

COMMUNITY INFRASTRUCTURE LEVY (CIL) SPENDING PROTOCOL

Head of Service:	Justin Turvey, Interim Head of Place Development
Wards affected:	(All Wards);
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	
Appendices (attached):	Appendix 1 - Epsom and Ewell Community Infrastructure Levy Spending Protocol

Summary

The report seeks the approval of a CIL spending protocol which will provide a framework for how the council allocates Community Infrastructure Levy funding that has been received from eligible developments in the borough to contribute towards the delivery of infrastructure.

Recommendation (s)

The Committee is asked to:

- (1) Approve the proposed framework for determining CIL spending (Spending Protocol) attached at Appendix 1.**

1 Reason for Recommendation

- 1.1 To provide the Council with a robust and transparent process for the allocation of CIL funding

2 Background

- 2.1 On 29 April 2014 EEBC adopted the CIL Charging Schedule which came into effect on 1st July 2014.

Licensing and Planning Policy Committee

18 January 2024

- 2.2 CIL monies are to mitigate the cumulative impact of development but are rarely sufficient to fund all of the infrastructure that is required to support development of an area. Therefore, to ensure that they are used effectively, they should be prioritised to funding and delivering essential infrastructure. A spending protocol helps make clear and transparent decisions around spending of CIL.

Spending CIL

- 2.3 Legislation sets some parameters for the way in which CIL can be used. For most authorities, including EEBC, the breakdown of how CIL receipts are ring-fenced and spent is as follows:
- 75–85% of receipts on infrastructure projects – the provision, improvement, replacement, or operation of infrastructure to support the development of the area. The charging authority decides what these priorities are and when and where to spend CIL. This can be outside an authority area, providing it addresses the impacts of development within it.
 - 15% (capped at £100 plus indexation per dwelling) rising to 25% (uncapped) in areas with an adopted neighbourhood plan for spend within the neighbourhood within which the CIL was received. These receipts must be spent on projects that support development of the area but is not limited to infrastructure. In areas with parish councils or community councils these funds are passed to them. Outside of these areas the council should engage with communities on how the money should be spent.
 - 5% of CIL receipts in the first 3 years of operation and annually thereafter can be spent on the cost of administering CIL. These administration costs can include staff, software and, in the first three years of charging CIL, costs associated with setting the CIL Charge.
- 2.4 CIL is designed to address cumulative impacts of development and must be used in line with the CIL regulations. CIL cannot be used to remedy existing deficiencies (unless those deficiencies will be made more severe by new development) undertake maintenance of existing infrastructure, or remedy demands from population growth driven by other factors such as birth rates. Both strategic and neighbourhood CIL should only be used to deal with the impact of development. There are no time limits on the main CIL spend, however, there are time limits on the neighbourhood portion.

CIL Strategic

Licensing and Planning Policy Committee

18 January 2024

- 2.5 The levy can be used to fund infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities. Local authorities must spend the levy on infrastructure needed to support development of their area. CIL can be used to increase the capacity of existing infrastructure or provide new infrastructure that is necessary to support development. The clearest way to justify this is to link it to the Council's Infrastructure Delivery Plan that supports the Local Plan. Charging authorities may not use the levy to fund affordable housing as this is still dealt with through s106 obligations.

CIL Neighbourhood pot

- 2.6 As there are no parish or town councils in the borough, EEBC retains the levy receipts and should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding and should demonstrate how it has engaged (e.g., using regular communication tools for example, website, newsletters, etc).
- 2.7 The Neighbourhood portion can be used to fund a wider range of spending, including affordable housing but it must still be necessary to support development. Where a neighbourhood plan is in place, the Council and communities should consider how the neighbourhood portion can be used to deliver the infrastructure identified in the neighbourhood plan as required to address the demands of development.

CIL Funding held by the Council

- 2.8 Table 1 below, summarises the funding held under the strategic and community fund pots as 31st March 2023 (as detailed in para 2.4).

