

Committee: Cabinet

Date: 19 September 2016

Wards: All

Subject: Community Infrastructure Levy, and Planning Application Validation Requirements

Lead officer: James McGinlay, Head of Sustainable Communities

Lead member: Councillor Martin Whelton, Cabinet Member for Regeneration, Environment and Housing

Contact officer: Tim Catley

Recommendations:

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1. Endorse approach to neighbourhood CIL governance and authorise public consultation on project themes
 2. Authorise delegated authority for the Director of Environment and Regeneration in consultation with the Cabinet Member for Regeneration, Environment and Housing to approve an updated planning application validation checklist for public consultation
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This item has been brought before Cabinet due to the need to secure its authority for various planning related matters.
- 1.2. The first of those matters relates to Merton's Community Infrastructure Levy (CIL) and the approach to spend 15% of the income called the "Neighbourhood Proportion" which has to be spent on priorities agreed between the council and communities where development occurs.
- 1.3. Sizable neighbourhood proportion funding has been raised so far in Merton—total £475,479.98 (as at 30 June 2016) and an additional £507k estimated within next 12 months subject to the health of the economy.
- 1.4. Given requirements surrounding CIL the council needs to formalise governance in terms of parameters for assessing bids, approach to public engagement to ensure that community support is an assessment criteria to ensure that the council's approach is transparent to how funding is allocated
- 1.5. The second matter relates to the information that needs to be submitted with planning application submissions that local planning authorities set out on what is called their "validation checklists". This is being updated to improve the processing of planning applications under updated London and Merton Local Plan requirements.
- 1.6. This report asks that Cabinet authorises delegated authority to the Director of Environment and Regeneration in consultation with the Cabinet Member for Regeneration, Environment and Housing to approve the requisite statutory public consultation of the draft updated checklist. The matter

requires Cabinet authorisation as it is for a public consultation that effects more than three wards.

2 DETAILS

Neighbourhood CIL

- 2.1. CIL is a levy charged by boroughs and the Mayor of London on property developers. Under the CIL Regulations boroughs can spend 80% of CIL income on strategic infrastructure projects and 5% on the costs of administering CIL. A summary of the position on the strategic pot is provided for information at para 2.10 below.
- 2.2. Under the CIL Regulations 15% of borough CIL income, called the Neighbourhood Proportion (NP), must be spent on local projects to support the demands development places on the area. Government Guidance states that local authorities should engage local communities and agree with them how to best spend this 15% of CIL income.
- 2.3. **Initial consultation was carried out in November 2014** to ascertain the type of projects neighbourhoods in Merton would like CIL to be spent on. The borough was divided into 5 areas for this initial public consultation through the Council's Borough Plans Advisory Committee and based generally on Merton's community forum boundaries. A map of these areas is provided at Appendix 1.

2.4. Available Neighbourhood CIL Funding (current + forecast)

- When the initial consultation was concluded in 2014 very little money had been received, which is normal in the first year or two following the introduction of CIL charges. The table below sets out how much we have received to end of June 2016 and how much money we estimate could be received over the following 12 months.

	Current (<i>+forecast income of unpaid liabilities</i>)
Total NP	£475,479.98 (+£507k)

- The forecast is predicated on a healthy economy in particular the housing development sector. While it is too early to change forecasts at the time this note was drafted, any downturn in the sector associated with Brexit or other factor may result in less development being built and smaller amounts of CIL income in the future.
- Given the level of funding now available and forecast there is pressure for the council to facilitate the appropriate expenditure of the funding on local projects and put in place the associated governance arrangements.

2.5. Spending the 15% NP – projects must:

- Address CIL statutory parameters: “address demands that development places on area” & community engagement (see “Flexibility” below)
- Be deliverable
- Not have unacceptable revenue implications on the council
- Level of governance allocated to support spend should be proportionate to the level of CIL receipts and scale of development

2.6. Flexibility – Community Engagement and the potential role of the council in project prioritisation

- The council has a degree of flexibility to decide where it wants to spend the NP.
- The CIL Regulations state that NP is to be used “to support the development of the local council’s area to address the demands that development places on the area”
- Government guidance on CIL states “Authorities should engage with the communities where development has taken place and agree with them how best to spend the NP”...“Crucially this consultation should be at the neighbourhood level and should be proportionate to the scale of CIL receipts and development. ...“Charging authorities should set out clearly and transparently their approach to engaging with neighbourhoods using their regular communication tools e.g. website, newsletters, etc.”.
- This flexibility for councils has resulted in a wide variety of approaches – see table below of what other London boroughs are doing.

