

Item No. 11.	Classification: Open	Date: 6 March 2024	Meeting Name: Cabinet
Report title:		Framework for Strategic Community Infrastructure Levy funding	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Helen Dennis, New Homes and Sustainable Development	

FOREWORD - COUNCILLOR HELEN DENNIS, CABINET MEMBER FOR NEW HOMES AND SUSTAINABLE DEVELOPMENT

Southwark is an ever-changing borough and we know that residents want to be assured that we have a plan for managing growth in a sustainable way that impacts positively on local communities, capturing as much value as we are able through the development process. Through our planning policies we are always seeking to strike the right balance between growth, which helps us to achieve our wider ambitions through the delivery of new homes and jobs, along with increased business rates and council tax, and our prioritisation of the climate emergency, the celebration of heritage assets, and our mission to address inequalities.

Empowered by the Planning Act 2008, we introduced Southwark CIL in 2014 to ensure that developers in our borough rightly contribute to the infrastructure needs that flow from growth, with 70% of CIL dedicated to Strategic projects. To date, we have been able to invest over £70m via this route in the Elephant & Castle tube upgrade, providing a new step-free station and integrating the Northern line with the Bakerloo Line and its anticipated extension. Having met our commitments to this project, we are now proposing an expanded framework for the use of Strategic CIL moving forward, focusing on strategic, borough-wide infrastructure, including wider transport projects that will bring huge benefits to existing residents and support our targets on house-building which are set out in the Southwark Plan. These include the Bakerloo Line Extension, which will benefit from 50% of our SCIL payments going forward, but also priority projects such as Peckham Rye station, the Elephant & Castle overground station, and boroughwide social infrastructure commitments set out in our Council Delivery Plan. Delivering these projects will require partnership and funding from all parties, including from central government. Southwark is committed to making the strategic investment required to deliver sustainable growth and we very much hope that others will join us to deliver our ambitious plans.

RECOMMENDATIONS

1. To agree the framework for allocation of Strategic CIL as set out in paragraphs 12 and 13 of this report.
2. To agree the allocation of Strategic CIL of £350,000 towards the Elephant and Castle overground station.
3. To agree the allocation of Strategic CIL of £250,000 towards the Bakerloo Line Extension.

BACKGROUND INFORMATION

4. Community Infrastructure Levy (CIL) is the sum of funding collected from major development sites across the Borough to pay for the implementation of new infrastructure to support the growth of communities. CIL is split into strategic CIL (70% of receipts) which is spent on Borough-wide infrastructure projects such as the construction of new tube stations. The remainder is made up of neighbourhood CIL (25% of receipts) and administration CIL (5% of receipts).
5. CIL is used to mitigate the impact of new development, and is a key tool to manage growth arising from increased population on a local area. CIL can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities as set out in section 216(2) of the Planning Act 2008, and regulation 59 Community Infrastructure Levy Regulations 2010 (as amended) ("CIL Regulations"). This definition allows the levy to be used to fund a very broad range of facilities such as play areas, parks and green spaces, cultural and sports facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. This flexibility gives councils the opportunity to choose what infrastructure is needed to deliver their local plan. It should be noted that charging authorities may not use the levy to fund affordable housing.
6. Local authorities must spend the levy on infrastructure needed to support the development of their area. The levy is intended to focus on the provision of new infrastructure and should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development. CIL is for capital expenditure rather than revenue expenditure and any revenue requirements from delivering capital projects must be met from existing budgets.
7. To date the council has opted to use Strategic CIL to support the funding of major transport infrastructure, which is needed to support the targets for new homes and employment in the recently adopted Southwark Plan. The principle investment to date has been a total of £71.5m to provide a new step free tube station at the Elephant & Castle which will integrate

the Northern Line with the Bakerloo Line extension. Work on this project is now underway.

8. The council has now received sufficient CIL receipts to meet the costs of its full commitment to the new tube station at Elephant and Castle. Strategic CIL is continuing to be generated from developments across the Borough and a small surplus is now available to support projects. The amounts received are likely to grow significantly over the next few years allowing the council to invest further in transport infrastructure to support growth, including the Bakerloo Line Extension. On an annual basis, the council produces an Annual Infrastructure Funding Statement showing how it is proposed to spend CIL and how CIL has been spent (see Appendix 1 for 22/23 report).
9. In July 2023 Cabinet agreed to allocate £1m of Strategic CIL to the Southwark Pensioners Centre for refurbishment of the property at 201-203 Camberwell Road which includes design, construction and fit-out, with match funding expected from Southwark Pensioners fund raising events.

