

Committee: Cabinet

Date of meeting: 13 September 2017

Subject:	Community Infrastructure Levy – Process Review
Lead Officer:	Ray Lee
Portfolio Holder:	Portfolio Holder for Planning Services
Link to Council Priorities:	P2
Exempt information:	None
Delegated status:	For recommendation to Council on 27 September 2017
Key Decision:	Yes

EXECUTIVE SUMMARY:

At the last Council meeting amendments were proposed to the CIL Allocation Process report that was agreed by Cabinet on 5 July 2017. The amendments were withdrawn subject to a full discussion at this Cabinet meeting

RECOMMENDED: THAT CABINET RECOMMEND TO COUNCIL THAT:

- (A) CABINET AGREE THAT LOCAL PLAN FEEDBACK IS USED TO ASSESS LOCAL INFRASTRUCTURE PRIORITIES;**
- (B) THE BIDDING PROCESS IS AMENDED SO THAT ALL APPLICATIONS DURING THE BIDDING ROUND AND SUBMITTED VIA THE ON-LINE FORM WILL BE FORWARDED TO THE RELEVANT SPENDING BOARD MEETING FOR CONSIDERATION, INFORMED BY OFFICER'S COMMENTS AND RECOMMENDATIONS IN THE ACCOMPANYING REPORT; AND**
- (C) AN INDIVIDUAL CABINET MEMBER DECISION MAKING (ICMDM) MEETING BE ORGANISED TO CONSIDER THE RECOMMENDATIONS FROM THE LOCAL SPENDING BOARDS AND DECIDE ON THE BIDS.**

REPORT:

- 1. Background**
2. At the Council meeting on 19 July 2017, an amendment was tabled by Councillor Browne to the minutes of the Cabinet meeting of 5 July 2017. Specifically, it related to the Community Infrastructure Levy (CIL) recommendation (item 15/17) and sought the addition of the following paragraphs:

"(D) All applications made to the Council for funding of local projects out of available CIL monies shall be referred to the relevant local spending board together with a recommendation from an appropriate officer as to whether each such application satisfies the statutory criteria for infrastructure funding presently in force."

(E). The decisions of local spending boards are final, save that on the written advice of the Head of Legal Services that an allocation of CIL funding to a relevant project would be unlawful the relevant application shall be referred to Cabinet for resolution."

3. Council agreed items A, B, and C but asked for a further report to be brought back to Cabinet on the issues raised in the proposed amendment. On this basis, the amendment was withdrawn.

4. **Original Item D**

5. In the report considered by Cabinet, the original item recommendation D read:

"Cabinet agree that Local Plan feedback is used to assess Local Infrastructure priorities."

The reason for this recommendation was that Guidance sets out that the use of the local CIL funds should match priorities expressed by local communities. The current approach to consulting on just the projects put forward has limited value as it does not capture a sense of priorities locally or the full range of issues to be addressed to mitigate the impact of development.

6. The recent Local Plan consultation has collected significant feedback on what residents' feel are the infrastructure priorities for their area. Further feedback on infrastructure need will be collected through future Local Plan consultation. Therefore, it was recommended that this feedback is used as the mechanism to assist Officers and Members in prioritising CIL spend locally. The feedback received has the benefit of setting out the full range of priorities locally, rather than just a reaction to projects submitted. It is therefore proposed that that this item is retained.

7. **Amendment D**

8. There are already plans to change the process before the next round of bidding. Forms will be available on the website for applicants to fill in. Officers will add their comments on whether the bid is relevant and where it stands in terms of the priorities raised during the Local Plan consultation. Once they have added a recommendation the bid will be sent to the relevant Board. In addition, all members will be notified when the bidding process starts and will be provided with details of which groups have been notified. The essence of the amendment is therefore supported

9. **Amendment E**

The Local Spending Boards were originally constituted as decision making bodies but this was changed due to concerns about deliberating certain items in public. Currently, the Local Spending Boards and the Strategic Spending Board operate technically as working groups, not formal decision-making bodies, and therefore make recommendations to the Cabinet. This allows Members of those Boards to

deliberate items in private should they wish. This is in line with the Elmbridge Sports Council Grants and the Annual Grant Awards Working Group who both meet in private.

10. If Members want the Local Spending Boards to make the final decision then they need to be constituted as Committees as previously. This provides the Boards with decision-making powers but they will be subject to the requirements of the Local Government Act 1972 and the Council's own Constitutional provisions. Statutory and procedure rules are consistent and complementary, each requiring business to be transacted in public unless a category of "exempt" information would be disclosed. If exempt information would be disclosed, the Council must apply a public interest test and consider whether, on balance, the public interest would be best served by disclosing or withholding the information. The Council applies a presumption of openness in all its public dealings. If the Spending Board are to consider confidential or sensitive information then they would need to exclude the public and move into Part 2.
11. Previously there have been occasions, especially in relation to organisations not in the public sector where Members have needed to raise questions relating to confidential financial information. Due to the nature of the agenda this could mean the Board having to move into and out of Part 2 on a number of occasions during the course of the discussions.
12. However there remains some sympathy with the issue of delays and trying to fit these dates around a Cabinet meeting has proved difficult. Therefore, as an alternative, having looked into the constitutional and regulatory issues, it is proposed that an ICMDM be scheduled directly after the last of the Local Spending Boards. This could only apply to the Local Spending Boards but it would minimise the delay between the Boards recommendations and the bids being decided.

Financial implications:

The funding proposals above would come solely from funds raised through the Community Infrastructure Levy. There are no implications for other budget in relation to this report

Environmental/Sustainability Implications:

There are no direct environmental implications arising from this report.

Legal implications:

The decision made by the Council as to the allocation of CIL must be in conformity with the relevant legislation governing CIL (the Planning Act 2008 and the CIL Regulations 2010 (as amended 2011 and 2012)).

Equality Implications:

There are no equality implications arising from this report.

Risk Implications:

The key risks for the Council associated with this funding are the reputational risk to the Council of not supporting the required infrastructure and financial risk of non-delivery of projects. All spending and delivery will be monitored through the AMR.

Community Safety Implications:

There are no community safety implications arising from this report

Principal Consultees:

CMB, Legal, Finance

Background papers:

None

Enclosures/Appendices:

None

Contact details:

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