

Community Infrastructure Levy (CIL) Protocol

Contents

1. Introduction	3
2. Allocation of funds	3
3. What can CIL be spent on?	4
4. Process for CIL Strategic fund allocation	4
5. Recommendations	7
6. Timetable	8
7. Payment of funds	9
8. Monitoring	9

1. Introduction

- 1.1 East Hampshire District Council in its role as Planning Authority for those parts of the district located outside of the South Downs National Park is responsible for making the final decision on the allocation of funding raised through the Community Infrastructure Levy (CIL) in the planning authority area. The aim of the Protocol is to ensure that the decision-making process is transparent. Through it, the Council will identify and agree priorities for the use of CIL and the allocation of funds on an annual basis.
- 1.2 This CIL Spending Protocol was adopted by East Hampshire District Council on 14 January 2021 and sets out the process for determining the spending of CIL. A guide on how to apply for CIL funding supports this process and is available to view here <https://www.easthants.gov.uk/planning-services/planning-policy/community-infrastructure-levy-cil/cil-spending-bid-process>.
- 1.3 Decisions on how CIL income should be spent within East Hampshire District (outside the South Downs National Park) lie with East Hampshire District Council for the strategic CIL funding pot and with Town and Parish Councils in relation to the Neighbourhood portion of CIL. Further information on the Neighbourhood Portion, please contact Parish/Town Councils.

2. Allocation of funds

- 2.1 CIL collected will be used to provide infrastructure to support growth within the Planning Authority area. Of this:
 - a) 5% of CIL receipts will be used within the Council's Planning Service budget to provide a dedicated resource for the annual monitoring and management required by the CIL Regulations.
 - b) The appropriate proportion of receipts will be allocated to the relevant town or parish council in line with the Regulations ('Neighbourhood portion'). Towns and Parishes that have a 'made' Neighbourhood Plan will receive 25% of receipts accruing from development within their parish. Parishes without a 'made' plan including those where a plan is in preparation will receive 15%, capped annually at £100 per existing council tax dwelling within the parish in accordance with the CIL Regulations; and
 - c) The remaining receipts ('Strategic portion') will be allocated by the Council for investment in infrastructure for the benefit of the district, in accordance with this Spending Protocol.
- 2.2 It will be for individual town and parish councils to determine how their portion ('Neighbourhood portion') of CIL receipts is spent, however it is recommended that they work closely with EHDC to agree on infrastructure spending priorities. The Council works closely with town and parish councils and welcomes regular dialogue and reporting.

3. What can CIL be spent on?

- 3.1 The District Council must spend its CIL funds on the provision, improvement, replacement, operation, or maintenance of infrastructure¹ needed to support the development of the area.
- 3.2 There is more freedom regarding the use of the Neighbourhood Portion which can also be applied to 'anything else that is concerned with addressing the demands that development places on an area'. Any organisation wishing to apply for funding based on this consideration should contact the local Parish/Town Council.
- 3.3 It is important to note that CIL receipts are intended to provide new infrastructure and should not be used to remedy pre-existing deficiencies unless they will be made more severe by new development, and then should be proportionate to the growth it supports. It is important to recognise that CIL receipts can only be spent on capital projects, although associated revenue spending to maintain those capital items is also permissible. It can be used to increase the capacity of existing infrastructure (such as extending a school) or to repair failing infrastructure (such as a community building) if that is necessary to support additional development (assessed on a case by case basis).

4. Process for CIL Strategic fund allocation

4.1 Initial steps

- EHDC will publish annually the amount of CIL that is available to be spent.
- EHDC will review internal strategies and evidence including the Infrastructure Plan and Local Plan to assist in identifying the infrastructure that is required to support development.
- EHDC will engage with service and infrastructure providers including town and parish councils to discuss possible infrastructure schemes necessary to support development of the area.

4.2 Application process

- 4.3 EHDC will confirm the level of funds available and then invite organisations to formally submit projects for CIL funding for a period of 4-6 weeks (to be determined each year).

¹ Infrastructure is defined as including roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities, and open spaces (S216, Planning Act 2008, as amended by Regulation 63).

