

REPORT TO EXECUTIVE

Date of Meeting: 10 February 2015

Report of: Assistant Director City Development

Title: Governance and Prioritisation of Community Infrastructure Levy Funding

1. What is the report about?

1.1 This report provides an update on the Community Infrastructure Levy and sets out proposals for the future use and governance of receipts.

2. Recommendations:

2.1 To agree the prioritisation of CIL income (total assumed at £25 million) as set out in the table below and in sections 11, 12 and 17.

Purpose	Approximate Amount		Description
Administration	5%	£1.25m	Costs of administrating receipt and expenditure of CIL.
Neighbourhood Funding	15%	£3.75m	Developing and implementing a community- level strategy for addressing the demands of development.
European Site Mitigation	8%	£2m	Mitigating the recreational impacts arising from new development on European protected habitats.
City Centre Major Infrastructure	32%	£8m	Dedicated to city centre leisure, transport and public realm projects unless alternative contributions can be secured. Priority will be given in the early years to the city centre above other major infrastructure
Other major Infrastructure to include roads and schools	40%	£10m	Expected after 2019/20.

2.2 To agree to the formation of an Exeter only Major Infrastructure Panel with the flexibility to determine the final allocation of funding from CIL to major schemes and leverage funding from other sources as outlined in sections 13 to 16.

2.3 To support the Council Leader meeting with counterparts at Teignbridge and East Devon District Councils and Devon County Council with a view to exploring the establishment of a joint cross boundary Major Infrastructure Panel.

2.4 To agree the terms of reference set out paragraph 13.1 and delegate authority to implement an agreed infrastructure Business Plan to the Assistant Director City Development.

2.5 To delegate to the Assistant Director City Development authority to confirm final neighbourhood funding arrangements in the St James neighbourhood area.

3. Reasons for Recommendation:

- 3.1 The proposals are intended to help facilitate sustainable development growth and Exeter's continued vitality through CIL investment.

4. What are the resource implications including non financial resources?

- 4.1 The report relates to the use of around £25 million that the Council can expect to receive for the purposes of accommodating development growth to 2026. Resource implications of a proposed Major Infrastructure Panel are outlined at section 16.

5. Section 151 Officer comments:

- 5.1 The Section 151 Officer notes the proposals and will work with the Assistant Director City Development to ensure that CIL contributions are clearly identifiable to ensure transparent information is available.

6. What are the legal aspects?

- 6.1 This report is not concerned with legal matters associated with collecting CIL. The main legal considerations are therefore considered to relate to constituting a new (potentially joint) committee and contracting works to be funded through the Levy. Depending on the Executive resolution and discussions with neighbouring authorities, a separate report will consider the details associated with forming and operating the proposed Major Infrastructure Panel.

7. Monitoring Officer Comments:

- 7.1 The Council must ensure that the Major Infrastructure Panel has in place, a clear and transparent policy to determine how the final allocation of funding from CIL to major infrastructure will be determined.

8. How does the decision contribute to the Council's Corporate Plan?

- 8.1 Successful deployment of CIL is integral to multiple strands of the Corporate Plan including:
- Supporting business and economic growth;
 - Sharing the benefits of growth; and
 - A green and healthy city

9. Background

- 9.1 The Council has introduced a Community Infrastructure Levy. The Levy is expected to raise around £25m in the period to 2026, which can be used to fund a wide range of projects so long as they support development growth. This will build up over time but early income will particularly depend on the development programmes for

Morrisons and IKEA. To date less than £100,000 has been received. The table at appendix 1 profiles projected income.

