



Author/Lead Officer of Report:
Nik Hamilton, Head of Communities, Communities

Tel: 0114 223 2406

Report of: Executive Director of People Services

Report to: Co-Operative Executive

Date of Decision: 16 March 2022

Subject: Community Infrastructure Levy Neighbourhood Portion (Local CIL) in the context of Neighbourhood Plans.

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
- Expenditure and/or savings over £500,000	<input type="checkbox"/>	
- Affects 2 or more Wards	<input checked="" type="checkbox"/>	
Which Executive Member Portfolio does this relate to? (a) Community Engagement and Governance; (b) City Futures: Development, Culture and Regeneration		
Which Scrutiny and Policy Development Committee does this relate to? Overview and Scrutiny Management Committee		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, what EIA reference number has it been given? 1147		
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-		
<i>"The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended)."</i>		

Purpose of Report:

Sheffield City Council's approach to allocating Neighbourhood CIL is detailed in a Cabinet Report dated 17 October 2018. This did not set out an approach to allocating CIL in Neighbourhood Plan areas.

Sheffield now has two approved Neighbourhood Plans – BBEST (covering Broomhill, Broomfield, Endcliffe, Summerfield and Tapton) and Dore.

The Council now needs an approach towards the allocation of CIL within Neighbourhood Plan areas.

This report sets out these proposals for how Neighbourhood CIL funding is allocated and spent in areas where a Neighbourhood Plan has been approved.

Recommendations:

It is recommended that the Co-Operative Executive:

a) agrees that from the date that a Neighbourhood Plan is adopted by the Council, the CIL Neighbourhood Portion arising from a chargeable development in the Neighbourhood Plan area is ringfenced for use in that area and is not collected into the single Local CIL pot;

b) authorises the Director of Communities, in consultation with the Executive Member for Community Engagement and Governance, to determine (i) how the CIL Neighbourhood Portion is spent in a Neighbourhood Plan area, following engagement with the Neighbourhood Forum (or other formally constituted body responsible for developing the individual Neighbourhood Plan), local communities and Ward Councillors, subject to the proviso that monies are spent in accordance with the priorities identified in the Neighbourhood Plan and agreed Ward Priorities and (ii) to determine the terms on which such expenditure is incurred including authorising the completion of any related funding agreement or other legal documentation.

c) notes that the collection and distribution arrangements for the Neighbourhood Portion agreed by Cabinet in October 2018 will continue to apply proportionately to any parts of a ward in which there is a Neighbourhood Plan that are not within the Neighbourhood Plan area.

Background Papers:

Cabinet report ‘Community Infrastructure Levy Neighbourhood Portion (Local CIL)’ – October 2018

Community Infrastructure Levy Guidance:

www.gov.uk/guidance/community-infrastructure-levy

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Liz Gough
		Legal: Andrea Simpson
		Equalities: Ed Sexton

	<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	EMT member who approved submission:	John Macilwraith, Executive Director of People Services
3	Executive Member consulted:	Cllr Julie Grocutt, Deputy Leader of the Council and Executive Member for Community Engagement and Governance
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: Nik Hamilton	Job Title: Head of Communities, Communities
	Date: 16 March 2022	

1. PROPOSAL

Allocation of the CIL Neighbourhood Portion in areas of the city where a Neighbourhood Plan is in place

- 1.1 In October 2018 Cabinet considered proposals for the allocation of the Neighbourhood Portion of Community Infrastructure Levy (CIL) receipts across the city and made a decision that where there is no Parish Council or neighbourhood plan in place in the ward where a chargeable development has taken place, the Neighbourhood Portion is collected into a single Local CIL pot and redistributed using a process set out in the report.

Parish Council areas were excluded from this decision because the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) require the Neighbourhood Portion raised in those areas of the city to be passported by the City Council directly to the Parish Councils for them to spend.

At the time of this decision there were no areas of Sheffield with Neighbourhood Plans. Treatment of the Neighbourhood Portion in those areas could therefore be deferred for further consideration.

Sheffield now has two approved Neighbourhood Plans, in BBEST (Broomhill, Broomfield, Endcliffe, Summerfield and Tupton) and Dore, and the City Council therefore needs to agree an approach for the use of the Neighbourhood Portion raised within those and any future Neighbourhood Plan areas.

It is proposed that where there is a Neighbourhood Plan in place the Neighbourhood Portion raised is ringfenced for use in the Neighbourhood Plan area from the date that the Neighbourhood

Plan is adopted.

- 1.2 The Neighbourhood Portion is 15% of CIL receipts (capped to £100 per council tax dwelling) unless a Neighbourhood Plan is in place (or the chargeable development was authorised by a Neighbourhood Development Order); in both such cases the Neighbourhood Portion in respect of those developments is increased to 25% and that is uncapped.

The application and use of the Neighbourhood Portion is prescribed by the CIL Regulations. It may be used to support the development of the relevant 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 an area. Under the Regulations, the "relevant area" is any part of the City Council area which does not have a local (parish or town) council.

Therefore in accordance with the Regulations the Neighbourhood Portion could be raised at a higher rate in the Neighbourhood Plan areas and redistributed across the city using the process approved in 2018: pooling into a single Local CIL Pot and allocating the total across the city per ward based on deprivation levels using the Index of Multiple Deprivation (IMD). This could however be seen as contrary to the spirit of the Neighbourhood Planning regime.

- 1.3 The CIL Regulations are supported by government guidance. The Community Infrastructure Levy Guidance notes that the law does not prescribe a specific process for agreeing how the Neighbourhood Portion should be spent and does not advise any particular approach to the allocation or use of the Neighbourhood Portion raised in Neighbourhood Plan areas.

