



Environment and Transport Committee
19 July 2013

Progress implementing the Community Infrastructure Levy (CIL) in Surrey

Purpose of the report: Policy Development and Review

This report provides further details of implementation of the Community Infrastructure Levy (CIL) in Surrey, as requested at the 6 March 2013 Environment and Transport Select Committee meeting.

Introduction

1. The committee received a brief update on the Community Infrastructure Levy (CIL) at its 6 March 2013 meeting and requested a more detailed report. This report: provides an update on CIL legislation; details the current position in Surrey; and considers how Surrey County Council will work with districts and boroughs to ensure CIL funding is used to deliver appropriate infrastructure.

The Community Infrastructure Levy (CIL)

What is CIL?

2. CIL is a charge on development introduced by the government in 2010. In two-tier areas it allows districts and boroughs to raise funds for infrastructure to support an area's development. It is a mechanism for collecting and pooling contributions from developers to help pay for the infrastructure needed to support development. CIL can be used for a wide range of infrastructure needed as a result of development, including transport schemes, schools, libraries, health and social care facilities, parks, leisure centres and flood defences.
3. In many situations CIL will replace the current section 106 contributions and the Planning Infrastructure Contribution (PIC) tariff regime. Further details on how and when CIL applies and the relationship between CIL and Section 106 contributions are provided in annexe 1.

Recent changes to CIL regulations

4. The original CIL regulations stated that a ‘meaningful proportion’ of CIL receipts must be allocated to neighbourhood forums or Parish Councils. In January of this year the government announced that this proportion should be 25% where a Neighbourhood Plan is in place and 15% in other areas. This proportion is either paid to the Parish Council or retained by the district or borough and spent in consultation with the community where development has taken place. Table 1 illustrates how this will work:

Parish council ✓ Neighbourhood Plan ✓ = 25% uncapped, paid to Parish	Parish council ✓ Neighbourhood Plan ✗ = 15% capped at £100 / dwelling, paid to Parish
Parish council ✗ Neighbourhood Plan ✓ = 25% uncapped, local authority consults with community	Parish council ✗ Neighbourhood Plan ✗ = 15% capped at £100 / dwelling, local authority consults with community

Table 1: allocation of meaningful proportion of CIL receipts to local areas

At present only a few areas in Surrey are looking to agree a Neighbourhood Plan but this looks likely to increase, at least in part in response to this incentive.

5. In April 2013 the government launched a further consultation on CIL which included a number of proposals to amend the regulations. Many of the proposals are specific to the arrangements districts and boroughs have to make for the collection of the CIL, but three areas will affect the County Council.
- a) The proposal to push back the date when the use of section 106 agreements will be scaled back. This means councils would have until April 2015, rather than April 2014, to adopt CIL.
 - b) The proposal to limit the use of section 278 agreements to fund infrastructure improvements. Section 278 agreements are legally binding agreements between the Local Highway Authority (the county council) and a developer and are generally used to ensure delivery of necessary infrastructure by a developer rather than to seek funding contributions. The County Council has opposed this proposed change since it is not considered necessary and would potentially fetter the highway authorities ability to ensure delivery of necessary infrastructure.
 - c) Thirdly, the consultation proposes that planning authorities publish a draft regulation 123 list at the same time as their preliminary draft charging schedule (if they have not yet published this), and that ‘proportionate consultation’ should take place each time the list is amended. The regulation 123 list is a list of infrastructure which is intended to be wholly or partly funded by CIL. The County Council is working with districts and boroughs to ensure county council

infrastructure priorities are included on regulation 123 lists – see paragraphs 18 - 23 below.

Progress implementing CIL in Surrey

6. In order to start charging CIL planning authorities need an up to date Local Plan in place. This sets out the area's plans for growth and the supporting infrastructure required. Authorities then need to evidence that the cost of necessary infrastructure exceeds the available funding. When setting a CIL charge they need to balance the need to fill this gap against ensuring they do not harm the overall viability of development in an area.
7. Planning authorities go through a lengthy process to set their CIL charge which includes publishing a preliminary draft charging schedule for a full public consultation. This is then revised and a draft charging schedule published. This is subject to an examination in public which considers the impact of the proposed charges on the economic viability of new development in an area. If the charging schedule is found sound it can then be adopted by the authority.
8. Elmbridge Borough Council is the only Surrey authority to have started charging CIL so far. The charge was introduced in April 2013. This followed a public examination of the charging schedule by an independent inspector. All Surrey's district and boroughs intend to introduce the levy and their progress and timelines are detailed in annex 2. For Runnymede, Waverley, Reigate & Banstead and Guildford Borough Councils this timeline also includes finalising their local plans.
9. Elmbridge is charging £125 per m² for residential development and £50 per m² for retail.

Charge per m ² for residential	Charge per m ² for retail	Anticipated annual income
£125	£50	£2.4m

10. Eight other authorities have published preliminary draft charging schedules. The draft charges are set out in table 2 below but these charges may be amended depending on the responses received to the consultations on the preliminary schedules.