- 9.2 CIL can be used to fund infrastructure that supports development growth. It cannot be used to resolve existing problems or deficiencies. Exeter's 'Regulation 123 List' identifies infrastructure that could be delivered through CIL and can no longer be funded through section 106 agreements.
- 9.3 The Exeter Infrastructure Delivery Plan accompanies the Core Strategy. This identifies a range of critical and essential infrastructure improvements which will be required at different times over the duration of the plan period. Their cost is estimated at more than three times the amount expected to be raised through CIL.
- 9.4 Already, a significant proportion of CIL income (estimated) needs to be set aside for specific purposes:
 - a) 15% (£3.75m) neighbourhood funding (see section 17)
 - b) 5% (£1.25m) CIL administration
 - c) Approximately 8% (£2m) for European habitat mitigation
- 9.5 Allocating a portion of CIL income for European habitat mitigation relates to a legal requirement. The principles involved were approved by Executive in October 2014 and per dwelling amounts (£343 to £749, depending on location) will be dedicated towards mitigation project.
- 9.6 On the basis of the current CIL system and current charging rates it is therefore estimated that by 2026 approximately **£18 million** will come forward for the Council to discretionally apply to strategic infrastructure projects and supporting development growth.

Neighbouring Authorities

- 9.7 Teignbridge District Council introduced CIL last year but East Devon does not yet have an approved Charging Schedule. Collectively contributing CIL income to delivery of sub-regional infrastructure improvements would require agreement to be reached on a cross boundary basis.
- 9.8 Teignbridge expects to raise around £50 million to 2033, with £16 million coming from SW Exeter (of which £4m will be passed to Exminster Parish Council). East Devon anticipates £30 million of CIL receipts and that Cranbrook could raise £13 million depending on the timing of future planning permissions there (relative to CIL adoption).

10. Historic S106, Affordable Housing and County Functions

- 10.1 Neighbouring authorities can expect to raise additional funds through CIL principally because of affordable housing policy differences. On the edge of Exeter, both Teignbridge and East Devon are promoting 25% affordable housing and accepting

the affordable rent product, which releases greater development value than Exeter's 35% and social rent focussed policy.

House Bedrooms	Average Floor Area	CIL per market dwelling at £80m ²	Affordable Housing SPD Contribution per market dwelling
2	83m ²	£6,640	£66,631
3	91m ²	£7,280	£71,918
4	103m ²	£8,240	£79,849

