

Gloucester City Council

Meeting:	Cabinet Council	Date:	6 December 2023 25 January 2024
Subject:	Cheltenham, Gloucester and Tewkesbury Community Infrastructure Levy Joint Committee		
Report Of:	Cabinet Member for Planning and Housing Strategy		
Wards Affected:	All		
Key Decision:	Yes	Budget/Policy Framework:	Yes
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Appendices:	1. Community Infrastructure Levy Joint Committee – Terms of Reference		

FOR GENERAL RELEASE

1.0 Purpose of Report

1.1 This report seeks approval from Council for:

- (1) The establishment of a Joint Committee to facilitate governance of the allocation of infrastructure funding from Community Infrastructure Levy receipts received by Cheltenham, Gloucester and Tewkesbury as set out in appended Terms of Reference
- (2) Agreement of pooling arrangements for the Infrastructure Fund by the three Joint Committee partner councils, managed through Community Infrastructure Levy Joint Committee Terms of Reference, and
- (3) Engagement with wider infrastructure providers.

2.0 Recommendations

2.1 Cabinet is asked to **RECOMMEND** that:

- (1) it be agreed that the establishment of a Community Infrastructure Levy Joint Committee under s101(5) and s102 Local Government Act 1972 and under Part 1A Chapter 2 Section 9EB of the Local Government Act 2000 and pursuant to the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012;
- (2) it be agreed that the Community Infrastructure Levy Joint Committee Terms of Reference (Appendix 1);

- (3) it be agreed that the pooling of strategic infrastructure Community Infrastructure Levy monies by the three partner Councils of Cheltenham, Gloucester and Tewkesbury with governance as set out in the Community Infrastructure Levy Joint Committee Terms of Reference;
- (4) engagement with wider infrastructure providers outside the local authorities be entered into to identify any wider infrastructure priorities to be considered by the Community Infrastructure Levy Joint Committee.

2.2 Council is asked to **RESOLVE** that:

- (1) it be agreed that the establishment of a Community Infrastructure Levy Joint Committee under s101(5) and s102 Local Government Act 1972 and under Part 1A Chapter 2 Section 9EB of the Local Government Act 2000 and pursuant to the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012;
- (2) it be agreed that the Community Infrastructure Levy Joint Committee Terms of Reference (Appendix 1);
- (3) it be agreed that the pooling of strategic infrastructure Community Infrastructure Levy monies by the three partner Councils of Cheltenham, Gloucester and Tewkesbury with governance as set out in the Community Infrastructure Levy Joint Committee Terms of Reference;
- (4) engagement with wider infrastructure providers outside the local authorities be entered into to identify any wider infrastructure priorities to be considered by the Community Infrastructure Levy Joint Committee.

3.0 **Background and Key Issues**

- 3.1 The Community Infrastructure Levy (CIL) is a charge which can be levied by local authorities on new development in their area. It is an important tool for local authorities to use to help deliver infrastructure needed to support development. CIL is governed by the CIL Regulations 2010 (as amended).
- 3.2 CIL is paid to the council by developers at set times from the commencement of development. In Cheltenham, Gloucester and Tewkesbury council areas, this is done in accordance with the adopted 'Instalments Policy'. CIL is a means outside wider government funding through which the council is able to collect and pool additional developer contributions to deliver infrastructure improvements.
- 3.3 Gloucester City Council approved the introduction of CIL in October 2018 with commencement of charging on planning applications granted permission on or after 1st January 2019.
- 3.4 CIL has a close relationship with the Joint Core Strategy (JCS) and the emerging Strategic and Local Plan (SLP) which spans Cheltenham, Gloucester and Tewkesbury administrative areas. From its inception it has been envisaged that a significant proportion (70-80%) of funds collected via CIL will be spent on strategic

'Infrastructure'. It is proposed this is pooled between the three authorities. This is to be spent on larger, more costly infrastructure projects across the three council areas and must be used for the 'provision, improvement, replacement, operation or maintenance of infrastructure needed to support development'.

- 3.5 Whilst CIL has been in place for some time, it has taken a long period for the fund to build up. As of the end of October 2023, the strategic CIL pot stood at approximately £11.9m. Whilst this may look like a significant sum of funding available, the reality is that it provides just a small fraction of that needed to deliver the infrastructure demands for our areas.
- 3.6 Between 15% and 25% is secured for community spending. If a qualifying development was to occur within the boundary of Quedgeley Town Council, this 'Neighbourhood Funding' must be passed to them. If an approved 'Neighbourhood Planning Area' (NPAs) has a 'made' Neighbourhood Plan, monies would be retained by the City Council to be spent in consultation with the Neighbourhood Planning Forum. Most of Gloucester City is unparished and there are currently no active NPAs, therefore the community pot from development in these areas is retained by the City Council as a 'Neighbourhood Fund'. In November 2020, Gloucester City Council agreed to the creation of a new governance body to administer the expenditure of this money through the CIL Neighbourhood Fund, whereby community groups can bid for funds to support projects.

