

Report for: Regulatory Committee 2 March 2020

Title: Neighbourhood Community Infrastructure Levy (NCIL) – Redistribution Consultation/ Changes to CIL Governance document

Report authorised by: Emma Williamson, Assistant Director, Planning, Building Standards & Sustainability

Lead Officer: Rob Krzyszowski, Head of Planning Policy, Transport and Infrastructure (x3213)

Ward(s) affected: All

Report for Key/
Non Key Decision: Recommendation

1. Describe the issue under consideration

- 1.1 The Community Infrastructure Levy (CIL) is a charge based on the floorspace of new buildings to help fund infrastructure needs arising from new development. Haringey's CIL has been in effect since 2014.
- 1.2 The CIL Regulations 2010 (as amended) provide that up to 15% of CIL collected in an area can be spent in the area on infrastructure projects or 'anything else that is concerned with addressing the demands that development places on an area.' This is known as Neighbourhood CIL (NCIL). This increases to 25% where there is an adopted Neighbourhood Plan in place, (currently the borough only has one adopted Neighbourhood Plan in Highgate). In both cases, the Council must consult with the community on how to spend NCIL.
- 1.3 As of 31 December 2019, the amount of NCIL collected in Haringey amounted to £2.36 million. The Council's adopted governance arrangements for the spending of NCIL are set out in the Haringey CIL Governance document (November 2017). For the purposes of spending NCIL the Governance document splits the borough up into 9 areas. It sets out that NCIL should be spent on neighbourhood projects within the neighbourhood of contributing development. Due to varying levels of development across the borough and differences in CIL rates between the western, central and eastern charging zones there are large discrepancies between the amount of NCIL available for spend in each of the 9 areas. As CIL rates across the borough are substantially different and because levels of infrastructure need vary across the borough, the allocation of NCIL purely on the basis of where it is received does not support the Council's aims of fairness and equality.
- 1.4 In order to allocate NCIL on a fairer basis it will be necessary to update the Council's CIL Governance document to allow this. From 3 February 2020 to 9 March 2020 the Council is consulting on draft changes to the CIL Governance document to allow the Council the option to spend NCIL in a different area to

where it was collected thereby enabling NCIL to be allocated across the borough in a fairer way.

2. Recommendations

2.1 That Regulatory Committee:

- 1) Notes and provides comments to the draft changes to the CIL Governance Document as set out in Section 6 and Appendix B.
- 2) Recommends to the Leader for approval the draft changes to the CIL Governance Document set out in Section 6 and Appendix B having regard to the consultation which is ongoing, and Committee's responses to the same.

3. Alternative options considered

3.1 The alternative options considered are:

3.2 **Option 1 – Do not amend the CIL Governance document. Only allow NCIL to be spent in the area it is collected.** This option is not recommended because the allocation of NCIL purely on the basis of where it is collected does not support the Council's aims of fairness and equality.

3.3 **Option 2 – Amend the CIL Governance document. Allow CIL to be spent in a different area to where it was collected.** This option is **recommended** (subject to consideration of the consultation which is ongoing). It will allow the Council to consider allocating NCIL more fairly across the borough.

4. Background information

CIL

4.1 The CIL is a charge on developers based on the floorspace of new buildings to help fund infrastructure needs arising from new development. Receipts from CIL differ from other local contributions for development (i.e. Section 106 planning obligations) in that these are not site specific and can be used to support wider community infrastructure needs. The charging authority sets its own levy rates in a Charging Schedule.

4.2 Haringey adopted its first CIL Charging Schedule in July 2014. This was implemented in November 2014. In March 2017 the Council consulted on an updated CIL Partial Review Preliminary Draft Charging Schedule focussing on the east of the borough including a proposed CIL rate increase for residential uses in that part of the borough. This was progressed in November 2019 when Cabinet took the decision to consult on the new Draft Charging Schedule. This consultation started on 18 December 2019 and ended on 11 February 2020.

4.3 This report does not focus on the emerging increased CIL rates in the new Draft Charging Schedule, nor does it focus on the spending of the remainder of CIL

known as Strategic CIL (SCIL) nor the NCIL as these are subject to separate decision-making processes. The focus of this report is on the draft wording of the amendments to the CIL Governance Document.

