

Forward Plan Reference number: Not applicable

Report title: Supporting Community Infrastructure Levy Uptake across Essex	
Report to: Cllr David Finch, Leader and Cabinet Member for Finance, Property and Housing in consultation with Cllr Tony Ball- Cabinet Member for Economic Development.	
Report author: Dominic Collins Director of Economic Growth & Localities	
Date: 10/03/20	For: Decision
Enquiries to: Alethea Evans, Lead for Strategic Development alethea.evans@essex.gov.uk and Graham Thomas, Head of Planning graham.thomas@essex.gov.uk	
County Divisions affected: All divisions	

1. Purpose of report

- 1.1 To seek approval to invest a maximum of £400,000 over the next 26 months to provide additional capability and support two Local Authorities (Maldon District Council and Castle Point Borough Council) to implement the Community Infrastructure Levy (CIL). The funding will support these local authorities to introduce a CIL earlier than would otherwise be possible.

2. Recommendations

- 2.1 Agree to the drawdown of a maximum to £400,000 from the Transformation Reserve (over the 26 month period 2020/2021 and 2022/2023) for the purposes of:
- appointing two , 2 year-fixed term, full-time positions to provide the capacity to prepare and support the early delivery of CIL in the districts of Maldon and Castle Point Borough Council. It may be possible to support additional local authority areas within the budget and this will be determined and agreed by the Head of Planning.
 - specialist consultancy services (procured by Maldon and Castle Point Borough Council) for technical evidence gathering and viability testing.

3. Summary of issue

- 3.1 Essex County Council (the Council) proposes to develop a resource/capability which will be used to support the early delivery of CIL in Maldon and Castle Point Borough Council.
- 3.2 This project is being progressed because the developer contributions received by district/borough/city councils in Essex and by the Council are insufficient and unable to fund the required mitigating infrastructure, facilities and services required to support planned growth across Essex. Although many of the local plans are not yet adopted it is considered that, with additional resources and help, a number of local authorities would be able to introduce CIL earlier than would otherwise be possible. And, by introducing CIL earlier than would otherwise be possible, this will ensure more funding is available for growth related infrastructure (such as schools or

transport improvements) and reduces the likelihood of capital cost pressures falling on the public purse.

- 3.3 Developer contributions will be increased through the adoption of CIL. CIL is a charge applied on most new developments (new developments which create net additional floor space of 100 square meters' or more, or creates a new dwelling, are potentially liable for the levy, subject to limited reliefs and exemptions and any locally set 'zero' rates specified as such in the charging schedules) which funds infrastructure, facilities and services - such as schools or transport improvements. In many other areas CIL successfully operates alongside S106 planning obligations and can be applied to the small development schemes of 20 units or fewer. As of November 2019, Chelmsford City is the only council in Essex with an adopted CIL scheme and charging schedule.
- 3.4 Chelmsford City Council's experience has demonstrated that a significant amount of officer time, and consultancy support, is needed to implement CIL. However, most local authorities in Essex have very few planning officers to undertake this work, with Local Plan preparation being the priority. CIL only applies in areas where the local authority has consulted on, and approved, a charging schedule which sets out its levy rates and has published the schedule on its website. National guidance provides that when deciding the levy rates, an authority must strike an appropriate balance between additional investment to support development and the potential effect on the viability of developments. This balance is at the center of the charge-setting process. In meeting the regulatory requirements, authorities should be able to show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant Local Plan and support development across their area. In doing so, authorities should use evidence in accordance with national planning practice guidance and take account of national planning policy on development contributions. Guidance encourages authorities to think strategically in their use of CIL to ensure that key infrastructure priorities are delivered to facilitate growth and the economic benefit of the wider area.
- 3.5 County Councils are responsible for the delivery of key strategic infrastructure. CIL charging authorities must consult and should collaborate with them in setting the levy and should work closely with them in setting priorities for how the levy will be spent in 2-tier areas. Much of this context is set out in the Local Authority Local Plan and the Infrastructure Delivery Plan that supports the Local Plan. Collaborative working between county councils and charging authorities is especially important in relation to the preparation of infrastructure funding statements bearing in mind the potential impact on the use of highway agreements by a county council and the timely delivery of schools.
- 3.6 The provision of this additional resource to enable CIL to be progressed by the districts of Maldon and another local authority area to be determined is an "invest to save initiative" as the project is anticipated to have long-term financial benefits for the Council through increased developer contributions which will fund new infrastructure. These funds will come forward much earlier than would otherwise have been the case, if the CIL is adopted in the districts of Maldon and Castle Point
- 3.7 The Project will consist of the following elements:

