

Southend-on-Sea Borough Council

Agenda
Item No.

15

Report of Corporate Director for Place

to
Cabinet
on

23rd September 2014

Report prepared by:
Amanda Rogers
(S106 and CIL Officer, Development Control)

**Community Infrastructure Levy (CIL):
Proposed Governance Framework, Draft Regulation 123 Infrastructure List,
and Draft Payment in Kind and Infrastructure Payments Policy
Place Scrutiny Committee – Executive Councillor: Councillor Assenheim**

1. Purpose of Report

- 1.1 To outline to the Members the proposed principles, structures and reporting for the governance, allocation and spending of future CIL receipts; and agree a draft Regulation 123 Infrastructure List, and draft Payment in Kind and Infrastructure Payments Policy.
- 1.2 As Pre-Cabinet Scrutiny, this report is to be considered by LDF Working Party on 11th September 2014 and an update will subsequently be provided to Cabinet in relation to this scrutiny.

2. Recommendation

- 2.1 That Members agree the following:
 - 2.1.1 **Agree the Proposed CIL Governance Framework as set out in Attachment 1;**
 - 2.1.2 **Based on the justification set out in Attachment 2, agree the draft Regulation 123 Infrastructure List as set out in Attachment 3;**
 - 2.1.3 **Agree the draft Payment in Kind and Infrastructure Payments Policy as set out in Attachment 4;**
 - 2.1.4 **To authorise the Corporate Director for Place, in consultation with the Portfolio Holder for Regulatory Services, to make minor amendments to the Proposed CIL Governance Framework, draft Regulation 123 Infrastructure List, and draft Payment in Kind and Infrastructure Payments Policy.**

3. Background

3.1 On 17th July 2014 Council agreed the following:

- That in accordance with the CIL Regulations 2010 (as amended), planning obligations under Section 106 (S.106) of the Town and Country Planning Act will continue after April 2015 to secure affordable housing and site specific mitigation measures; and
- To proceed to consultation on the basis of the proposal to have a nominal £10/sqm rate for “All other uses” and three Residential Charging Zones (£20, £30, £60/sqm) as outlined in paragraphs 3.14, 3.15 and 4.1, and amend the Preliminary Draft Charging Schedule (PDCS) accordingly; and
- To proceed to consultation on the basis of the documents appended to this report for the CIL consultation (subject to the amendment outlined above); and
- To proceed on the basis of the programme for the CIL consultation (as outlined in Appendix 1) in order to implement a Charging Schedule in 2015; and
- To authorise the Corporate Director for Place, in consultation with the Portfolio Holder for Regulatory Services, to make minor amendments to the CIL consultation documents in response to any recommendations made by the Planning Advisory Service; and
- To authorise the Corporate Director for Place, in consultation with the Portfolio Holder for Regulatory Services, to proceed to Draft Charging Schedule (DCS) and submission stage if no material modifications are required following the 6 week consultation for the Preliminary Draft Charging Schedule (PDCS).

3.2 Pursuant to this recommendation the public consultation in relation to the CIL Preliminary Draft Charging Schedule (PDCS) took place from 28th July 2014 to 8th September 2014.

3.3 To ensure that a more detailed draft Regulation 123 Infrastructure List (than that included in the PDCS) is in place in time for the next stage of public consultation (Draft Charging Schedule 6 week consultation November/December 2014), and a Governance Framework is in place well in advance of adoption, the following timetable is proposed:

Tue 23 September	Cabinet
Monday 13 October	Place Scrutiny
Thursday 23 October	Council

Proposed Governance Framework

3.4 Due to the transition from Section 106 planning obligations, it will be at least three years before annual CIL receipts are representative of future CIL income. However, there is a need to put in place a governance structure as

soon as possible to ensure a smooth transition between the two systems, which provides a framework for future CIL spend. The proposed CIL Governance Framework is set out in Attachment 1.

- 3.5 Paragraphs 3.10-3.13 of the Proposed Governance Framework included in Attachment 1 set out a proposal in respect of the Ward Neighbourhood Allocation. It is suggested that pursuant to authority delegated to ward councillors by Cabinet each July, in each ward the councillors agree between themselves a Funding Bid (outlining a neighbourhood project, which could benefit from the CIL Neighbourhood Allocation), which is then submitted to the Section 106 and CIL Officer by the end of September in the same year. And only if no agreed position is reached does the matter get referred back to Cabinet.
- 3.6 To ensure that projects suggested by members are feasible and consistent with corporate objectives it is also suggested that authority be delegated each year at Cabinet to the Director of Place (in discussion with the Portfolio Holder for Regulatory Services) to agree the Funding Bids submitted.
- 3.7 The pro forma for Funding Bids included in Appendix 2 of Attachment 1 makes it clear to ward councillors that the funds available must cover the total cost of a project i.e. including design, installation etc.