It does however suggest that the use of neighbourhood funds should match priorities expressed by local communities, including priorities set out formally in neighbourhood plans, and that community consultation and engagement should include working with any designated Neighbourhood Forums preparing Neighbourhood Plans that exist in the area, and states:

Where a neighbourhood plan has been made, the charging authority and communities should consider how the neighbourhood portion can be used to deliver the infrastructure identified in the neighbourhood plan as required to address the demands of development.

Though not legally binding the guidance may give rise to the expectation that Neighbourhood Plan areas should retain the Neighbourhood Portion raised by development in those areas. This is the approach proposed in this report.

- 1.4 This proposal does not affect those parts of the Broomhill & Sharrow Vale, Dore & Totley or Fulwood wards that are not in a Neighbourhood Plan area. A proportionate amount is distributed to those areas from the Local CIL Pot in accordance with the 2018 decision.

Decisions on spending the CIL Neighbourhood Portion in Neighbourhood Plan areas

- 1.5 In October 2018 Cabinet authorised the Director of Communities, in consultation with the Co-operative Executive Member for Community Engagement and Governance, to determine (i) how the CIL Neighbourhood Portion allocated to each ward is spent, following engagement with local communities and Ward Councillors, subject to the proviso that monies are spent in accordance with agreed Ward Priorities and (ii) to determine the terms on which such expenditure is incurred including authorising the completion of any related funding agreement or other legal documentation.
- 1.6 Given that the development of a Neighbourhood Plan is driven by the community and that it is approved by the community through a referendum, it is felt pertinent that the relevant Neighbourhood Forum (or other formally constituted body responsible for developing the individual Neighbourhood Plan) is consulted on the use of the Neighbourhood Portion in the Neighbourhood Plan area and that expenditure supports the priorities identified in the Neighbourhood Plan.
- 1.7 **It is therefore proposed that the established process is followed for decision-making in Neighbourhood Plan areas, except that in line with the CIL Guidance local community engagement expressly includes the Neighbourhood Forum, and that monies be spent in line with priorities identified in the Neighbourhood Plan.**

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The approach outlined in this report aligns with the ethos of the Council's Empowering Communities Programme, namely to Engage, Empower and Enable.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 There has been no consultation on this decision, and none is required. The broader principles regarding the allocation of the Neighbourhood Portion were consulted on prior to the 2018 Cabinet decision and Neighbourhood Plans are produced through extensive community consultation. Decisions on spending the Neighbourhood Portion are informed by further community engagement and support priorities that have themselves been developed through public consultation.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

- 4.1.1 Decisions need to consider the requirements of the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010.

This is the duty to have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Equality Act 2010 identifies the following groups as a protected characteristic: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

We have undertaken an initial Equality Impact Assessment (1147) and determined that at this stage a full impact assessment is not required.

The overall impact of this decision is likely to be positive from an equality, diversity and inclusion perspective. Local communities within the designated Neighbourhood Plan areas, represented by their Neighbourhood Forum, will have a greater say in decision making in respect of how Neighbourhood CIL monies are spent.

There is scope for new Neighbourhood Plans to be developed in areas across the city, should residents wish to undertake such an exercise, and if approved via Referendum, these areas would also have the ability to retain 25% of the Neighbourhood CIL allocation.

Note that in order to ensure this approach takes into account people who share protected characteristics under the Public Sector Duties each Local Area Committee Community Plan undertaken will also be supported by equality monitoring and an Equality Impact Assessment.

Equality Impact Assessments were also carried out in respect of the establishment of Local Area Committees (EIA 916) and Local Area Committee Budgets (EIA 962).

4.2 Financial and Commercial Implications

4.2.1 There is no easily definable cost in respect of these proposals, given that the amount of Neighbourhood CIL receipts generated is wholly dependent on the number and size of new building developments in the designated Neighbourhood Plan areas, coming forward.

If there are no new developments within these geographies, then there is no financial impact, whatsoever.

If new building developments that are subject to the CIL levy in the Neighbourhood Plan area are forthcoming, this will result in:

- An increase of 10% (from 15% to 25%) to the Neighbourhood CIL

portion;

- An equivalent reduction of 10% (from 80% to 70%) to the central 'Strategic CIL' allocation, and

All of the increased Neighbourhood CIL allocation (25%) is given over to the Neighbourhood Plan area, i.e. no other Wards benefit from the distribution of Neighbourhood CIL through the established pooling method, divided per ward, based on deprivation levels, using the Index of Multiple Deprivation (IMD).

4.3 Legal Implications

- 4.3.1 This report proposes that the Neighbourhood Portion of the Community Infrastructure Levy (CIL) raised in an area with a Neighbourhood Plan is ringfenced to that area and describes a mechanism for making decisions on how the monies are spent. The legal implications which arise from specific proposals will be considered when decisions are made about those proposals.

The law does not prescribe a specific process for agreeing how the Neighbourhood Portion should be spent but the proposals are permissible under the rules for the application of the Neighbourhood Portion set out in Regulations 59A - 59F of the Community Infrastructure Regulations 2010 and are in accordance with the principles described in the Government's Community Infrastructure Levy Guidance.

5. **ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 The 25% Neighbourhood Portion raised in the Neighbourhood Plan areas could be redistributed across the city using the process approved in 2018: pooling into a single Local CIL Pot (together with the 15% raised across the rest of the city outside parish council areas) and allocating the total across the city per ward based on deprivation levels using the Index of Multiple Deprivation (IMD). This could however be seen as contrary to the spirit of the Neighbourhood Planning regime.

6. **REASONS FOR RECOMMENDATIONS**

- 6.1 The proposals address the omission of Neighbourhood Plan areas from the 2018 Cabinet decision on the CIL Neighbourhood Portion and provide recognition of the valuable input of Neighbourhood Forums in their respective areas.

This page is intentionally left blank