Table 1 – CIL and affordable housing costs per dwelling

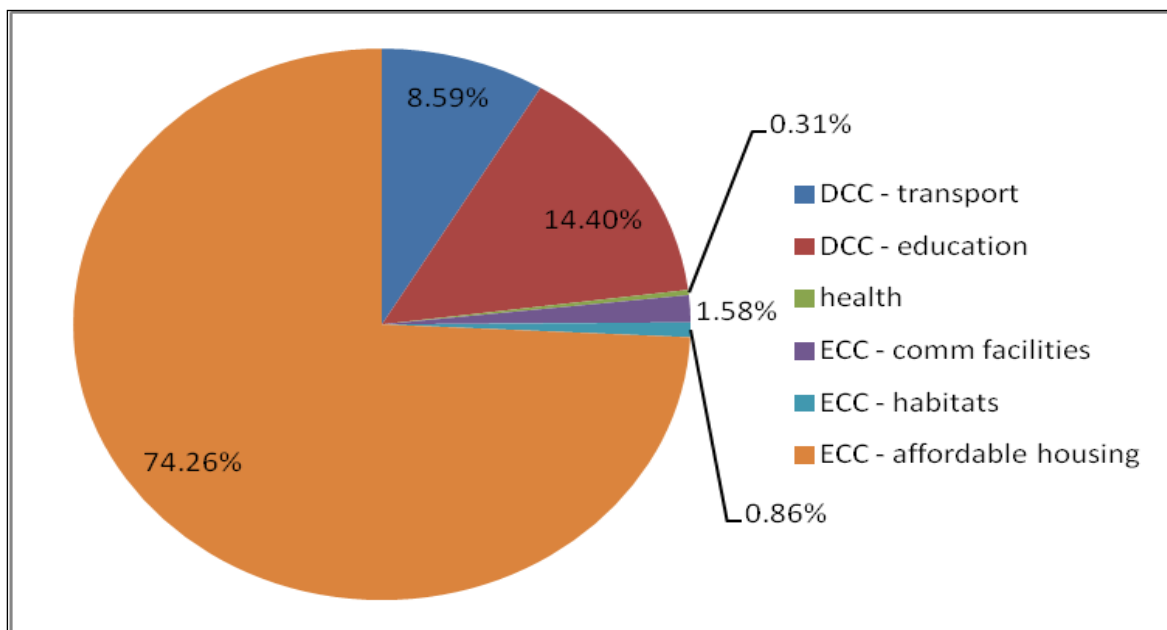


Chart 1 – makeup of 2012/13 s106 agreements

10.2 Whilst very considerable Section 106 obligations relating to affordable housing have been secured on a consistent basis, tests of whether other obligations would be strictly 'necessary' or 'directly related' to a site's impacts have historically limited the amount of funding that could be secured for other City Council functions.

10.3 CIL now gives the Council greater flexibility when setting infrastructure priorities. There is no need to navigating the various Section 106 tests but with those flexibilities come new responsibilities. In particular, whilst Education and Transport investments have historically benefitted from significant Section 106 funds (around 85% of non-affordable housing contributions), it may now be reasonable to rebalance the use of CIL.

10.4 The Council's Infrastructure Delivery Plan was compiled in collaboration with the County Council and other infrastructure providers and identifies infrastructure priorities and their costs. It forms one important starting point when setting out how the Council will apply CIL receipts to strategic infrastructure projects.

11. Funding Schools and Transport

11.1 Devon County Council is the local education and transport authority. The County Council provides infrastructure and services that the Infrastructure Delivery Plan identifies as critical to delivering the City's Development Plan. Nevertheless, given the scarcity of CIL funding relative to forecast infrastructure costs, there is a need to treat Levy income as a 'fund of last resort' and make the best use of other sources of funding. The following paragraphs set out proposals for apportioning CIL income to the County Council's education and transport functions.

New School Places

11.2 The Infrastructure Delivery Plan identifies critical infrastructure investments in school places with a value of £43 million that will be required to provide sufficient school places in Exeter accommodate the levels of new development proposed through the Core Strategy. This is much more than CIL will raise in its entirety. However, various other sources of funding are available:

Central Government funding is available for new school places and the Minister of State for schools has confirmed that there is sufficient funding to provide the school places needed to 2015 (Minister of State for Schools, July 2013) . It is reasonable to assume that similar arrangements will be in place thereafter.

Existing Section 106 contributions and commitments in Exeter already amount to around £17 million.

11.3 A 2013 National Audit Office report explains that in 2010 the Department for Education had assumed that 20% of the costs of new school places should be met through local contributions. The same report confirms that in 2012/13 the national average 'local contribution' was 34%. The £17 million already secured through section 106 agreements is equivalent to almost 40% of the new school place costs identified through the Infrastructure Delivery Plan.

11.4 It is not therefore considered necessary for the City Council to ordinarily set aside CIL contributions for construction of new schools or expansion of existing facilities. Instead it is recommended that any CIL investment in school projects should be made on a project-specific basis. It may be, for example, that some CIL money should be considered for school development projects where investment would leverage additional benefits (such as access to sport or other community space).

Transport Infrastructure

11.5 There has been significant success in delivering transport infrastructure around Exeter in recent years. Improvements at M5 Junction 29, for example, benefitted from significant Department for Transport funding. More recently a number of projects have been awarded funding from sources including:

- a) Regional Growth Fund
- b) Pinch Points
- c) Growth Deal
- d) Local Sustainable Transport Fund