Draft Regulation 123 Infrastructure List

- 3.8 Attachment 2 includes a full list of infrastructure projects identified in the Infrastructure Delivery Plan (IDP) that are anticipated as being required to support the growth outlined in the Development Plan up to 2021. This list has been annotated to show the justification for including or excluding projects from the draft Regulation 123 Infrastructure List at this stage. The resulting draft Regulation 123 Infrastructure List is included in Attachment 3, and this list identifies those projects that may be funded in whole or in part by CIL receipts.
- 3.9 The draft Regulation 123 Infrastructure List attached in Attachment 3 has been written comprehensively to cover each infrastructure type within the Infrastructure Delivery Plan. A more specific list of prioritised projects that are to benefit from CIL receipts can be outlined in the proposed Infrastructure Business Plan (IBP) each year, which would be agreed through CMT and Cabinet.
- 3.10 It is proposed that the Regulation 123 Infrastructure List be reviewed annually to ensure it still reflects corporate priorities and it can be amended at any time if deemed necessary (subject to a 6 week public consultation and publication of a revised list). However, the draft list that is presented at the CIL examination must be similar to the list that is published on adoption of a CIL Charging Schedule.

Draft Payment in Kind and Infrastructure Payments Policy

- 3.11 Paragraphs 3.21-3.24 of the Proposed Governance Framework included in Attachment 1 outline the option for Southend Borough Council to accept the offer of land or infrastructure from developers (subject to independent valuation) to provide 'in kind' infrastructure from the Regulation 123 Infrastructure List in lieu of CIL payments. A draft policy in relation to this is included in Attachment 4, which will then be published when the Charging Schedule comes into effect.

4. Other Options

Proposed Governance Framework

- 4.1 An alternative option in respect of the Proposed Governance Framework is that each year Cabinet members or Council officers decide on how the 15% Neighbourhood Allocation should be spent. However, this option is not recommended as it would be contrary to the localism agenda, the objective of which is that decisions that affect a neighbourhood originate at the local level. It is deemed appropriate that it is ward councillors who suggest local projects upon which the CIL Neighbourhood Allocation funds can be spent, as they are continually liaising with residents and have local knowledge in respect of neighbourhood needs.

Draft Regulation 123 Infrastructure List

- 4.2 As currently drafted, the Regulation 123 Infrastructure List only excludes projects proposed by external infrastructure providers (for as CIL funds are limited, the Council is likely to wish funds to be directed to projects that Southend Borough Council are seeking to deliver before offering funds externally); and those with no information in relation to costs (as it is seen to be sensible to direct CIL funding to projects that are more advanced in terms of their delivery plan). This is seen to be more sensible than including every project identified with the Infrastructure Delivery Plan (IDP).
- 4.3 Alternatively, a list including only a few projects could be published but this option is also not recommended as priorities are continually changing. One advantage of producing a Regulation 123 Infrastructure List that is not too specific is that it will need less frequent revisions that would cause delay to infrastructure delivery due to the need for public consultation. In addition, as significant CIL receipts will not be realised immediately upon adoption of a CIL Charging Schedule it is considered more appropriate to produce a more specific list of prioritised projects that are to benefit from CIL receipts in the proposed Infrastructure Business Plan (IBP) each year, which would be agreed through CMT and Cabinet.

Draft Payment in Kind and Infrastructure Payments Policy

- 4.4 The alternative option in this respect is to not accept payments 'in kind' instead of cash CIL payments. However, this option is not recommended as it would limit the Council on large strategic site where a developer may be able to provide better value for money by providing the infrastructure on behalf of the Council. It is considered that the Council and residents will receive a

better outcome in terms of infrastructure provision by accepting payments in kind, subject to the conditions set out in the draft policy.

5. Reason for Recommendation

- 5.1 To ensure that the proposed principles, structures and reporting for the governance, allocation and spending of future CIL receipts; a draft Regulation 123 Infrastructure List; and a Payment in Kind and Infrastructure Payment Policy are in place in sufficient time to avoid any delay to the adoption of a CIL Charging Schedule. This will enable the Council to collect contributions from developers through the Community Infrastructure Levy (CIL) to fund community infrastructure to support development.

6. Corporate Implications

6.1 Contribution to Council's Vision & Corporate Priorities

If the Council secure CIL income it will be spent on community infrastructure that supports development in the Borough (as defined in the Council's agreed Regulation 123 List). As such, this will support a number of the Council's Corporate Priorities, including creating safer, cleaner, healthier and more prosperous communities. Pursuing CIL is therefore considered to be a key corporate priority and as such is included in the Service Plan for Planning & Transport.

6.2 Financial Implications

CIL income will not be realised immediately upon adoption of a CIL charging schedule as there will be a number of extant planning permissions granted prior to a CIL Charging Schedule being in place. However, by 2018 it is projected that the average annual CIL income will be approximately £429,000.

6.3 Legal Implications

All procedures in relation to the CIL consultation, set-up, implementation, collection and reporting must adhere to the Community Infrastructure Levy Regulations 2010 (as amended).

6.4 People Implications

It is anticipated that CIL will not require additional staffing; however, during the consultation and examination stages specialist consultants will be required to assist in assessing the viability of the Charging Schedule.

6.5 Property Implications

Any effect on the Council's existing property assets has been taken into consideration, for if the Council develop within the Borough the development may be CIL liable. It is considered that CIL should have a negligible impact on Council assets.

