

To: **Overview and Scrutiny Commission**  
**4 November 2021**

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**Overview and Scrutiny Review of Community Infrastructure Levy**  
**Statutory Scrutiny Officer**

**1 Purpose of Report**

- 1.1 To present the Education, Skills and Growth Overview and Scrutiny Panel's report to the Commission following the Panel's review into Community Infrastructure Levy.
- 1.2 To provide the advice of the Statutory Scrutiny Officer (SSO) to inform the Commission's decision whether to endorse the Panel's recommendations to the Executive.

**2 Recommendation**

- 2.1 That the Overview and Scrutiny Commission considers whether to endorse the Education, Skills and Growth Overview & Scrutiny Panel's recommendations to the Executive, as set out in the Panel report (attached as Appendix A) and paragraph 5.5 of this report, taking into account the comments of the Statutory Scrutiny Officer.**

**3 Reasons for Recommendation**

- 3.1 It is the role of the SSO to advise the Council on any issues or concerns that may arise about the operation of the scrutiny function and the SSO may on occasion be required to make a determination about what the law says and how this should be applied to any particular situation. In carrying out this statutory role, there is a need to have a nuanced and meaningful understanding of the scrutiny function in order to accurately make judgments about its operation when disagreements or other issues arise.
- 3.2 The SSO is responsible for ensuring that the scrutiny function is adequately resourced and that service departments are contributing sufficiently to reviews to ensure that they are effective.
- 3.3 The SSO is also responsible for providing advice to the Commission on whether the recommendations within review reports are robust, taking account of resource, legal, climate change, equalities and strategic risk implications.

**4 Alternative Options**

- 4.1 The Commission could decide:
- to endorse both recommendations to the Executive as set out in the Panel's report
  - to endorse the recommendations in part
  - to ask for further work to be undertaken before the report is submitted to the Executive recognising that this would delay the Panel's next piece of work
  - to note the Panel report and not make any recommendations to the Executive

## **5 Supporting Information from the Statutory Scrutiny Officer**

- 5.1 The Overview & Scrutiny Commission commissioned the Education, Skills and Growth Overview and Scrutiny Panel to carry out a review into the use of Community Infrastructure Levy as part of the overview and scrutiny four-year work programme, which has been developed to track themes within the new Council Plan.
- 5.2 In support of this review the Panel spoke to Bracknell Forest Council officers and all six Parish/Town Council Clerks, as well as other Parish/Town Council representatives. They also reviewed data on the use of CIL in Bracknell Forest, commissioned a survey which all six Parish/Town Councils completed and reviewed the use of CIL in other authorities which allowed them to form an evidence based opinion to produce insightful recommendations.
- 5.3 The Panel was supported by Louise Connelly, Governance & Scrutiny Officer who supported the Panel to draw up the scope of the review and prepare an evidence pack of relevant information; to facilitate a number of Panel sessions to interview a range of contributors; to draw out findings from the Panel's investigation; and to prepare a review report. This involved in the region of 58 hours of scrutiny officer time and seven hours of Panel meetings.
- 5.4 In summary it is the Statutory Scrutiny Officer's view that this review activity had adequate resources and the service department contributed effectively to the review. The bulk of review activity took place between June and September 2021 and was slightly delayed by the school holidays. The comments from the relevant officers set out below do not indicate any concerns with the proposed recommendation set out below.

### Recommendations

- 1) That the Executive seeks a review of Community Infrastructure Levy (CIL) rates following the adoption of the Bracknell Forest Borough Council Local Plan.**
- 2) That the Executive updates the Community Infrastructure Levy Policy to claw back unspent allocated CIL funding from Parish/Town Councils after five years unless funding has already been allocated to a largescale joint project or the money is already committed for revenue or capital projects. Clawed back funding should be reallocated to infrastructure projects defined at borough level.**
- 3) Subject to recommendation 2) being agreed, that the Executive agrees an 18-month grace period for clawing back devolved funding to enable Parish/Town Councils to spend CIL funding already allocated but unspent due to Covid-19 pressures. The grace period will begin from July 19th, 2021 when all Covid-19 restrictions were lifted.**
- 4) That the Executive ensures all Parish/Town Councils receive notification of liability notices and demand notices on a regular basis, at least twice a year, to align with the payment of the Parish Portion. A named lead officer be identified for all CIL enquiries for the Parish/Town Councils.**
- 5) That the Parish and Town Council Liaison Group allows time to discuss CIL funding twice a year to coincide with twice yearly CIL payments to the towns and parishes. This will include time to discuss projects identified in the Council's proposed budget as well as identified projects by Parish/Town Councils.**

