

Appendix 7

Caerphilly County Borough

Community Infrastructure Levy Steering Group Meeting (2) Draft Notes

Ebbw Room, Ty Penallta, 4 April 2014

Members in Attendance

Leader of Council	Cllr H Andrews
For Leader of the Majority Opposition	Cllr J Fussell
Deputy Leader and Cabinet member for Corporate Services	Cllr K Reynolds
Cabinet Member for Performance and Asset Management	Cllr D Hardacre
Cabinet Member for Education and Lifelong Learning	Cllr R Passmore
Cabinet Member for Community and Leisure Services	Cllr D Poole
Cabinet Member for Highways, Transportation and Engineering	Cllr T Williams
Cabinet Member for Social Services	Cllr R Woodyatt

Officers In Attendance

Chief Executive	Stuart Rosser
Head of Engineering Services	Terry Shaw
Head of Public Protection	Rob Hartshorn

Member Apologies

Cabinet Member for Regeneration, Planning and Sustainable Development	Cllr K James
Leader of the Majority Opposition	Cllr C Mann
Deputy Leader and Cabinet Member for Housing	Cllr G Jones
Cabinet Member for HR and Governance/Business Manager	Cllr C Forehead

Officer Apologies

Acting Deputy Chief Executive	Sandra Aspinall
Corporate Director of Social Services	Dave Street
Acting Director of Corporate Services & S151	Nicole Scammell
Head of Regeneration and Planning	Pauline Elliott
For Head of Legal Services	Gail Williams

It was advised that the Leader of the Opposition (Cllr C Mann) was unable to attend and that Cllr J Fussell was attending in his place. It was noted that, at the first meeting of the Group, it was decided that substitutes were not appropriate. However it was the view of the Group that it was appropriate that a member of the Opposition was in attendance and it was agreed that Cllr Fussell should attend.

It was also advised that Rob Hartshorn was also attending but his post had been inadvertently omitted from the membership set out in the Terms of Reference. This issue was addressed under agenda item 3

1 Introduction to the Meeting

Cllr Andrews welcomed everyone to the meeting and outlined briefly what the meeting was to consider.

2 Notes of Previous Meeting

It was advised that all of the actions set out in the Notes of the previous meeting would be addressed in the subsequent agenda items of this meeting.

Decision: The Notes were agreed as an accurate representation of the meeting.

3 Terms of Reference

The amended Terms of Reference for the Group had been provided in the meeting documentation. It was advised that the membership of the Group should have included all Heads of Service from the Directorate of the Environment. However the Head of Public Protection had been inadvertently omitted from the list.

Decision: The Terms of Reference be agreed subject to the inclusion of the Head of Public Protection into the membership list set out in paragraph 4.1.

4 Update on Progress

The Group were advised that much had happened since the previous meeting. The CIL Charging Schedule had been the subject of two consultation periods (October – November 2012, March – May 2013) and had been submitted for Examination to the Planning Inspectorate in October 2013. The Examination consisted of one sitting day that was held in January 2014 and the Examiners Report was received in February 2014.

The Examiner found that the evidence base was robust. The Examiner did raise concerns in respect of the proposed charge of £60 per square metre for D1 Primary Healthcare developments. This issue was one that the officers were not entirely convinced about and, at the Council Meeting in October 2013 it was resolved that officers continue to negotiate with the Health Board to try to reach a compromise or agreement on the charge. Unfortunately agreement could not be reached and the issue was discussed at the Examination.

The Examiner ultimately considered that the Council was able to demonstrate that it had sufficient evidence to support the schedule and could show that the levy rates would be set at levels that would not put the overall development of the area, as set out in its Local Development Plan, at risk.

The Group were also advised that there had been two sets of amendments to the CIL Regulations since the previous meeting of the Steering Group. These amendments had addressed 3 significant issues.

Firstly it has been confirmed that affordable housing will remain a S106 matter and will not be subsumed into CIL.

Secondly the Regulations set out a requirement to pass 15% of CIL Receipts in a Community Council area to that Community Council.

Thirdly the Regulations exempt self-build housing from any CIL Charge.

Members raised a number of issues relating to the provision for passing CIL to the Community Councils. It was advised that the issues were addressed in the Recommendations arising from the Working Group meeting that were to be discussed next.

5 Recommendations of the Officer Working Group

The Group had been forwarded a set of 16 recommendations that were agreed at the CIL Working Group meeting held on 25 March 2014.

