

### Community Infrastructure Levy

#### Framework for decision making by the Spelthorne Joint Committee

##### **Purpose of this Document**

The purpose of this document is to set out the arrangements for the Spelthorne Joint Committee to determine priorities and agree how Community Infrastructure Levy (CIL) monies allocated to it by the Borough Council will be expended.

It sets out relevant background to CIL as well as a 'framework' to guide decision making on individual proposals for infrastructure funding.

##### **1. Background**

- 1.1 The Community Infrastructure Levy (CIL) was introduced by the Government through regulations in 2010 as a mechanism for local authorities to collect developer contributions to help deliver capital funding for infrastructure to support the development of an area<sup>1</sup>. It is not intended as a source of revenue funding. It was designed to provide more certainty for developers as to the level of contributions likely to be required from any particular development. As such it was intended largely to replace the use of Section 106 planning obligations to fund general infrastructure except where some site specific mitigation would be required to make a development acceptable.
- 1.2 It was never the Government's intention, however, that CIL would meet all of the infrastructure costs in an area but only make a contribution towards them.
- 1.3 CIL is based on a charge per square metre of relevant development. When an authority proposes to introduce a levy it must set its charges in relation to the viability of development in its area. The local authority must also demonstrate that there is a 'funding gap' between the cost of the necessary infrastructure and the funding which is available to provide that infrastructure. The detailed processes for the introduction of a CIL Charging Schedule are set out in the Regulations and include two rounds of consultation and a formal examination.
- 1.4 Spelthorne Borough Council is the 'CIL Charging Authority' for CIL in its administrative area. As part of the process to enable CIL to be introduced it was necessary to demonstrate there is a gap in infrastructure funding between what was required and all

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<sup>1</sup> Regulation 59 (1) of the CIL Regulations 2010 (as amended) states "A charging authority must apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area"

other sources of available funding. In February 2014 it published an Infrastructure Delivery Plan<sup>2</sup> which identified the infrastructure improvements required to deliver the Council's adopted Core Strategy and Policies Development Plan Document to 2026 and the 'funding gap' taking account of known sources of funding. It identified a requirement of some £35.4m after all other sources of funding were taken into account, of which respectively £22.5m and £13.5m was for transport and education. At that stage there were no formal costs for the Lower Thames Flood Scheme and the health authorities were unable to provide details of any costed proposals. The Borough estimated that CIL receipts might generate up to £12m by 2026. A 'funding gap' was clearly established.

- 1.5 The Borough Council was also required to assess the viability of development generally to demonstrate what level of CIL charge could be set and still ensure that development would be viable. That work concluded that only residential development, larger out of centre retail development and accommodation for students could bear a CIL charge.
- 1.6 Following an 'examination', Spelthorne's CIL arrangements were approved by the Council in December 2014 and a CIL Charging Schedule<sup>3</sup> and a Regulation 123<sup>4</sup> list of were adopted<sup>5</sup> with implementation commencing on 1 April 2015. Further information on the operation of CIL generally and other documents relevant to the adoption of CIL are set out on the Council's website<sup>6</sup>.
- 1.7 It should be noted that the explanation above of the background to CIL and in footnotes to this document is not exhaustive and specific queries should be referred to the Borough Council's Planning Policy team.

## **2. Allocation of CIL monies and role of the Spelthorne Joint Committee**

- 2.1 The Borough Council is both the 'Charging Authority' and 'Collecting Authority' for CIL in Spelthorne and is statutorily responsible for its proper collection and spending. It is required to report annually by 31 December each year on the previous financial year. This report can form part of a Council's 'Authority Monitoring Report' which in Spelthorne is published as the 'Planning Monitoring Report'.