KEY ISSUES FOR CONSIDERATION

10. Following investment in the Elephant and Castle tube station, there are a number of borough wide infrastructure projects requiring investment which include:
 - Bakerloo Line Extension
 - Peckham Rye Station
 - Elephant and Castle overground station.
11. The current balance of Strategic CIL funds available for allocation is £12.345m.
12. It is proposed that the criteria used to allocate Strategic CIL is as follows:
 - 50% of the fund to be allocated for investment in the Bakerloo Line Extension
 - Match funding of investment by bodies such as Network Rail and TfL in key transport projects such as Peckham Rye Station and Elephant and Castle overground station
 - Match funding of investment by bodies such as TfL in active travel routes
 - Infrastructure as identified in the Council Delivery Plan that meets the legal definition of infrastructure and benefits the community.
13. These criteria are focused on infrastructural interventions which are key to both supporting and stimulating the social and economic growth of the borough. In addition the enhancement and provision of public transport to car travel supports the council response to the climate emergency. The offer of match funding of transport infrastructure investment would be on

the basis that there are tangible benefits such as improved design, increased speed of delivery and increased social value impact. The level of match funding would not exceed 25% of the overall scheme cost. The framework proposed above is in accordance with the Southwark Plan policies ST1, ST2, SP1, SP4 and SP5 as well as London Plan policies GG1, GG2, GG4, GG5, SD1, SD2, SD3, SD7, SD10, H1, E1, HC6, T1 and T3. This framework would govern both the existing and future Strategic CIL funds.

14. In addition to the criteria set out above, the potential to allocate Strategic CIL for strategic infrastructure at a local level will be considered and form part of a future report.
15. In accordance with this framework, it is proposed to allocate £350,000 of Strategic CIL as a grant to Network Rail to invest in design work for Elephant and Castle overground station. This forward funding would help ensure that the design is developed in parallel with the implementation of the proposals for Elephant and Castle town centre. Due to the expected increased footfall at the station Network Rail are looking to improve the station facilities by improving accessibility to all four platforms whilst also creating a larger station concourse and installing ticket gates. The entrance will be made fully accessible. This will be of great benefit to local residents, allowing passengers with mobility issues and those with heavy luggage or prams to access the station from both the north and south sides. The estimated total scheme cost is £18m.
16. In accordance with this framework, it is proposed to allocate £250,000 of Strategic CIL as a grant to TfL to invest a station design study for the Bakerloo Line Extension. It is anticipated that this study will cost £750,000. LB Lewisham have agreed to contribute £250,000 from CIL towards the cost of this study.
17. A running total of Strategic CIL allocations will be maintained within Planning and Growth in order to ensure the 50% limits are not exceeded. The Annual Infrastructure Funding Statement will set out any allocations proposed and those made.

Policy framework implications

18. The allocation of Strategic CIL as proposed will support the delivery of key strategic projects.

Community, equalities (including socio-economic) and health impacts

Community impact statement

19. By their very nature, the projects supported by Strategic CIL such as investment in transport interchanges have a major positive impact on the community in a wide geographical area.

Equalities (including socio-economic) impact statement

20. Section 149 of The Equality Act 2010 imposes a general equality duty on public authorities (the Public Sector Equality Duty) (“PSED”) in the exercise of their functions, to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Equality Act 2010
 - Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it
 - Foster good relations between people who share a relevant protected characteristic and people who do not share it.
21. For the purposes of the PSED the following are “protected characteristic” considerations:
- Age
 - Marriage and civil partnership
 - Disability
 - Gender reassignment
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex
 - Sexual orientation.
22. The PSED duty and implications for groups with protected characteristics will be considered further as the projects are developed and delivered.
23. The investment of Strategic CIL in the manner set out above will not have an adverse impact on those with protected characteristics.

Health impact statement

24. The investment of Strategic CIL is likely to have a positive impact on health through improvements in air quality as a result of the reduction in vehicular traffic by expansion and improvement of public transport.

Climate change implications

25. The proposed allocation of Strategic CIL will contribute towards the response to the climate emergency through for example the introduction of sustainable energy solutions as part of the any new public transport infrastructure.

Resource implications

26. The allocation of Strategic CIL is managed by resources in Planning and Growth.

Legal implications

27. Set out in paragraphs 34 – 43.

Financial implications

28. The proposal is to allocate £250,000 of Strategic CIL as a grant to TfL to invest a station design study for the Bakerloo Line Extension. It is anticipated that this study will cost £750,000. LB Lewisham have agreed to contribute £250,000 from CIL towards the cost of this study.
29. It is also proposed to allocate £350,000 of Strategic CIL as a grant to Network Rail to invest in design work for Elephant and Castle overground station. The estimated total scheme cost is £18m, and it is anticipated that the council contribution to the overall scheme costs will be minimal as network rail and partners (i.e. TfL) will be expected to be major contributors.
30. Both proposals can be accommodated from existing Strategic CIL balances as indicated above. Future reports will need to be brought to Cabinet to cover any further costs for later stages of the major projects.
31. Detailed work and reconciliation will be carried on an on-going basis to ensure that there are sufficient CIL finance available to fund the project against the latest expenditure projections.
32. Any staffing and other costs connected with this report will be contained within existing revenue budgets.