6.6 Consultation

Stakeholder engagement to date

The IDP covers a full range of categories of infrastructure. During the drafting of the IDP key internal stakeholders (including Corporate Directors/Heads of Service/Group Managers and other relevant officers) and external infrastructure providers have been given the opportunity to provide information relating to infrastructure projects. In addition, as part of the “Combined Policy Viability Study” produced for SBC in September 2013 a workshop was held with key stakeholders to provide opportunity to comment on the appraisal methodology and inputs to the study. These comments were reflected in the September 2013 study, which has informed the CIL Viability Study. A Developers’ Forum also took place on 13th August 2014 to engage the development industry in the PDCS consultation.

Statutory public consultation

Following consultation on the PDCS (28th July – 7th September 2014), a Draft Charging Schedule (DCS) will be produced taking into account consultation responses. The DCS will also then be subject to a 6 week public consultation period followed by a Public Examination before adoption of a CIL Charging Schedule.

6.7 Equalities and Diversity Implications

The CIL Charging Schedule, IDP and revised SPD2 will address how CIL income and the continuation of s.106 planning obligations as appropriate will contribute towards infrastructure and other community needs made necessary by development thus taking into consideration issues of equality and diversity.

6.8 Risk Assessment

If appropriate governance arrangements (including clear policy guidance) is not put in place the Council may be at risk of complaints in respect of how CIL is applied and funds are spent; and ultimately there is a risk that CIL funding will not be used in an effective way as a source of funding to help deliver infrastructure to support growth.

6.9 Value for Money

If developers provide for the impact of development through CIL and planning obligations, the Council will not incur the cost for additional community infrastructure needs. The CIL Charging Schedule and Planning Obligations SPD are an important means of ensuring value for money for the wider community from development.

6.10 Community Safety Implications

Providing for community safety in development and its setting is one of the considerations with regard to preparing items on the Regulation 123 List and

planning obligations. For example, the Council may request improvements to the public realm aimed at designing out crime.

6.11 Environmental Impact

If measures are put in place to improve communities then this can have a positive environmental impact.

7. Reference Documents

The Community Infrastructure Levy Regulations 2010
The Community Infrastructure Levy (Amendment) Regulations 2011
The Community Infrastructure Levy (Amendment) Regulations 2012
The Community Infrastructure Levy (Amendment) Regulations 2013
The Community Infrastructure Levy (Amendment) Regulations 2014
Report to Cabinet dated 18th June 2013
Report to Cabinet dated 1st July 2014

8. Attachments

- 1) Proposed Governance Framework
- 2) Full list of infrastructure projects from IDP
- 3) Draft Regulation 123 Infrastructure List
- 4) Draft Payment in Kind and Infrastructure Payments Policy

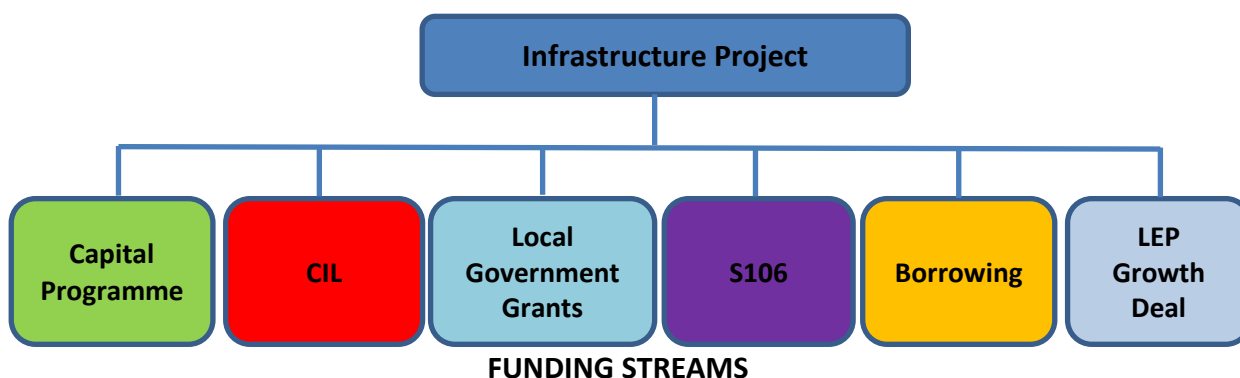
Attachment 1: Proposed CIL Governance Framework

Community Infrastructure Levy (CIL)

Proposed Governance Framework

1 Context

- 1.1 It is anticipated that Southend Borough Council's CIL Charging Schedule will come into force in June 2015 and therefore the proposed reporting and spending arrangements will be operational from the end of April 2016 onwards (as the reporting year must relate to the financial year).
- 1.2 Development presently being constructed and proposals already with planning permission will not be CIL liable. Therefore, there will be a transitional period between the new and old systems and it is not expected that there will be standard annual CIL receipts until Year 4 of implementation (2018/19).
- 1.3 CIL is just one funding stream that can be used in conjunction with others to fund infrastructure projects. See examples of other funding streams in the diagram below.



- 1.4 Although the priority to date has been to devise the policy and set up processes to collect CIL, there is a need to formalise future governance arrangements for CIL spend/allocation.