- 11.6 Local match funding is often required for a project to be considered for many of these sources of funding. To be eligible for funding through the first Growth Deal, for example, the Local Transport Board set out a requirement for at least a 10% local contribution.
- 11.7 Outstanding schemes considered critical to delivery of the Development Plan are estimated to cost £22 million. Of these at least £10 million is attributable to final design and delivery of a new bus and coach station and public realm improvements, alongside additional costs of delivering a new leisure centre. The continued investment in Exeter city centre is fundamental to the health and vitality of the area. The city centre has been the engine of the local economy and it faces a number of challenges in the years ahead not least from increased competition from the internet and demand for out of centre retailing.
- 11.8 The City Council's Vision for the City Centre is set out in the document 'A City Centre Vision for a Green Capital'. It is considered appropriate that the Council should prioritise early receipts of future CIL income (excluding administrative, neighbourhood funding and habitat mitigation portions) for city centre projects. This could involve the repayment of forward funding to help smooth any infrastructure timing/CIL income imbalances.
- 11.9 Having safeguarded these monies however, it is also proposed that work should continue with the County Council, Local Enterprise Partnership and other partners on the case for providing transport scheme match funding. It may be that CIL income can help to secure investment in other important transport infrastructure schemes that will enable the development growth proposed for the Exeter area.

12. Apportioning Strategic CIL Income

- 12.1 It is proposed that the same principles set out at 11.9 should also apply to other non-transport infrastructure projects. In the following circumstances, it is recommended that the Council should consider making CIL funds available for alternative infrastructure projects:
- a) It can be demonstrated that a CIL contribution will help to deliver projects that are integral to sustainable development growth around Exeter (guided by the Infrastructure Delivery Plan);
 - b) Partners are able to help secure an equivalent reinvestment into city centre projects; and
 - c) Money is available from the prioritised £8 million and the profile of investment and reimbursement will not undermine the city centre schemes for which it is safeguarded.
- 12.2 Taking these proposals into account, the net value of CIL to 2026 is expected to be a minimum of £10 million but the first elements of this are unlikely to come forward until at least 2019/20. A review of the existing Infrastructure Delivery Plan should have been undertaken before then and it would be inappropriate to specify a purpose for the money at this stage.

12.3 Nevertheless, it is proposed that the governance arrangements and investment framework approach proposed at section 13 should apply to all strategic CIL income when final decisions are being made on money allocation. This includes final approval of expenditure on safeguarded city centre projects.

13. Governance

13.1 It is recommended that an Exeter City Council Major Infrastructure Panel is established to determine the final allocation of funding from CIL to major schemes. The terms of reference should include the following;

Terms of Reference

1. The Council (in discussion with external infrastructure providers) will maintain and update the Exeter Infrastructure Delivery Plan, which sets out the investments needed to support development proposed through the Exeter Core Strategy.
2. All parties continue to demonstrate the cost and level of priority that should be attached to IDP items, including outlining the implications for Core Strategy delivery of not investing.
3. Project appraisals are prepared to support funding proposals using a prescribed form, which identifies:
 - a. Overall costs
 - b. Other available funding
 - c. Project phases and their costs
 - d. Need/benefits/outcomes (including reinvestment income generated)
 - e. Risks and mitigation
4. Council officers work with infrastructure providers to verify project appraisals, with the assistance of independent experts (such as quantity surveyors) where necessary such that where funding is agreed this is with regard to the competitive price of provision.
5. The Panel formulates and agrees by consensus an annual Business Plan within the context of a 5 year Investment Framework. The Plan and Framework can involve 'banking' money for use in future years.
6. Authority is delegated to the Assistant Director City Development (in consultation with the Portfolio Holder for City Development) for implementation of the Business Plan.
7. The Panel prioritises investments where they represent value for money in respect of enabling housing or employment development; or where they would result in facilities that are needed to accommodate development growth.

8. Potential barriers to the delivery of major infrastructure projects should be identified and addressed.
9. The Panel oversees the finalisation of funding agreements, particularly where these involve commitments to make future funding available or where repayment clauses are involved (perhaps in relation to other project funding sources subsequently becoming available).
10. The Panel maintains an overview of other potential funding streams and initiatives including for example Growth Deal.
11. The Panel reports directly to Executive and comprises Leader, Portfolio Holder for City Development, Chair of Planning Committee and a representative for the other political groups.