It was advised that, with Examiners Report approving the Charging Schedule subject to the modification to the rate for D1 Primary Health Care development, the CIL Charging Schedule is now ready to be approved by Council. The procedural elements of collecting

the CIL is set out in detail in the CIL regulations and the Principal Administrative Officer in Planning Services, Helen Hotchkiss, who (deserves special mention for the amount of work she has done on the Development Management Back Office System) has been working for a considerable period of time to set up the internal process required to ensure that CIL can be implemented on approval.

Consequently it was advised that the Steering Group did not need to consider anything relating to these areas. It was also advised, however, that the issue of how CIL revenue was to be spent was the key remaining issue.

It was advised that the Working Group had considered the issue of how CIL revenue was to be allocated to infrastructure projects and had agreed a number of recommendations which were based around the main procedure of a Service area submitting had been agreed that were based upon the simple process of service areas submitting bids for funding for infrastructure, with the bids being assessed by an independent Assessment panel and prioritised for spend.

Recommendation 1 - That CIL revenue raised in year 1 be accumulated and targeted at projects in year 2.

It was advised that the first and second recommendations are aimed at the same issue, namely realising the delivery of a number of small schemes in the second year to deliver “quick wins” to show CIL is working. This recommendation seeks to accumulate all of the CIL receipts from the first year to accumulate a pot from which schemes can be funded.

Decision: Recommendation agreed

Recommendation 2 - That the Assessment Panel recommend a number of smaller projects in year 2 that would result in quick wins in terms of delivery.

It was advised that the Assessment Panel is subject to a subsequent recommendation, but in essence it is a panel of independent officers whose responsibility will be to assess submitted infrastructure bids and prioritise them for spend. This recommendation sought to ensure that a number of small schemes are delivered in the second year to deliver “quick wins” to show CIL is working.

Decision: Recommendation agreed

Recommendation 3 - That a sufficient percentage of revenue raised be accumulated each year (50%) in order to ensure the delivery of major infrastructure projects.

It was advised that infrastructure to be funded by CIL could have widely varying costs from small-cost schemes to multi-million pound schemes, e.g. strategic highway improvements. It is conceivable that CIL could be targeted to those schemes that can be delivered with the current finance available, which would mean that high cost schemes would not be funded, as sufficient finance is unlikely to be realised in any year. As a result it is recommended to accumulate 50% of all CIL revenue each year to fund higher cost schemes.

Concern was raised over whether the amount accumulated could be amended in light of prevailing circumstances. It was advised that this could be revised annually as part of the annual monitoring process.

Decision: Recommendation agreed

Recommendation 4 - That spend in respect of the CIL revenue be treated as any other Council income and be reported as an integral part of the annual budget procedures.

It was advised that, in considering the procedures for assessing and prioritising spend, a key aim was to utilise existing council bodies and procedures as much as possible. In terms of the decision making process for determining spend, it was considered appropriate that the existing procedures for the annual council budget be used.

Discussion around this topic identified that a more appropriate body to make decision in respect of CIL spend was Cabinet, rather than full council. It was agreed that the Recommendations be amended to reflect this.

Decision: Recommendation be amended to read as follows:

“That the priorities for CIL spend be reported to Cabinet for decision, and be included in the council’s annual budget report for information.”

Recommendation 5 - That an annual monitoring report in respect of CIL be prepared, and agreed by Council in line with regulatory requirements and be placed on the Council website by 31 December each year.

It was advised that the CIL Regs set out a requirement for the council to prepare a monitoring report each on how much CIL has been collected, how much, and upon what, CIL has been spent and how much CIL has been accumulated.

Given that the CIL process will run relative to the financial year, concern was raised as to why the deadline date was set so late when the information in respect of the CIL revenue and spend would be known by April.

It was advised that the recommendation set out the requirements of the legislation, which sets the date for publication of the report as 31 December for any reporting period.

Decision: Recommendation agreed

Recommendation 6 - That in line with the requirements of the CIL Regulations, 15% of CIL receipts should be passed to the Community Councils within the county borough to support local infrastructure projects.

It was advised that this recommendation reflected the requirements from the CIL Regulations.

The first issue raised in discussing this recommendation was whether the term “Community Councils” should be amended to include Town Councils. It was advised that it was a legal matter that would need to be reviewed before a specific response could be provided.

