

# South Lakeland District Council

## Cabinet

13 September 2017

### Infrastructure Delivery Plan and Community Infrastructure Levy (CIL) Governance

PORTFOLIO:	Councillor Jonathan Brook - Housing and Innovation Portfolio Holder
REPORT FROM:	David Sykes - Director People and Places
REPORT AUTHOR:	Dan Hudson - Development Strategy and Housing Manager
WARDS:	All District wards not wholly within the Lake District and Yorkshire Dales National Parks
FORWARD PLAN:	Key Decision included in the Forward Plan as published on 1 August 2017

#### 1.0 EXPECTED OUTCOME

- 1.1 The Council's Infrastructure Delivery Plan (or IDP) sets out the infrastructure necessary to deliver the development proposed in the Local Plan and the means by which it is to be delivered. The 2014 IDP has been revised and updated and this report seeks approval for this new iteration. A key means of infrastructure delivery is the Community Infrastructure Levy (CIL). The CIL reserve is beginning to build up and the report sets out the proposed framework for the governance and expenditure of Community Infrastructure Levy (CIL) receipts. The revised IDP does not include infrastructure needed to deliver the next Local Plan, the Town Centre Master Plan or measures arising out of Environment Agency investigations into Storm Desmond. These will be included in subsequent iterations of the plan.

#### 2.0 RECOMMENDATION

- (1) That the 2017 Infrastructure Delivery Plan (IDP), as summarised in Appendix 1 be approved, as the basis for prioritising strategic infrastructure projects until the next review of the IDP.
- (2) That the framework for the governance and expenditure of income from the Community Infrastructure Levy (CIL), as set out in paragraphs 3.11 to 3.17 be approved.

#### 3.0 BACKGROUND AND PROPOSALS

##### *Infrastructure Delivery – the current position*

- 3.1 South Lakeland's Infrastructure Delivery Plan (or IDP) sets out the infrastructure necessary to deliver the development proposed in the Local Plan and the means by which it is to be delivered. CIL is a major element of the delivery strategy and the Infrastructure Delivery Plan must also include a **Regulation 123 Statement** indicating the items which it is anticipated will be part funded by CIL and for which planning obligation contributions will not be sought.

3.2 The Council first prepared an Infrastructure Delivery Plan (IDP) in April 2013 as evidence for the Land Allocations Development Plan Document (DPD), to demonstrate the infrastructure and services required to support the Local Plan's ambitious proposals for up to 6,500 new homes and 60 ha of employment land in the district (outside the National Parks) by 2025. The Inspector took the IDP into account in his 'soundness' finding of the Land Allocations DPD. The 2013 IDP also formed key evidence of the need for additional funding for infrastructure from the proposed Community Infrastructure Levy (CIL). The IDP was updated in April 2014.

3.3 The Local Plan and the 2014 Infrastructure Delivery Plan have enabled the delivery of a significant number of items of infrastructure. These include;

- £3.4m for highways and transport improvements in Kendal, including road junction improvements and improved cycle routes funded by Cumbria Local Enterprise partnership (LEP);
- £4.5m for improvements to the A590 in Ulverston including a new road access to the important Local Plan employment allocation at Lightburn Road, part of which is being developed for a 'Blue Light' hub, also funded by Cumbria LEP.

In addition, the joint-working facilitated with Cumbria County Council (CCC) and others through IDP preparation has helped support the development of a funding package of £5.3m for a new roundabout on the A590 at Swarthmoor to serve housing sites allocated in the Local Plan for about 1200 homes in Swarthmoor and south Ulverston. Sources of funding for the project include Highways England, Cumbria LEP, developer contributions and South Lakeland District Council (SLDC) which is contributing £300,000.

#### *Infrastructure Delivery Plan Update - August 2017*

3.4 Following a period of consultation (May to July 2017) with infrastructure providers and Town and Parish Councils, the Infrastructure Delivery Plan (IDP) has been updated to August 2017. A summary of the updated IDP is attached at Appendix 1, and the full document can be viewed on the web at <http://tinyurl.com/ycty7ldc>. The updated document has been restructured to group infrastructure projects by sub areas comprising Kendal, The East, Cartmel Peninsula, Furness Peninsula and the Area of Outstanding Natural Beauty (AONB). It is important to note that the IDP remains a 'live' document in that it will be the subject of updates as circumstances change and new information becomes available.