14. Major Infrastructure Panel Arrangements

- 14.1 It is proposed that the Panel is solely comprised of Exeter City Councillors but there is clearly an opportunity to invite representatives of statutory agencies and infrastructure providers to individual meetings for advice and to be able to scrutinise project appraisals and wider investment plans. It is proposed that the Panel should make decisions by consensus. It will be important to keep the private sector firmly engaged in this process in order to help breed the confidence to invest. There are pre-established forums with the development industry that provide a mechanism for achieving this and which could be timed to take place shortly before Panel meetings.
- 14.2 It is proposed that the Panel will operate as an Executive sub-committee and will be the subject of open to public scrutiny arrangements in accordance with the Local Government Act 1972 and associated Regulations. The size and composition of the Panel will be addressed through a subsequent report to Executive.

Cross Boundary working

- 14.3 Whilst an Exeter only Panel is proposed at this stage, the Panel could alternatively form across administrative boundaries in an arrangement to prioritise CIL receipts with Teignbridge and/or (in time) East Devon District Councils. The Homes and Communities Agency are leading on a project that will look to address the issues associated with joint working and intend to provide recommendations in the coming months.
- 14.4 In the case of cross-boundary collaboration, the Major Infrastructure Panel could form as a joint committee with decisions made by consensus for the benefit of the whole growth area. This would align with the proposed arrangements for European site mitigation set out in the October 2014 report to Executive and it may be that the two functions (and potentially other cross boundary decisions) could be addressed by a single committee. It is considered reasonable that membership of the joint committee should incorporate single Member representation from each authority and associated scrutiny arrangements.

14.5 One of the key issues that all authorities may wish to consider when determining whether to form a joint Panel will be the financial stake that each authority makes available to final Panel decisions.

Should it be:

1. All of an authority's uncommitted CIL income?
2. CIL collected from developments that have a direct relationship with required cross-boundary infrastructure?
3. Some other portion?

14.6 Consideration should be given as to whether Devon County Council should have a seat and decision making stake on the panel as a key infrastructure provider and partner. It is proposed that the Council Leader meets with counterparts at East Devon District, Teignbridge District and Devon County Councils to investigate the prospect of forming a cross-boundary Panel.

15. Forward Funding

15.1 With a 5 year Investment Framework in place, delivery partners will be able to commit to forward funding projects with an undertaking that the Panel will direct future funds to them. It may be that some investment commitments are not taken forward. In these cases and to maintain the Investment Framework time horizon, it will be necessary for the Panel to complete an annual review. The review process would not ordinarily challenge investments that have commitment but would respond to changes in circumstances (including development activity) and set priorities for future years.

16. Capacity and Support

16.1 Final arrangements for resourcing and supporting the Major Infrastructure Panel will need to be subject to further consideration and, as with the arrangements for European site mitigation, it would be appropriate for a further report to be presented to Executive and Council. Nevertheless it is considered that final arrangements should adhere to the following principles.

16.2 Alongside recommendations that the Major Infrastructure Panel should formally update its Business Plan on an annual basis, quarterly meetings are proposed. These meetings of the Panel will provide an opportunity to present an accurate position on what Levy monies have been collected and spent as well as advising on strategy and progress with individual projects. Infrastructure Delivery Planning will need to continue on an ongoing basis with a clear emphasis on ensuring that projects continue to move forward to an investment ready position.

16.3 The Levy regulations provide for up to 5% of collected revenues to be used to support administration. Infrastructure Panel support could be provided through the

City Development Service (presumed to revolve with counterparts in the case of any cross-boundary arrangement). The successful introduction and administration of the Levy (including managing receipts and contracting works) will require a corporate approach across various departments of the Council including City Development, Legal Services and Finance Services.

