditure as part of the annual Infrastructure Funding Statement, which is published before the end of each calendar year on the Council's website⁵.

5. FINANCIAL IMPLICATIONS

- 5.1 This report recommends that the Renewal, Recreation and Housing PDS Committee notes the 'key principles' to guide the appropriate expenditure of NCIL, and notes the intention to convene a 'Neighbourhood Spending Review Panel' to guide the expenditure of NCIL receipts. As such, there are no direct financial implications arising from the contents of this report.
- 5.2 The last published IFS, which covers the period from 01 April 2021 to 31 March 2022, reports BCIL income of £63,845. Officers predicted income of £300k during 01 April 2022 to 31 March 2023; current available data reports this will be met, with interim figures up to 04 November reporting £246k so far.

6. LEGAL IMPLICATIONS

- 6.1 The panel would facilitate member involvement commensurate with the monies involved and maintain probity. At the same time it would not run the risk of contravening financial regulations. As an advisory body, the panel would not be subject to proportionality rules for membership, nor would meetings have to be held in public

Non-Applicable Headings:	Impact on Vulnerable Adults and Children, Transformation/Policy Implications, Personnel Implications, Procurement Implications, Property Implications, Carbon Reduction/Social Value Implications, Customer Impact, Ward Councilor Views
Background Documents: (Access via Contact Officer)	Infrastructure Funding Statement 2021/22 Bromley Community Infrastructure Levy Charging Schedule April 2021

³ <https://www.gov.uk/guidance/community-infrastructure-levy#spending-the-levy>

⁴ <https://www.bromley.gov.uk/planning-policy/planning-obligations-supplementary-planning-document>

⁵ <https://www.bromley.gov.uk/planning-policy/use-developer-contributions-bromley>