

Community Infrastructure Levy and Section 106 update

Report of the Cabinet Member for Investment, Economic Growth & Tourism

Councillor I. Eadie

Date: 21 January 2020

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Local Ward Members
All Members



Economic Growth,
Environment and
Development (Overview
and Scrutiny)
Committee

1. Executive Summary

- 1.1 The report provides an update in terms of the administration and progress of the Community Infrastructure Levy (CIL) within Lichfield District and the use of developer contributions to provide for key infrastructure, in particular affordable housing.
- 1.2 The report provides a summary of the proportions of CIL provided to date to Parish Council's in line with CIL regulations and also the CIL allocations made to deliver infrastructure by the District Council.
- 1.3 Affordable housing is a key matter of concern for the Council and the report details how developer contributions play a role in delivering such housing to meet needs.

2. Recommendations

- 2.1 That the Committee notes the CIL and S106 governance and administration arrangements in place.
- 2.2 That the Committee notes the need for a future review of the Regulation 123 list to bring the District Council in line with regulatory updates.
- 2.3 That the Committee notes the affordable homes that have been delivered, predominantly through s106 agreements in the last three financial years.

3. Background

Community Infrastructure Levy (CIL) update:

- 3.1 CIL is a planning charge on development, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their areas. It should be noted that moneys collected via CIL or CIL receipts are just one form of support for delivering infrastructure alongside other forms such as planning obligations obtained through section 106 agreements which can be both financial contributions and physical on-site infrastructure.
- 3.2 On the 19th April 2016 following formal public consultation and an examination in public, the District Council adopted a [CIL Charging Schedule](#) enabling it to apply charges to qualifying development for the purposes of delivering key infrastructure. Approval was also given to commence charging CIL from the 13th June 2016.

- 3.3 CIL Regulation 123 is the requirement for a published list of infrastructure projects or types of infrastructure that the Charging Authority (District Council) intends will be, or may be, wholly or partly funded by CIL. The District Council adopted a [Regulation 123 list](#) on the 19th April 2016 with further amendments being adopted on the 22nd February 2017.
- 3.4 To facilitate the appropriate allocation of CIL funds to those infrastructure requirements identified on the [Regulation 123](#) list a suitable governance structure and procedural arrangements to be put in place.
- 3.5 The CIL administration process is overseen by two groups, the Strategic Infrastructure Group, (SIG) which is officer led and the Joint Officer Members Group (JMOG), which is attended by both members and officers. JMG makes recommendations to Cabinet on the allocation of CIL monies (and in some instances S106) informed by advice and guidance from SIG.
- 3.6 CIL receipts levied by the District Council are distributed from a single centralised port held by the Council. They are allocated/distributed having regard to four specific areas of consideration:
- Special Areas of Conservation;
 - Parish Council Meaningful Proportion;
 - Administration fees; and
 - Strategic Infrastructure.
- 3.7 The adopted [Lichfield District Local Plan Strategy](#) sets out a local spatial policy framework to ensure that both the Cannock Chase and River Mease Special Areas of Conservation (SAC) are protected from the implications of planned development in the area, with mitigation secured in order to meet the requirements of European legislation. The Council meet this requirement through allocating CIL monies.
- 3.8 As a statutory requirement, under CIL Regulation 59, the District Council must make provision for passing a ‘meaningful proportion’ of CIL receipts to communities in areas where development comes forward which in the case of Lichfield District Council means the Parishes. The CIL Regulations require Charging Authorities to transfer a ‘meaningful proportion’ of CIL receipts generated in these areas directly to the Parish Councils on a biannual basis. The level of this ‘meaningful proportion’ is dependent upon whether a neighbourhood plan is in place. For Parishes where no neighbourhood plan is in place or is still emerging, 15% of CIL (capped per new dwelling as per the CIL Regulations) will be passed to the Parish Council where the development has taken place and must be spent on local priorities as outlined in CIL Regulation 59C (xi). Where a Parish has an adopted neighbourhood plan in place, 25% of CIL (uncapped) will be passed to the Parish Council. Table 1 illustrates the total amount of funding transferred to Parishes as of October 2019.

