

Decisions decisions: governance and spending the CIL

Introduction

This case study looks at the experience that 10 authorities have had in putting in place the governance procedures for their Community Infrastructure Levy (CIL) charges. This will highlight what those authorities have felt represent the important things to consider throughout the process.

It should be seen as a starting point, offering ideas and options to be considered, rather than a rulebook to follow. There is no single correct form of governance for a CIL charge but there are several important principles that these case studies have highlighted. Most have agreed that this is ultimately the hardest part because it is the least process-driven.

The case study authorities are:

- Bristol City Council
- Elmbridge Borough Council
- Havant Borough Council
- London Borough of Croydon
- London Borough of Redbridge
- London Borough of Wandsworth
- Newark & Sherwood District Council
- Plymouth City Council
- Shropshire Council
- Wycombe District Council.

Key things to consider when putting in place governance procedures for CIL

- Governance is still a work in progress for many.
- All roads invariably lead back to the Corporate Programme.
- Governance needs to incorporate partnership working with parish councils and other mechanisms in non-parished areas.
- Acceptance that CIL is not the 'silver bullet'.
- Think about the intricacies of the Regulation 123 list.
- CIL represents new opportunities for governance.

Governance is still a work in progress for many

Even for those that have had CIL charges in place the longest, the amount of money collected to date is relatively small. As such, there has not been a particularly strong imperative to have the appropriate governance procedures in place and finalised. This is not to say that the case study authorities have not been thinking about governance; rather that they have recognised the opportunity to take their time in order to get it right.

Coupled with this is the fact that the goalposts have been moving to a certain degree as we go along. The main example is the requirement that charging authorities give 15 per cent of the CIL receipts to those communities where they are earned, with this proportion rising to 25 per cent where there is a neighbourhood plan in place. This has required some careful thinking, particularly where authorities have not been as proactive in engaging with the localism agenda. More on this later.

The London Borough of Croydon is one of those that has its governance structures fixed and in place. As Steve Dennington, Plan Making Team Leader acknowledges, this has perhaps been helped by the fact that they operate in a single tier authority where many of the major infrastructure issues such as local transport and education are the responsibility of the council.

All roads invariably lead back to the corporate programme

Many of the case study authorities said that their spending priorities were shaped by their own corporate (or capital) programmes. This provides a ready-made system for justifying spending on 'oven-ready' infrastructure projects.

One such example is the London Borough of Croydon. The council's Infrastructure Finance Group (IFG) established in July 2012 will assign CIL income to infrastructure projects in the Infrastructure Delivery Plan, Capital Programme and in accordance with the Regulation 123 list. The IFG consists of the Director of Planning (who is also the chairperson), spatial planning, development management, finance, and those running the Capital Delivery Hub, the Borough's capital delivery programme. Any organisation outside this forum such as the health authority or other departments can make bids for funding and then attend the meeting when their bid is considered.

Geography and approach can influence spending decisions

Geography has a big influence on how governance and decision-making on spending CIL is shaped. Shropshire has a number of market towns but few major settlements where strategic growth is planned in the form of urban extensions. As a result, there is no single infrastructure requirement which is expected to attract a large proportion of CIL monies.

As a result, Shropshire Council has made a conscious decision to try to spread the benefits of CIL. As Helen Howie, Principal Policy Officer for Housing notes, money earned in one area going to another "would have created huge political problems". As such, they have a town-by-town approach to infrastructure spending. This is a combination of bottom-up inputs from the towns themselves and top-down inputs from the strategic providers. Priorities are agreed through a partnership approach. Where there is dispute, it is resolved by the Cabinet through its annual review of the Regulation 123 list.

This has complemented Shropshire Council's positive approach to localism. Whether the CIL approach or the localism focus came first is not important. The point is that parish councils can opt to accept development and if they do, then they can decide on what the strategy should be. The net effect is to generate a CIL income stream which local communities can decide how it is spent. Perhaps uniquely, 90 per cent of the net CIL revenue earned can be spent on what is on the local list; the remaining 10 per cent is spent on strategic items.

Howie acknowledges that this approach may be more difficult in authorities where much of the growth is located on relatively few large sites, such as strategic urban extensions. And in Shropshire's case they have what she describes as a "get-out-of-jail-free card".

Any large requirements, such as junction improvements onto the strategic road network, which are deemed by the council to be critical, can be part-funded using money from the 'local' CIL pot.

Governance needs to incorporate partnership working with parish councils and other mechanisms in non-parished areas

Notwithstanding the perhaps unique approach of Shropshire Council, many of the case study authorities commented on the need to work with parish councils, given the meaningful proportion of CIL they are going to be receiving from growth in their areas.

What is particularly interesting is how many of the case study authorities have already been showing a significant commitment to devolving funding down to the local level. Wycombe District Council is considering the idea of match-funding improvements supported by the parish council's 15 per cent contribution, provided these are selected from the Regulation 123 list. Elmbridge Borough Council is considering an even more significant commitment, namely giving 25 per cent of the CIL money earned locally to the parish councils, irrespective of whether they have a neighbourhood plan in place or not.

In unparished areas such as London, more thought will inevitably be needed. What is notable though is that often structures are already in place which can form the basis of the governance arrangement between district and local community. For example, the London Borough of Redbridge is considering using its existing Area Committees. These already have small pots of funding that they can access and have ward members on their committees. It is proposed that these members will take the lead in engaging with local community to decide on spending.

