

Appendix E – Consultation Responses

Department	Response	Action Taken
<p>Finance – <i>processes for accessing funding and proposed allocation and usage of funds</i></p>	<p>A written response to the internal consultation has not yet been received from the finance team. Discussions with the chief accountant indicated that the use of CIL funds must comply with CIL regulations and fit in with the council’s constitutional financial procedures. Whilst the mechanisms for allocation and spend of CIL monies are not required for inclusion in the spending strategy, these must be agreed as part of the wider process.</p>	<p>Further discussion with Finance team to agree processes for allocating CIL as part of budget setting.</p>
<p>Legal – <i>does the reviewed strategy meet CIL regulations and council’s constitution</i></p>	<p>ADVICE NOTE SPENDING OF CIL ON MAINTENANCE OF EXISTING INFRASTRUCTURE</p> <p>There is an ability for a Council as Charging Authority to spend CIL on maintenance of existing infrastructure that supports the development of its area. There is a requirement that this be confined to areas within the Charging Authority’s area that have clearly experienced housing growth and that thereby it will ameliorate the demands that such development has made on that specific part of the Charging Authority’s area. However, the levy is intended to focus on the provision of new or improved infrastructure and should not be used to remedy pre-existing deficiencies unless those deficiencies will be made more severe by new housing development.</p> <p>The position is: - As Reg 123 was repealed in the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 (Amendment Regulations) which came into force on 1 September 2019, Councils are no longer bound by the requirement for the use of the funds to be included in that list.</p> <p>There is a requirement in the Regs to publish an Annual Infrastructure Funding List (albeit with no penalty if an LPA does not comply) this would be a District wide list (i.e. it would not be necessary to link specific spending on infrastructure to CIL charged on specific developments).</p> <p>Section 216(1), Planning Act 2008 and regulation 59, CIL Regulations 2010 (CIL Regs) set out the broad purposes for which the money raised</p>	<p>Reviewed strategy meets the advice received from the legal team. However, this guidance will need to be factored into the process behind the strategy in more detail to ensure that use of funding is in accordance with regulations. Consultation with the legal team on requests to access CIL funding (along with finance and planning teams) would be included as a key part of this process.</p>

through CIL can be spent:

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(1) Subject to [sections 216A(1), 216B(2) and] 219(5), CIL regulations must require the authority that charges CIL to apply it, or cause it to be applied, to [**supporting development** by funding the provision, improvement, replacement, operation or maintenance of infrastructure].

(2) In [this section (except subsection (3)) and sections 216A(2) and 216B(2)] “infrastructure”

includes—

- (a) roads and other transport facilities,
- (b) flood defences,
- (c) schools and other educational facilities,
- (d) medical facilities,
- (e) **sporting and recreational facilities**, [and]
- (f) open spaces

*CIL Reg 59 (1): A charging authority must apply CIL to funding [the provision, improvement, replacement, operation or **maintenance of**] **infrastructure to support the development of its area.***

*CIL Reg 59 (4): For the purposes of this regulation, any reference to applying CIL includes a reference to causing it to be applied, and **includes passing CIL to another person for that person to apply to funding infrastructure.***

A definition of “area” could not be found in the interpretation provisions of either the CIL Regs or the Planning Act so and it is therefore reasonable to take it as the normal extent of the relevant district. In any event CIL Reg 59(3) allows expenditure out of the “area” where to do so would support the development of its area.

The Council will need to be able legally justify that any existing infrastructure we sought to maintain from CIL supports development in the area on a case by case basis.

While this wording leaves a lot more flexibility than in relation to the application of funds received by a planning obligation pursuant to s106, there could be a potential risk of challenge to the Council if it applied funds where it did not “ support the development of its area”.

A developer who was concerned about the application of its CIL funds may well make an FOI application seeking confirmation of how funds were spent and there would need to be a clear justification that the application of the funds supported development in the area. CIL Regulations set the context for the spending of CIL funds on infrastructure. The regulations encourage the accumulation of CIL funds into a 'pot'. Unlike other obligations or charges, CIL spending does not need to be directly related to the donor development and can address infrastructure needs in general across the Councils' administrative areas. Under CIL, the relevant Council will act as the designated Charging Authority.