District/ Borough	Proposed charge per m ² for residential	Proposed charge per m ² for retail	Anticipated annual income
Epsom & Ewell	£125	£150 (Convenience)	£0.7m
Mole Valley	£125	£100 (Convenience) £0 (Comparison)	£1.8m
Reigate & Banstead	£125	£250 (>280 sqm) £50 (<280 sqm)	£2.4m
Spelthorne	£100 - £160 (3 zones) £0 - £60 (with affordable housing)	120 (> 280 sqm)	£1.0m

District/ Borough	Proposed charge per m ² for residential	Proposed charge per m ² for retail	Anticipated annual income
Epsom & Ewell	£125	£150 (Convenience)	£0.7m
Surrey Heath	£250 (East) £200 (West)	£240 (Convenience) £200 (Warehousing) £100 (Comparison)	£1.1m
Tandridge	£120	£100 (Convenience) £0 (Comparison)	£1.1m
Waverley	£160	£87 (Convenience)	£1.6m
Woking	£125 £75 (Town Centre & Sheerwater/Maybury)	£75	£1.4m

Table 2: proposed CIL charges

11. Preliminary draft charges are higher for Surrey Heath than for other boroughs in large part because a significant amount of funding will need to be allocated to suitable alternative natural greenspace (SANG). SANG is required for any new housing within 5km of any site forming part of the Thames Basin Heath Special Protection Area for birds. This is an issue for many of the boroughs in the west of Surrey but particularly for Surrey Heath where it is anticipated that up to 85% of their CIL receipts will need to be spent on SANG.

Anticipating and maximising CIL funding for the County Council

12. CIL becomes payable when a planning permission is implemented so even Elmbridge Borough Council is unlikely to receive significant funds for some years. Across Surrey it is anticipated that CIL receipts will raise between £15 million and £20 million per year by 2017/18.
13. A number of areas of infrastructure provision are the responsibility of the County Council and, in order to support districts and boroughs set their CIL charges, the County Council has provided information about anticipated infrastructure requirements over the life of each borough or district's local plan. The most significant infrastructure responsibilities for the county council are provision of school places and transport, including roads that are not the responsibility of the Highways Agency (i.e. all roads in the county except for motorways and some regionally significant A roads such as the A3).
14. Decisions about how to spend CIL receipts will sit with each district and borough but the county council will seek the necessary CIL receipts from districts and boroughs to meet any shortfall in funding for identified infrastructure which is the responsibility of the County Council. Although CIL charge setting is dependent on evidencing a gap in funding for infrastructure, CIL is only expected to partly contribute to meeting this gap. It should be seen as a way of supplementing and leveraging a variety of other funding sources.
15. CIL cannot therefore be considered in isolation but rather as one of a number of sources of funding for infrastructure. It is important that a joint infrastructure programme

is agreed so that CIL can be combined with other funding sources and used effectively. On the basis of an agreed programme CIL funding can be allocated by the boroughs and districts to the County Council and other infrastructure delivery bodies.

16. The County Council continues to facilitate a six weekly officer steering group which brings together County Council officers from planning, finance and property services with lead CIL officers from three borough councils. In addition a joint officer group with representatives from all Surrey local authorities meets three times a year to consider CIL activities across the county. These meetings ensure all authorities learn from the experience of front runners and support work to develop overarching countywide principles for prioritising CIL spend (see paragraphs 24 - 27 below).
17. The County Council has worked with the districts and boroughs to develop a database, MIDAS, (Monitoring Infrastructure Development Across Surrey) as a platform to assist in monitoring and planning infrastructure spending. MIDAS is a central, co-ordinated financial monitoring system which will be used to record how developer contributions (S106, PIC and CIL) are received, managed and spent and assist in planning the resulting infrastructure.

Clarifying County Council infrastructure priorities

18. Considerable work is underway in order to ensure that County Council infrastructure priorities are recognised and receive funding. We are now building on the information we have fed into each borough and district's Infrastructure Delivery Plans, providing the required level of detail for districts and boroughs to publish their regulation 123 lists of all infrastructure provision which may be funded, at least in part, by CIL.
19. In particular we are producing a joint transport strategy for each district and borough to translate the Surrey Transport Plan (LTP3)¹ to the local level together with a rolling short to medium term implementation programme and longer term priorities. These strategies are being considered by local committees, with a period of consultation before final agreement by relevant county and district/ borough committees.
20. These local transport strategies will include the major transport schemes agreed by the Cabinet November 2012², as well as intermediate schemes and packages of schemes such as bus or cycling infrastructure improvements. They will also include shorter-term measures currently contained in the Local Committee Highways Improvement Programmes. It may be that Local Committees will consider contributing a proportion of their capital funding towards more strategic priorities agreed in the local transport strategies, especially where schemes would only be implemented, and/or brought forward, if combined with CIL top up funding or other funding sources.
21. The local transport strategies also pick up the strategic infrastructure requirements highlighted by the work to produce a Congestion Programme and a Rail Strategy for Surrey. These projects sit under the Surrey Future initiative. Surrey Future is led by Surrey Leaders and brings together Surrey's local authorities and business leaders to agree the investment priorities to support the county's economy over the next few decades and establish a list of longer-term infrastructure priorities.