What other boroughs are doing – wide variety of approaches

London Borough	Neighbourhood CIL Arrangements
Wandsworth	Have designated 6 neighbourhoods for CIL purposes. It appears that neighbourhood proportion received from development within specific neighbourhoods will be available to those specific neighbourhoods.
Lambeth	25% of CIL receipts will be spent via Co-operative Local Investment Plans (CLIPs) – there are 7 CLIP areas for all sorts of funding. Officers have stated that there could be one pot shared out as and when the projects in the investment plans come forward for implementation.
Croydon	Local community and amenity groups to suggest projects that neighbourhood CIL could be spent on. The Infrastructure Finance Group will manage this funding to ensure that over the course of a four year period each of the sixteen Places of Croydon (identified in the Croydon Local Plan: Strategic Policies) receive some investment.
Sutton	Still considering. Four options as follows:

	<p>1) local committees be allocated the local portion of CIL</p> <p>2) apply the local CIL funds to strategic priorities with guidance/prioritisation to be agreed with local committees</p> <p>3) a "mixed" approach viz. that some of the local CIL funds are spent on "local" schemes and some on "strategic" schemes</p> <p>4) to use this money to support community infrastructure across the borough e.g. affordable housing</p>
Hackney	It appears that the neighbourhood proportion received from development within specific clusters of wards will be available to those specific clusters. 5 Step Governance process including 2 stages of community engagement and corporate group proceeding on allocations based on the priorities identified by the clusters.
Redbridge	CIL Local Project Fund to which residents can bid for funding. Funding is allocated on a regional level or ward level depending on the scale of development providing the funding. Funding available in each area is published on the website.
Camden	The CIL funds collected in an area will be spent in that locality. Local priority lists for the investment of these funds will be developed over the next year in a process to be led by ward councillors.
Islington	Allocation is based on Ward Improvement Plans (WIPs) - local priorities for each of the 16 wards would be decided by the Ward Partnerships, led by the ward councillor.

Recommendation & Timescales

2.7. **The Recommended Governance Structure**

“Authorities should engage with the communities where development has taken place and agree with them how best to spend the NP” (Government CIL Guidance)

- Engage communities for the 5 areas identified for the 2014 consultation on themes (e.g. open space, education health etc...) that they would support. This approach (consulting on themes) is recommended over consulting communities on specific projects.
- The council pools the money into one single neighbourhood pot for the whole borough. The council adopts a Lambeth/Croydon style centralised approach by allocating neighbourhood funding to projects that fit within the themes supported by the local communities during the engagement exercises **where** and **when** the council consider projects are needed.
- Officers would supply specific project proposals that had already been consulted on (e.g. FutureWimbledon, Rediscover Mitcham, Raynes Park enhancement plan) and allow the council to concentrate its resources towards scrutinising bids for projects that are more effective in “addressing the demands that development places on an area.”

- It is recommended that some flexibility should be allowed where major development places specific demand on a defined area that cuts across boundaries.

2.8. **Alternative Options (rejected):**

- Spend the money from developments in the part of the borough where the developments were located. This could stretch council resources in having to manage a larger number of smaller projects across 5 different areas, potentially simultaneously, and on areas where the needs are not as great.
- The Council pools the money into one pot for the whole borough and treats the whole borough as one area in terms of community engagement, ignoring the five areas used for the initial consultation. This could help ensure that the council has maximum flexibility to spend the NP more effectively to address the demands of development, however would risk local communities feeling disengaged in the process.