Joint Committee

- 3.7 It is proposed that a Joint Committee be set up between Gloucester City Council, Cheltenham Borough Council and Tewkesbury Borough Council to work jointly and collaboratively to advise the councils on the expenditure of pooled strategic pot CIL monies, working within an agreed Terms of Reference (Appendix 1). The Joint Committee will be supported by an Officer Working Group, which will work together to assess bids for funding and submit recommendations to the Joint Committee for approval.
- 3.8 The Joint Committee will:
- Oversee the Strategic CIL application process and scrutinise each project bid for strategic fit and compliance with CIL requirements.
 - Be accountable for the oversight, monitoring and governance of awards.
 - Take an objective and detached view of applications.
- 3.9 Each council shall appoint a Committee member and a substitute who shall be either the Leader or other appointed Cabinet / Executive Member. The quorate membership of the Committee will be three, made up of one member from each council. Each council will have one vote.
- 3.10 The Officer Working Group will work within a Terms of Reference, which is currently being prepared and will be agreed once the Joint Committee is established. It will report to the Committee, and include the following activities:
- Making recommendations to the Committee
 - Contract management where triggered
 - Application revisions and extensions

- Financial updates
 - Project delivery scrutiny, and
 - Checking compliance with funding agreements.
- 3.11 The Committee will be hosted under local government arrangements by Tewkesbury Borough Council and hosting arrangements reviewed every two years. The host authority will provide Secretary/Clerk, S151 and Monitoring Officer roles of the Committee.
- 3.12 Meetings of the Committee will occur at least annually to agree Strategic CIL allocations. Other meetings may be required to respond to the programme of the additional functions. Meetings which make decisions on the allocation of CIL funding will be in public.
- 3.13 The councils have reviewed and updated infrastructure projects that could be wholly or partly funded through Strategic CIL funds. The infrastructure list for Gloucester City (which will be considered for approval at Cabinet on 6th December as part of the Infrastructure Funding Statement) is provided at Appendix 3. Any future updates will be brought to Cabinet Members for approval. This list will form the basis for consideration of infrastructure projects by the Joint Committee.

Pooling of funds

- 3.14 In order to make the most effective use of CIL funds, and ensure sufficient monies to deliver strategic scale infrastructure, it is proposed that strategic contributions from each CIL charging authority are pooled. This is supported through the National Planning Policy Guidance on CIL, which states, *'Charging authorities can choose to pool a proportion of their Community Infrastructure Levy... Where local authorities are working jointly to prepare development plans for their areas, pooling of levy receipts may be a useful mechanism for funding strategic infrastructure projects that have cross-boundary benefits. Each of the charging authorities included in the pooling arrangements should be content that funding for infrastructure outside the authority's area will support development of its own area'*.
- 3.15 This principle is embedded within the Joint Committee Terms of Reference (Appendix 1), which proposes 100% pooling of strategic 'infrastructure' CIL. The key justifications for this are:
- Taking into account, S106 obligations, CIL to date together with wider funding either secured or identified, there is, and will remain, a significant funding gap to meet the infrastructure demands of the adopted Gloucester, Cheltenham & Tewkesbury Joint Core Strategy.
 - Without commitment to pooling, all councils will face ongoing challenges to fund large infrastructure projects, and it will take a longer period of time to deliver priorities for investment.
 - By committing to pooling, within the parameters of the Joint Committee Terms of Reference, it sends a positive message to the broad range of infrastructure providers that the councils are committed to enabling infrastructure priorities across the area.
 - By building in trigger point reviews regarding pooling, this provides all partner councils with the ability to renegotiate the level of pooling in the future.

- If Gloucester City was to retain a percentage of the strategic CIL receipts, in parallel to the Joint Committee it would have to put in separate governance procedures which, given the level of CIL currently being collected may be challenging to allocate due to the high values of strategic infrastructure and this would not be efficient in respect of time and resources.

Infrastructure list

- 3.16 An Infrastructure list is included within the Infrastructure Funding Statement (IFS), reported at least annually to Cabinet.
- 3.17 The list for Gloucester City Council includes infrastructure priorities within existing plans and strategies and is contained in the IFS report, alongside those identified by Cheltenham Borough Council, Tewkesbury Borough Council and Gloucestershire County Council.
- 3.18 The councils are very aware that infrastructure identified by the local authorities may not identify all priorities. Therefore, a wider targeted exercise will be undertaken with key stakeholders such as NHS, emergency services, utilities, Environment Agency and Sport England. Should additional items be identified for our area which are considered priorities ahead of the full review of the IDP to support the SLP an update to the Infrastructure List will be presented to Cabinet.