¹ See <http://www.surreycc.gov.uk/roads-and-transport/surrey-transport-plan-ltp3>

² 'Supporting the economy through investment in transport and infrastructure 2012 – 2019' - <http://mycouncil.surreycc.gov.uk/ieListDocuments.aspx?CId=120&MIId=115&Ver=4>

22. In addition work has been completed and continues to be developed to identify specific schools where expansion may take place over the longer term in order to deliver the County Council's Schools Basic Needs Capital Programme. These school expansion projects could then be listed on regulation 123 lists.
23. As noted above, up to 25% of CIL receipts will be spent on schemes supported by the local community. These schemes would not necessarily need to be listed on the regulation 123 lists or even included in the local plan infrastructure schedules. Alternatively this local funding could be used to help fund larger schemes, possibly a priority of the County Council, if the local community is supportive of a particular scheme.

Surrey County Council role in CIL governance

24. As the CIL charging authorities, each district and borough will make its own arrangements for agreeing priorities on which to spend CIL receipts. It is unlikely there will be a single governance and decision making protocol which all authorities will accept. Districts and boroughs will want to control CIL spending – since they will be accountable for it. Nevertheless it is important to ensure that County Council Members can influence the prioritisation of infrastructure schemes. This will best be achieved by agreeing clear and deliverable infrastructure priorities and ensuring these are shared by the relevant borough or district council.
25. Although officers have considered learning from other areas of the country, there are very authorities in two tier areas which have already started charging CIL. Even where CIL is operational very little funding has been collected and proposed governance arrangements are untested. Where authorities have signed up to Memoranda of Understanding, such as in Hampshire, these are very high level documents which do not address the detail of how CIL funding will be allocated to infrastructure priorities.
26. Elmbridge Borough Council (EBC) is the only Surrey authority so far to have formally considered a paper on potential governance arrangements³. EBC is proposing to put 75% of its CIL receipts into a centralised pot against which infrastructure providers, including the County Council, can bid for funding. A Member/officer working group will work with the County Council and other infrastructure providers to identify and shape infrastructure priorities and vet applications before the Council's Cabinet agrees funding allocations. The core membership of this working group would include one County Council infrastructure representative. Project sponsors, including County Council Members, would be invited to inform discussions as necessary.
27. One of the key concerns for districts and boroughs is ensuring that delivery of agreed infrastructure priorities takes place. Elmbridge Borough Council's paper emphasises their right to recover any CIL receipts allocated to infrastructure providers that have not been spent within agreed timescales.

Conclusions

28. The introduction of CIL represents an opportunity for the County Council. CIL is likely to provide more funding for infrastructure in the county, with developers contributing more than under the current arrangements.

³ See Report to Cabinet 5 June 2013 http://www.elmbridge.gov.uk/documents/detail.htm?pk_document=23631

29. The final decision on how this funding is allocated and spent rests with the districts and boroughs. Hence considerable work is underway to ensure the County Council has clear evidence of its infrastructure needs and priorities and that these are shared by districts and boroughs and therefore likely to receive CIL funding. There are a number of ways in which County Council Members can influence this:

- a) By contributing to the development of Local Transport Strategies which will inform the transport schemes on the district and borough lists to be financed from CIL (Regulation 123 lists) and subsequent infrastructure delivery programmes;
- b) By looking at CIL as a further funding source for infrastructure and considering how it can be used to release other funding and vice versa, for example by local committees contributing capital funding towards agreed priorities, which will then release CIL as top up funding; and
- c) By working with local communities to influence how the community allocation is utilised.

Recommendations

- a) That the Select Committee supports the ongoing work of developing and agreeing local transport strategies in order to:
 - support the growth identified in district and borough core strategies, and
 - help secure additional funding from the growing pot of CIL monies controlled by districts and boroughs and local communities.
- b) That Local Committees are requested to consider how they might best combine some of their capital allocation with other available funding, such as CIL, in order to maximise the impact on local transport issues and problems.

Next steps:

An update report be received by the Committee in early 2014. This report should review progress on the adoption of district and borough core strategies and CIL and the degree to which available CIL funding is being used to help finance transport infrastructure.

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Sources/background papers:

The Community Infrastructure Levy Regulations 2010 –
<http://www.legislation.gov.uk/uksi/2010/948/contents/made>

The Community Infrastructure Levy (Amendment) Regulations 2012 -
<http://www.legislation.gov.uk/uksi/2012/2975/made>

Community Infrastructure Levy guidance April 2013 -

<https://www.gov.uk/government/publications/community-infrastructure-levy-guidance>

Elmbridge Borough Council report to Cabinet 5 June 2013 – ‘Future governance arrangements for the Community Infrastructure Levy (CIL)’ -

http://www.elmbridge.gov.uk/committees/meetings.htm?pk_meeting=1554&comid=12

Annexe 1 – Background information on CIL and the relationship between CIL and Section 106 planning

Annexe 2 – Timeline for introducing CIL across Surrey district and boroughs