Table 1: Meaningful proportion of CIL transferred to Parish Councils

Parish	Apr-18	Oct-18	Apr-19	Oct-19	Total amount allocated
Alrewas	0.00	0	0	729.96	729.96
Armitage with Handsacre	170.29	641.92	822.56	1,860.61	3,495.38
Burntwood	7,545.93	3,685.68	3,477.08	208.40	14,917.09
Clifton Campville	0.00	0	0	0	0.00
Colton	2,071.25	0	0	0	2,071.25
Curborough, Elmhurst, Farewell & Chorley	767.66	0	0	0	767.66
Drayton Bassett	0.00	0	0	1,583.01	1,583.01
Edingale	0.00	0	0	0	0.00
Elford	0.00	0	0	0	0.00

Parish	Apr-18	Oct-18	Apr-19	Oct-19	Total amount allocated
Fazeley	787.50	0	1,038.71		1,826.21
Fradley & Streethay	0.00	0	645.27	0	645.27
Hammerwich	3,242.25	0	0	0	3,242.25
Hamstall Ridware	0.00	0	0	0	0.00
Harlaston	0.00	0	0	4,670.17	4,670.17
Hints and Canwell	0.00	0	0	0	0.00
Kings Bromley	2,543.39	3,331.96	0	89.41	5,964.76
Lichfield	29,666.18	0	7,630.07	15,028.10	52,324.35
Longdon	0.00	0	0	594.15	594.15
Mavesyn Ridware	0.00	0	4,243.58	4,243.58	8,487.16
Shenstone	1,062.60	0	0	878.76	1,941.36
Swinfen & Packington	1,037.77	0	410.55	0	1,448.32
Wall	0.00	0	0	0	0.00
Weeford	0.00	0	0	0	0.00
Whittington & Fisherwick	0.00	3,019.63	0	0	3,019.63
Wigginton & Hopwas	0.00	0	0	0	0.00
TOTAL	48,894.82	10,679.20	18,267.82	29,886.15	107,727.99

- 3.9 In line with the CIL Regulations, the Council uses 5% of total CIL receipts to finance the expense of administering the CIL process.
- 3.10 CIL receipts remaining after administration, SAC payments and the meaningful proportion are paid go into a centralised pot for the purpose of supporting the delivery of strategic improvements on a district wide basis. The allocation of funding is governed by Council-approved CIL guidance and procedures and intended principally to support infrastructure requirements identified through the Local Plan.
- 3.11 In accordance with the aforementioned guidance, the Council invited in late 2018 organisations to bid for £300,000 of the Strategic CIL funding. This was the first substantial tranche of monies available under CIL following their receipt. The Council duly received 22 applications for funding from a range of statutory and non-statutory infrastructure providers. The applications were spread across a broad range of infrastructure needs and included a varied level of funding requests. All of the applications were initially assessed against criteria set out within the Allocating and Spending CIL: Additional Guidance.
- 3.12 In March 2019 Cabinet approved the allocation to £300,000 of CIL monies to the following projects.

Table 2: Recommended Strategic CIL Allocations

Project	Funding request	Recommended funding action	Specific grant agreement condition
Back the Track	£35,000	No allocation	No Comment
Lichfield St Johns Community Link	£35,000	£35,000	Planning Permission is secured before allocation of any CIL Funds.
Staffordshire Countryside Explorer	£44,000.00	£44,000	CIL funding to only be allocated if project secures the level of match funding identified within the application.

Project	Funding request	Recommended funding action	Specific grant agreement condition
Westgate Practice Refurbishment	£185,619.00	£120,000	To be allocated to the delivery of 'Phase Three' identified within Section 6 of the submitted application (improvements to increase clinical provision).
King Edward VI School	£1,801,850	£101,000	CIL funding to be allocated to a project element which will be delivered in the early stages of the project.

- 3.13 The Strategic CIL pot currently available for allocation currently stands at approximately £339,506.71.
- 3.14 To ensure Lichfield District grows in a sustainable manner it is necessary for the significant majority of CIL income to be directed to supporting the delivery of strategic infrastructure priorities. Over recent months the SIG has been giving consideration to a range of amendments to the currently adopted allocations process following experiences of and feedback on the first round of allocation of CIL receipts to ensure this objective is met.
- 3.15 A key consideration for the District Council going forward is the proposed requirement for charging authorities to replace their Regulation 123 Lists with Infrastructure Funding Statements. These statements will explain how the spending of any forecasted income from both CIL and section 106 planning obligations over a five year period will be prioritised including monitoring funds received. The requirement for and detail of the Statements were included in Regulation 121A of the CIL Regulations 2010 (as amended). The District Council is required to develop an Infrastructure Funding Statement by no later than 31st December 2020.