Consultation

33. The individual allocations will be subject to consultation with relevant parties.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Assistant Chief Executive (Governance & Assurance) – NST220224

34. The report seeks approval for the allocation of Strategic CIL for the BLE and E&C overground station. Alongside these specific allocations, approval is sought for a framework to allocate Strategic CIL set out in paragraphs 12 and 13 of the report.
35. The recommendations as set out in this report fall within the powers of Cabinet in accordance with paragraph 27 Part 3B of the council's constitution which sets out that Cabinet is responsible for all cabinet matters even if not expressly set out in that part of the constitution.
36. Council Assembly on 14 July 2021 approved a change to the council's Constitution to confirm that all decisions made by the council will consider the climate and equality (including socio-economic disadvantage and

health inequality) consequences of taking that decision. This has been considered at paragraph 24 above.

37. The Public Sector Equality Duty (“PSED”) is set out at section 149 of Equality Act 2010 and requires the council to have due regard in the exercise of its functions (including decision making), to the need to:
 - a. Eliminate discrimination, harassment, victimisation or other prohibited conduct;
 - b. Advance of equality of opportunity between persons who share a relevant protected characteristics and those who do not share it;
 - c. Foster good relations between those who share a relevant characteristic and those that do not share it.
38. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
39. Officers have considered the council’s PSED under section 149 of the 2010 Act at paragraphs 19-22 of this report. Officers have concluded that, at this stage, the allocation of Strategic CIL and the framework for allocation of Strategic CIL is not considered to have any adverse impacts on persons with protected characteristics.
40. The report outlines at paragraphs 6 the purpose of CIL and that it is used to mitigate the impact of new developments and needs to be spent on the infrastructure needed to support such developments.
41. Regulation 59(1), Community Infrastructure Regulations 2010 provides that: “A charging authority must apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area.” The relevant definition of infrastructure is at s.216(2) of the Planning Act 2008: “infrastructure” includes: (a) roads and other transport facilities (b) flood defences (c) schools and other educational facilities (d) medical facilities (e) sporting and recreational facilities, and (f) open spaces 35. This is a broad definition as it is an inclusive list, and not exclusive.
42. The Planning Practice Guidance provides that the levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities. As the report at paragraph 5 sets out, the definition of infrastructure allows CIL to be used to fund a very broad range of facilities such as play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. This flexibility gives Southwark the opportunity to choose what infrastructure is needed to deliver the Southwark Plan 2022 and the London Plan 2021 i.e. the development plan. CIL may not be used to fund affordable housing.

43. The council must spend the CIL on infrastructure needed to support the development of the Southwark area, and the council has the legal power to decide what infrastructure is needed. The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development. On that basis it is considered that the council may lawfully exercise its discretion to decide the Strategic CIL allocation to the BLE and E&C overground station outlined paragraphs 14 and 15 and approve the framework for allocation outlined in paragraphs 12 and 13 provided that meets the legal definition of infrastructure set out in paragraph 41.

Strategic Director of Finance and Governance (CAP23/089)

44. The report requests approval of £600,000 allocation from Strategic CIL for the station design study for the Bakerloo Line Extension, as well as a grant to Network Rail to invest in design work for Elephant and Castle overground station, details outlined at paragraphs 14-15
45. The strategic director of finance notes the resource implications and financial implications at paragraphs 12, 22 and 24-28, confirms that the council has received the related funds and they are available for the purposes outlined in this report.
46. The proposed allocations represent an increase in council’s capital expenditure and will be reflected as budget variation in the next capital budget monitoring report to cabinet.
47. Staffing and any other costs associated with this recommendation are to be contained within existing departmental revenue budgets.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
Appendix 1	2022-23 Annual Infrastructure Funding Statement

AUDIT TRAIL

Cabinet Member	Councillor Helen Dennis, New Homes and Sustainable Development	
Lead Officer	Clive Palfreyman, Strategic Director of Finance	
Report Author	Neil Kirby, Head of Sustainable Growth	
Version	Final	
Dated	22 February 2024	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Assistant Chief Executive, Governance and Assurance	Yes	Yes
Strategic Director of Finance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		22 February 2024