3.5 The Infrastructure Delivery Plan identifies infrastructure needed to implement the current Local Plan. Additional items to meet longer term needs may emerge from strategic infrastructure work by the LEP and the County Council, from work by the Environment Agency on the 2015 floods and from the Kendal Town Centre Master Plan. These will be included within future iterations of the IDP in parallel with the development of the next Local Plan.

#### *Infrastructure Requirements*

3.6 Some projects are essential to the delivery of the Local Plan. This means that there is a risk that development might not be able to proceed without a reasonable prospect of their implementation. Others are important but are not necessarily essential to the delivery of the plan – for example because they relate to existing needs irrespective of the impacts of any new development or because they relate to local community aspirations.

3.7 It is necessary to distinguish between projects which will or will not be funded through the Community Infrastructure Levy. This is because if a project is to be funded through CIL, planning obligations cannot be sought to fund it. This would in effect

mean the applicant being asked to fund the same infrastructure twice (known as 'double dipping'). The CIL regulations require a CIL charging authority to publish a 'Reg 123' list, making clear the types of infrastructure or projects which it will consider funding from CIL. The District Council's approved Reg 123 took effect from 1 June 2015 (see Background Documents below). It is not considered necessary to recommend changes to the Reg 123 List, as a result of the consultation and updating of the Infrastructure Delivery Plan.

### 3.8 The plan identifies the following infrastructure projects

#### Projects which are essential to support the delivery of the South Lakeland Local Plan:

##### *Funded in part or in full through CIL*

- Highways Improvement Measures in Kendal Town Centre and surrounding area to support new development (*c. £3.4 million has already been allocated for a range of measures through Local Growth Deal Funding*)
- A590 Ulverston Access Improvements to support delivery of housing and employment allocations sites (*c. £4.5 million has been allocated to a range of measures through Local Growth Deal Funding*)
- Access to allocated employment sites at Scroggs Wood, Kendal; East of Burton Road, Kendal; the Mainline site, Milnthorpe; North of Gatebeck Lane, Endmoor; and the mixed-use regeneration and employment opportunity sites at Ulverston Canal Head
- School place provision at Kendal and Ulverston's Primary and Secondary Schools, and Cartmel Priory Secondary School

##### *Funded from non-CIL sources, including developer contributions:*

- Cross-a-Moor roundabout improvements at Swarthmoor, near Ulverston to facilitate housing allocations at Croftlands and Cross-a-Moor
- Open Space improvements including improvements of existing facilities and new on-site provision that are directly related to a development (S106 agreements).
- Sustainable Drainage Systems and other flood risk/surface water management measures to support new development (other sources).
- School places outside of Kendal, Ulverston schools and Cartmel Priory Secondary School needed to support new development (S106 agreements).

#### Schemes which are important but not considered critical or essential to the delivery of the South Lakeland Local Plan,

##### *Potentially funded in part or whole from CIL:*

- Highway and Transport Schemes with strategic benefits not directly related to development, including those arising from the Kendal Town Centre Masterplan.
- Community Facilities Improvements not directly related to a development.
- Strategic green infrastructure not directly related to a development such as the Lancaster Canal Multi-functional trail.
- Cultural and leisure facilities which are not directly related to a development
- Open Space Improvements to strategic publicly- accessible areas at Lightburn Park Ulverston; Abbot Hall Park, Kendal Castle Hill and Nobles Rest in Kendal; and the Promenade, Park Road Gardens and Ornamental Gardens Grange-over-Sands.

- Kendal and Ulverston Canal Head area regeneration, public realm, heritage and environment projects across district not directly related to a development
- Health Care facilities in Kendal.
- Kendal Parkside Cemetery extension, Arnside Cemetery additional space, Grange Fell cemetery and Ulverston cemetery
- Sustainable transport improvements in Ulverston

*Funded from sources other than CIL:*

- Flood defences, alleviation schemes
- Waste Water network enhancements, treatment works upgrades as required
- Increased capacity at Kendal primary substation - electricity
- Improvements to rail services, including Station Parking facilities at Arnside
- Community safety measures
- National Grid upgrade to support electricity generation in West Cumbria
- Energy efficiency measures to existing and new build housing
- Superfast broadband for areas not covered by Connecting Cumbria project
- Additional A590 Improvements
- Extra Care Housing Schemes
- Habitat Restoration Improvements
- Reinforcement to lower electricity voltage networks as a result of new development

- 3.9 It is proposed that the overall prioritisation of infrastructure needs set out in the IDP Update August 2017 form a key criteria in the assessment of any proposals for CIL funding until the IDP is next updated in 2018.