- 6) **That Parish/Town Councils adhere to Community Infrastructure Levy Regulations 2010 (as amended 2019) by:**
- consulting residents about how CIL funding should be spent as part of their regular consultation with local residents,
  - creating an annual report detailing their CIL balances and proposed spend annually,
  - ensuring their annual reports are publicly available.
- 7) **In addition, the Panel recommends:**
- all Parish/Town Councils agree a local CIL Policy and,
  - the Parish/Town Councils commission joint training for Parish and Town Councillors regarding the purposes and potential usage of CIL funding.

## **6 Commentary from Education, Skills and Growth Overview and Scrutiny Panel Chair, Councillor Gill Birch**

- 6.1 The Council places great emphasis on ensuring that sufficient infrastructure is in place in the right locations at the right time to support investment and growth. This can also be said of the six Parish and Town Councils in the borough. However, this review found they could all work better together to make best use of CIL funding to benefit their residents and that is why we have reached the recommendations below.
- 6.2 The initial approach for this review was to identify key principles and practice that underpins governance arrangements for the distribution of the neighbourhood element of CIL. It quickly became apparent there was a need for better information about what projects CIL funding could be used to support at a Parish/Town Council level. Panel members recognised that due to the complexity of the topic better information and increased joint working between Bracknell Forest Council and the six Parish/Town Councils would enable more effective use of CIL funding.
- 6.3 The panel used a survey of Parish/Town Councils to identify issues affecting the use of CIL then explored ways of resolving them, resulting in the recommendations above.
- 6.4 This review emphasises how well we work with partners and my thanks go to Andrew Hunter, Max Baker, Calvin Orr for their support for this review. The engagement by the Parish and Town Council representatives was excellent, particularly in the meetings and they have made a commitment to completing the survey again in a years' time.
- 6.5 I look forward to reviewing the recommendations in a years' time and seeing how CIL funding in our Parishes and Towns has helped improve the lives of residents.

## **7 Response from Assistant Director: Place, Planning and Regeneration**

- 7.1 The conclusions of the review have been worked up collectively with the panel and the parish council's and provide a sound set of recommendations for the Executive to consider.

## **8 Consultation and Other Considerations**

### Legal Advice

- 8.1 The recommendations comply with the Community Infrastructure Levy Regulations 2010 (as amended).

### Financial Advice

- 8.2 Clarifying the regulations on un-spent CIL within Parishes and invoking the right to claw-back unspent monies should ensure a more effective use of CIL within the Borough and offer the potential for better co-ordination of joint schemes where these are desirable and appropriate.

### Equalities Impact Assessment

- 8.3 The review scope, activities and recommendations were all considered in the initial equalities screening attached at Appendix B.

### Strategic Risk Management Issues

- 8.4 The Community Infrastructure Levy (CIL) is a charge applied to new local development to help fund local infrastructure needs. Receipts from CIL differ from other local contributions for development (i.e. S106) in that these are not site-specific and can be used to support wider community infrastructure needs in that locality. The risk of CIL funding not being spent in a timely manner is that residents in the area where there has been growth are not benefiting from infrastructure improvements such as playgrounds, community centres which will enhance their community.

### Climate Change Implications

- 8.5 The recommendations in the Panel report are expected to:
- either be neutral or positively impact on emissions of CO<sub>2</sub>.

The reasons the Council believes that this activity will have no impact or reduce the impact of Co2 emission is because CIL funded projects take into consideration climate change implications as required by the CIL policy.

### Background Papers

*Appendix A: Community Infrastructure Levy Review Report*

*Appendix B: Equalities Impact Assessment*

### Contact for further information

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