

	<h2>Policy &amp; Resources Committee</h2> <h3>9 July 2015</h3>
<p style="text-align: center;"><b>Title</b></p>	<p><b>Delegating a proportion of Community Infrastructure Levy (CIL) income to the Council’s Area Committees</b></p>
<p style="text-align: center;"><b>Report of</b></p>	<p>Director of Strategy</p>
<p style="text-align: center;"><b>Wards</b></p>	<p>All</p>
<p style="text-align: center;"><b>Status</b></p>	<p>Public</p>
<p style="text-align: center;"><b>Enclosures</b></p>	<p>Appendix A: Uses of CIL Appendix B: Community Leadership Committee paper: Review of Area Committees – operations and delegated budgets</p>
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<h2>Summary</h2>
<p>The Community Infrastructure Levy (CIL) is a planning charge that Local Authorities and the Mayor of London can set on new development to help pay for community infrastructure.</p> <p>This report presents proposals that, to fulfil the spirit of the regulations relating to CIL, Area Committees should be treated in the same way as Parish Councils and allocated 15% of the CIL receipts for their local area, this to be capped at a total of £150,000 per year per constituency area and ring-fenced for spend on infrastructure schemes. The funding from CIL would be in addition to the £100,000 a year that is available to each Area Committee until 2017/18.</p>

## **Recommendations**

- 1. That the Committee notes the net 'Barnet CIL' income in 2013/14 (actual) and 2014/15 (projected), as is described in paragraph 1.2, and which will be used to meet the infrastructure needs of the Borough in response to the impact of growth and development.**
- 2. That the Committee approves the following proposals to:**
  - (a) delegate the expenditure of a 15% proportion of net CIL income for each constituency to the Area Committee for that constituency, capped at a total of £150,000 per Committee per year;**
  - (b) aggregate funds to be allocated in this financial year from income received in 2013/14 and 2014/15; and**
  - (c) to return this funding to the council's Capital Reserve for application towards borough-wide infrastructure priorities if it is not allocated by an Area Committee within two years, or spent within five years.**

### **1. WHY THIS REPORT IS NEEDED**

- 1.1 The Community Infrastructure Levy (CIL) is a planning charge that Local Authorities and the Mayor of London (in respect of new development within London) can set on new development to help pay for community infrastructure. In May 2013 Barnet adopted its own CIL for particular types of new development. CIL is designed to provide, improve, replace, operate or maintain infrastructure which helps to address the impact of growth and development on a local area. It is restricted to spend on infrastructure (as defined in the regulations), as identified on the council's Regulation 123 List.
- 1.2 Reflecting the fact that development activity is not homogenous, CIL income varies year to year and area to area, depending on the number and size of developments which come forward in that area. CIL income for each financial year is spent a year in arrears (so, for example, the 2014/15 income is not known until 2015/16). The total CIL income for 2013/14 in Barnet was £901,620 and the estimated total CIL income for 2014/15 is approximately £4.3m. Appendix A sets out the background to CIL, its intended purpose, and the restrictions which are placed on it.
- 1.3 Regulation 59A of the Community Infrastructure Levy Regulations 2010, as amended ('the Regulations') imposes a statutory requirement for 15% of the CIL income receipts for each parish to be passed directly to Parish Councils. For parished areas, this allocation is capped at £100 per dwelling<sup>1</sup> in that area. The purpose of this requirement is to make sure the communities affected by growth and development have the opportunity to benefit directly from the income it brings in.

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<sup>1</sup> For these purposes, dwelling carries the same meaning as that set out in section 3 of the Local Government Act 1992 (i.e. a property capable of being valued for the purposes of Council Tax).