2.9. **Recommended Timescales**

	2016/17	Reoccurrence
Cabinet – agree governance & consultation	September	
Consultation	Autumn	Every 2 years
Allocation – council projects	Following consultation	Ongoing

Note on Strategic Pot

2.10. **Strategic CIL – 80% of total (current + forecast)**

	<i>Current (+forecast income of unpaid liabilities)</i>
Strategic CIL total (as at 30 June 2016)	£2,535,893.25 (+£2.7m)

- Under the CIL Regulations this element of CIL funding is for strategic infrastructure projects required to support the development of the borough. A number of projects that were identified previously as likely to require strategic CIL funding, are now fully funded from alternative funding sources. Officers are currently working towards identifying projects as potentially qualifying for CIL funding as being required to support development set out in our Local Plan. Final allocations of the strategic pot will be agreed through the Capital Programme Board and the council's existing capital funding approval regime.

Validation checklist

- 2.11. All local planning authorities are required to publish a list of requirements that planning applicants have to meet when submitting planning applications. If authorities wish to amend this list it is required to consult the public on the proposed changes and consider comments it receives before adopting the list and implementing the changes.
- 2.12. So to improve the processing planning applications in Merton our validation checklist is in need of updating on various matters so that it reflects new planning policy in the London Plan and associated guidance and Sites and Policies DPD.
- 2.13. Most changes that are likely to be made to the checklist are minor and while an overhaul is proposed as to how the list is presented on our website the main change in terms of content will be with respect of submission requirements in connection with affordable housing requirements, specifically for information to be submitted to help the authority establish economic viability. This is in need of updated due to need to improve the robustness in the way that Merton processes financial viability submissions made as part of planning applications in accordance with adopted planning policy and guidance. The details supporting these amendments to the validation checklist is set out in the supplemental document “Affordable Housing Viability Report” at Appendix 2.
- 2.14. It is recommended that Cabinet authorises delegated authority for the Director of Environment and Regeneration in consultation with the Cabinet Member for Regeneration, Environment and Housing to approve the requisite statutory public consultation of the draft updated checklist. The matter requires Cabinet authorisation as it is for a public consultation that effects more than three wards, but otherwise the matter is purely relates the processing of technical matters under planning applications and adopted planning policy. Accordingly the final decision to approve the form of the draft checklist for consultation is appropriate for delegation.
- 2.15. Officers are currently putting together the draft updated checklist for consultation with the intention of consulting the public during Autumn 2016. The consultation would run for 4 weeks using the usual methods including the website, local press and direct written notification to contacts listed on Merton’s Local Plan consultation database.

3 ALTERNATIVE OPTIONS

- 3.1. Alternative options have been assessed with respect of the neighbourhood CIL recommendation – see paragraph 2.8 above.
- 3.2. If Merton continues without an up to date validation checklist the planning authority will be in a weaker position as far as being able to assess planning applications in terms as policy compliance within statutory timeframes.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. As detailed in the body of the report and supplemental documents

5 TIMETABLE

- 5.1. As detailed in the body of the report and supplemental documents

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The matters that are subject of this report involve planning proposals that if implemented would result in more effective planning decisions in support of development that will increase income and improve the reputation of the council as far as governance surrounding planning.
- 6.2. Included in this report is an outline of the approach to the utilisation of the CIL Neighbourhood Proportion. As outlined in the report the council has just under £0.5m of CIL held in relation to the neighbourhood portion of CIL. A detailed breakdown of this will be provided once the consultation on the principles of allocation is complete.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. In relation to CIL, legal and statutory implications are contained within the body of the report.
- 7.2. In relation to the validation checklist including updated information to support financial viability submissions [legal to add]

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. The proposals for CIL governance are in accordance with CIL Regulations and Government Guidance which ensure that CIL income is spent on projects that are required to support the development in the area with 15% of the income to priorities agreed with the communities where development occurs.
- 8.2. The other matter that is subject of this report is to set out the requirements for planning application submissions. So other than assisting the local planning authority to ensure that developments that it grants planning permission for are sustainable, there are no associated human rights, equalities or community cohesion implications associated with the implementation of these requirements.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. N/A

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. N/A

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix 1 – Map of Community Infrastructure Levy Neighbourhood Proportion areas
 - Appendix 2 – “Affordable Housing Viability Report”
 - Background papers
- 11.1. Community Infrastructure Levy Regulations 2010 (as amended) (especially Part 7 – Application of CIL)

- 11.2. [Government's Planning Practice Guidance on CIL \(especially paragraphs 71 to 87 – "Spending the Levy"\)](#)