

# INFRASTRUCTURE FINANCE GROUP GUIDANCE ON USE OF CIL – DEVOLUTION TO LOCAL COMMUNITIES

## 1. Introduction

Regulation 3 of The Community Infrastructure Levy Regulations 2010 provides for the Community Infrastructure Levy (CIL). The CIL is designed to provide, improve and replace infrastructure which helps to address the impact of growth and development in a local area. It is raised through a levy on new developments; Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended) restricts the use of CIL to ensure no duplication between CIL and planning obligations (Section 106) and is therefore restricted to spend on infrastructure as identified on the council's Regulation 123 List.

The Localism Act 2011 makes provision for a percentage of Community Infrastructure Levy (CIL) funds raised to go directly to communities. This percentage is known as the “meaningful local proportion” (MLP). Engagement with the community is a legislative requirement in deciding how CIL MLP funds should be spent.

The Council's Cabinet on 16<sup>th</sup> November 2016 agreed to “extend the range of funding available to local engagement pilots, where appropriate and subject to the relevant conditions on use, to include Community Infrastructure Levy”.

In Croydon, CIL MLP budgets have been devolved to local ward councillors in three early adopter areas in a pilot scheme that sits within the council's community empowerment and devolution project. The intention is that the CIL MLP funding can be used to support provision of social infrastructure that is independent and self-sustaining of the council<sup>1</sup>.

The aim of the CIL MLP pilot is to trial and then review the use of this funding in these three areas before allocating further funds more widely across the borough. In particular, the pilots will look at how to ensure governance around use of the funds is proportionate, balancing ease for the community with the need for accountability, and mechanisms for community involvement in decisions about how the funds are spent.

## 2. What is CIL

CIL is a charge which local authorities can levy on most types of new development and changes the way in which developers contribute to the provision of infrastructure in Croydon. The proceeds of the levy will provide local and sub-regional infrastructure to support the development of the borough in line with Croydon's

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<sup>1</sup> By **social infrastructure**, we mean the **social connections and the organisations and services that build them in a community**. Strong social infrastructures create strong communities with resilience and the foundations for growth in both economic capital and social justice. This definition is wider than that sometimes used to refer to those assets that support the delivery of government led services such as social care, health or education.

development plan and infrastructure planning (Infrastructure Delivery Plan, Growth Zone Project Programme and Capital Strategy).

CIL allows local authorities to raise funds from development to pay for the infrastructure. CIL takes the form of a tariff per m<sup>2</sup> of additional floorspace. The level of the tariff is set by the local authority based on the needs identified through infrastructure planning, but also tested to ensure that it will not affect the viability of developments.

### **3. What CIL will fund (123 list)**

The Council has published a list of infrastructure types and projects that or may be, wholly or partly funded by CIL. This is known as the Regulation 123 list. It will be kept up to date to take into account any changes in circumstances and / or infrastructure needs identified in the future.

The 123 list of the infrastructure projects or types that Croydon will, or maybe, wholly or partly funded by CIL are as follows.

- Provision, improvement, replacement, operation or maintenance of education facilities
- Provision, improvement, replacement, operation or maintenance of health care facilities
- Provision, improvement, replacement, operation or maintenance of those projects listed in the Connected Croydon Delivery Programme dated April 2013 and any projects as may be added to the said Programme after April 2013 as approved by Cabinet
- Provision, improvement, replacement, operation or maintenance of public open space
- Provision, improvement, replacement, operation or maintenance of public sports and leisure
- Provision, improvement, replacement, operation or maintenance of community facilities

### **4. Who can access the funding?**

Three early adopter community devolution areas were identified in the “Devolution to communities” cabinet report (November 2016). These are:

- Purley
- New Addington and Fieldway
- South Norwood and Woodside

Each early adopter area has up to £20,000 of CIL MLP to allocate to community devolution projects. Local ward members for each area have the collective authority to decide how their local CIL MLP allocation is spent.

In order to comply with CIL legislation, there must be demonstrable and transparent engagement with the community in coming to any decision about the allocation of CIL MLP funds.

## **5. Role of the Infrastructure Finance Group**

The Infrastructure Finance Group (IFG) has the responsibility for ensuring that all CIL and Section 106 money is spent in accordance with the relevant guidance and legislation.

The IFG has the following responsibilities as determined by the IFG Terms of Reference

- Allocation of Section 106 and Community Infrastructure Levy (CIL) income to agreed Infrastructure Delivery Plan, Growth Zone and Capital Strategy projects.
- Monitor and manage Section 106 and CIL expenditure and project delivery, which will be based on project manager accountability.
- Coordinate the reporting of CIL and S106 expenditure as required by relevant Regulations and through the Authority's Monitoring Report.

In the case of the community devolution early adopter CIL MLP allocations, the IFG will play an assurance role, rather than a decision making role, in line with the principles of community empowerment and devolution.