- 1.4 As there are no Parish Councils within the administrative area of Barnet, the council is not subject to the requirements of Regulation 59A. However, in the section titled ‘Spending the Levy’ within the *Planning Practice Guidance: Community Infrastructure Levy (PPG)*, it is stated that “communities without a Parish ... Council will still benefit from the 15% neighbourhood portion. If there is no Parish ... Council the charging authority will retain the levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding.”
- 1.5 The guidance within the PPG does not specify the process for agreeing how the ‘neighbourhood portion’ should be spent, but rather states that charging authorities should use existing community consultation and engagement processes, including “working with any designated neighbourhood forums, theme specific neighbourhood groups ... using networks that ward councillors use”. Because the council’s three Area Committees provide the closest structure in Barnet to that of a Parish Council for neighbourhood level consultation, it is proposed that, the 15% neighbourhood portion of CIL receipts should be allocated to the Area Committees and capped at a total of £150,000 per year per constituency area and ring-fenced for spend on infrastructure projects.
- 1.6 In accordance with Regulation 59 of the CIL Regulations 2010 (as amended), CIL income can be applied towards the provision, improvement, replacement, operation or maintenance of infrastructure detailed in the Council’s Regulation 123 list. Where required, the Council will amend its Regulation 123 list to reflect the infrastructure projects Area Committees identify for investment.<sup>2</sup>
- 1.7 The funding from CIL would be in addition to the £100,000 a year that is available to each Area Committee until 2017/18.
- 1.8 In 2015/16 officers have also proposed that the council amalgamates the CIL allocations for 2013/14 and 2014/15. This would support a more even distribution across Committees, with Chipping Barnet and Hendon both reaching their capped total receipt and Finchley & Golders Green estimated to receive over £140,000. This combined allocation is set out in the table below:

*CIL allocations by Area Committee*

	<i>15% of 2013/14 Income (actual)</i>	<i>15% 2014/15 Income (projected)</i>	<i>15% net total (actual and projected income)</i>	<i>Estimated 2015/16 allocation</i>
<i>Chipping Barnet</i>	£97,353	£159,512	£256,865	£150,000 (capped)
<i>Finchley &amp; Golders Green</i>	£31,905	£109,833	£141,738	£141,738

<sup>2</sup> The Regulations do allow for wider spending powers in respect of ‘neighbourhood funding’. However, at this stage the proposal is that Area Committees would spend this funding on infrastructure as defined under Regulation 59.

<i>Hendon</i>	£2,878	£375,827	£378,705	£150,000 (capped)
<i>Total:</i>	£132,136	£645,172	£777,308	£441,738

1.9 The actual CIL income for 2014/15 and the allocation to each constituency will be confirmed before the Area Committees meet again in October 2015.

1.10 To make sure the council does not spend a disproportionate amount of CIL income on very locally focused projects and lose opportunities to fund larger-scale infrastructure, and that it continues to respond to the impact of growth and development in a timely manner, it is proposed:

- that the allocation is capped at £150,000 per Area Committee, and
- that the 'neighbourhood funding' from CIL should be returned to the council's reserves for use on borough-wide infrastructure priorities if not allocated by an Area Committee within two years, or spent within five years.

1.11 Net Barnet CIL income would continue to be allocated to the Capital Reserve and used to support corporate infrastructure priorities as identified through the Capital Programme, except for this 15% allocation to each Area Committee.

## **2. REASONS FOR RECOMMENDATIONS**

2.1 Delegating a 'meaningful proportion' of CIL income to the Area Committees will create a more direct relationship between the communities affected by development and decisions about the infrastructure which supports them.

2.2 The council's Area Committees are already well sighted on local infrastructure and environmental priorities through their close relationship with the Residents' Forums, through Members' knowledge of their local area and through their current strong focus on environmental issues. The revised process for allocating their delegated budgets and the stronger articulation of the relationship between the Area Committees and other Theme Committees, including the Environment Committee, will support the Area Committees to play this local prioritisation role even more effectively.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

3.1 The council could choose not to make any CIL funding available to the Area Committees, but this would miss an opportunity to strengthen Area Committees' ability to respond to the direct impact of growth and development in their local areas.

3.2 The council could choose to apply the £100 cap per dwelling for local CIL as set out in the CIL Regulations, but in practice this could result in a disproportionate amount of funding being allocated locally for small scale local infrastructure projects – which may not deliver the large scale, cross-

constituency infrastructure projects required to benefit the borough as a whole.

#### **4. POST DECISION IMPLEMENTATION**

- 4.1 CIL income will be transferred to the Area Committees' budgets up to the 'capped' amounts specified in paragraph 1.5 above. Provisional figures for these allocations are set out in the table in the table in paragraph 1.8 and will be confirmed before the Area Committees next meet.
- 4.2 Area Committees will make their first round of allocations using CIL funding at their meetings in October 2015.
- 4.3 Where required, the Council will amend its Regulation 123 list to reflect the infrastructure projects Area Committees identify for investment.
- 4.4 In future years, the projections of CIL income will be made available to Area Committees before their budget prioritisation meetings in March each year, to give them a sense of the total resources available to them in the following financial year.