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<sup>2</sup> Community Infrastructure Levy – Infrastructure Delivery Plan, February 2014:  
<https://www.spelthorne.gov.uk/CHttpHandler.ashx?id=9564&p=0>

<sup>3</sup> CIL Charging Schedule, December 2014:  
<https://www.spelthorne.gov.uk/CHttpHandler.ashx?id=11719&p=0>

<sup>4</sup> Regulation 123, CIL Regulations 2010 (as amended). Where a local authority introduces a CIL charging schedule the Regulation 123 List, agreed by the Council, sets out projects or types of infrastructure that it intendeds to fund, or may fund, through the levy. Where the Reg 123 list includes a generic type of infrastructure such as transport or education Section 106 contributions may not be used for any specific projects in that category. Regulation 123 places restrictions on the use of Section 106 obligations so that they may only be used when determining a planning application where the following tests are met: (a) necessary to make the development acceptable in planning terms, (b) directly related to the development: and (c) fairly and reasonably related in scale and kind to the development.

<sup>5</sup> CIL Regulation 123 List, December 2014:  
<https://www.spelthorne.gov.uk/CHttpHandler.ashx?id=11723&p=0>

<sup>6</sup> Further information on CIL: <https://www.spelthorne.gov.uk/CIL>

- 2.2 As the 'Collecting Authority' the Council is allowed to keep up to 5% of CIL collected to meet its associated administrative costs<sup>7</sup>. It is also allowed in the first 3 years to include its 'set-up costs'.
- 2.3 CIL Regulations stipulate that in areas where there are no parishes or neighbourhood plans in place 15% must be spent in the local community where development has taken place<sup>8</sup>. There are no parish councils or neighbourhood plans proposed or existing in Spelthorne. For the purposes of this element the Borough Council has agreed<sup>9</sup> that 'local' community' will be taken as the settlement areas of Staines, Stanwell (including Stanwell Moor), Ashford, Sunbury and Shepperton.
- 2.4 Spelthorne Borough Council has decided that this 'local' element will be determined solely by itself and it will set up and operate separate arrangements for making decisions on bids for funding from this source.
- 2.5 There are no further statutory restrictions or requirements on spending the balance of monies after administrative costs and the 15% being spent locally.
- 2.6 As part of the arrangements for the setting up of the Spelthorne Joint Committee it has been agreed by both Councils that one of a number of shared responsibilities will be:
- 'iv. Determine priorities and agree how Community Infrastructure Levy (CIL) receipts will be expended'<sup>10</sup>
- 2.7 This agreed area of joint working will, with all other powers delegated by each authority to the Joint Committee, carry with it a general requirement stated in the Terms of Reference to discharge such powers with due regard at all times to the approved policies, budgets and financial regulations of the Council delegating the

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<sup>7</sup> Regulation 61 of the CIL Regulations 2010 (as amended) provides for charging authorities to apply CIL to administrative expenses incurred in connection with CIL. In the first three years it may recover expenses incurred during those three years plus any expenses incurred before the charging schedule was published of up to, but not exceeding 5% of CIL collected in those three years. For all subsequent years the total amount of CIL which may be applied to administrative expenses in a year may not exceed 5% of CIL collected in that year. Where an authority spends less than its permitted allowance on administrative expenses, any remaining balances must be used on capital infrastructure projects. See also Planning Practice Guidance – Community Infrastructure Levy; 1025-085-201406.

<sup>8</sup> The Planning Practice Guidance states that a charging authority must allocate at least 15% of its CIL receipts in any one year to the community or parish council in its area. However, the "at least" recognises that where a neighbourhood plan exists this proportion increases to 25%. Regulation 59A (7) sets out the duty on charging authorities and prescribes that where no neighbourhood plan exists the charging authority "*must pass 15% of the relevant CIL receipts to the parish council for that area*". Where there is no parish council in the area and no neighbourhood plan, Regulation 59F allows the charging authority to use the 15% of CIL, or cause it to be used, to support the development of the relevant 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*". In such circumstances the portion of the CIL receipt to be used by the charging authority remains the same as prescribed for a parish council in the area. The charging authority must engage with and consult the local community before spending the 15% portion in the area and it must report separately, as part of its annual report, on how it has spent the 15% portion. The local community may agree that the 15% portion may be put towards a larger infrastructure project to support the development of the area.

