

**POLICY AND RESOURCES COMMITTEE - 5 DECEMBER 2022**

**COUNCIL – 13 DECEMBER 2022**

**PART I – NOT DELEGATED**

**10. CIL SPENDING APPLICATIONS  
(DCES)**

**1 Summary**

- 1.1 The report seeks to allocate a 25% uplift on 2 previously approved leisure projects. Total uplift of £180,500 is needed to cover the increase in the supply chain for materials and labour since funding was first agreed (February 2022) and is for local infrastructure projects to support growth in Three Rivers.
- 1.2 The report has been presented to this Committee, ahead of the budget setting process, to avoid further price increases and delays in project mobilisation.
- 1.3 This uplift is required in order to offset current shortfalls in materials and labour. These are market force driven and it has been reported to Officers from a number of suppliers in the leisure equipment industry that another predicted price rise is due in December 2022/January 2023. Officers are keen to secure the current costs before these widely reported market price increases.

**2 Details**

- 2.1 Three Rivers became a Community Infrastructure Charging Authority on 1 April 2015. CIL is the main way in which the Council now collects contributions from developers for infrastructure provision to support development in the area.
- 2.2 The Council has the responsibility for spending the CIL on infrastructure needed to support the development of the area, it is primarily a tool to support capital infrastructure. The Council has the opportunity to choose what infrastructure is prioritised in order to support development.
- 2.3 Since the introduction of the CIL Charging Schedule in April 2015 a total of £9,042,222 has been collected.
- 2.4 The CIL monies collected are divided into three pots – Main CIL Pot (80%) Neighbourhood Pot (15%) and the remaining 5% set aside for the administration and the Exacom software costs to support the CIL in line with the CIL Regulations.
- 2.5 This report relates only to the Main CIL Pot which, as of 26 October 2022, amounts to £7,465,305.
- 2.6 Whilst this is a substantial amount, CIL does not generate enough funds to cover the whole cost of infrastructure needed to support planned development, as such there will be competing demands on the Main Pot from infrastructure providers who used to rely on S106 developer contributions (such as Hertfordshire County Council, NHS and TRDC etc.) going forward.
- 2.7 **What can CIL be spent on?**
- 2.8 Regulation 59 of the CIL Regulations states:

(1) A charging authority **must** apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure *to support the development of its area, and*

(2) A charging authority **may** apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure outside its area where to do so *would support the development of its area.*

2.9 The definition of infrastructure in relation to CIL is set out in section 216(2) of the Planning Act 2008 (as amended by regulation 63 of the Community Infrastructure Levy Regulations);

- 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

2.10 The Infrastructure List<sup>1</sup> sets out the types of infrastructure that the Council intends will be, or may be, wholly or partly funded by CIL.

- Education
- Strategic and local transport proposals
- Publicly accessible leisure facilities,
- Open Space Provision (including, children play areas and outdoor/indoor sports and leisure facilities, allotments)
- Health Care Facilities
- Other Social and Community Facilities including: - community halls, youth facilities, library services
- Emergency Services

2.11 The inclusion of a project or type of infrastructure on the Infrastructure List does not signify a commitment from the Council to fund (either whole or in part) the listed project or type of infrastructure.

2.12 The levy cannot be used to fund affordable housing or for any on-going or revenue spend (such as consultancy fees, viability/feasibility studies, staff costs etc.) relating to the provision of infrastructure.

### **3 Applications for CIL Funds**

3.1 We have received an uplift request for two applications for CIL funds from infrastructure providers. The table below provides a brief summary with the full details contained in Appendices 1 to 3 to this report:

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<sup>1</sup> Infrastructure List was the Regulation 123 List adopted by the Council but now replaced by the Annual Infrastructure Funding Statement as a result of changes to the CIL Regulations. The Annual Infrastructure Funding Statement is published in December each year on the Council's web site <https://www.threerivers.gov.uk/egcl-page/cil-reports>

Table 1.