2 Statutory Requirements

- 2.1 As Charging Authority, Southend Borough Council is responsible for determining CIL spend. The statutory guidance states that Charging Authorities should work closely with County/Town/Parish Councils in setting priorities on how CIL is spent. In the context of Southend, this would include Leigh Town Council.
- 2.2 Each year, 15% of CIL receipts will need to be spent on locally determined infrastructure in areas where development takes place – this is referred to below as the 'Neighbourhood Allocation' (up to a maximum of £100 per existing Council Tax dwelling). This will rise to 25% for those areas with an adopted neighbourhood plan in place but there are currently no Neighbourhood Plans in place in the Borough. As Leigh Town Council (LTC) is a Parished area 15% of CIL receipts from developments

within the boundary of the Town Council must be passed to LTC. In the non-Parished areas the Neighbourhood Allocation is held by the Council for spending on local neighbourhood infrastructure projects. A further 5% of CIL receipts can be retained by Charging Authorities for administrative costs.

- 2.3 As part of producing the CIL Charging Schedule, there is a requirement to produce a list (Regulation 123 Infrastructure List) of infrastructure projects or types that may be funded in whole or in part by CIL (although this list does not apply to the Neighbourhood Allocation). This list will be reviewed annually and can be amended following local consultation.

3 Governance Proposals

- 3.1 The proposed governance framework for CIL is set out in Appendix 1, which shows in diagrammatic form the spending and reporting arrangements that would in place from April 2019 onwards (i.e. at the end of the first financial year that it is anticipated that CIL receipts will be representative of future years' income due to the likely 'lag' period between June 2015 and June 2018 as extant planning permissions granted prior to CIL are implemented).

CIL Annual Report

- 3.2 There is a requirement for Southend Borough Council (SBC), as a Charging Authority, to prepare an annual report detailing CIL receipts, balances and spend for each financial year. Leigh Town Council (LTC) will also have to produce a similar annual report relating to their Neighbourhood Allocation; however, as this is not required to be provided to SBC until 31st December 2016, is proposed that the first SBC CIL Annual Report excludes LTC CIL Annual Report but from April 2017 onwards will be incorporated.

Estimated CIL receipts

- 3.3 It is anticipated that after the 'lag' period outlined in paragraph 3.1 CIL receipts will average £428,760 per year if development continues at same pace as the last 3 years. Therefore, up until the end of the plan period 2021 the projected CIL income is as follows:

2018/19	2019/20	2020/21	
£428,760	£428,760	£428,760	TOTAL: £1,286,280

Including:

Neighbourhood Allocation of 15%: £192,942 (£64,314/year)

Administration costs up to 5%: £64,314 (£21,438/year)

These figures are broad estimates based on an average floor area for new dwellings, and affordable housing provided at 20%. CIL receipts will be affected by a number of other factors, which are more difficult to forecast, such as pace of development, new CIL relief for self-build dwellings and windfall development. The estimated annual Neighbourhood Allocation (i.e. projected annual CIL receipts by ward) is shown in Table 1.

Table 1: Estimated/projected annual CIL receipts by ward

Ward	% of total Dwelling Completions by Ward between 2001 and 2012 ¹ :	Total estimated/projected CIL receipts by Ward (£/year) ²	15% Neighbourhood Allocation (£/year)
Belfairs	2%	8,078	1,212
Blenheim Park	2%	8,078	1,212
Chalkwell	6%	24,235	3,635
Eastwood Park	2%	8,078	1,212
Kursaal	16%	64,627	9,694
Leigh	5%	20,196	3,029
Milton	12%	48,470	7,271
Prittlewell	5%	20,196	3,029
Shoeburyness	16%	64,627	9,694
Southchurch	7%	28,274	4,241
St Laurence	1%	4,039	606
St Luke's	4%	16,157	2,424
Thorpe	3%	12,118	1,818
Victoria	11%	44,431	6,665
West Leigh	3%	12,118	1,818
West Shoebury	1%	4,039	606
Westborough	4%	16,157	2,424
TOTAL		403,920	60,590

Neighbourhood Allocation (Leigh Town Council)

- 3.4 15% of CIL receipts from development in Leigh Town Council (LTC) boundary will be transferred to LTC. If agreed with LTC it is proposed to transfer their Neighbourhood Allocation annually at the end of each financial year. However, in the absence of such an agreement, CIL Regulation 59D specifies that the neighbourhood portion of levy receipts must be paid every six months, at the end of October and the end of April.

¹ Figures based on Annual Monitoring Report 2012 (if development continues at same pace as last 3 years, an average of 187 dwelling will be completed each year, deducting 20% affordable housing as non-CIL liable); and therefore the estimated/projected annual residential CIL receipts 2018/19 onwards will be **£403,920** based on average dwelling size of 72sqm and average CIL rate of £30/sqm.

² Includes **projected annual residential CIL receipts** only as no ward breakdown details for commercial uses; projected annual commercial CIL receipts amount to an additional £24,840.