<sup>9</sup> Spelthorne Borough Council Cabinet meetings of 28 September (Minute 2290) and 23 November 2016 (Minute 2306)

<sup>10</sup> Spelthorne Joint Committee – Terms of Reference

functions and act in accordance with the Standing Orders and Terms of References of the Joint Committee. This includes an ability by both Council's Overview and Scrutiny Committees to 'call in' executive decisions and exercise rights to request that a decision is reconsidered. Decisions can also be referred to either Council's Cabinet.

- 2.8 It is for the Borough Council to decide how much money can be allocated to the Joint Committee at any point in time taking account of the sums allowed to be retained for administration, the spending by the Borough Council of at least 15% in the 'local community' and such sums that need to remain unallocated to ensure existing commitments to fund bids can be met. This decision on the amount allocated to the Joint Committee will be made by the Leader of the Borough Council.

### **3. Process for making decision on bids for CIL monies**

- 3.1 Bids for funding will be expected to be made by bodies that have the necessary powers to implement the project for which monies are sought. Where an organisation or individual has a proposal but does not have the powers or authority to implement it, will be advised to approach the organisation that does to see if they are prepared to take the project forward.
- 3.2 Any proposal must be in accordance with the priorities set out in the CIL Regulation 123 list<sup>11</sup>.
- 3.3 All bids must be submitted to the Borough Council – Planning Policy team, Spelthorne Borough Council, Knowle Green, Staines-upon-Thames, TW18 1XB email: [planning.policy@spelthorne.gov.uk](mailto:planning.policy@spelthorne.gov.uk). Submission of all bids to one organisation assists effective coordination and reflects the Borough Council's accountability for CIL as the 'Charging Authority'.
- 3.4 The Joint Committee will be advised on the suitability of bids by a CIL Task Group comprising the Borough's portfolio holder for Planning and Economic Development and a County Councillor representing a Division in Spelthorne and officers from each authority. The proposed terms of reference of the Task Group are set out at Appendix A to this report.
- 3.5 Bids will be assessed against a 'framework' of criteria which will firstly assist decisions on eligibility, and if eligible, their suitability, value and deliverability. A 'framework' is set out at Appendix B to this report. All parties making a bid will be required to justify their proposal against each of the criteria and supply any other relevant supporting information.
- 3.6 The CIL Task Group will report to the Joint Committee whose decision will be final, subject to the scrutiny role of each authority and power to refer to their respective Cabinets.
- 3.7 Monies allocated to approved bids will be paid out on completion of the work (or any agreed staged payment) and on presentation of appropriate receipts and inspection

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<sup>11</sup> <https://www.spelthorne.gov.uk/CHttpHandler.ashx?id=11723&p=0>

confirming the work is satisfactory. Money will be paid to the organisations responsible for commissioning the work.

- 3.8 The Joint Committee meets formally four times a year and it is expected that reports from the CIL Task Group on current and emerging priorities and the agreement of particular bids for CIL monies will be reported on a regular basis.
- 3.9 The Joint Committee, with the respective two Councils, will keep the arrangement set out in this document under regular review to ensure it is able to deal with CIL matters in the most expeditious and financially prudent manner.

**Terms of Reference: Spelthorne Joint Committee – Community Infrastructure Levy (CIL) Task Group**

**1. Remit**

The Task Group is a Councillor/Officer group set up to work jointly and collaboratively to advise the Spelthorne Joint Committee on CIL generally and make recommendations on bids for CIL monies allocated to it by the Borough Council.