Applicant & Project Name	Infrastructure	Total Cost	Additional Funding	Approved CIL Amount	Requested 25% Uplift Amount (additional)	Year funds required
TRDC Leisure Team  Denham Way Play Area/ Maple Cross Playing Fields  (Appendix 1)	New play area Community pavilion, 3 floodlight tennis courts Outdoor fitness zone MUGA Playing pitch improvements Access pathways Seating formal garden	£457,000	HS2 £75,000 (Sought)  Football Foundation £25,000 (Sought)  LTA £10,000 (Sought)	£347,000	£86,750	2022/2023
TRDC Leisure Team  South Oxhey Playing Fields  (Appendix 2)	Tennis Courts AGP Basketball Court Skate/BMX Park Outdoor Gym Pathways	£375,000		£375,000	£93,750	2022/2023

- 3.2 This uplift is required in order to offset current shortfalls in materials and labour. These are market force driven and it has been reported to Officers from a number of suppliers in the leisure equipment industry that another predicted price rise is due in December 2022/January 2023. Officers have been made aware market price increases for materials of around 13% - 15% in January 2023 from a variety of contractors although the true pricing increases are as yet unconfirmed by the supply chain. Officers are also aware that in response to the budget announcements over this year, contractors also advise of an increase for staffing costs in relation to the cost of living increase mainly due to the 10% inflationary increase.
- 3.3 The costs of materials since these projects were originally quoted for has already increased greatly. This is mainly due to the supplier market response and on-going effects of Brexit with products that come from overseas seeing a significant increase in supply chain sourcing and costs, along with the knock on effects still being felt from the COVID epidemic in supply chain programmes. Contractors are also dealing with the effects of the continuing demands from the HS2 project in this region, whereby materials are being bought in bulk by HS2, this leaves the market in scant supply with materials delays. These factors have all had a major impact to the costs of works to date and contractors are unable to hold quote pricing whilst facing continuing pressure from the supply chain.
- 3.4 The 25% uplift is required to cover these additional costs.
- 3.5 If the additional funding is agreed then Officers do not consider there will be any delay in the mobilisation and implementation stage of these projects although Officers note that sourcing of cheaper materials is likely to impact on the delivery timeframes if no additional funding is found.

3.6 An assessment of the applications has been undertaken by the Community Infrastructure Officer and the Head of Regulatory Services to determine whether the applications meet the definition of 'infrastructure', meet the requirement to 'support the development' of the area and are included on the Infrastructure List. The assessment is contained in Section H of the applications in Appendices 1 – 2.

3.7 In summary, the assessment determined that both applications meet the above requirements.

#### **4 Options and Reasons for Recommendations**

4.1 To ensure the delivery of important community infrastructure to support growth and development.

#### **5 Policy/Budget Reference and Implications**

5.1 The recommendations in this report are within the Council's agreed policy and budgets. The relevant policy is entitled Community Infrastructure Funding Statement and was agreed on 24 February 2015, with subsequent Governance arrangements for the spend of CIL agreed by P&R in June 2022.

#### **6 Equal Opportunities, Staffing, Environmental, Community Safety, Public Health, Customer Services Centre, Communications & Website Implications**

6.1 None specific.

#### **7 Financial Implications**

7.1 The commitment of CIL funds of £2,300,744 previously agreed plus £180,500 will leave a balance of £4,984,061 in the CIL Main Pot for infrastructure projects going forward.

7.2 The additional CIL funds committed in relation to the South Oxhey Playing Fields and Denham Way Play Area/Maple Cross Playing Fields will mean that £180,500 will not need to be committed from the Capital Budget in future years to deliver the infrastructure.

7.3 The continuing increases in the costs of materials and labour in national markets and beyond is recognised and has wider implications for other Council projects.

#### **8 Legal Implications**

8.1 The legislation governing the development, adoption and administration of a Community Infrastructure Levy (CIL) is contained within the Planning Act (2008) and the Community Infrastructure Levy Regulations 2010 (as amended).

