

Agenda Item: 9 (b) Community Infrastructure Levy Appendix E

Report to: Finance and General Purposes Committee

Date: Wednesday 15th December 2021

Subject: Community Infrastructure Levy

Summary: To receive background information

Recommendation:

The committee is recommended to note the report.

1. What is Community Infrastructure Levy

The Community Infrastructure Levy (CIL) is a planning charge, 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 area.

It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010.

2. How is it charged?

New developments that create net additional 'gross internal area' of 100 square metres or more, or create new dwellings, are potentially liable for the levy.

Some developments may be exempt or qualify for relief.

There may be circumstances where the charging authority (Rother District Council) and the person liable for the levy (the developer) will wish land and/or infrastructure to be provided, instead of money, to satisfy a charge arising from the levy. For example, where an authority has already planned to invest levy receipts in a project there may be time, cost and efficiency benefits in accepting completed infrastructure from the party liable for payment of the levy.

Payments in kind may only be made with the agreement of the liable party, the charging authority, and any other relevant authority that will need to assume a responsibility for the land or infrastructure. This could be a parish or town council.

3. How is it collected?

On commencement of the development, Rother District Council collects the CIL payment from the developer

4. What can CIL be spent on?

The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities. This definition allows the levy to be used to fund a very broad range of facilities such as play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant plan. Charging authorities may not use the levy to fund affordable housing.

Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed.

The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development.

5. What payment does a parish or town council receive?

Where all or part of a chargeable development is within the area of a parish council, the charging authority (Rother District Council) must pass a proportion of the CIL receipts from the development to the parish/town council.

The parish council must use the CIL receipts passed to it to support the development of the parish council's area by funding the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on the area.

Where this development is also within an area that has a neighbourhood plan in place, or the development was granted planning permission by a neighbourhood development order (including a community right to build order), the charging authority must pass 25% of the relevant CIL receipts to the parish council for that area.

This amount will not be subject to an annual limit. For this to apply, the neighbourhood plan must have been made (see section 61E of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38C of the Planning and Compulsory Purchase Act 2004) before a relevant planning permission first permits development (as defined by [regulation 8](#), as amended by the [2011 Regulations](#) and the [2014 Regulations](#)).

Charging authorities can choose to pass on more than 25% of the levy, although the wider spending powers that apply to the neighbourhood funding element of the levy will not apply to any additional funds passed to the parish. These additional funds can only be spent on infrastructure, as defined in the Planning Act 2008 for the purposes of the levy.

Where all or part of a chargeable development is within the area of a parish council but there is neither a neighbourhood development plan nor a neighbourhood development order, up to 15% of the relevant receipts, capped according to the formula in [regulation](#)

[59A](#) (as amended by the [2019 Regulations](#)), must be passed to the parish councils in which the development took place.

Areas could use some of the neighbourhood pot to develop a [neighbourhood plan](#) where it would support development by addressing the demands that development places on the area.

6. What happens when a development straddles parish/town council boundaries?

Where development straddles the boundaries of parish or town councils' administrative areas, each council receives a share of the levy which is proportionate to the gross internal area of the development within their administrative area.

For example, if a development crosses 2 parish or town council administrative areas with 50% of the gross internal area created in one parish and 50% in the other, each council receives 50% of the neighbourhood portion, up to the level of the annual limit for their area. The total levy liability across the development is used to calculate the neighbourhood funding figure, to take account of sites with variable rates.

There may be occasions when development crosses more than one parish or town council administrative area and where one or more of those areas has a neighbourhood development plan in place (so receives 25%) and one or more of those areas does not.

There may also be occasions where part of a development is granted planning permission by a neighbourhood development order, and part is not. In these cases, the parish or town council receives a proportionate amount of the levy payment based on how much of the gross internal area of the development is in an area for which there is a neighbourhood plan or was granted permission by a neighbourhood development order.

7. What can the neighbourhood funding be spent on?

The neighbourhood portion of the levy can be spent on a wider range of things than the rest of the levy, provided that it meets the requirement to 'support the development of the area' (see [regulation 59C](#) inserted by the 2013 Regulations for details). The wider definition means that the neighbourhood portion can be spent on things other than infrastructure (as defined in the Community Infrastructure Levy regulations) provided it is concerned with addressing the demands that development places on the parish's area. For example, the pot could be used to fund affordable housing.

Parish or town councils must discuss their priorities with the charging authority during the process of setting the levy rate(s).

Once the levy is in place, parish or town councils then work closely with their neighbouring councils and the charging authority to agree on infrastructure spending priorities.

If the parish or town council shares the priorities of the charging authority, they may agree that the charging authority should retain the neighbourhood funding to spend on that infrastructure. It may be that this infrastructure (for example, a school) is not in the parish or town council's administrative area but will support the development of the area.

8. What happens if the money isn't spent?

If a parish or town council does not spend its levy share within 5 years of receipt, or does not spend it on initiatives that support the development of the area, the charging authority may require it to repay some or all of those funds to the charging authority (see [regulation 59E](#) for details).

9. Reporting requirements

Parish and town councils must make arrangements for the proper administration of their financial affairs in accordance with legislation. They must also have systems in place to ensure effective financial control. These requirements also apply when dealing with neighbourhood funding payments under the levy.

For each year when they have received neighbourhood funds through the levy, parish and town councils must publish the information specified in [regulation 121B](#) (a re-enactment of regulation 62A inserted by the 2019 Regulations). They should publish this information on their website or on the charging authority's website. If they haven't received any money they do not have to publish a report, but may want to publish some information to this effect in the interests of transparency.