- 4.4 Those who have identified a project should complete the application documentation and submit in line with the published deadlines for that year.
- 4.5 A standard proforma has been prepared (Application Form A) that organisations with an infrastructure project that they are seeking CIL funding towards must complete. This requires information to be provided on:
- a) The public benefit of proposed schemes
 - b) The value for money that a scheme provides
 - c) The proportion of funding that CIL will be providing (with the expectation being that it will be some way short of 100%)
 - d) The deliverability of the scheme
 - e) The maintenance arrangements that are in place; and
 - f) The information that will be provided by the project sponsor following any grant of funding.
- 4.6 Suggested projects should be supported by evidence of existing demands, additional demands likely to arise from proposed development, the extent to which relevant existing infrastructure or services are capable, in terms of location, capacity and suitability, of meeting those additional demands and the estimated costs of providing new infrastructure or improving existing infrastructure to meet these additional demands. The project plan should set out the full costs of the scheme and the timescales for implementation.
- 4.7 The application process will take place annually.
- 4.8 A guide on how to apply for CIL funding is available at <https://www.easthants.gov.uk/planning-services/planning-policy/community-infrastructure-levy-cil/cil-spending-bid-process>. If you are interested in applying for CIL funds, please ensure you read the supporting guide.
- 4.9 **Evaluation of proposed schemes**
- 4.10 All proposed schemes submitted will be evaluated.
- 4.11 Evaluation will be undertaken by an internal council officer team which includes Planning Policy.
- 4.12 **Prioritisation of CIL funds**
- 4.13 Due to the total infrastructure costs being in excess of the amount of funding likely to be available through CIL, the Council will use prioritisation as part of the evaluation of proposed schemes to ensure CIL monies are spent in the most appropriate way to ensure that it will support the most needed infrastructure in the district. Six categories of prioritisation are used and are defined as follows:

- 4.14 **Critical (C)** - Infrastructure that must happen to enable growth i.e. required to unlock any future works, and without it, development cannot proceed and would prevent either the Local Plan as a whole or a specific target or project if not delivered. These projects are set out in the EHDC Local Plan, Infrastructure Delivery Plan (IDP), and/or Infrastructure Funding Statement (IFS). These infrastructure items may be referred to as “showstoppers” and are usually linked to being able to permit development that is included in Council Strategies.
- 4.15 **Essential (E)** - Infrastructure that is essential and considered necessary to support and/or mitigate impact arising from the development. These projects are usually identified in the Infrastructure Plan. However, they could also be included in other strategies or evidence supporting the Local Plan. These are particularly expected to be projects linked to the in-combination impact of development, rather than being linked specifically to any one particular development site. The timing of such infrastructure is less sensitive than critical projects and does not prevent the development of any specific development site.
- 4.16 **Desirable (D)** - Infrastructure that is required to support wider strategic objectives, often aligned to placemaking and to build sustainable communities, but would not necessarily prevent development from occurring. This type of infrastructure is more influenced by whether a person chooses to use this facility or service e.g. community facilities, libraries, and sports facilities. The timing of this infrastructure is not critical over the plan period.
- 4.17 **Premature (P)** – The proposed infrastructure does not include other sources of relevant funding to contribute to delivering the project/scheme, or the item included in the bid is inappropriate considering the progression of the project. In likelihood, further work is needed on the project/scheme and appropriate signposting to resources will be included if possible. It is perfectly possible that such a project/scheme could be critical, essential, or desirable at a future date or in an amended form.
- 4.18 **Invalid (I)** – The project/scheme does not meet the necessary requirements or does not contain sufficient information.
- 4.19 **Maintenance (M)** – The project/scheme relates to the maintenance of a piece of infrastructure rather than capital works. As such, it is an inappropriate use of the Community Infrastructure Levy.
- 4.20 Projects put forward by service providers should reflect:
- Projects that support growth as set out in the Local Plan and Brownfield register
 - Projects outlined in the Council’s Infrastructure Plan
 - Other relevant approved strategies and plans e.g. Local Transport Plan; Playing Pitch Strategy; Schools Places Plan.

4.21 Other factors considered in determining whether schemes should be funded by CIL

4.22 Form B sets out the factors that the Council will consider in determining whether a scheme should receive CIL funding. It does not however, limit weight being given to other factors that are relevant on a case-by-case basis. The factors listed include:

- The public benefit of proposed schemes
- The value for money that a scheme provides
- Whether the scheme/project is included in the Council's Infrastructure Plan/other relevant strategies and plans or there is good reason why it is not
- Whether the CIL contribution will be only part of the funding and the project is to be funded from a number of other sources too, including funding from the CIL paid to town and parish councils. The Council will not fund 100% of infrastructure schemes
- Whether evidence has been provided to demonstrate that the scheme is deliverable within the next 12 months and that there are sufficient maintenance arrangements in place.

4.23 Additional other factors to those above are listed in Form B. Prospective applicants should see the full list. Form B is not a form to be completed by the applicant. Form B explains the process by which applications will be evaluated.