#### **9 Risk and Health & Safety Implications**

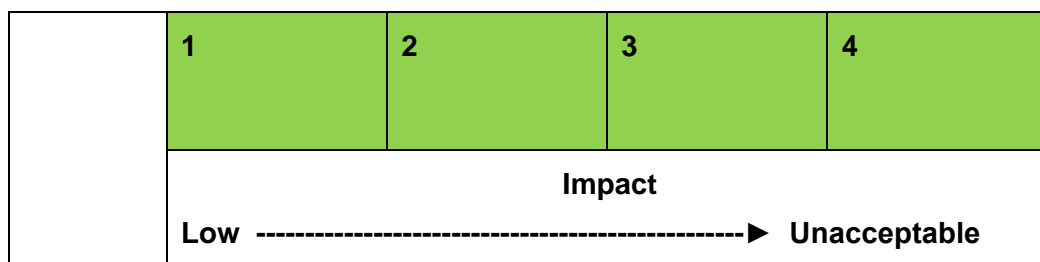
9.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

9.2 The subject of this report is covered by the Regulatory Services Plan and the Community Services Plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this/these plan(s).

<b>Nature of Risk</b>	<b>Consequence</b>	<b>Suggested Control Measures</b>	<b>Response</b> <i>(tolerate, treat, terminate, transfer)</i>	<b>Risk Rating</b> <i>(combination of likelihood and impact)</i>
Failure to progress/manage and maintain Community Infrastructure Levy income and expenditure.	Council could be challenged on CIL expenditure	Governance Arrangements	Tolerate	4
Failure to deliver the leisure projects to the agreed timescales and budget and to the expectations of the local community	Continued increased costs from the supply chain due to delayed timescales  Reputational impact on TRDC due to not delivering agreed projects	Agree the recommendations as detailed within the report	Treat	4

9.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

<b>Very Likely</b> Remote ↓ <b>Likelihood</b>	<b>Low</b> 4	<b>High</b> 8	<b>Very High</b> 12	<b>Very High</b> 16
	<b>Low</b> 3	<b>Medium</b> 6	<b>High</b> 9	<b>Very High</b> 12
	<b>Low</b> 2	<b>Low</b> 4	<b>Medium</b> 6	<b>High</b> 8
	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>



**Impact Score**

4 (Catastrophic)

3 (Critical)

2 (Significant)

1 (Marginal)

**Likelihood Score**

4 (Very Likely (≥80%))

3 (Likely (21-79%))

2 (Unlikely (6-20%))

1 (Remote (≤5%))

9.4 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

**10 Recommendation**

10.1 That Members approve CIL funding for the following schemes detailed in Table 1 of this report and summarised in the table below for 2022/2023:

Applicant & Project Name	Infrastructure	CIL Amount
TRDC Leisure Team Denham Way Play Area/ Maple Cross Playing Fields (Appendix 1)	New play area Community pavilion, 3 floodlight tennis courts Outdoor fitness zone MUGA Playing pitch improvements Access pathways Seating formal garden	£86,750.
TRDC Leisure Team South Oxhey Playing Fields (Appendix 2)	Tennis Courts AGP Basketball Court Skate/BMX Park Outdoor Gym Pathways	£93,750.

Report prepared by: Kimberley Rowley, Head of Regulatory Services

**Data Quality**

Data sources: Exacom (Planning Obligations Software)

Data checked by: Debbie Wilson, CIL Officer

<b>1</b>	<b>Poor</b>	
<b>2</b>	<b>Sufficient</b>	

3	High	X
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### **Background Papers**

The Community Infrastructure Regulations (2010) (As amended) <https://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>

Section 216(2) of the Planning Act 2008 (as amended by regulation 63 of the Community Infrastructure Levy Regulations);

Infrastructure Funding Statement <https://www.threerivers.gov.uk/egcl-page/cil-reports>

Guidance provided by the Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government

<https://www.gov.uk/guidance/community-infrastructure-levy#spending-the-levy>

### **APPENDICES**

Appendix 1 Denham Way Play Area/ Maple Cross Playing Fields

Appendix 2 South Oxhey Playing Fields