

Appendix 2 – Background note for TECC Committee Members re Community Infrastructure Levy (CIL) and S106

Introduction

The annual Infrastructure Funding Statement forms part of the suite of documents and procedures used by the council to plan, collect and spend funds collected through planning permissions granted for developments. This note provides an overview of each part of the system for information.

Community Infrastructure Levy

Following extensive consultation and development, the council adopted CIL for use on all qualifying planning approvals on 23d July 2020 and implemented the levy on permissions granted from 5th October 2020. Since then, the 2 “pots” – citywide and neighbourhood – have been building up as contributions are received as developments start to be built on site.

The citywide pot (with around 75 % of receipts) will be spent on the council projects identified in the Infrastructure Delivery Plan (<https://www.brighton-hove.gov.uk/planning/infrastructure-delivery-plan-idp#tab--introduction>) , which was updated and approved by TECC in November 2021. It will next be updated in Summer/Autumn 2023.

The neighbourhood pot (15% of receipts) will be spent on local priorities established by each ward where permitted approvals have commenced.

It is currently expected that the first bidding round for CIL funding will commence in the Summer 2023. The processes for bidding and committee approval of selected schemes was agreed by TECC in June 2021 (<https://democracy.brighton-hove.gov.uk/documents/s167135/CIL%20Governance%20S106%20Member%20Protocol.pdf> .) Further briefings and information will be provided to all members in June 2023 before the inaugural bidding round commences.

Section 106 Contributions

Developers continue to pay agreed S106 obligations, for planning permissions granted before CIL was introduced (and for affordable housing and on site items not covered by CIL on new major applications.) These contributions must meet tests set out in the CIL Regulations:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

As a result, the infrastructure required needs to be linked to the development and is prescribed and identified in the legal agreements. Often these partially support other capital funding (eg Kingsway to the Sea), or future demands (schools major capital maintenance). Where this is the case, the project programmes may mean that the council is holding the funding for several years pending the scheme implementation. The current balance is also affected by the implementation of the surge in major planning applications determined in the run up to the start of CIL. This has seen the generation of a large value of receipts, which we are now seeing tailing off.

Levelling Up Bill

Central government has proposed changes, which will see S106 abolished and all payments made through a revised CIL regime. However no further details have been issued and we may need to proceed with a formal review of the rates in the CIL charging schedule over the next 18/24 months.