Note: During drafting of these notes, legal services confirmed that there is no difference between Community Councils and Town Councils in terms of their powers or in the way they operate and so this Regulation applies to both Community Councils and Town Councils.

This issue engendered significant debate revolving around the limitations that could be placed on Community Councils to ensure that they spend their CIL revenue on appropriate infrastructure. It was advised that the simple position is that the council passes the appropriate amount of CIL to the Community Council. It was advised that subsequent recommendations sought to provide Community Councils with guidance and documentation to assist in the prioritising of their spend and that the council will look to assist and advise them so that their spend ties in with the council’s spend.

Concern was also raised in respect of whether the Community Councils had sufficient experience to ensure that any infrastructure projects they fund are compliant with the relevant regulations. It was advised that Community Councils all have budgets for which they are responsible for administering and for which they are audited. As such they are used to administering budgets and prioritising spend.

A question was raised in respect of what powers the council have to make sure that ensure that the Community Councils spend CIL on appropriate infrastructure. It was advised that the council will seek to provide a guidance pack that will provide guidance on what the CIL revenue can be used to fund, as well as providing them with assessment proformas, similar

to those to be used by the council, to assist in prioritising schemes. Ultimately the council does have powers to reclaim the CIL revenue if it is not being spent on appropriate infrastructure.

Decision: Recommendation agreed

Recommendation 7 - Local infrastructure projects that are in accordance with the Regulation 123 List should be identified to guide projects to be implemented by the Community Councils.

It was advised that this was part of the guidance that the council will seek to provide for the Community Councils to assist in administering their CIL revenue.

A general question was raised in respect of whether the provision of CIL revenue would encourage the creation of new Community Councils in areas where there is, currently, no coverage. It was advised that whilst this is not necessarily the intention (subsequent Recommendations deal with the issue of areas without Community Council coverage) but it may be the case that it could encourage new Community Councils to be set up.

Decision: Recommendation agreed

Recommendation 8 - Community Councils to be provided with: a Local List, an Assessment Proforma and a CIL Guidance Pack to help prioritise CIL spend.

It was advised that this was also part of the guidance that the council will seek to provide for the Community Councils to assist in administering their CIL revenue.

Decision: Recommendation agreed

Recommendation 9 - That the payment of CIL Funds to Community Councils be made annually.

Recommendation 10 - That written agreement is sought with all Community Councils to distribute CIL funds on an annual basis.

Both Recommendations were addressed at the same time.

It was advised that the CIL regulations sets out a default position for payment to Community Councils as 6-monthly payments. The CIL Regulations also make provision for the Council to agree a schedule for payments with the Community Councils if alternative periods are more appropriate. Given the intention is for the council addresses the issue of CIL spend on an annual basis, it would make sense, for the payments to the Community Council to reflect that position. It was also advised that officers would need to discuss this issue directly with the Community Councils in order to reach such an agreement.

Concern was raised over what would happen if a Community Council did not agree to annual payments. It was advised that, unless an alternative arrangement is agreed, the default position set out in the CIL Regulations would apply, i.e. payments would be made every 6 months.

Decision: Recommendation agreed

Recommendation 11 - A proportion of CIL receipts should be made available to non-CC areas to ensure equality and fairness with Community Council areas

Recommendation 12 - 15% of CIL should be made available to non-CC areas in order to ensure consistency with the CIL Regulations.

Recommendation 13a - In non-CC areas, community groups in individual wards be invited to submit projects for consideration for neighbourhood CIL funding. The local ward member(s) should be involved in submissions to ensure democratic accountability.

OR

Recommendation 13b - The non-CC area should be treated as a single unit and provision be made to allow any community groups within the area to submit projects for consideration for neighbourhood CIL funding.

Recommendation 14 - All community projects to be assessed by the Assessment Panel to ensure their compliance with the CIL Regulations

Recommendation 15 - Local infrastructure projects that are in accordance with the Regulation 123 List should be identified within non-CC areas. Potential bidders to be provided with: a Local List, an Assessment Proforma and a CIL Guidance Pack.

Recommendation 16 - Payment of CIL to non-CC areas should be made annually in order to be consistent with the approach favoured regarding payments to Community Councils.

It was advised that a significant area of the county borough did not have Community Council coverage. In considering this issue, the CIL Officer Working Group made 6 recommendations to address the situation. The principle of making a proportion of CIL receipts available to areas without coverage was agreed in the interests of fairness and a level of 15% of total receipts was agreed for the same reasons.

