

Policy & Resources Committee

Appendix C

Area Committee – CIL spending eligibility criteria

Feb 2023

Current Arrangements - CIL spending eligibility criteria

On the 9th July 2015 the Policy & Resources Committee agreed that Area Committees would spend their CIL Funding on infrastructure as defined under Regulation 59 of the CIL Regulations 2010 (as amended) (“the Regulations”).

CIL income can be applied towards the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area (narrow definition)

The definition of infrastructure was set out to include:

- Roads and other transport facilities
- Flood defences
- Schools and other educational facilities
- Medical facilities
- Sporting and recreational facilities
- Open spaces

The Committee noted that the CIL Regulations allowed for a wider definition to be used when considering spending and selected to apply the narrow definition when Area Committees consider spending allocation decisions.

New Arrangements - CIL spending eligibility criteria

It is intended to allow Area Committees to utilise the broader definition of the CIL Regulations, which will enable Area Committees to consider funding a wider range of schemes with the opportunity to unlock greater community benefits.

Under the Community Infrastructure Levy Regulations 2010 (“the Regulations”), regulation 59F(3) prescribes neighbourhood CIL may be used in the following circumstances. This provides for a broader range of CIL spending by Area Committees.

“The charging authority may use the CIL to which this regulation applies, or cause it to be used, to support the development of the relevant area by funding—

(a) the provision, improvement, replacement, operation or maintenance of infrastructure (**current arrangements**); or

(b) anything else that is concerned with addressing the demands that development places on an area (included under the new arrangements).”

The advice on the following page is intended to provide guidance for Members and Area Committees to review when considering potential schemes.

Suggestions for consideration	Advice or further guidance which may be useful
Does the scheme support the development of the area and seek to address demands that development has placed on the area	<ul style="list-style-type: none"> • Borough Local Plan • Corporate Plan • Area Committee priorities • Insight & Intelligence • Equalities & Diversity
Non-capital expenditure & financial implications	<ul style="list-style-type: none"> • CIL can be used to fund non-capital schemes provided it can be demonstrated it is concerned with addressing the demands placed by development on an area • The scheme should not impose unacceptable future capital or ongoing revenue commitments on the Council or any other body
Has there been engagement with the communities to agree how best to spend the funding, where the development is taking place	<ul style="list-style-type: none"> • Member engagement with residents and community groups • Communication tools (e.g. website, newsletters) • Community Participation Strategy • Place-based networks (e.g. Friends of..., Town Centre Groups, Community Groups) • Cross-ward or Borough wide schemes can be considered if appropriate consultation is first carried out
National Planning Policy Framework (NPPF) <i>(this is helpful to assist in demonstrating compliance)</i>	<ul style="list-style-type: none"> • Section 8 of the NPPF sets out guidelines: <ul style="list-style-type: none"> • Promote healthy and safe communities • Promote public safety and take into account wider security • Provide the social, recreational and cultural facilities and services the community needs • Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities

Suggestions for consideration	Advice or further guidance which may be useful
UK Central Government Guidance should be considered	<ul style="list-style-type: none"> • Department for Levelling Up, Housing and Communities - GOV.UK (www.gov.uk) • Ministry of Housing, Communities & Local Government - GOV.UK (www.gov.uk)
Departure from the guidance or consultation	<ul style="list-style-type: none"> • Departure from the CIL Regulations guidance to consult can be justified as long as the decision-maker (Area Committee) provide clear reasons for doing so (for example dealing with COVID-19, where priorities expressed by local communities may not be appropriate, where local consultation was not possible). Reference should be made about departing from consultation results (i.e. where funds are allocated not in accordance with priorities expressed by local communities) • There is statutory requirement that the Council as charging authorities must have regard to the government ‘CIL Guidance’. This Guidance provides additional guidance on how neighbourhood CIL funds should be used where there is no local council in place. Paragraph 146 of the CIL Guidance states that the “charging authority...should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding”. Charging authorities should set out clearly and transparently their approach to engaging with neighbourhoods. The CIL Guidance goes on to explain that the use of neighbourhood CIL funds should match priorities expressed by local communities, which should be obtained through consultation undertaken “at the neighbourhood level”. This does not necessarily prevent the Council from allocating neighbourhood CIL funds to borough wide (or larger) projects or initiatives, providing that they meet the requirement in regulation 59F. If the Council decides to depart from the CIL Guidance (i.e. by not allocating funds in accordance with priorities expressed by local communities), it should have and give clear and proper reasons for doing so.