Table 1 – CIL funding received and unallocated as of 31 March 2023

	Strategic Fund (80%)	Neighbourhood Fund (15%)
	£'000	£'000
CIL Funds held at 31 March 2023	7,228	1,355
Unallocated CIL funds at 31 March 2023	5,998	1,229

- 2.9 Table 2 above demonstrates that as of March 2023, there was just under £6m of funding un-allocated in the borough's Strategic CIL fund and over £1.2m of unallocated funding in the Neighbourhood fund. It is therefore important that a mechanism is in place to enable this funding to be spent to deliver infrastructure in the borough.

Licensing and Planning Policy Committee

18 January 2024

Previous arrangements for spending CIL

- 2.10 On 29 September 2015, a report to the Strategy and Resources Committee was presented setting out the proposed governance arrangements for CIL. On 17 April 2018, the Strategy and Resources Committee agreed a pilot scheme for Neighbourhood CIL that was launched in May 2018. On 2 April 2019, the Strategy and Resources Committee agreed a permanent arrangement for spending the Neighbourhood CIL 15% monies.
- 2.11 It should be noted that there have been significant changes to legislation since this time and best practice published in relation to the spend of CIL receipts. A fit for purpose, robust and transparent process that complies with legislation is therefore required.

Proposed spending protocol

- 2.12 A spending protocol has been prepared to provide a transparent decision-making process for the spending of the Community Infrastructure Levy in the borough.
- 2.13 The spending protocol (attached as Appendix 1) set out a protocol governing the process and criteria for selecting infrastructure projects for funding through CIL. It is important to note that the document is intended as a framework rather than a fixed set of rules, as it is necessary to retain sufficient flexibility in the process to allow for changing circumstances, for example, if national guidance on CIL spend or local policy priorities change.

Approach to Strategic CIL

- 2.14 The spending protocol proposes an annual spending round where stakeholders involved in development and in delivery of infrastructure, will be invited to put forward projects and/or programmes for funding through strategic CIL. The Council is particularly keen to hear from organisations with the responsibility and/or ability to deliver the projects/programmes identified in the Infrastructure Delivery Plan.
- 2.15 A two-stage process for reviewing bids is proposed:
- Stage 1 - All bids will be assessed technically for compliance with the regulations at stage one by the CIL team,
 - Stage 2 – bids that pass stage one will be shortlisted and the organisation that submitted the bid will be invited to present their projects at a workshop of the CIL Member Working Group.

Licensing and Planning Policy Committee

18 January 2024

- 2.16 Following the workshop, the CIL Member Working Group, advised by the CIL team, will prioritise projects in accordance with the Eligibility and Prioritisation Criteria set out in Section 4 of this document.
- 2.17 The CIL Funding Proposal will be presented to the Licensing and Planning Policy Committee for agreement. For any spend over £50,000, this will then be referred to Strategy and Resources (S&R) Committee for ratification in line with the Council's Financial Regulations.
- 2.18 The anticipated timetable for the Strategic CIL bid process is detailed in Table 2.

Table 2 – Strategic CIL process – anticipated timetable

Date	Process
Jan-March	Engagement with internal and external infrastructure providers
April	Update to the Infrastructure Delivery Plan
May - June	Bidding open
June-September	Assessment of bids by CIL MWG
November	Spending Decision made (Funding proposal) by LPPC
December	Notification of outcome

Neighbourhood CIL

- 2.19 As an un-parished borough, the Council retains the CIL Neighbourhood Funds and allocates it to community projects across the borough, having regard to where development has taken place or is planned to take place.
- 2.20 This is considered to be the fairest way to allocate funds, with all community groups and organisations bidding for money having an equal chance to access the funds collected into the Neighbourhood Portion. It means that the merits of all bids can be assessed fairly against eligibility and prioritisation criteria and allows funding for eligible projects to be maximised rather than being limited by the availability of funds in smaller sub-areas.
- 2.21 There is one exception to the above, in any area in the borough that that has an adopted Neighbourhood plan, 10% of the total CIL funding generated in the area will be ringfenced for use in the neighbourhood plan area.
- 2.22 A two-stage process for reviewing bids is proposed:
- Stage 1 - All bids received will be assessed technically for compliance with set standards at stage one by the CIL team,

Licensing and Planning Policy Committee

18 January 2024

- Stage 2 – bids that pass stage one will be prioritised by the Member Working Group, advised by the CIL team. Following this there will be a briefing for ward councillors.