In Bristol, the intention is to use the existing Neighbourhood Partnerships. These are effectively collections of wards but these partnerships have had decision-making powers on certain aspects of spending for a number of years. As Jim Cliffe, Planning Obligations Manager at the city council says, "we will be devolving the 15 per cent [for areas without a neighbourhood plan] / 25 per cent [for areas with a neighbourhood plan] down to these Partnerships to enable them to decide on the local infrastructure priorities that will benefit from the local component of CIL."

Acceptance that CIL is not the 'silver bullet'

The advent of CIL coinciding with the economic downturn has led many to think that CIL has to fund everything. Some of the case study authorities noted that, at times, this has influenced the way the governance process has been set up, forgetting that this is unlikely to be the case for the whole plan period. And of course that, for most authorities, CIL has no chance of bridging anything like the majority of their funding gap.

As Ian Rae, Team Leader for Planning Policy at the London Borough of Redbridge says, there are still shortages and choices have to be made. He says that the council has tried to view CIL in terms of its ability to create a virtuous cycle that can unlock other investment. He cites the 'Better Barkingside' project in Barkingside District Centre, which is the first scheme that has benefitted from CIL monies. He sees the main benefit of the CIL money being to lever in wider regeneration funding and benefits. "Barkingside has been identified as an Investment Area in our Core Strategy Review and this project will hopefully facilitate further growth in the area" says Rae.

This is a point endorsed by Councillor Roger Blaney, leader of Newark and Sherwood District Council. Whilst CIL is only forecast to plug some £40m of the district's £210m funding gap, Blaney considers that the "knowledge that the CIL income is going to come gives us confidence to invest more widely."

Think about the intricacies of the Regulation 123 list

For all of the case study authorities, their CIL examinations came before the latest update to the Regulations which requires charging authorities to publish their draft Regulation 123 lists for the examination. As such, they did not have to think about what goes on the list until they commenced charging.

Some authorities have taken a straightforward approach to CIL. Development in the London Borough of Redbridge is mainly comparatively small scale, so the Regulation 123 list reflects this. As Ian Rae, Team Leader for Planning Policy neatly summarises, "we are seeking to spend CIL on pretty much everything". The only exception is site-specific transport and highways requirements such as turning heads and access roads. This, Rae feels, has been relatively successful even at this early stage. Out of the first 120 CIL notices issued in the Borough in the first year, only five required a site-specific S106 agreement as well.

Gerard Coll, Development Contributions Officer at Wycombe District Council, says that education can be a tricky aspect when considering what to include on a Regulation 123 list. Having a number of large strategic sites which themselves require a new school, there is a view that these would be better delivered through Section 106. In such circumstances, the Regulation 123 list would need to clearly exclude them but make sure that other education infrastructure intended to be delivered through CIL was not excluded inadvertently as well.

Better Barkingside and the supporting role of CIL funding



Architect's impression of library and public realm improvements

In Spring 2012, Redbridge Council was awarded a grant of £1.9 million by the Greater London Authority (GLA) to make improvements to the top end of Barkingside High Street. This is a key project for the council, being an Investment Area identified in the Core Strategy Review. The aim is to create a sense of place in Barkingside and improve leisure opportunities and the shopping experience.

The main component of the project is to deliver a new town square and associated public realm improvements in the area around the Leisure Centre and Library, including Virginia Gardens. However, the town square will be complemented by a range of projects including:

- a shopfront improvement scheme which will introduce creative and unique visual displays to attract more customers and make the high street more vibrant
- a range of initiatives to create a stronger identity for the town
- a programme of events to maximise use of the Town Square and strengthen links between the High Street and Fairlop Outdoor Activity Centre.

CIL funding has been used to top up the funding of the overall scheme because Better Barkingside is seen as an initiative that will lever in wider funding and therefore create a virtuous cycle of investment. CIL is not therefore being used simply to fund a particular discrete piece of infrastructure, rather to ensure that the overall objectives of the whole project are achieved and have a lasting legacy in Barkingside.

CIL represents new opportunities for governance

What is interesting is the number of case study authorities that see CIL as providing an opportunity to positively address relationship difficulties between stakeholders. Elmbridge Borough Council is in a two-tier area and it intends to work with Surrey County Council on spending priorities for transport and education in particular. There will be the opportunity to bid into the council's CIL pot by both borough council ward members and county council members as well. The aim is to rekindle a positive working relationship with the county council. As Conor Frehill, Infrastructure Delivery Coordinator at the borough council, honestly acknowledges, "things might not have been great in the past [between the borough and county councils] but CIL represents a new opportunity."

Likewise, Havant Borough Council is working on a memorandum of understanding with Hampshire County Council and the other districts and boroughs in the county. Whilst Sarah Hains, Policy Planner at the council notes, this is not legally binding, it represents "a set of shared principles". Driving this through is the responsibility of the elected members who must commit to working with their partners even when the landscape has changed somewhat. Councillor Roger Blaney, leader of Newark and Sherwood District Council, states simply that "it is beholden on all of us to work together." His council has committed to spend CIL income on the delivery of a new secondary school and he considers that this will help to facilitate a sounder relationship with Nottinghamshire County Council.

This is not to say that there does not need to be justification of how to spend valuable CIL money. The focus of the case study authorities is evidently on delivery, not just collecting money. Conor Frehill says that the borough council will only hand over money for ready-to-go schemes and for this, evidence is key. This way "the decisions ultimately make themselves" he says.

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