

Committee(s): Planning and Transportation	Date(s): 12/12/2019
Subject: Update on Governance and Spending of the City of London's Community Infrastructure Levy and the Planning Obligation Affordable Housing Contributions	Public
Report of: Carolyn Dwyer, Director of the Built Environment	For Information
Report author: Paul Beckett, Department of the Built Environment	

Summary

This report responds to Member requests to summarise the governance arrangements and recent spending for the City Corporation's City Community Infrastructure Levy (City CIL) and for the use of Sec.106 planning obligations to contribute funding for the provision of affordable housing.

The report also outlines potential changes to governance arrangements and the process for increasing the scale of Sec.106 funding for affordable housing.

Recommendation

Members are recommended to note the content of this report.

Main Report

Community Infrastructure Levy (CIL) Background

1. Under the 2008 Planning Act and the Community Infrastructure Levy Regulations 2010 (as amended) ("the Regulations"), a local authority may adopt a Community Infrastructure Levy (CIL) setting out how it will require contributions from development towards the cost of providing new infrastructure. Until recently a local authority adopting a CIL needed to set out the infrastructure it will fund through the CIL in a document known as a Regulation 123 List. The Regulation 123 was revoked in respect of England from the 1st of September 2019.
2. CIL is a levy on new development intended to help local authorities deliver infrastructure. CIL should primarily be used to fund capital investment rather than revenue expenditure and cannot be used to deliver affordable housing. Regulations give significant flexibility to local authorities on what can be funded, but infrastructure should support the delivery of development set out in the local plan. CIL can be used to increase the capacity of existing infrastructure or for repairs to existing failing infrastructure if it is necessary to support planned development.
3. CIL Regulations allow for up to 5% of CIL receipts to be used to fund the administrative costs incurred in operating a CIL. Regulations also require that

15% of CIL receipts shall be reserved for neighbourhood funding, or 25% where there is a neighbourhood plan. Where a neighbourhood plan does not exist (as in the City of London), then the local authority will retain CIL neighbourhood funds but should engage with communities over how best to spend this element of CIL. The remaining 80% of CIL receipts should be used to fund infrastructure in accordance with the CIL Regulations and the local authority's infrastructure investment priorities and its Infrastructure Delivery Plan. The City Corporation's Regulation 123 List and Infrastructure Delivery Plan were deliberately wide-ranging in scope to provide flexibility in the spending of City CIL funds.

4. The Regulation 123 List remains useful as evidence to inform decisions on the spending of CIL, plan making and the preparation of any future charging schedule. The latest Regulations require the City Corporation to replace the 'Regulation 123' list with an Infrastructure Funding Statement no later than 31 December 2020 and by 31 December each year thereafter. This must set out the allocation of funds on CIL and s106 and include a statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL.
5. The Mayor of London is also able to levy a Mayoral Community Infrastructure Levy to address strategic infrastructure needs. The Mayoral CIL is payable in addition to the City CIL. The City Corporation collects Mayoral CIL funds on behalf of the Mayor and forwards them to him. Mayoral CIL funds have so far been used to contribute to the construction costs of the Elizabeth Line (Crossrail) and from 1 April the Mayor of London adopted a new charging schedule (known as MCIL2) which will be used to fund the Elizabeth Line, Crossrail 2 or other strategic transport infrastructure.

City of London CIL Recent Allocations and Spending

6. Recent allocations and spending of City CIL funds were set out in the report considered by this committee on 22 October 2019. In summary, the City Corporation currently holds £31,655,966 in CIL receipts having received £33,655,966 since CIL's introduction in 2014. At the end of the last financial year (March 2019) £7,724,500 had been approved and allocated for spending on infrastructure and community projects in the City.
7. The City CIL funding allocations since 2014 comprise £6,234,000 on public realm and transportation projects; £1,244,000 on social and community projects; £16,000 of the unallocated contingency on the Citigen project; and £230,000 allocated towards administration. To date, £1.5 million of these allocations has been expended. Further details of allocation and spend can be found in the CIL/S106 monitoring report reported to the 22 October 2019 meeting of this committee.