3.5 Wards that fall, in whole or part, within Leigh Town Council (LTC) boundary are highlighted in Table 1 above; and the annual allocation to LTC is estimated as follows:

Ward	Estimated annual CIL amount allocated to LTC	Estimated annual CIL amount responsibility of SBC Ward Members
Leigh (100% of ward within LTC boundary)	£3,029	£0
West Leigh (100% of ward within LTC boundary)	£1,818	£0
Belfairs (approx. 12% of ward within LTC boundary)	£145	£1,067
Blenheim Park (approx. 21% of ward within LTC boundary)	£255	£957
TOTAL	£5,247	-

3.6 As can be seen from the table above, two wards (Belfairs and Blenheim Park) are not wholly within the LTC boundary. Therefore, any CIL receipts relating to development outside LTC boundary within Belfairs and Blenheim Park will be the responsibility of the relevant SBC Ward Members.

3.7 The Neighbourhood Allocation of the levy can be spent on a wider range of projects than the rest of the levy, provided that it accords with CIL Regulation 59C to “support the development of the local council’s 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.

For example, the ‘pot’ could be used to fund environmental improvements or affordable housing.

3.8 CIL guidance recommends that Parish, Town and Community Councils discuss their priorities with the Charging Authority during the process of setting the levy rates. And once the levy is in place, Parish, Town and Community Councils are recommended to work closely with the Charging Authority to agree on infrastructure spending priorities. If the Parish, Town or Community Council shares the priorities of the Charging Authority, they may agree that the Charging Authority should retain the neighbourhood funding to spend on that infrastructure. It may be that this infrastructure (e.g. a school) is not in the Parish, Town or Community Council’s administrative area, but will support the development of the area. If over the next couple of years LTC choose not to manage their Neighbourhood Allocation, this proposed governance framework will be amended accordingly.

3.9 If LTC does not spend its levy share within five years of receipt, or does not spend it on initiatives that support the development of the area, the Charging Authority may require it to repay some or all of those funds to the Charging Authority (see Regulation 59E(10) for details).

Neighbourhood Allocation (Wards outside LTC boundary)

3.10 In the non-Parished areas, the 15% Neighbourhood Allocation must be held separately by the Council. As set out in the CIL Charging Schedule, the Council will engage with the relevant communities at ward level to establish local infrastructure priorities.

3.11 The spending criteria referred to in paragraph 3.7 above also apply to the Ward Neighbourhood Allocation across the Borough.

3.12 It is proposed that when the CIL Infrastructure Business Plan (IBP) (see below for further details) is presented to Cabinet each July ward councillors would be delegated authority to agree on neighbourhood project(s) that their Ward Neighbourhood Allocation could be spent on. Upon agreement between themselves, ward councillors would be invited to submit a formal CIL Funding Bid (see Appendix 2) to the Council's Section 106 and CIL Officer.

3.13 If ward councillors cannot agree a Funding Bid for how their Neighbourhood Allocation is to be spent by the end of September following July's Cabinet, it is proposed that the project options be referred back to Cabinet to make the final decision. If, however, no decision is made then the funds would be rolled over to the next financial year up to a maximum of 5 years (consistent with the time period LTC have to spend their Neighbourhood Allocation).

NOTE: The Neighbourhood Allocation arrangements will be updated and amended should any Neighbourhood Plans be adopted across the Borough.

Infrastructure Business Plan

3.14 It is proposed that the Council produce an Infrastructure Business Plan (IBP) which is updated and agreed annually. The CIL Annual Report would be appended to the IBP, which will:

- Identify the projects from the Regulation 123 Infrastructure List that will benefit from CIL receipts;
- Set out the process and criteria for the prioritisation of infrastructure;
- Set out the process for CIL funding and future updates;
- Identify other funding sources;
- Set out a cash-flow and spending plan;
- Review the infrastructure projects contained within the Regulation 123 Infrastructure List and update if necessary.

- 3.15 It is recommended that each year the IBP prioritise a limited number of key infrastructure projects based on corporate priorities with a focus on using the prioritisation to gain match funding from other funding sources.
- 3.16 The draft IBP to be consulted and considered by Corporate Directors (who will liaise with any external infrastructure providers as necessary). Final agreement of the IBP would be made by Cabinet each July.
- 3.17 Due to the 'lag' period outlined in paragraph 3.1, it is likely that the Council will not receive any significant CIL receipts until 2018. Therefore, it is initially proposed that the first release of funds should not take place until April 2019 (i.e. CIL receipts carried forward each financial year until this point). However, this will be monitored (so that if significant sums are received they can be spent earlier) and reported to Cabinet each July following adoption and may be subject to change.

Updating the IBP

- 3.18 It is proposed that there is an annual update of infrastructure projects and infrastructure prioritisation within the IBP. The process of agreeing the updated IBP would follow the original IBP process as set out above i.e. agreement of priorities with Corporate Directors (liaising with any partner organisations/external infrastructure providers if necessary) and final agreement of IBP by Cabinet.
- 3.19 The Regulation 123 List is proposed to be reviewed annually alongside the IBP. Any resulting update to the Regulation 123 Infrastructure List would require local consultation in addition to agreement by Cabinet.