*The Community Infrastructure Levy*

- 3.10 To date about £0.25m has been received from CIL-liable development. The 15% 'neighbourhood' proportion of CIL arising from development in each Parish has been paid every six months to Town and Parish Councils, totalling £25,500, as set out in Appendix 2. This can be spent by the local councils on infrastructure or anything else that supports development in their area. No CIL has yet been paid for strategic infrastructure projects, in order to give time for CIL funds to grow and also to put a governance framework in place.

*CIL Governance and Expenditure*

- 3.11 A decision-making framework is required for spending the proportion of CIL retained by SLDC for strategic infrastructure. To set the context, SLDC is both the charging authority for CIL and also responsible for deciding how it is spent. The Council is also required to report annually on CIL income and expenditure. Many other bodies including Cumbria County Council are of course responsible for delivering the infrastructure and service needs arising from new development. CIL is available to help fund or part fund important strategic infrastructure projects listed on the Reg 123 list but is not intended to replace existing mainstream funding. Developers remain responsible for funding infrastructure related directly to an individual development, mainly on-site. This is also explained in more detail in the Reg 123 List.

- 3.12 The IDP seeks to identify the infrastructure which is essential to the delivery of housing and other development set out in the Local Plan, as distinct from other types of infrastructure which would support development but is not critical to its delivery. The IDP also records any local infrastructure needs and aspirations expressed by Parish and Town Councils, but local councils are free to spend (and account for) the 'neighbourhood' CIL income which they receive (although they can choose to work jointly with SLDC or other bodies on larger projects). The IDP is updated regularly, in consultation with key stakeholders and local councils
- 3.13 It is proposed that the decision-making framework for the prioritisation and expenditure of CIL by SLDC is based on the following **key principles**

Organisation and Decision Making Structure

- 3.14 South Lakeland District Council is the CIL spending authority. However it needs to exercise that responsibility in partnership with the County Council as the main infrastructure delivery partner, other infrastructure delivery partners and stakeholders and community representatives. The following organisational structure is proposed;
- SLDC Cabinet to have final responsibility for the approval of requests for CIL expenditure on strategic infrastructure and also the approval of updates to the Infrastructure Delivery Programme (IDP)
  - The process will be supported by an SLDC-led technical officer working group, consulting regularly with the SLDC Portfolio Holder and appropriate leading members of Cumbria County Council. The working group will include CCC officer representation. The group's role will include co-ordinating updates to the IDP and engaging and assisting with other stakeholders and with Town and Parish Councils. The working group will work to a terms of reference which it will draw up and agree with the Portfolio Holder for Housing and Innovation and also work up detailed proposals and procedures for spending CIL based on the principles set out in this report.
  - Regular consultation with Cumbria County Council, other service and infrastructure providers and Town and Parish Councils through the review of the Infrastructure Delivery Plan.

While these arrangements for the management of CIL are considered to represent good practice, they would nonetheless be kept under review.

The role of the Infrastructure Delivery Plan

- 3.15 The infrastructure delivery plan has a critical role in identifying the infrastructure needed to support the implementation of development planned for in the adopted Local Plan and also to indicate the relative overall prioritisation of infrastructure in terms of its importance to the delivery of the Local Plan. The IDP contains the Regulation 123 List (which identifies projects to be funded by CIL) require appropriate consultation and Council approval in accordance with CIL Regulations.

Prioritisation Criteria (Regulation 123 projects)

- 3.16 Advised by the joint steering and working groups, SLDC will assess proposals for CIL expenditure in line with the following criteria
- The overall prioritisation of infrastructure set out the annually-updated IDP
  - The importance of the project to implementing planned development in the Local Plan
  - An assessment of the deliverability of the project, including independent professional assessment where necessary
  - The extent to which the project represents value for money, including in terms of leveraging matching funding from other sources.

### Requirements on Recipients of CIL funding

- 3.17 Infrastructure bodies seeking funding from CIL will be required to :
- Present a business case for CIL funding, taking account of the prioritisation in the IDP and the assessment criteria at 3.16 above
  - If approved, to enter into a legal agreement with SLDC to make clear the purpose and expected outcome from the use of CIL funds; the basis on which any changes to the project would be sought and agreed; the reporting and monitoring of progress and outcomes; and the provisions if funds are unspent or spent other than as agreed.
  - Fulfil other governance requirements required by the organisation body seeking funding and also those required by any other funders of the project.