Once councillors, working with the community, have come to a decision about allocation of any CIL MLP funds, a fourteen day "assurance" period will apply before any money can be drawn down. During this time, the IFG or relevant lead officers will review the proposal. Once satisfied that CIL guidance and legislation is being adhered to, the IFG will approve the draw down of the required funds.

## **6. Identifying projects**

Local CIL MLP budgets need to offer a different funding mechanism to those that already exist. Therefore, the allocation of funds is not envisaged to be a competitive bidding process. Instead, local priorities that would benefit from a one off investment and that can act as a catalyst for positive change for the area should be identified through a process of community engagement.

Councillors will then determine how best to allocate the dedicated resource, reflecting the ideas and aspirations that have been raised and discussed. Councillors could choose to further devolve decision making in relation to local CIL MLP spend – for example to a constituted local group recognised by the Council, providing that group is representative of the wider community. This may require the signing of a third party funding agreement to ensure the monitoring of the spending of the allocation.

Support can be provided to councillors in planning engagement activities to determine projects with the community the projects to enjoy CIL MLP funding and additionally officers may be able to assist with the implementation of these plans and activities that reach out to communities. A simple toolkit has been developed to assist with this, and the council will also be piloting a digital platform to promote further reach to our communities. As part of the IFG's assurance function, the IFG will ensure the engagement with the community has been of a nature and level to meet the CIL Regulations in this regard.

Ward councillors must consider, identify and report to a named officer any potential conflicts of interest in relation to proposals they are supporting.

### **7. Criteria for allocating funds:**

- In all cases, projects or initiatives must:
  - Meet an identified community need that aligns with Croydon's Community Strategy.
  - Deliver infrastructure as identified on the council's Regulation 123 List.
  - Clearly show how community engagement has taken place, in accordance with the CIL Regulations, in identifying community needs and in deciding how to allocate any funds
  - Be able to demonstrate the likely impact of the investment and how this meets one or more objectives of the Croydon Community Strategy
  - Identify any ongoing revenue or longer term capital funding requirements and how these are likely to be met
- The funding must be used for capital expenditure<sup>2</sup> and cannot be used for ongoing revenue costs.
- Funds can be matched with other funding sources, including community ward budgets.

### **CIL funding cannot be used for:**

- Community meeting costs, for example through hiring meeting rooms or printing, unless it can be demonstrated that these costs are specific to the proposal being funded;
- Projects that would adversely impact the local community, environment or economy;

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Using new powers introduced in the Localism Bill, the Government will require charging authorities to allocate a meaningful proportion of levy revenues raised in each neighbourhood back to that neighbourhood. This will ensure that where a neighbourhood bears the brunt of a new development, it receives sufficient money to help it manage those impacts. It complements the introduction of other powerful new incentives for local authorities that will ensure that local areas benefit from development they welcome. Local authorities will need to work closely with neighbourhoods to decide what infrastructure they require, and balance neighbourhood funding with wider infrastructure funding that supports growth. They will retain the ability to use the levy income to address the cumulative impact on infrastructure that may occur further away from the development. (DCLG 2011 Communities Infrastructure Levy: An Overview)

In accordance with CIL Regulation 59 of the CIL Regulations 2010 (as amended), CIL income can be applied towards the provision, improvement, replacement, operation or maintenance of infrastructure detailed in the Council's Regulation 123 list.

- Projects that would undermine council approved priorities;
- Projects that create an ongoing maintenance cost for the council;
- Funding the mainstream activities of a commercial or voluntary sector organisation;
- Funding retrospective applications (for example, for already purchased equipment);
- Supporting any kind of political activity including lobbying or campaigning against the council or its agreed priorities;
- Projects that do not accord with the IFG's Terms of Reference and this guidance document; and
- Projects/proposals that would be unlawful for the Council to support.

### **Management of the funding**

- CIL funding has no immediate deadline and therefore is available on a rolling basis.
- The frequency with which decisions are made on spending of the budget is at councillors' discretion.
- CIL funds are public money and so the same rules apply as would apply to any other council spending. All spending is subject to the council's constitution, standing orders and financial regulations, as well as the appropriate scrutiny and accountability.
- The Council will and are required to monitor that projects supported by CIL MLP funding have been delivered. In the cases of the early adopter areas, it is the intention that these projects will be used as case studies for CIL MLP fund usage.
- If councillors believe at any point that the funds awarded have been used for different purposes than those applied for, they should notify the named officer who will make a decision on the most appropriate course of action, including income recovery.
- As part of the overall project transparency and scrutiny councillors will be expected to contribute to reporting on how funds have been allocated and spent and the impact of this expenditure. This will form part of the Council's ongoing (monthly) and annual monitoring regarding the spending of CIL as required by the CIL Regulations.