NCIL

- 4.4 The CIL Regulations 2010 (as amended) provide that, where a charging authority has no parish council, up to 15% of CIL collected in an area can be spent in the area on infrastructure projects or ‘anything else that is concerned with addressing the demands that development places on an area.’ This is known as Neighbourhood CIL (NCIL). This increases to 25% where there is an adopted Neighbourhood Plan in place, (currently the borough only has one adopted Neighbourhood Plan in Highgate). In both cases, the Council must consult with the community on how to spend NCIL.
- 4.5 Planning legislation states that the definition of ‘infrastructure’ includes but is not limited to:
- Roads and transport facilities
 - Flood defences
 - Schools and other educational facilities
 - Medical facilities
 - Sporting and recreational facilities
 - Open spaces
- 4.6 The Government’s Planning Practice Guidance (PPG) on NCIL (paragraph 146) states that the charging authority “should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding. Charging authorities should set out clearly and transparently their approach to engaging with neighbourhoods using their regular communication tools e.g. website, newsletters, etc. The use of neighbourhood funds should therefore match priorities expressed by local communities, including priorities set out formally in Neighbourhood Plans”.
- 4.7 Paragraph 146 further clarifies that –
- “the law does not prescribe a specific process for agreeing how the neighbourhood portion should be spent. Charging authorities should use existing community consultation and engagement processes. This should include working with any designated Neighbourhood Forums preparing Neighbourhood Plans that exist in the area, theme specific neighbourhood groups, local businesses (particularly those working on business led Neighbourhood Plans) and using networks that ward councillors use. Crucially this consultation should be at the neighbourhood level.

Where the charging authority retains the neighbourhood funding, they can use those funds on the wider range of spending that are open to local councils. In deciding what to spend the neighbourhood portion on, the charging authority and communities should consider such issues as the phasing of development, the costs of different projects (for example, a new road, a new school), the prioritisation, delivery and phasing of projects, the amount of the levy that is

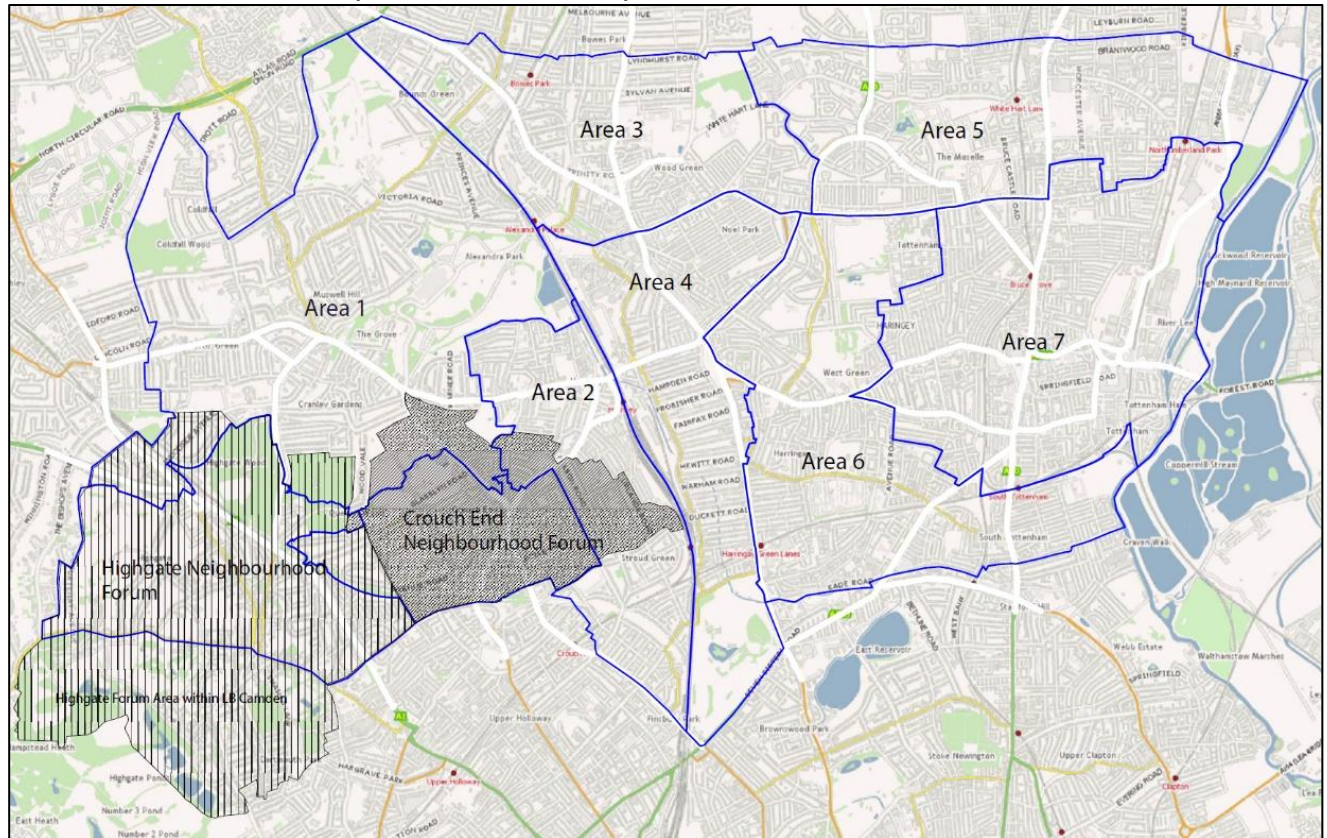
expected to be retained in this way and the importance of certain projects for delivering development that the area needs. Where a neighbourhood plan has been made, the charging authority and communities should consider how the neighbourhood portion can be used to deliver the infrastructure identified in the neighbourhood plan as required to address the demands of development. They should also have regard to the infrastructure needs of the wider area.