Affordable housing and section 106

- 3.15 S106 or 'developer contributions' are planning obligations that are entered into to mitigate the impacts of a development proposal under section 106 of the Town and Country Planning Act 1990. A key area is affordable housing but an s106 agreement can cover other uses too including delivery of open space and play facilities for example. The Council's policy on the delivery of affordable housing is set out in Policy H2 of the [Local Plan Strategy](#), which states that in Lichfield City and Burntwood, affordable housing is required on housing developments for 15 or more dwellings or sites of 0.5 ha or more in size. Outside these two main urban areas, affordable housing will be required on housing developments in line with nationally set thresholds. On such sites Policy H2 requires up to 40% of the homes to be affordable with the current viable target being calculated and set out each year within the [authority monitoring report](#) (AMR). For information the [AMR 2019](#) sets the current viable level of affordable housing at 37%. It is important to note that affordable housing contributions can only be sought on those sites which are in line with the thresholds set by national standards and local plan policy.
- 3.16 Policy H2 states that affordable housing may be in the form of social rent, affordable rent, intermediate or a mix of tenures. The Council normally requires at least 65% of the affordable housing on a site to be social rented managed by one of our approved Registered Providers (RPs)¹, commonly referred to as housing associations. The exact percentages will be agreed on a scheme by scheme basis during the determination of the planning application and the Council's housing and wellbeing strategy

¹ Registered Providers are housing associations that are registered with Homes England. A council policy was introduced in 2018 to ensure that all RP's that benefit from affordable housing negotiated through s106 agreements are approved by the Housing and Wellbeing Strategy team. See <https://www.lichfielddc.gov.uk/downloads/file/142/affordable-housing-approved-registered-providers>.

team will examine available evidence on local housing needs to help determine these. On occasions where an applicant is not willing or unable to provide the percentage of affordable housing required in accordance with our policy, the economic viability of the scheme will be independently tested by the District Valuer.

- 3.17 The majority of new affordable housing in the district is delivered through these s106 negotiations. To complement this, the housing and wellbeing strategy team work with several approved RP's to try and deliver other affordable homes through land led schemes or through regeneration of RP's existing housing stock.
- 3.18 The tables below show the number and tenure of affordable housing completed and occupied by ward in the three years 2016-17 to 2018-19². In total 398 dwellings were built and occupied of which 58% was delivered via developer contributions secured by s106 agreements and 42% was delivered directly by RP's using their internal own funds and affordable homes funding from Homes England. The majority of none-s106 sites were developed in 2018-19 by Orbit, Bromford and Waterloo (Platform) housing associations³.

Table 3: Affordable homes delivered 2016-2017

2016-17 Ward	Total Number of Units	Affordable Rent	Social Rent	Shared Ownership	Discount Market Sale
Armitage with Handsacre	27	2	-	3	22
Summerfield & All Saints ⁴	1*	-	1*	-	-
Total	28	2	1	3	22

Table 4: Affordable homes delivered 2017-2018

2017-18 Ward	Total Number of Units	Affordable Rent	Social Rent	Shared Ownership	Discount Market Sale
Armitage with Handsacre	48*	29*	-	17*	2
Alrewas and Fradley	32	-	27	5	-
Chasetown	24	16	-	8	-
Whittington and Streethay	21	-	21	-	-
Colton and the Ridwares	10	-	6	4	-
Total	135	45	54	34	2

Table 5: Affordable homes delivered 2018-2019

2018-19 Ward	Total Number of Units	Affordable Rent	Social Rent	Shared Ownership	Discount Market Sale
Whittington and Streethay	67	-	45	22	-
Alrewas and Fradley	21	-	5*	16	-
Bourne Vale	21*	13*	-	8*	-
Chasetown	27	12	5	10	-
Armitage with Handsacre	16*	5*	11*	-	-

² Members should note that for the purposes of local plan monitoring 'completions' of affordable houses are defined differently to those recorded by housing strategy. The [authority monitoring report](#) (AMR) includes homes being completed before they are made available by registered providers for occupation as such the numbers recorded within the AMR differ to those reported in this report.

³ The Orbit sites were Wheelhouse road, Armitage with Handsacre and the site off Eastern Avenue in Lichfield. Bromford's was the regeneration of Levett road near Packington and Waterloo's was the Greenough road apartments near Morrison's in Lichfield.

⁴ This was one empty property acquired by an RP following a Compulsory Purchase Order (CPO) by the council.