17. Local Communities

17.1 Government CIL guidance expects the council to engage local communities on the use of at least 15% of Levy receipts. Over the plan period, that should equate to around £3.75 million. The only restriction on the use of this money is that it should be spent on 'addressing the demands that development places on an area'. The guidance explains that neighbourhoods surrounding new development should be consulted on how to spend the money but 'neighbourhoods' are not defined and engagement methods are to be determined by the Council.

17.2 Various approaches are available to the Council and the fundamental questions are:

- a) Should the whole city be treated as one community or should CIL receipts be apportioned to the wards in which development comes forward?
- b) Should the Council invite bids for funding or engage more broadly on community priorities?
- c) How frequently should the process of allocating 'neighbourhood funding' be undertaken?

17.3 One option would be for the Council to encourage bids and make decisions on the basis of already established and implemented New Homes Bonus Local Infrastructure Fund arrangements. There can be no guarantee that NHB funding will continue and therefore such an approach would see CIL replacing NHB as the source of funding.

17.4 Another would be to virtually distribute 15% of CIL receipts on the basis of ward-by-ward income. However, each approach is susceptible to distortions. For example, the development of an IKEA store at the very north of Topsham Ward would generate around £450,000 of neighbourhood funding but if there was a requirement to invest within the ward none of the money would be available to residents in St Loye's and other surrounding wards where the demands of that development will surely also materialise.

Recommended approach

17.5 It is recommended that the City Council adopts a bottom up approach with positive engagement. Working to a 5-year time horizon, this would take the form of a strategy setting out what investments or ongoing programmes would best address the demands of new development and when.

17.6 'Neighbourhood funding' monies could be directed to appointing an outside community mediator to facilitate the strategy. Community groups met so far have

undertaken to engage other groups across the city to form first points of contact when work on the strategy progresses. The Alphington Village Forum has already completed a piece of work aimed at identifying local area priorities, which include improving existing community buildings. The Forum may be in a position to feed in their findings and share lessons learned as the strategy develops.

- 17.7 As a bottom-up piece of work it is intended that the groups will collectively appoint an outside consultant. It will be in their interest to ensure value for money as the costs of preparing a strategy will impinge on resources available for the projects identified. As no CIL has yet been received there is currently no CIL available to fund any commission but receipts can be expected as a result of recent housing and student accommodation planning permissions and there is a case for forming the relationships and inviting tenders at an early stage.
- 17.8 It will be the Council that actually pays for any engagement and strategy work undertaken and normal tender procedures will need to be adhered to. If a strategy that is generally endorsed across the city is not forthcoming within a year of receiving the first CIL monies, it is proposed that the Council should revert to bidding arrangements similar to those that have previously applied to the New Homes Bonus Local Infrastructure Fund as above.

St James Neighbourhood Area

- 17.9 Government guidance indicates that the local community in St James should be engaged on the use of 25% of CIL generated by new developments in the Neighbourhood Plan area. The per capita value to St James residents of evenly spreading 15% of city-wide CIL income would be around twice that of only retaining 25% of projected receipts from the neighbourhood area. Whilst this might weigh in favour of St James forming part of the city-wide approach set out above, it is recommended that final neighbourhood funding arrangements there should be agreed in consultation with the Neighbourhood Forum. It is not considered that either decision would seriously undermine that proposals set out above.

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Appendix 1: Forecast CIL income

	2014/15	15/16	16/17	17/18	18/19	19/20
Annual	£163,335	£654,336	£1,369,737	£2,170,538	£2,345,019	£5,913,460
Cumulative	£163,335	£817,671	£2,187,408	£4,357,946	£6,702,965	£12,616,425
	20/21	21/22	22/23	23/24	24/25	25/26
Annual	£2,915,661	£1,759,702	£1,071,743	£716,064	£1,661,425	£4,029,506
Cumulative	£15,532,086	£17,291,788	£18,363,531	£19,079,595	£20,741,020	£24,770,526