2.23 The proposed funding allocation for the neighbourhood portions will be presented by the CIL Member Working group to the Licensing and Planning Policy Committee for approval. As is the case for the Strategic CIL, any spend over £50,000, this will then be referred to Strategy and Resources Committee.

Table 3 – Neighbourhood CIL process

Date	Process
April	Advertise bidding timetable
May-June	Bidding open
June-September	Assessment of bids by CIL MWG
November	Spending Decision made by LPPC
December	Notification of outcome

3 Risk Assessment

3.1

Legal or other duties

3.2 Equality Impact Assessment

3.2.1 None

3.3 Crime & Disorder

3.3.1 None

3.4 Safeguarding

3.4.1 None

3.5 Dependencies

3.5.1 None

3.6 Other

3.6.1 None

4 Financial Implications

Licensing and Planning Policy Committee

18 January 2024

- 4.1 The introduction of the CIL spending protocol will not impact the amount of CIL income received by the Council as it does not alter the CIL charging schedule. The introduction of the Spending Protocol will however increase the amount of CIL funding released by the Council to deliver strategic infrastructure projects and neighbourhood projects.
- 4.2 **Section 151 Officer's comments:** It is important that the Council introduces a Spending Protocol to ensure CIL funds can be transparently allocated to eligible projects. The Spending Protocol should be sufficiently flexible to enable investment of CIL in existing Council assets where needed, provided it can be demonstrated to meet the statutory CIL criteria.

5 Legal Implications

- 5.1 The collection and spending of CIL is governed by The Community Infrastructure Levy Regulations 2010 as amended ("the CIL Regulations"). Part 7 of the CIL Regulations sets out how CIL may be applied and in particular Regulation 59(1) places a duty on the Council to apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area. The recommendation to introduce a CIL spending protocol meets these requirements.
- 5.2 **Legal Officer's comments:** As set out above

6 Policies, Plans & Partnerships

- 6.1 **Council's Key Priorities:** The following Key Priorities are engaged:
- Work with partners to develop and improve transport and infrastructure with particular emphasis on sustainable travel options. Promote Epsom & Ewell as a great place to live, work and study, and encourage inward investment.
- 6.2 **Service Plans:** The matter is included within the current Service Delivery Plan.
- 6.3 **Climate & Environmental Impact of recommendations:**
- 6.4 There are no climate or environmental implications from this report. However, CIL funding could be utilised to deliver projects that benefit the environment.
- 6.5 **Sustainability Policy & Community Safety Implications:**
- 6.6 There are no sustainability or community safety implications from this report.
- 6.7 **Partnerships:**

Licensing and Planning Policy Committee

18 January 2024

6.8 There are no partnerships issues arising from this report.

7 Background papers

7.1 The documents referred to in compiling this report are as follows:

Previous reports:

- Strategy and Resources – 2 April 2019 – Scheme for the allocation of CIL 15% (Community Infrastructure Levy):

<https://democracy.epsom-ewell.gov.uk/documents/s12322/Scheme%20for%20the%20allocation%20of%20CIL%2015%20Community%20Infrastructure%20Levy%20.pdf>

- Strategy and Resources – 17 April 2018 – Allocation of local spending element of the Community Infrastructure Levy (15%):

<https://democracy.epsom-ewell.gov.uk/documents/s8854/Allocation%20of%20local%20spending%20element%20of%20the%20Community%20Infrastructure%20Levy%20CIL%2015.pdf>

- Strategy and Resources – 29 September 2015 – Community Infrastructure Levy (CIL): Proposed Governance Arrangements

<https://democracy.epsom-ewell.gov.uk/ieListDocuments.aspx?CId=132&MId=97>