Third Party Infrastructure Providers

- 3.20 If CIL funding is allocated to a third party infrastructure provider, the CIL funding can only be used to deliver the agreed infrastructure type or project. This would be enforced by appropriate infrastructure contracts. A standard procedure will be created for the release of CIL monies for projects that are identified in the IBP.

Infrastructure Payments 'In Kind'

- 3.21 CIL Regulations 73, 73A, 73B and 74 allow a Charging Authority to accept one or more land payments or infrastructure instead of a financial payment from a developer if they wish. For example, where a Charging Authority has already planned to invest CIL receipts in a project there may be time, cost and efficiency benefits in accepting completed infrastructure from the party liable for payment of the levy.
- 3.22 The option to take the provision of infrastructure 'in kind' is discretionary and would require Infrastructure Agreements with developers and independent valuation of the land being offered. It would result in lower overall CIL receipts, but could help ensure timely infrastructure delivery.
- 3.23 SBC as Charging Authority has drafted a policy to confirm that it would accept 'in kind' infrastructure, subject to conditions including the fact that the Council will only accept land or infrastructure as payment of a CIL liability if the offer relates to

infrastructure projects or types of infrastructure included in the Council's published Regulation 123 Infrastructure List.

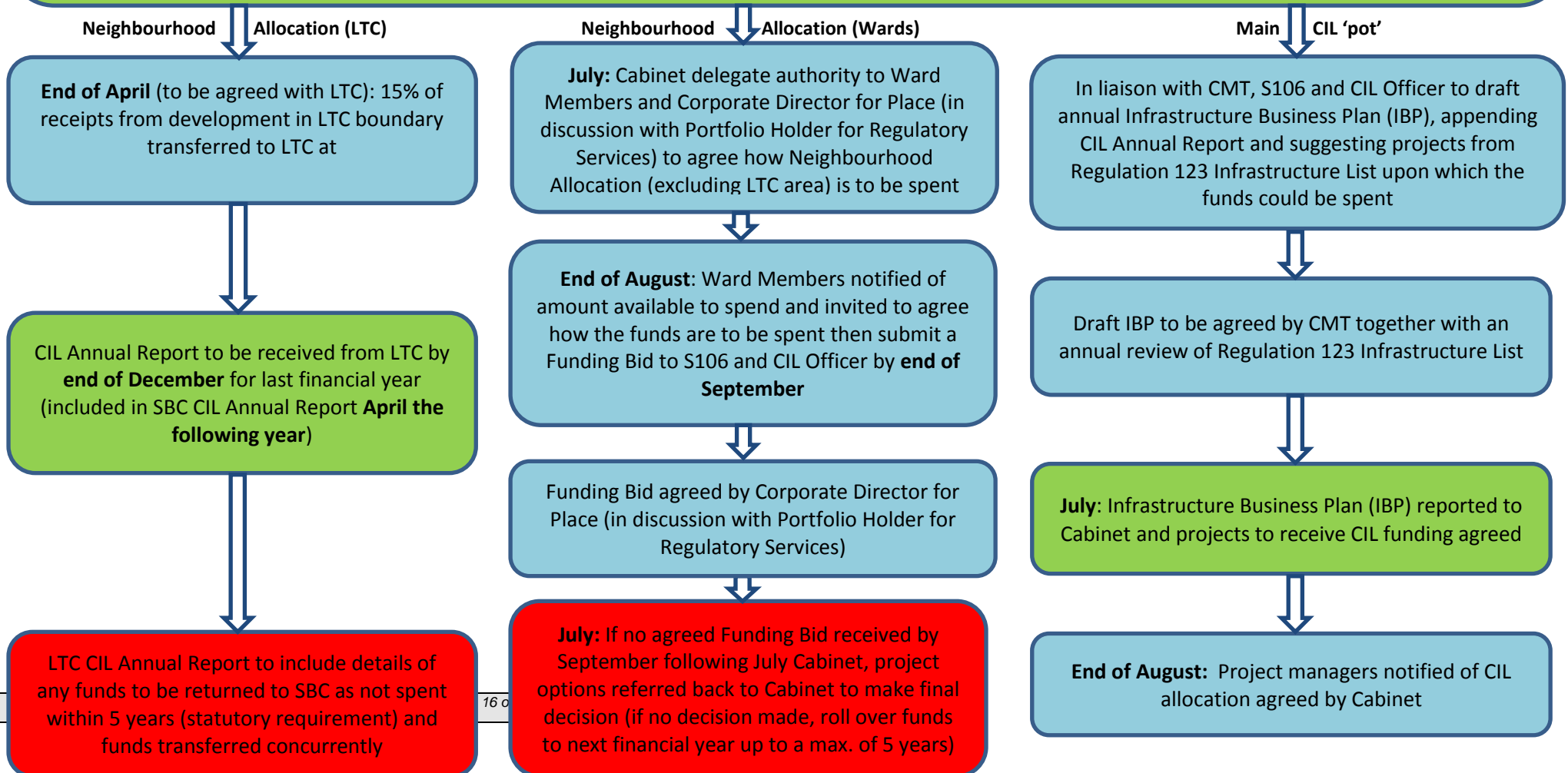
4 Reporting, Monitoring and Review

- 4.1 The CIL Annual Monitoring Report which sets out CIL receipts, balances and spend will be published at the end of April for each financial year. Subsequently, the IBP will be drafted and reported to Cabinet in July each year to agree on how CIL funds should be spent.
- 4.2 As stated in the CIL Preliminary Draft Charging Schedule, the Council will commence a review of the Charging Schedule in 2018 which includes the CIL rates.