### *Way Ahead*

- 3.18 If this report is approved, administrative procedures and processes will be put in place, including the member and officer groups identified above. At present it is considered that the administration of CIL expenditure can be met within existing resources but this will be kept under review.
- 3.19 There have been a few early enquiries for CIL funding. The response to these has been that they await the updating of the IDP and approval of a framework for CIL governance. In terms of infrastructure considered essential to Local Plan delivery and suitable for CIL funding, it is encouraging to note that £7.9m has already been funded for highway improvements in Kendal and Ulverston (Cumbria LEP) without any CIL funding. For education, Cumbria County Council is reviewing future educational needs across South Lakeland in consultation with local schools, taking account of planned housing development in the Local Plan to 2025. Future bids for CIL funding are likely to include requests to help increase school capacity in Kendal.

### *The future of CIL*

- 3.20 The Government published a report by the CIL Review Group along with the Housing White Paper in February 2017. It proposes a twin-track system of a new Local infrastructure Tax set by Government which would apply to all sites, combined with Section 106 payments for large sites (to make then acceptable in planning terms). The Government has yet to translate these recommendations into formal proposals or to set a timetable for their implementation. It is likely that any proposals would take some time to develop and bring into effect, particularly if primary legislation is required. In the interim, robust infrastructure planning arrangements need to be maintained.
- 3.21 Secondly, the Council has commissioned a viability study to assess the impact on viability of proposed changes to planning policy in the Development Management Policies and AONB Development Plan Documents (DPDs) in the context of existing planning policy and CIL. The implications for CIL in South Lakeland of this study and any change to CIL nationally will be the subject of future reports.

## **4.0 CONSULTATION**

- 4.1 The April 2014 IDP was updated to take account of known changes and restructured to group infrastructure by sub areas. This document formed the basis of consultation between May and July 2017 with key infrastructure and service bodies, including Cumbria County Council, and also with Town and Parish Councils. The responses received have been incorporated in the August 2017 Update of the IDP.

## **5.0 ALTERNATIVE OPTIONS**

- 5.1 Do Not Proceed with Approval of the CIL Governance Framework and August 2017 Update of the Infrastructure Delivery Plan.

Cabinet could decide not to approve the CIL Governance Framework and/or the August 2017 Update of the Infrastructure Delivery Plan. The absence of an agreed CIL Governance Framework would reduce SLDC Cabinet's ability to make decisions on the expenditure of CIL. While this would allow the CIL funding pot to grow, it could also prevent early funding decisions on funding infrastructure priorities.

5.2 Delay the Approval of the CIL Governance Framework and August 2017 Update of the Infrastructure Delivery Plan:

Cabinet could decide to delay the approval of the CIL Governance Framework and/or August 2017 Update of the Infrastructure Delivery Plan. A delay in approving a CIL Governance Framework would also delay the time by which SLDC Cabinet could make decisions on the expenditure of CIL. While this would allow the CIL funding pot to grow, it could also prevent early funding decisions on funding infrastructure priorities.

## 6.0 LINKS TO COUNCIL PRIORITIES

6.1 The approval of an updated IDP and an agreed framework for the expenditure of CIL will assist in the delivery of the Council's long term ambitions for delivering housing and economic development. It is therefore significant for the delivery of the 2014 – 2019 (2017 Update) Council Plan.

6.2 In terms of **housing**, CIL could assist in delivering key infrastructure essential to delivering residential development planned for in the Local Plan and important to the facilitating delivery of 1,000 affordable homes to rent over the period 2014-2025. In terms of **economy** CIL has potential to help fund road access to several key employment sites allocated in the Local Plan, and therefore assist in facilitating inward investment the creation of 1,000 new jobs in South Lakeland by 2025. CIL funding could potentially be used to assist **environmental** and **cultural** projects within the Council Plan, in the context of the wider prioritisation of projects according to their importance in delivering the Local Plan.

## 7.0 IMPLICATIONS

### 7.1 Financial and Resources

7.1.1 The proposals in this report recommend a decision-making framework for the expenditure of income from CIL on strategic infrastructure projects. At present it is considered that the regular updating of the IDP and administration of CIL expenditure can be undertaken within existing resources but this should be kept under review.

7.1.2 At present the IDP reflects an assessment of infrastructure needs from the perspective of their importance in delivering the development priorities in the adopted Local Plan.

### 7.2 Human Resources

7.2.1 At present it is considered that the regular updating of the IDP and administration of CIL expenditure can be undertaken within existing resources but this should be kept under review.

