

NORTH YORKSHIRE COUNCIL

EXECUTIVE

20 June 2023

Consideration of requests for Community Infrastructure Levy Funding (CIL) from Ryedale District Council

Report of the Corporate Director, Resources

1.0 Purpose of Report

- 1.1 To consider the recommendations to award Community Infrastructure Levy (CIL) funding to a number of community schemes as requested by Ryedale District Council on 28 March 2023.

2.0 Background

- 2.1 On 10 May 2022 and following the making of the North Yorkshire Council (Structural Changes) Order 2022 the Department for Levelling Up, Housing and Communities (DLUHC) issued a Direction under section 24 of the Act. Essentially, the Direction restricted the seven North Yorkshire district councils from entering into revenue contracts and disposals of land over £100,000 or “capital contracts” exceeding £1m (or where the term for payment of such contracts is variable) without the consent of the Executive of the then County Council.
- 2.2 On 28 March 2023 Ryedale District Council approached North Yorkshire County Council to request section 24 consent for a number of grants to organisations funded through Ryedale District Council’s CIL. The purpose of CIL is to fund infrastructure in a particular area and links back to infrastructure identified in the Local Plan. The National Planning Policy Framework (NPPF) para 34 states ‘the plan identifies the scale and type of infrastructure needed to deliver the area’s local development and growth’. Ryedale District Council was required to gain the consent of North Yorkshire County Council in order to award such funding but given the imminence of vesting day (ie 1 April 2023) it was not possible to consider as a section 24 matter. The decision relating to the request is therefore one to be determined by the Executive of North Yorkshire Council in line with normal decision-making practices for the new Council.
- 2.3 Conversations had taken place between the respective Leaders of North Yorkshire County Council and Ryedale District Council and included Chief Officers in the Autumn of 2022 as it became clear that Ryedale District Council wished to pursue some form of community grant scheme funded through CIL. Following a meeting, the Leader of NYCC wrote to the Leader of Ryedale District Council and set out three primary concerns –
- i. CIL money had already been highlighted as required for school funding to serve the Norton Lodge development and an assessment of an appropriate share of CIL funding had been calculated at £2.34m
 - ii. The proposed approach involved inviting bids rather than the council determining infrastructure needs up-front.
 - iii. The need to ensure that any approach was consistent with national planning policy guidance aimed at infrastructure needs (as opposed to an invitation led community grant scheme).

- 2.3 The Leader stated in that correspondence (dated 4 October 2022) “that we would urge you to re-consider such an approach as it is highly likely that any approach will result in wasted effort and potentially disappointment for local community organisations having been encouraged to apply for funding when it is unlikely that consent will be granted on behalf of the new council for North Yorkshire on the basis of the limited information...”
- 2.4 In response, the Leader of Ryedale District Council pointed out that –
- i. RDC understood that discussions on the possibility of a new school had slowed and that it would take a period of time for the development to be built and future properties could provide the income stream for the school. In light of that, RDC was not minded to ringfence existing CIL monies to this particular scheme.
 - ii. An approach was set out which would ensure that projects were lawful and
 - iii. RDC, was not creating a new community grant scheme
 - iv. The application of CIL funding was to comply with the statutory framework.

3.0 Proposed Application of CIL Funding

- 3.1 On Thursday 16 March 2023 there was an ordinary Council meeting of Ryedale District Council which considered the CIL grant allocations. This was then communicated to North Yorkshire County Council on 28 March, a few days before vesting day for the new North Yorkshire Council. This letter requested consent under Section 24 of the Local Government and Public Involvement in Health Act 2007 to enter into the contracts for the projects approved by Ryedale District Council at this Full Council meeting.
- 3.2 This letter also stated that “the recommendations have been made in line with RDC’s infrastructure spending statement 2020 to 2021 following Member approval on 15 September 2022 to proceed with allocating the council’s CIL budget of £3,179,495.68 through a CIL grant scheme. This was the balance of RDC’s CIL funding as of 15 September 2022, when council agreed to proceed with the allocation of funds”.
- 3.3 The total of projects proposed for Section 24 consent totalled £2,886,926.59 and details were provided on each individual scheme for NYCC to then take a view. Given the proximity to vesting day, no attempt was made in order to determine section 24 consent but the decision as to whether or not proceed with the funding allocations became one for the new North Yorkshire Council with effect from 1 April 2023.
- 3.4 Details of each individual scheme were shared with a range of officers within NYC (and that included access to officers formerly with Ryedale DC who had transferred to NYC) so that they could offer professional views on the viability and desirability of each individual proposal. There were a notable number of schemes which impacted upon schools, children and families with SEND, sports and leisure facilities as well as broader community infrastructure.
- 3.5 Officers were asked to form a view about the merits and demerits of each proposal from their own service specialisms. There was then a further need to review the desirability of the proposals in light of potential competing priorities and whether or not the proposals were felt to be an appropriate use of Community Infrastructure Levy, even if the scheme themselves were considered a positive development given a finite amount of capital funding.

4.0 Review of Proposals as submitted by Ryedale District Council

- 4.1 There was a 3-stage process applied to reviewing the proposals along the lines of that set out in paragraph 3.5 above i.e.:

- Officer assessment of the merits or otherwise of the individual proposal.
- Whether the scheme was a good fit with community infrastructure needs; and finally
- Whether there were deemed to be higher priority eligible infrastructure needs.

4.2 The schemes have been reviewed and a brief summary of the outcomes of the officer reviews (led by Assistant Directors of NYC) can be seen in Appendix A.