Appendix 1: CIL Spending and Reporting Arrangements from April 2019 onwards

End of April: SBC CIL Annual Report (including LTC CIL Annual Report for financial year) published including the following details:

- Total CIL receipts and details of CIL expenditure for last financial year
- Amount allocated to Leigh Town Council (15% of receipts from developments within LTC boundary)
- Amounts allocated to each ward (15% of receipts from developments within each ward excluding any development within LTC boundary)
- Details of any notice(s) served to Leigh Town Council requiring repayment of any funds not spent within 5 years of receipt
- Total amount of CIL receipts for the last financial year retained at the end of the last financial year
- Total amount of CIL receipts from other years retained at the end of the last financial year



Appendix 2: Template for Ward Member CIL Funding Bid

Ward Member Lead/Contact:

Project Title:

Amount of funding required (i.e. total cost of project including design, installation etc.):
.....

Project Summary (no more than 150 words):
.....
.....
.....

Who will the project be delivered by?

What are the consequences of not carrying out the project?
.....
.....
.....

Briefly describe how the scheme will help support the development of the ward area by funding either: 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.
.....
.....
.....

What other funding sources have been identified/explored if not fully funded by the CIL Neighbourhood Allocation?
.....

Please provide details of any on-going maintenance costs:
.....

Ward Member CIL Funding Bid template continued

In accordance with the CIL Regulations 2010 (as amended) the Neighbourhood Allocation **must** be spent on schemes that will help support the development of the ward area by funding either: 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.

CIL funds allocated to wards to spend on neighbourhood projects should be for one-off spends i.e. projects that have no on-going revenue consequences for Southend Borough Council. For example:

ELIGIBLE FOR CIL FUNDING

- Environmental improvements e.g. one-off litter clearance, landscaping or open space improvements
- Public art
- Play equipment
- Street furniture
- One-off community projects or set up of a community group

NOT ELIGIBLE FOR CIL FUNDING

- Projects that will require a significant amount of Southend Borough Council officer time to implement
- Use of the funds to explore feasibility of a scheme for which funds are not yet available
- Projects that only benefit individuals or companies
- Projects that are already funded
- Projects not in line with Southend Borough Council's corporate objectives
- Projects with on-going revenue implications/maintenance costs for Southend Borough Council

Attachment 2: Full list of infrastructure projects from IDP

Attachment 3: Draft Regulation 123 Infrastructure List

Southend Borough Council, as CIL Charging Authority, is expected to publish a list of infrastructure that it intends could be funded, wholly or partly by the Community Infrastructure Levy. The Regulation 123 Infrastructure List sets out the projects that may be funded through CIL and includes infrastructure required for the delivery of the Council's adopted Development Plan Documents. However, the inclusion of a project or type of infrastructure on this list does not signify a commitment from the Borough Council to fund (either in whole or in part) the listed project or type of infrastructure through CIL; nor does the order of infrastructure items within the list imply or signify any order of preference or priority for CIL funding.

This list can be amended at any time but will be reviewed annually and any changes that the Council proposes to make to this list will be subject to public consultation in accordance with the regulations and government guidance.

If infrastructure is required to make a development acceptable in planning terms (see the Planning Obligations Supplementary Planning Document for further details in relation to site specific infrastructure contributions) or arises directly from five or fewer developments, Section 106 (Planning Act) or Section 278 (Highways Act) arrangements may continue to apply in addition to CIL.

Planning obligations and highway agreements will still be required in accordance with Regulation 122 and 123 (Community Infrastructure Levy Regulations 2010 (as amended)) for obligations relating to infrastructure not listed below.

Project or Infrastructure Type**Location****Exclusions and Notes**

Education		
Provision, improvement, replacement, operation or maintenance of Primary and Pre-School education facilities	Borough-wide	

Health and Social Wellbeing		
Provision, improvement, replacement, operation or maintenance of Primary Healthcare facilities	Borough-wide	
Infrastructure to enable people to remain living independently	Borough-wide	
Refurbishment or redevelopment of Delaware and Priory House	Delaware House and Priory House	

Highways and Transport		
A127 east-west strategic transport and freight corridor improvements (including Kent Elms, The Bell, Progress Road, Sutton Road, East/West Street, JAAP, etc.)	A127/A1159 Strategic Corridor various	
Local public transport measures	Southend, Leigh, Shoebury, Southend Hospital, Southend Airport	Excluding any instances where a new bus stop(s) or increase to bus network capacity is required as a direct consequence of a development within the vicinity – these will continue to be secured through Section 106 planning obligations
Local walking and cycling measures to upgrade network	Borough-wide	
Local traffic management	Borough-wide	Excluding any instances where traffic management measures are required as a direct consequence of a development within the vicinity – these will continue to be secured through Section 106 planning obligations or Section 278 highway agreements