### 7.3 Legal

7.3.1 The administration of CIL expenditure may require legal undertakings with bodies receiving CIL to ensure the funding provided is used for the purposes for which it was given within an appropriate timeframe or returned. This is set out further in key principle 6 within paragraph 3.7 of the above report.

## 7.4 Health, Social, Economic and Environmental

7.4.1 A Health, Social, Economic and Environmental report is set out at Appendix 3.

Have you completed and Health, Social, Economic and Environmental Impact Assessment?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If yes, please confirm that it is attached to the report in the appendices.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Summary of health, social, economic and environmental impacts.	The report indicates that the updated IDP and CIL has most potential for a positive impact in areas including transport, employment, active travel, built/natural environment and access to leisure and green spaces.	

## 7.5 Equality and Diversity

7.5.1

Have you completed an Equality Impact Analysis?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If yes, please confirm that it is attached to the report in the appendices.	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If you have not completed an Impact Assessment, please explain your reasons.	An Equality Impact Assessment has not been completed as the IDP 2017 is an information update from consultation with key stakeholders of an earlier version which was the subject of previous public consultations, as part of the evidence base for the Land Allocations DPD.	
Summary of equality and diversity impacts.		

## 7.6 Risk

Risk	Consequence	Controls required
Delay on the decision to approve the CIL Governance Framework and the August 2017 Update of the Infrastructure Delivery Plan	This would reduce SLDC Cabinet's ability to make decisions on the expenditure of CIL. While this would allow the CIL funding pot to grow, it could also prevent early funding decisions on funding infrastructure priorities.	Approve the CIL Governance Framework and the August 2017 Update of the Infrastructure Delivery Plan



<b>Risk</b>	<b>Consequence</b>	<b>Controls required</b>
Failure to approve Approval of the CIL Governance Framework and August 2017 Update of the Infrastructure Delivery Plan	This would reduce SLDC Cabinet's ability to make decisions on the expenditure of CIL. While this would allow the CIL funding pot to grow, it could also prevent early funding decisions on funding infrastructure priorities	Approve the CIL Governance Framework and the August 2017 Update of the Infrastructure Delivery Plan
Emerging Government proposals to replace CIL with an alternative development tax system.	Proposals for a new system risk uncertainty, delay and a change in projected CIL income. The possible outcomes and consequences are not yet known.  Any changes requiring legislation are likely to take a significant period of time to come into effect	Maintain robust infrastructure planning in the interim as the nature and timescale of any reforms to the CIL regime emerges.

## CONTACT OFFICERS

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## APPENDICES ATTACHED TO THIS REPORT

<b>Appendix No.</b>	
1	Infrastructure Delivery Plan Summary (IDP, August 2017)
2	Neighbourhood CIL Funding to Town and Parish Councils (to April 2017)
3	Health, Social, Economic and Environmental Impact Assessment

## BACKGROUND DOCUMENTS AVAILABLE

<b>Name of Background document</b>	<b>Where it is available</b>
CIL Charging Schedule	<a href="http://tinyurl.com/ycty7ldc">http://tinyurl.com/ycty7ldc</a>
Reg 123 List	<a href="http://tinyurl.com/ycty7ldc">http://tinyurl.com/ycty7ldc</a>
Infrastructure Delivery Plan, Updated August 2017	<a href="http://tinyurl.com/ycty7ldc">http://tinyurl.com/ycty7ldc</a>
South Lakeland Core Strategy, October 2010	<a href="https://tinyurl.com/z9m7vq6">https://tinyurl.com/z9m7vq6</a>
South Lakeland Land Allocations DPD, December 2013	<a href="https://tinyurl.com/mhvt69w">https://tinyurl.com/mhvt69w</a>

## TRACKING INFORMATION

<b>Assistant Director</b>	<b>Portfolio Holder</b>	<b>Solicitor to the Council</b>	<b>SMT</b>	<b>Scrutiny Committee</b>
3.8.17	3.8.17	3.8.17	17.8.17	n/a
<b>Executive (Cabinet)</b>	<b>Committee</b>	<b>Council</b>	<b>Section 151 Officer</b>	<b>Monitoring Officer</b>
13.9.17	n/a	n/a	3.8.17	3.8.17
<b>Human Resource Services Manager</b>	<b>Leader</b>	<b>Ward Councillor(s)</b>		
3.8.17	3.8.17	n/a		