Curborough	44*	19*	-	25*	-
Leomansley	39*	39*	-	-	-
Total	235	88	66	81	0

* Registered Providers own land led schemes not delivered through developer contributions secured through s106 negotiations.

- 3.19 In addition to those affordable homes which have been delivered over the past three years a significant number of affordable homes have gained planning permission and likely to come through to delivery in the coming years. The most recent authority monitoring report (AMR) details that are a further 213 affordable dwellings to be constructed in the next five years. Since the base date of the a further affordable homes have been permitted for example including 176 as part of the Deans Slade Farm development, 95 at Mount Road and 70 at Brownfield Road. Taking the total submitted supply to in excess of 600 affordable homes awaiting construction. Full detail of further completions and supply will be set out within the next update to the AMR which will be produced after the completion of the current financial year. It is anticipated that this will mean an increase in the number of affordable homes delivered as those developments gaining planning permission in the last year will begin to come on stream.
- 3.20 Our policy states that affordable housing should be provided on site and only in very exceptional circumstances will contributions in lieu, that are broadly equivalent in value to on-site provision, be acceptable. The method and formulae for calculating commuted sums is set out in the [Developer Contributions Supplementary Planning Document](#). The table below shows the amount of commuted sums received from 2014 onwards.

Table 6: Commuted sums received in lieu of on-site affordable housing provision

Commuted sums received by ward and development	Date Received	Amount
Fazeley (ward) - Laurel House (development)	2014	£400,000
Bourne Vale (ward) - Derry Farm, Shenstone (development)	2019	£190,000
Stowe (ward) - Former What Store (development)	2019	£94,000

- 3.21 These commuted sums are held in reserves and are being used to acquire council properties for the Housing First initiative to rehouse people sleeping rough, or are homeless and have multiple and complex needs as approved by [Cabinet on 12th March 2019](#).
- 3.22 The affordable housing policy contained within the adopted local plan will be reviewed, along with all policies, as part of the ongoing Local Plan Review. The [Preferred Options](#) document, which is currently being consulted upon, includes emerging policy recommendations in respect of affordable housing. Supporting this policy recommendation is a range of evidence including the '[Housing and economic development needs assessment 2019](#)' which considered overall housing needs and in particular affordable housing needs within the District. The evidence demonstrates that the Council is justified in seeking as higher level of affordable housing as is viable from qualifying sites. As is set out within the Local Plan update report which has been presented to this committee, further evidence is being collected to support the local plan review process, this will include further viability evidence which will help the Council to understand what the viable level of affordable housing could be within the new local plan.

Alternative Options	1. None.
Consultation	<ol style="list-style-type: none"> 1. Local Plan and community infrastructure levy documents have been subject to consultation throughout their preparation. 2. Consultation on future stages of local plan and future review of community infrastructure levy will be required. 3. Consultation has been completed with both SIG and JMOG in line with the CIL Administration and Governance arrangements.
Financial Implications	<ol style="list-style-type: none"> 1. Officer time will be needed to transfer funding to projects and monitor project delivery. 2. Funding allocations will support the delivery of projects which have secured other external funding, maximise the financial investment in infrastructure within the district.
Contribution to the Delivery of the Strategic Plan	<ol style="list-style-type: none"> 1. Supports the priority of a vibrant and prosperous economy by identifying needs and opportunities for investment 2. Supports the priority of Healthy and Safe communities by ensuring the provision of housing. 3. Supports the priority of clean, green and welcoming places to live by assisting in allocating land for affordable housing, as well as supporting the delivery of residential and commercial developments.
Equality, Diversity and Human Rights Implications	<ol style="list-style-type: none"> 1. An Equality Impact Assessment accompanies the local plan documents document. This will require ongoing update.
Crime & Safety Issues	1. None.
GDPR/Privacy Impact Assessment	1. None.

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	Slow or none delivery by projects following allocation.	Grant agreements will included a clawback mechanism in the event of deemed slow progress or non-delivery. Progress with be monitored and managed by Spatial Policy and Delivery and reported to both SIG and JMOG.	Yellow
B	Allocated funding supporting investment in elements which are outside the scope of the submitted application.	Through the Grant Agreements funding will be released against individual milestones across the delivery timeline of the approved project.	Yellow

Background documents

[Local Plan Strategy](#) & [Local Plan Allocations](#)

[Community Infrastructure Levy Charging Schedule](#)

[Regulation 123 List](#)

Relevant web links

[Local Plan Strategy](#)

[Planning obligations \(including Section 106 and CIL\)](#)