#### **5. IMPLICATIONS OF DECISION**

##### **5.1 Corporate Priorities and Performance**

- 5.1.1 The recommendations set out in this report further the principles of the Corporate Plan 2015-2020 by seeking to ensure that Area Committee operations and the resources they allocate improve quality of life for people in each local area, support communities to help themselves, and work efficiently to ensure value for money.
- 5.1.2 The decision will contribute to the Health and Wellbeing Strategy's aim to improve wellbeing in the community by helping local people get issues in their area resolved more effectively and giving Area Committees and Residents' Forums the tools they need to ensure this.

##### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.2.1 The total CIL income available in the Borough for 2013/14 was £901,619.77 and the estimated total CIL income for 2014/15 is approximately £4.3m. The total amount transferred to the Area Committees under these proposals would be £441,738, subject to confirmation of CIL income for 2014/15.
- 5.2.2 Plans for the use of CIL for borough-wide priorities have been made on the assumption that 15% of the total net income would be allocated locally by some route. This means that the proposed transfer would not have an impact on existing plans to use CIL for borough-wide infrastructure priorities.
- 5.2.3 There is a requirement, under the CIL regulations, that areas with a Neighbourhood Plan should receive 25% of CIL income from developments which come forward in the designated area of the Plan. There will be some

interplay between this allocation and the proposed allocation of 15% of local CIL to the three Area Committees. The 25% allocation relates only to the CIL income for the Neighbourhood Plan area and not to the income for the whole constituency.

- 5.2.4 Currently, there are no Neighbourhood Plans in Barnet, although one is being developed in Mill Hill and there have been expressions of interest from west Finchley, Childs Hill, and Golders Green (in relation to Middleton Road). There is very little eligible development coming forward in the Mill Hill Neighbourhood Plan's designated area and as a result, the financial impact of the requirement to allocate 25% of CIL to this area will be minimal, while none of the other plans are close to adoption.
- 5.2.5 It is proposed that the 25% allocation for the Mill Hill Neighbourhood Plan is rolled up into the wider 15% allocation for the whole of the Hendon constituency, and that the Hendon Area Committee takes responsibility for ensuring that the appropriate proportion of this 15% total allocation is allocated to the Mill Hill Neighbourhood Plan area and that decisions made about how it is spent are made in accordance with the principles of the Neighbourhood Plan. In the event that the Mill Hill Neighbourhood Plan is adopted officers will provide an updated report to Committee members with proposals as to how the 25% CIL receipt allocation for Neighbourhood Plan areas should be applied.
- 5.2.6 Ultimately, there is a trade-off between CIL resources which are held centrally, to provide for Borough-wide or cross-constituency developments, and the CIL income which, it is proposed, will be spent on more locally focused issues through Area Committees. Should further Neighbourhood Plans be developed in the Borough, the council will keep the interplay between central CIL and CIL allocations to Neighbourhood Plan areas – and Area Committees – under review, in order to maintain a fair balance and ensure sufficient central funding is available for larger infrastructure projects.

### 5.3 **Legal and Constitutional References**

- 5.3.1 The council's Constitution, Responsibility for Functions, Annex A, sets out the Terms of Reference for the Residents' Forums, Area Committees and Theme Committees. The Terms of Reference for Policy & Resources Committee include:
- Ensuring effective use of resources and Value for Money
  - To allocate a budget, as appropriate, for Area Committees
- 5.3.2 The terms of reference for the Area Committees include the administration of any local budget delegated from Policy and Resources Committee for these committees in accordance with the framework set by the Policy and Resources Committee.
- 5.3.3 Regulation 59F enables charging authorities that do not have parish/local councils to benefit from the 15% 'neighbourhood portion'. However, the PPG states that such charging authorities should "*set out clearly and transparently their approach to engaging with neighbourhoods ... the use of neighbourhood*

*funds should therefore match priorities expressed by local communities, including priorities set out formally in neighbourhood plans*". The PPG sets out factors which the council as charging authority and the constituency communities should consider in deciding how to spend the neighbourhood portion.