Coastal Flood Protection		
Chalkwell Sea Wall flood defence works	Chalkwell & Eastern Esplanades	
Coast protection works	East Beach Shoeburyness	
Flood Defence Works	Old Leigh	
Lynton Road to Thorpe Bay YC Flood Defence Improvements	Eastern & Thorpe Esplanades	

Project or Infrastructure Type	Location	Exclusions and Notes
Social and Community		
Provision, improvement, replacement, operation or maintenance of libraries	Borough-wide	
Southend New Museum	Western Esplanade	
New allotment space	Borough-wide	Excluding replacement allotments required as a result of new development (i.e. to offset a loss that would otherwise result from the development), which will be secured through Section 106 planning obligations
New community centres	Borough-wide	Excluding replacement community centres required as a result of new development (i.e. to offset a loss that would otherwise result from the development), which will be secured through Section 106 planning obligations

Leisure and Recreation		
Children's Play Areas	Sidmouth Avenue Play Area, Priory Park, Warrior Square Gardens	If there is a planning requirement to provide a new play area on a site as a result of the need generated directly and solely by a development then this provision will be secured through a Section 106 planning obligation or planning condition.
Youth facilities including Multi-Use Games Areas, parkour and wheeled sports	Priory Park, Southchurch area (Southchurch Park or Southchurch Park East)	

Public Realm and Environment		
Litter Bins (as outlined in the Southend-on-Sea Litter Bin Strategy, July 2011)	Borough-wide	Excluding any litter bin provision required on a site as part of a development – this will be secured through Section 106 planning obligation or planning condition.
Waste Transfer Station (WTS) – 'Waste Solution'	Proposed WTS location – Central Cleansing Depot, Eastern Avenue,	
Three Rivers Trail	Borough-wide	
City beach Phase Two	Eastern Esplanade	
Victoria Gateway Phase Two	London Road	

Attachment 4: Draft Payment in Kind and Infrastructure Payments Policy

Community Infrastructure Levy (CIL)

Draft Payment in Kind and Infrastructure Payments Policy

This policy is effective from the date the Southend Borough Council Charging Schedule comes into effect.

In accordance with Regulations 73, 73A, 73B and 74 the Community Infrastructure Levy Regulations 2010 (as amended), Southend Borough Council may accept up to 80%³ of a CIL liability by way of the transfer of land or infrastructure to the Council as payment. This will be subject to the following conditions:

- 1) The Council will only accept land or infrastructure as payment of a CIL liability if the offer relates to infrastructure projects or types of infrastructure included in the Council's published Regulation 123 Infrastructure List.
- 2) Any agreement relating to such a payment must be made with the Council before the chargeable development commences. This agreement must state the value of the land or infrastructure to be transferred.
- 3) The land or infrastructure to be transferred must be valued by a suitably qualified and experienced independent person as agreed with the Council. The valuation of land must represent a fair open market price for the land on the day that it is valued and reflect the relevant purposes for which the land will be utilised. In the case of infrastructure the value will should reflect the cost (including related design costs) to the provider. Any costs associated with the valuation will be payable by the person seeking to transfer the land or infrastructure.
- 4) The Council must be satisfied that any land to be transferred would be appropriate and fit for the purpose of providing necessary infrastructure to support the growth of the Borough⁴.

³ 20% of the CIL liability will remain payable in cash including 5% for administrative costs and 15% as the Neighbourhood Allocation N.B. The Neighbourhood Allocation may increase in accordance with the CIL Regulations should a Neighbourhood Plan be adopted by Leigh Town Council, in which case the proportion of the CIL liability that will be accepted 'in kind' will be reduced to 70%.

⁴ This may require the owner to demonstrate that the land is suitable through the submission of further information to the Council, including but not limited to, topographical information, reports on contamination and archaeology and details of any underground services.

- 5) The person transferring the land or infrastructure to the charging authority as payment must have assumed liability to pay CIL and completed the relevant CIL forms.
- 6) The land or infrastructure, subject to the transfer, must be free from any interest in land and any encumbrance to the land, buildings or structures.
- 7) The Council may transfer land, at nil cost, to a third party⁵ for the provision of infrastructure.
- 8) The Council would encourage the transfer of land allocated or safeguarded in a Development Plan Document or Supplementary Planning Document for infrastructure.
- 9) Payments in kind must be provided to the same timescales as CIL cash payments, or otherwise on an agreed basis, subject to the provisions in the regulations and any other state aid considerations.

It should be noted that the agreement to pay in land may not form part of a planning obligation entered into under Section 106 of the Town and Country Planning Act 1990 (as amended).

It is entirely at the Council's discretion as to whether to accept a land transfer or infrastructure payment in lieu of CIL. The Council is not obliged to accept any offer of payment in kind by land or infrastructure.

If you are interested in paying CIL in this way and have not commenced development of the site in question you should discuss this with the Council's Section 106 and CIL Officer.

⁵ This would be limited to other infrastructure providers such as Essex Police, Essex County Council or Environment Agency.