The charging authority and communities may also wish to consider appropriate linkages to the growth plans for the area and how neighbourhood levy spending might support these objectives.”

Haringey CIL Governance

- 4.8 In 2015/16, the Housing and Regeneration Scrutiny Panel published a Scrutiny Report on NCIL (see background documents). The Report contained 13 NCIL governance recommendations all of which were subsequently agreed to be taken forward by Cabinet on 17 May 2016 (see background documents).
- 4.9 Having regard to these recommendations an updated CIL Governance document was adopted by the Council in 2017 (Appendix A) setting out governance arrangements for CIL including the spending of NCIL.
- 4.10 National CIL guidelines are not specific on what constitutes a neighbourhood area, and hence allow the Council to decide its own definition of NCIL areas. The Haringey CIL Governance document (Appendix A) divides the borough into 9 areas for NCIL purposes, two of which are Neighbourhood Forum Areas. The delineation of the 9 areas in this manner was based on the recommendation of the NCIL Scrutiny Report. The nine areas are as follows:
- Area 1- Fortis Green, Muswell Hill and Alexandra
 - Area 2- Hornsey and Stroud Green
 - Area 3- Bounds Green and Woodside
 - Area 4- Noel Park and Harringay
 - Area 5- White Hart Lane and Northumberland Park
 - Area 6- West Green, St Ann’s and Seven Sisters
 - Area 7- Bruce Grove, Tottenham Green and Tottenham Hale
 - Highgate Neighbourhood Forum and Plan Area
 - Crouch End Neighbourhood Forum Area
- 4.11 Since the CIL Governance document was adopted in 2017, the Finsbury Park and Stroud Green Neighbourhood Area and Forum has also been established by residents in that area in September 2018.
- 4.12 The CIL Governance document sets out that NCIL is to be spent on neighbourhood projects within the neighbourhood of contributing development.

Figure 1: Map of 9 Haringey NCIL areas
NCIL collected to previous financial quarter



4.12 The NCIL funds collected to the end of the previous financial quarter (31 December 2019) within each of the nine NCIL areas are set out in Table 1 below. The figures are based upon 15% of relevant CIL receipts in Areas 1 to 7 and the Crouch End Neighbourhood Forum Area, and 25% of relevant receipts in the areas with adopted Neighbourhood Plans (currently only the Highgate Neighbourhood Forum Area).