The Officer Working Group could not agree a spatial basis for the provision of the CIL payments and, therefore, identified 2 recommendations for the Steering Group to consider, one treating the whole area without coverage as one unit and the other making provision for a more ward based approach. The Steering Group recommended that the Assessment panel be used to assess infrastructure schemes and the same guidance be provided for these areas as that provided to Community Council areas.

Concern was raised over the fact that there was no properly constituted body in these areas that could legitimately administer the CIL revenue. In the absence of such a body it was suggested that a more appropriate approach would be for the council to retain the revenue, but ring-fence it for spend in the areas not covered by Community Councils.

Decision: That the CIL Officer Working Group Recommendations 11 – 16 be deleted and be replaced by the following Steering Group Recommendation:

Recommendation 11: In areas that are not covered by Community Councils, the council administer a CIL pot, equivalent to 15% of total CIL receipts generated in the area each year, to provide infrastructure in those areas according to the CIL regulations.

6 Assessment Criteria, Their Scoring and Weighting

It was advised that consideration had been given to how the wide range of infrastructure schemes that had been submitted for CIL funding could be objectively and fairly assessed and ranked so that priorities can be identified for CIL spend. It was advised that a bidding process be used, whereby bids are submitted for infrastructure and these are assessed by an independent panel and are scored against a set of criteria, providing a score for each infrastructure which can then be ordered to provide priorities for CIL spend.

A draft assessment proforma had been produced and was forwarded to members for consideration. The assessment proforma set out 14 criteria, grouped in 3 categories. The first group (Eligibility Criteria) sets out 5 criteria that determine whether the scheme is eligible for CIL funding. These criteria are yes/no responses, with a no response meaning that the scheme is not eligible for CIL funding. The second and third categories contain criteria that are scored out of 10 and address the relative desirability and deliverability of providing the infrastructure.

The Officer Working Group considered the criteria and recommended that a system of weighting be attributed to the criteria as some criteria were considered to be more important than others. The weighting modifies the score for each criterion accordingly.

To assist consistency in scoring guidance for scoring submitted schemes had also been produced and was forwarded to member for consideration. The guidance addresses each criterion and identifies the scores that should be awarded where schemes meet certain parts of the criteria.

Two concerns were raised in respect of the assessment of the schemes. Firstly it was noted that the guidance for scoring considered a schemes relevance to the LDP and the Single Integrated Plan for the criteria related to meeting corporate objectives. Concern was raised that the document highlighted did not set out all council priorities and perhaps the criteria should be widened. It was acknowledged that the LDP, as the council's principal land-use document was appropriate to be included, but concern was raised over the Single Integrated Plan, as it does not set out all of the council's priorities. It was advised that the council does not, at the current time, have a single overarching document that sets out its priorities.

Decision: That the guidance be revised to consider compliance with the LDP and "council priorities" generally.

The second concern related to the weighting of the criteria that addressed whether CIL would be required for ongoing revenue costs. The assessment sheet identified that the weighting for this criteria would be 0.5 (which effectively halves its scores). The general consensus was that CIL funding should not, as far as possible, be used to address the revenue costs of schemes and that the weighting diminished the importance of the issue.

Decision: That the weighting for the issue "Is there a requirement for CIL contribution toward revenue costs of the infrastructure" be amended to 1.

Decision: The assessment sheet and guidance for scoring was agreed.

7 Assessment Panel

It was advised that the Officer Working Group recommended that the assessment of the schemes would be undertaken by an impartial panel of officers to ensure fairness and objectivity. The officer Working Group recommended that the Assessment Panel comprise officers drawn from service areas that would be unlikely to submit infrastructure schemes for CIL funding. It was recommended that that officers be drawn from the following service areas:

- Finance
- Corporate Policy
- Sustainable Development
- Housing
- Strategic Planning
- Legal

The CIL Assessment Panel would assess and rank submitted schemes and report them to Cabinet for decisions on CIL spend.

Decision: Recommendation agreed

8 Next Stages

It was advised that a Report for Council was being prepared to feed into Scrutiny Committee on 10 May, and then forwarded to Cabinet on 4 June and finally to Full Council for resolution on 10 June 2014.

If approved CIL would be implemented on 1 July 2014

It was advised that, for the current CIL Charging Schedule, it was unlikely that the Group would be required to meet again.