5. Recommendations

5.1 The officers in consultation with the Portfolio Holders may make the following recommendations to Cabinet for it to ratify:

- a) Funding for the scheme is approved and the proportion of costs and is therefore listed in the IFS
- b) Funding for the scheme is not approved on the basis that other proposed schemes that have been identified have been given greater priority, but it could be a project in the future
- c) Funding for the scheme is not approved on the basis that insufficient evidence has been provided to justify it, but it could be a project in the future if supported with sufficient evidence
- d) Funding for the scheme is not approved on the basis that the scheme is not considered to be an appropriate use of CIL and would not be supported in the future.

5.2 These recommendations should give project sponsors an indication of whether they should consider progressing their scheme for application again and what additional information, if anything, should be provided to support it in the future.

5.3 It is not necessary to recommend projects to total the full amount of CIL available. If there is CIL left over this can be retained and rolled forward to be put forward to more critical infrastructure in the next 12-month period. There will be times when some infrastructure will

need funds to be accumulated over time so that there is enough in the CIL pot to fund a project. If we are aware of such projects the IFS can allocate a proportion of CIL receipts each year until the critical amount is reached to fund the project. If schemes are not deemed important enough, the money should not be allocated.

5.4 Reporting the officer recommendation

5.5 The outcome of the evaluation process includes consultation with the relevant Portfolio Holders. The Officers in consultation with the relevant Portfolio Holders are expected to reach a balanced judgement and give reasons for their recommendation and Cabinet for its decision.

5.6 This will then be reported to Cabinet for approval each year.

5.7 Once formal approval has been secured, applicants will be notified of the outcome in line with one of the listed types of recommendations (see Section 5.1).

5.8 The Councils' arrangements are to produce an IFS which lists those schemes to be funded by CIL. The successful schemes will then be entered onto the IFS which will be published on the Council's website.

6. Timetable

6.1 The table below shows approximate timescales on an annual basis. Specific dates will be published each year and publicised.

Step	Date
Initial steps (incl. dialogue re potential projects)	December – February
Application process open	February – March
Evaluation of proposed schemes	April - June
Formal decision	July

6.2 Post decision

6.3 The promoters for the successful projects for CIL funding will be expected to maintain communication with EHDC on the progress of their scheme after it has been listed on the latest IFS. Where funding has been agreed 'in principle' or where staged payments are agreed, the scheme promoter will be expected to provide information to justify funding being transferred.

6.4 Scheme promoters should continue to provide information until the scheme has been completed and all CIL funding has been spent. As a minimum, an annual return will need to provide information on the progress of each scheme that funding has been allocated to in order that the Council is able to fulfil its monitoring requirements under the CIL Regulations.

A requirement to submit this information forms part of the declaration that the scheme promoter is required to sign.

7. Payment of funds

- 7.1 The Council will set up a purchase order to external bodies and suppliers when a detailed project plan is provided. Invoices will be paid in arrears after completion of works or stages of work. If difficulties arise with this method, with appropriate evidence, the Council will work closely with the organisation on a case by case basis to resolve the matter.
- 7.2 Reports should be provided to EHDC at regular intervals on the progress of schemes so that details can be provided in the financial monitoring reports considered by Cabinet. To avoid funding being held up on schemes that are not progressing, if the project does not progress in line with the submitted project plan, and there are no mitigating circumstances to justify the carrying forward of funding, then the Council reserves the right to withdraw the funding to allocate to other projects.
- 7.3 In accordance with the Regulations², EHDC as the charging authority of CIL will make payments to the relevant town and parish council as follows, unless otherwise agreed:
- Payment by 28th October in respect of CIL receipts between 1st April and 30th September
 - Payment by 28th April in respect of CIL receipts 1st October and 31st March.

8. Monitoring

- 8.1 The Council will set out in the Authority Monitoring Report and/or IFS the amount of CIL that has been received in the planning authority area, how it has been spent and the sum remaining in the fund in the reporting year. The progress of spends will be monitored and reported to Cabinet.
- 8.2 It should be noted that, in accordance with the Regulations³, if a town or parish council does not spend its levy share within 5 years of receipt, or does not spend it on initiatives that support the development of the area, EHDC may require it to repay some or all of those funds to EHDC as charging authority.
- 8.3 Some town or parish councils may wish for EHDC to hold and spend its CIL funds on its behalf. In such cases, EHDC will report this separately.

² The Community Infrastructure Levy (Amendment) Regulations 2013, Regulation 59D

³ The Community Infrastructure Levy (Amendment) Regulations 2013, Regulation 59E