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NCIL Area	Total NCIL
Area 1- Fortis Green, Muswell Hill and Alexandra	£185,643
Area 2- Hornsey and Stroud Green	£144,790
Area 3- Bounds Green and Woodside	£130,436
Area 4- Noel Park and Harringay	£1,251,384
Area 5- White Hart Lane and Northumberland Park	£32,421
Area 6- West Green, St Ann's and Seven Sisters	£12,288
Area 7- Bruce Grove, Tottenham Green and Tottenham Hale	£238,478
Highgate Neighbourhood Forum and Plan Area	£255,865
Crouch End Neighbourhood Forum Area	£114,997
Total	£2,366,302

t of NCIL collected in each area as at 31 December 2019

4.13 To date no NCIL funds have been spent in Haringey.

5. Justification for considering changes to CIL Governance Document

5.1 The Council's existing adopted approach to NCIL as set out in the Haringey CIL Governance document (Appendix A) is to spend NCIL in the NCIL area in which it is collected. Under this approach the amount of NCIL available in each NCIL area varies significantly. For example, over £1.2m is currently available for spend in Area 4 (Noel Park and Harringay wards) and only £12,000 is available for spend in Area 6 (West Green, St Ann's, and Seven Sisters wards). This is partly a function of differing amounts of development across the borough but it is also a function of the fact that CIL charging rates vary substantially across the borough based on the financial viability of development. Current CIL rates for residential development are set out in Table 2.

Table 2: Current CIL charges for residential development

Charging Zone	Current CIL rate for residential development
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	(per square metre)
Western Charging Zone	£370.33
Central Charging Zone	£230.59
Eastern Charging Zone	£20.96

- 5.2 The residential CIL rate for the Western Charging Zone is over 17 times that of the Eastern Charging Zone per square metre and the residential CIL rate for the Central Charging Zone is 11 times that of the Eastern Charging Zone per square metre. In these circumstances, the allocation of NCIL purely on the basis of where it is received is not considered to support the Council's aims of fairness and equality. It also does not recognise the effects that development generally in the borough can have on an area even though the development may be coming forward in surrounding areas as designated under the CIL Governance document. If NCIL was only spent within areas based on where the CIL was collected, then there would be large discrepancies across neighbourhoods as to the amount available to spend and the amount to spend would have a weak correlation in relation to the amount of development or infrastructure need across the borough. Instead, the existing adopted NCIL allocation approach is more of a reflection of the financial viability of development and thus the CIL rates set, rather than the amount of development or need.
- 5.3 The CIL Regulations 2010 (as amended) and PPG do not prescribe exactly how NCIL should be spent where there is no Parish Council and/or Neighbourhood Plan in place. In areas of the borough where these circumstances apply, there is flexibility for the Council to allocate the NCIL in a different area to where it was collected. This would mean that NCIL could be spent in an alternative way to the existing adopted approach.
- 5.4 If the CIL Governance document was amended to enable NCIL to be spent in a different area to where it was collected the Council would have the opportunity to consider allocating NCIL more fairly across the borough in a way that is more reflective of the level of development and the level of need in each NCIL area.

6 Consultation on changes to CIL Governance Document

- 6.1 Planning Practice Guidance requires that the Council must consult with the community on how to spend NCIL. Consultation is also required as part of the Council's commitment to making sure people who live and work in the borough have a say and influence decisions that affect them.
- 6.2 From 3 February 2020 to 9 March 2020 the Council is consulting on changing the CIL Governance document to allow the Council to spend NCIL in a different area to where it was collected and the necessary amendments to the document to give effect to the same (see Appendix B: NCIL Redistribution consultation document).

6.3 The draft amendments that the Council is consulting on are as follows:

Page 9 (second bullet point)

- 15%, known as the 'Neighbourhood Proportion', is to be spent on neighbourhood projects ~~within the neighbourhood of contributing development~~ (up to a maximum of £100 per existing Council Tax dwelling)...

Page 10 (third paragraph)

- The Council... will pool the neighbourhood proportion of CIL receipts raised from across the borough (except for Neighbourhood Forum areas identified in this document) ~~within the designated neighbourhood area~~ to pay for the items ~~therein~~, investigating other sources of funding (such as grants and match funding) where possible.