Current City of London CIL Governance Arrangements

8. The City of London CIL which came into effect on 1 July 2014 requires developers to contribute to infrastructure funding in accordance with the City's CIL Charging Schedule. This Schedule sets City CIL charge rates which differ

with the permitted land use (offices £75 per square metre of additional floorspace, residential £150, retail £95 and other uses £75). See website link at <https://www.cityoflondon.gov.uk/services/environment-and-planning/planning/planning-policy/Pages/Community-Infrastructure-Levy.aspx>)

9. Planning & Transportation Committee has responsibility for the setting of City CIL charge rates because of the need for viability testing which is also a feature of the local plan preparation process. City CIL expenditure governance is the responsibility of Policy & Resources Committee consistent with its wider resources remit.
10. The governance arrangements for City CIL were considered by Planning & Transportation Committee on 15 October 2013 and agreed by Policy & Resources Committee on 21 November 2013. The arrangements agreed set out a decision-making structure and broad spending priorities with scope for the processes to be refined by Resource Allocation Sub Committee (RASC) in the light of practical experience.
11. The decision-making structure comprises an officer Corporate Priorities Board, chaired by the Town Clerk including chief officers from Chamberlains, Built Environment, Community & Children's Services, Open Spaces, and City Surveyors. The Corporate Priorities Board has met quarterly to consider CIL spending bids and make recommendations for spending to Members of RASC.
12. The intended broad infrastructure spending priorities were signalled by nominally allocating 55% of City CIL funds to 3 service committees (40% to Planning & Transportation, 10% to Community & Children's Services and 5% to Open Spaces and City Gardens). Accounting 'pots' were created for each allocation with the intention that infrastructure annual investment programmes would be worked up for consideration by Corporate Priorities Board and RASC.
13. In practice such comprehensive annual investment programmes were not prepared and a series individual infrastructure investment bids have been submitted for consideration instead. Consequently, RASC has refined the original procedure so that all City CIL expenditure bids are considered by the officer Corporate Priorities Board and are then determined by Members of RASC. The nominal accounting pots are still retained and monitored so that Members can monitor how their decisions affect the intended original broad infrastructure spending priorities.
14. For the remaining 45% of City CIL funds, 25% was set aside as unallocated for determination in accordance with corporate priorities by RASC. 15% was set aside to form the City CIL Neighbourhood Fund (as required by the Regulations) and up to 5% was set aside to cover CIL administration (as permitted by the Regulations)). Separate governance arrangements for the City CIL Neighbourhood Fund were agreed by Policy and Resources Committee on 2 May

2019 following public consultation on draft proposals during December 2018-January 2019.

15. Management of the City CIL Neighbourhood Fund bidding process will be aligned with the City's existing grant allocation process, through the Central Grants Unit (CGU). Applications for funding will be made using an online application form on the CIL page of the City Corporation's website. Processing of these application forms will be undertaken by the CGU. Applications between £1,000 and £25,000 will be determined by an officer panel chaired by a Chief Officer under delegated authority. Applications between £25,000 and £50,000 will be determined by officers under delegated authority in consultation with the Chairman and Deputy Chairman of RASC; applications over £50,000 will be considered by RASC. It is anticipated that the application process for the City CIL Neighbourhood Fund will be operating from February 2020.

Potential Changes to City CIL Governance Arrangements

16. The current City CIL governance arrangements were agreed in 2014 with the expectation that they might be refined by RASC in the light of experience and that they should be reviewed further after five years. They were refined such that all City CIL expenditure is now determined by RASC on the officer advice of the Corporate Priorities Board. The original accounting 'pots' related to the three service committees are retained and monitored so that Members of RASC can see how their decisions affect the intended original broad infrastructure spending priorities.
17. It is possible that the current City CIL governance arrangements and broad spending priorities will be reviewed to take account of changed circumstances since 2014 including the adoption of a new Corporate Plan, new capital spending priorities and the financial implications of the Fundamental Review. This could, for example, lead to most City CIL funds being treated as being held in a single pot to provide greater spending flexibility for the future. Such a change would not affect the City CIL Neighbourhood Funds which would continue to be held and governed separately in accordance with the CIL Regulations.

Planning Obligations to Fund Affordable Housing Provision

18. The CIL Regulations prohibit the use of CIL funds for the provision of affordable housing. Therefore, funding for affordable housing provision is achieved through London Plan policy and Local Plan policy which requires applicants for planning permission to enter into appropriate planning obligations (Sec.106 agreements). The planning obligation thresholds and required levels of contribution are set out in the Planning Obligations Supplementary Planning Document (2014). See website link at <https://www.cityoflondon.gov.uk/services/environment-and-planning/planning/planning-policy/Pages/Community-Infrastructure-Levy.aspx>
19. London Plan policy 4.3 expects office developments within the Central Activities Zone to provide for a mix of uses including housing. The City of London is an exception to this policy approach, justified by its strategically important, globally orientated financial and business services centre. Therefore, new commercial

developments in the City are instead required to make a financial contribution towards the off-site provision of affordable housing. The requirement applies where there is a net increase of 500 square metres or more and the contribution is sought at a rate of £20 per square metres of additional floorspace.