**2. Membership of Task Group**

- The Assistant Head of Planning (Policy) for the Borough Council who will also act as Chairman.
- The Borough Council Portfolio holder for Planning and Economic Development.
- A County Councillor for the Spelthorne Division who will be the Chairman of the Joint Committee where the Chairman is a County Councillor or the Vice Chairman where the Vice Chairman is a County Councillor.
- The Task Group reserves the right to invite other officer representatives from either Council to provide advice but they will have no voting rights.

**3. Meetings**

As required to advise the Joint Committee and ensure effective and timely allocation of CIL monies.

**4. Objectives**

**The working group objectives are:**

- To ensure overall programming of infrastructure projects agreed by the Joint Committee.
- To advise and recommend to the Joint Committee schemes that will have maximum benefits to the community.

**The working group will be responsible for:**

- Recommending projects to the Joint Committee which require CIL funding from resources allocated to it.
- Regular monitoring and reporting to the Joint Committee on the delivery of projects including revisions to timescales.
- Reporting to the Joint Committee after completion of each project.
- Identification of other current and future infrastructure expenditure and funding streams.

**5. Output**

Regular project progress updates to the Joint Committee on CIL priorities and funding of projects.

**Spelthorne Joint Committee – Community Infrastructure Levy – Assessment Framework for projects for funding**

All bids for funding allocated to the Joint Committee will require robust evidence in their support and will be assessed against the following criteria in this assessment framework.

Bids must be submitted with a completed application form which is available to download from Spelthorne Borough Council's website (CIL page). It includes the list of information set out below. Any relevant additional supporting information must be included with the application.

**Considerations for the Joint Committee in determining bids:**

1. The proposal must only deal with a specific impact of development not duplicating funding from a Section 106 or Section 278 agreement.
2. Does not duplicate other funding support including CIL monies from the 'local' funding element determined by Spelthorne Borough Council.
3. Any CIL monies must add value and are not a substitute for other existing budget funding by either Council.
4. Funds are available at the required time from CIL monies allocated to the Joint Committee and approval and timing of payments will not prejudice the funding of projects already agreed.
5. CIL will only be allocated where there are no other funding mechanisms /sources available.
6. There will be general presumption that monies are used to mitigate the impact of new development rather than any existing deficiencies unless these are clearly being made worse.

**Information required from those making bids:**

1. Name and full contact details of the bidder and any agent acting on their behalf.
2. Location of the proposed infrastructure for which CIL funding is sought and identification on a plan the boundary/location of the site to which the proposal relates.
3. Confirmation the proposed bid is for capital funding only ( rather than the revenue or running costs for a facility)
4. Detailed description of the proposal.

5. Explanation of how the proposal supports further development within Spelthorne. In particular how would the impact of new development be dealt with and benefit residents.
6. Financial information regarding the proposal:
  - a. Total cost;
  - b. Amount of CIL funding required;
  - c. Sources and amount of any other funding that is being provided;
  - d. Further funding sources that have been pursued but not secured;
  - e. Why no alternative funding sources are possible.
7. Timescales of the project and when CIL funding will be required. (NB: funds are only released on completion of work, production of invoices and inspection by Spelthorne Borough Council)
8. Which organisation will implement the proposal and will it have:
  - a. authority to do so, including any agreements to undertake work on public land?
  - b. experience o effectively deliver projects of the scale and nature proposed with in required timescales and to budget
9. Information to demonstrate, by reference to costs and benefits, the proposal represents good value for money and there is a compelling case for approval.
10. Information by references to a project plan and project management arrangements that the proposal is deliverable.
11. Explanation of how any on-going maintenance costs will be met.
12. The specific policies, strategies or corporate priorities of either Spelthorne Borough Council or Surrey County Council which the proposal assist in implementing.
13. Consistent with all other policies, strategies and priorities of the Councils.
14. Any other approvals required in order to implement the proposal (e.g. planning permission) and what stage has been reached and what evidence is there that such approvals, if not already secured, will be forthcoming.

The Spelthorne Joint Committee, and the CIL Task Group on its behalf, reserves the right to request further information on any bid to enable it to make a clear decision/recommendation.