Page 11 (first paragraph)

- The Council will then determine how Neighbourhood CIL receipts ~~raised within each CIL Neighbourhood Group are will then be are~~ spent against the list of projects compiled ~~for each area~~ having regard to the consultation responses.

Key

- ~~Strikethrough~~ represents text to be deleted
- Underlined represents text to be added

6.4 Once the consultation closes on 9 March 2020 responses will be collated and analysed. A summary of the analysis of the responses will be made available to the Leader before a decision is taken on approving the amendments to the CIL Governance document and potential redistribution. The Council will then be in a position to respond to the 'Round 1' consultation in 2018 which sought views from the public on NCIL spending priorities in the neighbourhoods, and make decisions on this. A Round 2 consultation would follow at a later date.

7. Contribution to strategic outcomes

7.1 Priority 2 (People) 'To narrow the gap in outcomes': Allocating NCIL in a different area to where it was collected will enable the Council to increase spend on projects in the areas of the borough which have the greatest level of infrastructure need.

7.2 Priority 3 (Place): NCIL helps fund local infrastructure projects which are necessary to ensure that the growth in the borough is something that everyone can benefit from and produces sustainable, safe, attractive and accessible places. The NCIL consultation process also offers communities the opportunity to shape Place.

7.3 Priority 4 (Economy): CIL receipts are a key source of funding to support the delivery of local physical and social infrastructure. One of the objectives is to "Take account of how people feel about the way their local areas are changing" with an action to "Seek to bring in external funding and use Section 106 and Community Infrastructure Levy budgets to achieve maximum impact".

- 7.4 Priority 5 (Your Council): The allocation of NCIL in a different area to where it was collected would allow the Council to use its resources in such a way that prioritises the residents and areas which have the greatest level of infrastructure need.

8. Statutory Officer comments

Procurement

- 8.1 There are no procurement implications for this report.

Legal

- 8.2 The Assistant Director of Corporate Governance has reviewed and noted this report.
- 8.3 The Regulatory Committee is authorised under Part Three of the Council's Constitution to make recommendations to Cabinet and other bodies about planning service delivery matters which includes the Community Infrastructure Levy Governance document.

Equality

- 8.4 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
 - Advance equality of opportunity between people who share those protected characteristics and people who do not
 - Foster good relations between people who share those characteristics and people who do not.
- 8.5 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.
- 8.6 The proposed amendments to the CIL Governance document would enable NCIL to be spent in areas other than those to which it was collected. Enabling the possibility of allocating NCIL in a different area to where it was collected means the Council is free to better address inequalities across the borough compared to the existing NCIL allocation. Different possible allocation options may result in different outcomes in terms of equality and equity and these will be considered as part of future decisions on spend. The current live consultation enables further equality considerations to be identified, which will also be considered as part of any decision following the consultation.

Finance

8.7 The report recommends that the Regulatory Committee:

- Notes and provides comments to the draft changes to the CIL Governance Document as set out in Section 6 and Appendix B.
- Recommends to the Leader for approval the draft changes to the CIL Governance Document set out in Section 6 and Appendix B having regard to the consultation which is ongoing, and Committee's responses to the same.

8.8 The public consultation on amendments to the CIL Governance document is to remove the principle of NCIL collected in one area only being able to be spent in that same area and would enable a more flexible approach to the spending of NCIL subject to future decisions.

8.9 The cost of undertaking the consultation is being met within existing budgets.

8.10 The amount of NCIL collected as at 31 December 2019 is set out in Table 1.

9. Use of Appendices

Appendix A: Adopted Haringey CIL Governance document (November 2017)

Appendix B: NCIL Redistribution consultation document

10. Local Government (Access to Information) Act 1985

Background documents:

Housing and Regeneration Scrutiny Panel (3 March 2016): Community Infrastructure Levy Governance Arrangements

<http://minutes.harinet.haringey.gov.uk/ieListDocuments.aspx?CId=754&MId=7423&Ver=4>

Cabinet (17 May 2016): Scrutiny Review of Community Infrastructure Levy Governance Arrangements:

<http://minutes.harinet.haringey.gov.uk/ieListDocuments.aspx?CId=118&MId=7842&Ver=4>

Cabinet (17 October 2017): Community Infrastructure Levy Governance / Planning Obligations SPD

<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MId=8290&Ver=4>