- a. Establish a Memorandum of Understanding (MoU)/ SLA to prepare CIL for Maldon and Castle Point Councils.
- b. Appointing to CIL officer posts.
- c. Preparation of the evidence base and draft CIL Charging Schedules.
- d. Consultation process on CIL
- e. Submission and Successful Examination of CIL
- f. Adoption of CIL.
- g. Service of first notices and first CIL receipts

- 3.8 The project will follow the same process to be followed with any further local authorities in Essex if the budget allows, and once a good start has been made with Maldon and Castle Point. This will enable experience of the process to develop and as local plans are progressed the pool of suitable district councils will widen, which will in turn enable additional District Councils to be determined. The identification of additional District Councils will be undertaken in consultation with the Cabinet Member for Economic Development.
- 3.9 The two fixed term contract CIL officer posts, or equivalent, will be hosted by Essex County Council's Planning Service and provide the additional skills and expert knowledge required to implement CIL within the remaining Essex District/Boroughs.
- 3.10 Encouraging and enabling the implementation of CIL across Essex and establishing the funding stream to the Council aligns with the Council's strategic priorities:
 - transform the Council to achieve more with less;
 - enable inclusive economic growth;
 - help people get the best start and age well; and
 - help create great places to grow up, live and work.
- 3.11 Discussions between the Council and several district councils have taken place through a combination of the Essex Planning Officers Association (EPOA) and Planning Portfolio Holders, and through direct engagement. This has revealed an appetite for CIL across Essex but that this is dependent on Local Plan progress, and the preparation process could be slowed by the availability of skilled resources and finances.

4. Options

4.1 Option 1 - Do Nothing

Without additional resources, it would be unlikely that a CIL Charging Schedule would be implemented in some districts. None of the districts are promoting a CIL schedule at the same time as their Local Plan.

4.2 Option 2 - Use a Planning Consultancy to deliver CIL

District Councils have knowledge of CIL but have very limited staff resources available. This means that the district councils the Council chooses to support could bring forward CIL themselves albeit at a much slower pace, thereby missing out on accessing this source of additional capital funding.

It is considered that using consultants to prepare a CIL would be more expensive than developing an internal resource for the same purpose. Furthermore, this would

not bring further benefits to the Essex authorities from working closely with skilled 'in house' colleagues.

The option has not been fully discounted and may be considered in the future, consultants would need to be identified who are able to deliver in line with the budget and objectives of this project, and support learning and development of the Council /district council staff. If this option is considered viable in the future, it shall be the subject of a separate decision; made in accordance with the Council's constitution.

4.3 Option 3 - Support the adoption of CIL in districts other than Maldon

To identify the most appropriate authority for the Council to work with, an analysis of each district was undertaken. This involved an assessment of the various factors that could influence the implementation of CIL such as the progression of the Local Plan, the scale of development and the likely speed of CIL implementation. This assessment identified that the adoption of CIL in Maldon would have the greatest cumulative benefit based on these factors and this was therefore identified as the preferred option at that stage.

Implementing CIL with every District Council will bring benefits to the Council and the only limiting factor is likely to be willingness of the District Council and/or the status of their Local Plan. This means the Council's ability to support District Councils other than Maldon will change over the course of this project. Castle Point have approved their Local Plan and have confirmed their interest in working with the Council to deliver CIL. It may be possible to work with additional District Council, within the budget, and they will be identified using the previous criteria and in consultation with the Cabinet Member for Economic Growth.

4.4 Option 4 (Recommended): Support the adoption of CIL in Maldon and Castle Point district.

From the analysis of each district referred to in paragraph 4.3, it was concluded that the Council would achieve most by supporting the adoption of CIL in Maldon district initially. Castle Point Borough Council have approved a Local Plan and confirmed a willingness to work with ECC to implement CIL.

5. Issues for consideration

Financial implications

5.1 The implementation of CIL will enable developer contributions to be obtained from smaller housing developments, which are not currently subject to s106 agreements, thus increasing the overall level of developer contributions received.

