

To: Cabinet
Date: 9 December 2020
Report of: Head of Planning Services
Title of Report: Community Infrastructure Levy (CIL) – In Kind Policy

Summary and recommendations	
Purpose of report:	To approve the policy for Community Infrastructure Levy (CIL) Payment in Kind.
Key decision:	Yes
Cabinet Member:	Councillor Alex Hollingsworth, Planning and Housing Delivery
Corporate Priority:	Foster an inclusive economy; Deliver more, affordable housing; Support flourishing communities; Pursue a zero carbon Oxford
Policy Framework:	Council Strategy 2020/24
Recommendation: That Cabinet resolves to:	
<p>1. Approve the Community Infrastructure Levy (CIL) In Kind Policy (pursuant to regulations 73, 73A, 73B and 74 of the Community Infrastructure Levy Regulations 2010 (as amended) (“the CIL Regulations”) which will come into force on 21 December 2020 if approved.</p>	

Appendices	
Appendix 1	Proposed In Kind Policy
Appendix 2	Risk Assessment

Introduction

1. This report seeks Cabinet approval for the introduction of an In Kind CIL Policy to allow the Council to accept CIL in the form of in kind payments either in the form of the provision of land or the provision of infrastructure.

In Kind Policy

2. The CIL Regulations allow the Council to accept full or part payment of a CIL liability by way of the transfer of land to the Council or the provision of infrastructure. Any decisions made under this policy will require approval by Cabinet, which is also the case for the council's discretionary Exceptional Circumstances Policy. The utilisation of the policy will be on a case by case basis and at the discretion of the Cabinet.
3. This policy provides flexibility and opens up potential benefits. For example, where the Council would need to invest levy receipts in a project there may be time, cost and efficiency benefits in accepting completed infrastructure in payment of the levy. Payment in kind can also enable developers, users and authorities to have more certainty about the timescale over which certain infrastructure items will be delivered.
4. Where the payment of CIL by land transfer or infrastructure provision is considered acceptable the Council will enter into a land/infrastructure agreement prior to the development commencing. This agreement will include the information specified in Regulations 73 and 73A.
5. The benefits of adopting a payment in kind policy include supporting the delivery of developments that are complex in their nature and scale.
6. In order to introduce this policy the council is required to issue a document which—
 - gives notice that it is willing to accept infrastructure payments in its area,
 - states the date on which the charging authority can begin accepting infrastructure payments, and
 - includes a policy statement setting out the infrastructure projects, or types of infrastructure, which it will consider accepting the provision of as infrastructure payments (this may be done by reference to the charging authority's infrastructure list);
7. The Document must be published on the Council's website; and be made available for inspection at its principal office, and at such other places within its area as it considers appropriate (as per regulation 73B of the CIL Regulations). Due to the office closure during this current COVID-19 emergency, the document will not be available for inspection, however, if anyone requests a hard copy of the document we will be able to send a copy by post. A copy will be available on the Council's website.

Financial implications

8. Any CIL payments made through the provision of land or infrastructure could result in a reduction, equal to the value of the land or infrastructure, in the amount of financial contributions paid to and made available through CIL for strategic infrastructure delivery. However, the value of the CIL overall would be unchanged as the land or infrastructure would have a value. This would be considered as part of the individual cabinet report for each request. Any requests that are approved should not delay the delivery of strategic infrastructure as the Council need only agree to the provision of land or infrastructure where this will accelerate the delivery of its infrastructure list.

9. There is no overall cost saving to an applicant where it is agreed they are able to utilise the In-Kind policy. An applicant's CIL liability is unchanged but the amount of its financial contribution will be lowered on account of its land or infrastructure provision. There will always remain a financial component on account of the CIL Regulations placing a requirement on the CIL Charging Authority to pass 15% (or 25% in areas with a Neighbourhood Plan) of the CIL monies direct to Parish Councils and to collect an administration fee. Unless the Parish Council or Neighbourhood Plan Area it affects is in agreement that the in kind payment fulfils the infrastructure measures within their area the applicant will need to meet the Neighbourhood fund requirement through a financial contribution, in addition to the provision of land or infrastructure.
10. The policy statement and in-kind guidance notes (Appendix 1) make it clear that an agreement in writing will be established between the CIL liable party and Oxford City Council.
11. The 5% administration due from any CIL payments will also need to be met through a financial contribution.

Legal issues

12. Regulations 73 and 73A of the CIL Regulations permit the acceptance of payments in kind through the provision of land or infrastructure in full or part payment of a CIL liability. Regulations 73B and 74 set out further provisions in respect of this. The government has recently carried out a consultation and published a White Paper relating to proposals for the reform of the planning system in England “Planning for the Future” (The White Paper) which included changes to the way in which the levy is calculated and received. At the time of finalising this report it is unknown what changes will be made in the approach to contributions and CIL

Level of risk

13. A risk assessment has been undertaken and the risk register is attached (Appendix 2).

Equalities impact

14. There are no equalities impacts arising from this report.

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