5.3.4 The 'neighbourhood portion' only applies to Barnet Council CIL receipts. The Mayoral CIL can only be spent on strategic transport infrastructure.

5.3.5 In accordance with Regulation 62(5) the council is required to publish a CIL report on its website by 31 December for each financial year. Where the council spends the neighbourhood portion via the Area Committees this must be reported as a separate item (regulation 62(4)).

#### **5.4 Risk Management**

5.4.1 The risks associated with this allocation are:

- Ensuring that the funds are only allocated to infrastructure in accordance with the meaning of 'infrastructure' from the definition given in Section 216 (2) of the Planning Act 2008. Members will need clear guidance as to whether a project qualifies as infrastructure under the Act before deciding to fund it.
- Ensuring Committees allocate funds and ensure projects are delivered in a timely manner. This will be mitigated by ensuring the revised process for allocating the budgets is clear and that progress against issues is monitored and reported back to the Committees.
- Income from CIL varies from place to place and year to year, and Committees will need to understand (and cater for) the fact that the funding available to them will not always be at or close to the £150,000 cap.

#### **5.5 Equalities and Diversity**

5.5.1 The 2010 Equality Act outlines the provisions of the Public Sector Equality Duty. This requires public bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between people from different groups
- foster good relations between people from different groups.

5.5.2 The recommendations set out in this report are designed to ensure that Area Committees are able to reflect the needs of different communities within their local area in their own decisions, and have the resources to meet them.

5.5.3 Individual equalities impact assessments will be carried out to identify any equality considerations associated with the decisions made by an Area – or Theme – Committee.

#### **5.6 Consultation and Engagement**

5.6.1 The initial proposals to delegate budgets to the Area Committees were a

response to the survey findings of the public consultation on the changes to the Governance system. This consultation ran from 23 August 2014 to 22 September 2014. The consultation received a total of 575 responses. 504 came from the Citizens' Panel and 71 from residents.

5.6.2 One of the key findings was that, under the previous Sub-Committee structure, residents did not feel involved and able to influence local decision-making or policy development. Common issues raised were:

- a lack of understanding as to who was responsible for delivering some of their local services
- confusion about how the council made its decisions and a perception that council decision-making was 'secretive and bureaucratic'
- a perception that council decisions and views of elected representatives did not reflect residents' own priorities or those of their local area
- efforts at consultation were considered to be a way to rationalise 'predetermined decisions'.

5.6.3 It was also felt that the previous Area Environment Sub-Committees had limited decision-making powers, with restricted terms of reference and no budget devolved to them.

5.6.4 The Area Committee budgets were devolved in response to the findings of that consultation and the proposals set out in this paper aim to continue developing the council's response to those findings.

5.6.5 Members, particularly the Chairs and Vice-Chairs of the Area Committees and Residents' Forums and the Chair, Vice-Chair and Opposition Spokesman of the Community Leadership Committee, have been consulted throughout the review and the development of the recommendations.

5.6.6 The PPG emphasises that consultation on agreeing how the neighbourhood portion should be spent should be undertaken at the neighbourhood level and "*should be proportionate to the level of levy receipts and the scale of proposed development to which the neighbourhood funding relates*".

## **6. BACKGROUND PAPERS**

6.1 [Community Infrastructure Levy](#) (Cabinet, 25 February 2013)

6.2 [Area Environment Sub-Committees - Draft Funding Arrangements](#) (Policy & Resources Committee, 10 June 2014).

6.3 [Area Sub-Committees - Budget Allocation Draft Framework](#) (Community Leadership Committee, 25 June 2014).

6.4 [Developing a Community Participation Strategy for Barnet](#) (Community Leadership Committee, 25 June 2014).



- 6.5 [Community Participation Strategy: Area Committee Budget Arrangements and Wider Community Funding](#) (Community Leadership Committee, 11 September 2014).
- 6.6 [Community Participation Strategy: Implementation Plan](#) (Community Leadership Committee, 11 March 2015).
- 6.7 [Review of Area Committees and their relationship with the Environment Committee](#) (Environment Committee, 11 June 2015)
- 6.8 [Review of Area Committees - operations and funding](#) (Community Leadership Committee, 24 June 2015).