4.0 Social Value Considerations

- 4.1 The delivery of infrastructure necessary to support development and new communities brings obvious social value benefits.

5.0 Environmental Implications

- 5.1 None directly from this report, however CIL infrastructure projects that may be in the future funded, may have implications.

6.0 Alternative Options Considered

- 6.1 In determining the most effective approach to determining how strategic CIL funds should be spent, a CIL Board has been considered. However, this is not considered the best approach for several reasons, including:
- The concern of the time and administration that would be needed to service a CIL Board and then recall decisions back to each individual council for final approval, building in delay and uncertainty for infrastructure providers.
 - Easier and more efficient to engage on a collective basis with infrastructure providers and adds transparency into future CIL allocation and the setting of priorities through the operation of a Joint Committee.
 - Commitment from the three councils to define an effective Terms of Reference that build in the safeguards including a full consensus vote, review triggers and scrutiny mechanisms.

7.0 Reasons for Recommendations

7.1 Having considered alternatives, the proposed approach to spending strategic 'infrastructure' CIL monies through a Joint Committee is considered the most effective approach, with appropriate safeguards and scrutiny secured through Terms of Reference.

8.0 Future Work and Conclusions

8.1 Once approvals have been secured from the three councils, the first meeting of the Joint Committee will be organised, where the process for the assessment of pipeline and projects for investment will be agreed.

8.2 The Infrastructure List is included within the IFS, which must be reported to Cabinet at least annually. This provides an opportunity for a review of the list at regularly points in time. Furthermore, as set out at paragraph 3.18, an additional update may be necessary to reflect priorities of wider key stakeholders.

8.3 Monitoring and review would be undertaken by the Joint Committee and reported back to Cabinet.

9.0 Financial Implications

9.1 There are no direct financial, property or asset implications of the recommendations in this report. However, the Council may indirectly benefit from the strategic element of the CIL which can be used to enhance / provide infrastructure in the city.

(Financial Services have been consulted in the preparation of this report.)

10.0 Legal Implications

10.1 The 'strategic' element of CIL receipts must be spent on infrastructure (being otherwise than the up to 5% for administration and the neighbourhood portion). Charging authorities can choose to pool a proportion of their Community Infrastructure Levy (CIL) receipts to fund infrastructure including for out of their own area spending. Each of the charging authorities included in the pooling arrangements should be content that funding for infrastructure outside the authority's area will support development of its own area.

10.2 Under national Planning Policy Guidance charging authorities are encouraged to consider publishing a memorandum of understanding detailing the administration, principles, and governance that will be implemented for any pooled fund, covering, but not limited to:

- A proposed governance structure and decision-making process for agreeing how the pooled fund is implemented and spent;
- The proportion or amount of levy each charging authority will contribute;
- The procedure for collecting the pooled levy;
- The strategic infrastructure projects the pooled fund will be spent on;
- A system for returning pooled funds to an authority in the event that it is necessary to do so;
- A proposed review mechanism for the memorandum.

- 10.3 It is further recommended that the memorandum of understanding is a publicly accessible document, which clearly explains how the pooled levy will be administered and spent. A memorandum of understanding is not being proposed, but the Joint Committee's terms of reference will set out how the pooled levy will be administered and spent.
- 10.4 The Authority has a variety of legislative powers to set up governance arrangements, including the general power of competence set out in Section 1 of the Localism Act. This includes the setting up of Joint Committees under s101(5) and s102 Local Government Act 1972, Part 1A Chapter 2 Section 9EB of the Local Government Act 2000 and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012.

(One Legal have been consulted in the preparation of this report.)

11.0 Risk & Opportunity Management Implications

- 11.1 Not having a clear CIL prioritisation of infrastructure projects may risk receipts not being targeted towards the most critical infrastructure needed to deliver development and fulfil our requirements in the delivery of the JCS and Gloucester City Plan.
- 11.2 Not having clear and transparent governance in place around the prioritisation and spend of CIL 'infrastructure' funding will risk it not being spent on agreed infrastructure priorities.

12.0 People Impact Assessment (PIA) and Safeguarding:

- 12.1 A People Impact Assessment (PIA) scoping exercise has been undertaken and all impacts were neutral. A full PIA assessment is not therefore required.

13.0 Community Safety Implications

- 13.1 None

14.0 Staffing & Trade Union Implications

- 14.1 None

Background Documents:

Community Infrastructure Levy (CIL) Formal Adoption of Charging Schedule and Supporting Policies alongside Approval of the Regulation 123 List for Publication and Setting a Commencement Date for Charging (October 2018).

Proposals to set up Local Governance Arrangements to distribute Community Infrastructure Levy (CIL) Neighbourhood Funding in Gloucester (November 2020).

Gloucester Infrastructure Funding Statements (December 2023).