5.2 The level of CIL to be applied in Maldon and Castle Point Borough Council will be determined from the technical evidence gathering and viability testing to be undertaken during the project. It is anticipated that, on average, approximately £200,000 additional capital funding income would be received per annum based on the following assumptions:

5.2.1 planned housing growth on smaller developments within Maldon and by using Harlow as an example

5.2.2 CIL is charged at 75% of the Chelmsford CIL rate

5.2.3 the anticipated that a Memorandum of Understanding would ensure that at least 50% of the additional income would be received by ECC relating to ECC functions principally for highways and education.

5.2.4 The consultants for the viability review will come in once the agreements with the Districts have been sufficiently developed to be able to review the level of the CIL charge.

5.3 The table below shows the cost of the resources required to implement CIL in two districts and anticipated income, which would be used to fund the capital programme going forward:

		2020/2021	2021/22	2022/23	2023/24	Ongoing	Total
District 1 costs	Staff costs (salary, NI, pension)	£63,000	£63,000				£189,000
	Recruitment (at 6% of salary)	£3,000	n/a				
	Viability review- consultants' costs		£60,000				
District 2 costs	Staff costs	£52,500	£63,000	£10,500			£189,000
	Recruitment (at 6% of salary)	£3,000	n/a	n/a			
	Viability Review- consultants' costs		£50,000	£10,000			
TOTAL COSTS		£121,500	£236,000	£20,500			£378,000
Income				£92,000	£194,000	£194,000	

5.4 The proposed funding source is a draw down from the Transformation Reserve, £121,500 in 2020/21, £236,000 in 2021/22 and £20,500 in 2022/23.

5.5 There is a risk that additional contributions to ECC are not achieved following adoption of CIL. Regular monitoring of the MOU would take place, alternative partner authorities would be identified, or money would be returned to the transformation reserve.

Legal implications

5.6 Drawing down of money from reserves does not authorise any expenditure that is a key decision or any significant changes to the Council's services or funding which must be authorised by the relevant Cabinet Member.

5.7 The proposed grant agreement or Memorandum of Understanding with each district council will need to include provision for the various decisions to be made by the relevant district council and a commitment to provide any information needed from them to enable the Council to progress the project. As the process involves:

- submitting a draft charging schedule for examination;
- examination of the draft charging schedule;
- publication of the examiner's recommendations;
- the charging authority must have regard to the examiner's recommendations; and the reasons for them, before the charging schedule can be adopted.

- 5.8 Some of the elements of the process will be outside the County Council's control, for example – the examination of the draft CIL by the planning inspectorate and there might need to be flexibility to ensure that the project is completed even if this is beyond the two year period anticipated.
- 5.9 The Council will also need a post CIL roll out funding agreement with the districts to ensure that funding secured for the Council purposes is passed over to the Council promptly to ensure timely delivery of the infrastructure, facilities and services relevant to the Council's functions.
- 5.10 In addition to any work facilitated or provided for the relevant district council, the Council will be required to expand its current arrangements to publish an infrastructure funding statement where they receive a contribution entered into during the reported year (Regulation 121A(5)) on an ongoing basis.
- 5.11 The arrangements with Maldon District Council and Castle Point Borough Council will require the completion of a Memorandum of Understanding and/or a Funding Agreement which will govern the relationship between the parties. Authority to enter into these agreements shall be the subject of separate decisions, made in accordance with the Council's constitution.

6. Equality and Diversity implications

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 6.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

7. List of appendices

- 7.1 Equality Impact Assessment

8. List of Background papers

None

I approve the above recommendations set out above for the reasons set out in the report.	Date
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Cllr David Finch, Leader and Cabinet Member for Finance, Property and Housing in consultation with Cllr Tony Ball- Cabinet Member for Economic Development.	20.03.20
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In consultation with:

Role	Date
Director for Economic Growth and Localities - Dominic Collins Signed off by Graham Thomas Head of Planning & Development	24.11.2019
Executive Director for Corporate and Customer Services (S151 Officer) Stephanie Mitchener, on behalf of Nicole Wood	09.03.20
Monitoring Officer Laura Edwards, on behalf of Paul Turner	20.02.2020