20. City of London Local Plan 2015's Core Strategic Policy CS21 (Housing) includes provision for residential developments of 10 or more units to provide 30% affordable housing on-site, or exceptionally, to provide 60% units equivalent off-site either directly or indirectly through a financial contribution achieved through a Sec.106 planning obligation. The required Sec.106 contribution is set at £165,000 per affordable housing unit in the Planning Obligations Supplementary Planning Document (2014) and is subject to inflation indexation.
21. Other funds are also raised by planning obligations to fund local training, skills and jobs brokerage, and for carbon offsetting where proposed development does not meet carbon emission targets. Planning obligations can also have non-financial elements such as local procurement agreements and site-specific mitigation. Such purposes are beyond the affordable housing focus of this part of the report.
22. Planning Obligation funds received by the City Corporation for affordable housing provision are managed by the Communities and Children's Services Dept. Proposals to use planning obligation funds to deliver additional affordable housing stock within the City or elsewhere are subject to normal capital project approval and delivery procedures. Where affordable housing proposals involve development on new sites or intensification of existing housing sites then planning permission would need to be obtained from the relevant local planning authority. Such processes can take time which slows up the delivery of affordable housing.
23. In the last financial year, the City Corporation received £7.5 million in Section 106 contributions for affordable housing and spent £2.4 million on delivery. The remaining current balance of approximately £60.4 million is all allocated to seven current projects delivering 196 affordable units. Four further projects are proposed which would deliver a further 300 units. Details of these projects can be found in Tables 13 and 14 of the CIL/S106 Monitoring report.

Potential Changes to Planning Obligations for Affordable Housing

24. The planning obligation thresholds and required levels of contribution are set out in the Planning Obligations Supplementary Planning Document (2014). This document includes an allowance for inflation indexation, but it has become apparent that such indexation has not kept pace with the rising actual cost of affordable housing provision during a period of rapid inflation in land prices, house prices and construction costs. Therefore, it is appropriate to reconsider the scale of planning obligation contributions to be sought and the indexation process to ensure that sufficient funds are raised to deliver the intended affordable housing.

25. The review of existing contributions would need to be subject to viability assessment and public consultation. It is anticipated that the viability assessment of the Local Plan review being undertaken during winter 2019/20 could provide evidence to support proposed changes to planning obligation contributions for affordable housing. Therefore, provided that the viability assessment justifies an increase in contributions, such draft proposals could be brought before Members for consideration and public consultation during 2020.

Corporate & Strategic Implications

26. The use of City CIL and 106 planning obligations to provide funds for infrastructure and affordable housing provision accords with the Corporate Plan aims of shaping outstanding environments, contributing to a flourishing society and supporting a thriving economy. It particularly addresses Outcome 4 that communities are cohesive and have the facilities they need, Outcome 9 that we are digitally and physically well connected and Outcome 12 that our spaces are secure, resilient and well-maintained.

Conclusion

27. This report outlines current governance arrangements, showing that the decisions on spending priorities for City CIL are taken by Members of RASC in the context of officer consideration and recommendations. Such arrangements and contributions can be changed to reflect changing circumstances and the report suggests possible future changes which Members will have the opportunity to consider in 2020.

Background Papers

Report to Planning & Transportation Committee 22/10/2019: The Section 106 and Community Infrastructure Levy Monitoring Report.

See <http://democracy.cityoflondon.gov.uk/ieListDocuments.aspx?CId=143&MId=19669&Ver=4>

Report to Policy & Resources Committee 2/5/2019: City of London Community Infrastructure Levy – Approval of Neighbourhood Fund.

See <http://democracy.cityoflondon.gov.uk/ieListDocuments.aspx?CId=395&MId=19683&Ver=4>

Report to Policy & Resources Committee 21/11/2013: City's Community Infrastructure Levy (CIL): Governance Arrangements and Broad Spending Priorities.

See <http://democracy.cityoflondon.gov.uk/ieListDocuments.aspx?CId=395&MId=1185&Ver=4>

Paul Beckett

Policy and Performance Director, DBE

T: 020 7332 1970 E: paul.beckett@cityoflondon.gov.uk