4.3 As can be seen in Appendix A there are a number of proposals that simply do not fit with the CIL regime or broader council strategies and some are deemed as positive outcomes should they be delivered (e.g. improvements in sports facilities) but it is questionable whether CIL should be a prominent part of the funding for some of these schemes. Finally one of the ongoing concerns for NYC is how the council manages to allocate CIL funding in schools or academies when the Council's school capital allocation is reducing and continues to be well below the current requirements. The Council is having to focus its school capital allocation solely on maintenance rather than improvements to school buildings and sites. There are some notable capital needs for schools in the former Ryedale area which are currently unfunded so this must be considered when considering the proposals to allocate CIL.

4.4 The conclusion of officers is that there are a number of proposals that would be welcomed by NYC but, on balance, the recommendation is to preserve the available CIL funds to deal with the unfunded capital needs for education in the former Ryedale area. This would mean that if the recommendations are followed, the Council would not approve any of the proposals submitted by Ryedale DC as this fits with priorities for CIL funding previously identified in Ryedale DC's former Regulation 123 list, which references a number of educational infrastructure requirements. It is understood, and was predicted, that this will cause upset for many of those who have submitted proposals, but the Council will seek to work with those organisations to see if there are other ways of delivering those schemes that the Council supports.

5.0 Future CIL Arrangements

5.1 Ryedale DC did not have a detailed priority CIL project list compiled and agreed prior to the Structural Change Order. The Ryedale development plan included a list of infrastructure types that are necessary to support planned growth although most of these were not project specific. There is no suggestion that the proposals being considered are at odds with the broad infrastructure requirements and types is simply that officers feel there are better applications of the funding.

5.2 Officers now are engaged on pulling together a North Yorkshire wide approach to CIL, whilst being mindful of the restrictions on CIL funding generated in the former district and borough boundaries. The work to develop the NYC approach to CIL will be led by officers in Planning alongside other colleagues. This will require a period of time before being submitted to Executive and Full Council for approval in the future. In the interim, consideration of proposals for CIL funding is required to be undertaken in line with legacy arrangements, although NYC does not intend to launch any new invitation for bids at this stage.

6.0 Financial Implications

6.1 The Council is facing a large number of capital needs and insufficient funding levels to meet need. As a unitary council, NYC now has the opportunity to take a holistic view of community infrastructure needs in line with the CIL planning and policy guidance. It is essential that any approvals from CIL are delivering strong value for money for the taxpayers across the former district of Ryedale and the County more generally.

- 6.2 As noted above, schools capital funding has become over-stretched and there are two notable capital schemes in the former Ryedale district that have significant funding gaps – namely the proposed new school at Norton Lodge (estimated gross cost of £6.5m) and the refurbishment of Welburn Hall School (estimated gross cost of £5m) – a residential school for SEND children. Application of CIL funding for those schemes would more than exhaust the totality of CIL funding transferred from Ryedale DC.

7.0 Legal Implications

- 7.1 The Planning Act 2008 and the CIL Regulations 2010 place statutory restrictions on the use of CIL. Regulation 59 prescribes that money raised through CIL can only be spent on supporting development by funding the provision, improvement, replacement, operation or maintenance of infrastructure. Infrastructure is defined in the Act as including roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities, and open spaces. Charging for CIL links back to infrastructure needed for an area in their Local Plan and the NPPF para 34 where it states 'the plan identifies the scale and type of infrastructure needed to deliver the area's local development and growth needs'.
- 7.2 Regulation 121A requires authorities that receive CIL contributions to prepare and publish an annual Infrastructure Funding Statement (IFS) that sets out the infrastructure projects or types of infrastructure that the authority intends to fund by CIL, and the government's Planning Policy Guidance (PPG) indicates that the authority's choice of infrastructure should be those which are needed to deliver its development plan. As NYC does not yet have its own local plan or infrastructure funding statement, regard has been had to the Infrastructure Funding Statement 2022 produced by Ryedale DC, however the IFS do not identify any particular
- 7.3 Infrastructure projects or types on which it was intended to prioritise CIL expenditure, as it acknowledged that NYC would replace it after 1 April 2023. The IFS does, however, include Ryedale DC's former Regulation 123 list, which references a number of infrastructure requirements including the provision of a new primary school in Norton and additional primary school places in Kirbymoorside.
- 7.4 Identified as needing to support planned growth in the Ryedale development plan – it clearly the need for education infrastructure has been identified in the Ryedale area. The Norton school development has been expressly referred to in the former Councils CIL list (as attached to their most recent IFS in 2022), but there could also be scope for spend on other education infrastructure in line with the extant Local Plan.

8.0 Climate Change Implications

- 8.1 There are no implications but Climate Change Impact Assessments will be undertaken for future projects that are funded through CIL.

9.0 Equalities Implications

- 9.1 Consideration has been given to the potential for any adverse equality impacts arising from this decision see Appendix B - Initial equality impact assessment (EIA) screening form. A further assessment will be made when the allocation of the exact amounts to the Education Capital Budget are contributed to the schools in a future report.

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| 10.0 | Recommendations |
| 10.1 | <p>The Executive is recommended to:</p> <ol style="list-style-type: none">i. Retain the totality of CIL funding transferred from Ryedale DC rather than approve the grants as proposed by Ryedale DCii. Allocate the CIL funding of £3m to education capital schemes in the former Ryedale districtiii. To work with local groups where possible to assist in other funding opportunitiesiv. Note the intention to progress an approach to CIL for the Council as part of the transitional arrangements with a report to be brought forward to the Executive for consideration at an appropriate time. |

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North Yorkshire Council

20 June 2023

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Appendices:

Appendix A - List of Schemes

Appendix B - EIA