As a Charging Authority the relevant Council has an obligation to:

Prepare and publish the CIL Charging Schedule and determine CIL spend, ensuring it is used to fund the provision, improvement, replacement, operation or maintenance of infrastructure to support development of its area.

Report publicly on the amount of CIL revenue collected, spent and retained each year.

CIL monies can be spent on the provision, improvement, replacement, operation or maintenance of infrastructure, or anything else that is concerned with addressing demands that development places on an area. However, **CIL may only be used to fund a project in an area that has experienced housing growth.**

The Levy can be used to increase the capacity of existing infrastructure or to repair failing infrastructure if that is necessary to support development.

CIL cannot be used to fund solutions to existing problems i.e. traffic

calming/management or on repairs to existing infrastructure in an area that has not experienced housing growth.

The levy is intended to focus on the provision of new or improved infrastructure and should not be used to remedy pre-existing deficiencies unless those deficiencies will be made more severe by new development.

CIL is just one funding stream that can be used, in conjunction with others, to fund infrastructure projects. Alongside CIL, S106 obligations still exist, generally as one-off agreements to mitigate the impacts of larger developments and to secure on-site developer requirements, such as the provision of affordable housing.

CIL must be applied to funding infrastructure to support the development of the charging authority's area. There is no absolute definition of infrastructure.

Those who contribute to infrastructure through CIL do not have a formal mechanism within the legislation to ensure delivery. Charging authorities must prepare a report for any financial year in which it collects CIL. The report must include total receipts and expenditure, total retained receipts and summary details of expenditure including items of infrastructure to which CIL has been applied, CIL expenditure on each item, CIL applied to repay money and fund administration.

It is very unlikely that CIL will generate enough funds to completely cover the cost of new infrastructure needed to fully support planned development. As such, there will be competing demands for this funding. It is therefore important to ensure that there are robust, accountable and democratic structures in place within each Charging Authority to ensure the spending of CIL funds are prioritised in the right way.

Eligible Projects

Initial Check: -

- The organisation has the legal right to carry out the proposed project
- The project falls within the definition of 'Infrastructure' as per the CIL

	<p>Regulations and Planning Act 2008 - The project is for an area of housing growth and therefore passes the supporting the development of the Charging Authority's area test</p> <p>Assessment of project against criteria to include: The need for the project The reason why the scheme should benefit from CIL funding The public benefit of the project The deliverability of the project Timetable for delivery (at least indicative) The value for money that a scheme provides</p> <p>Where CIL is only intended to fund part of the project, assurance through the provision of details/evidence of other sources of secured funding to be used to complete it.</p> <p>CIL is not to be used for routine expenditure of the Charging Authority but targeted towards supporting the development of its area by the provision of new and improved infrastructure.</p> <p>Vivien Williams, Solicitor, Interim Litigation and Planning Team Leader 11/09/2020</p>	
<p>Planning Policy – <i>relationship to current planning policy in particular Appendix D point 3, are the sites listed correct? Point 11, is more up to date information available? Point 21, are the sites listed correct?</i></p>	<p>Planning Policy have reviewed the Spending Strategy at Appendix D. Minor track changes have been proposed, concerning the emerging local plan. The Core Strategy sites at para 3 are correct (some minor correction to names at para 21). There are further sites in the emerging local plan, this has been reflected in an update to footnote 1. On para 11, we can supply more recent housing trajectories to help with new estimates of CIL income if helpful.</p>	<p>Report updated with comments provided</p>
<p>CIL and S106 Monitoring Team</p>	<p>Hi Mark</p> <p>I don't have a space to respond on the form so I'm emailing my response.</p>	<p>Report updated with corrected figures</p>

	<p>I believe the new spending strategy is far better and provides more flexibility, especially in view of the possible new government changes in the Planning Reform for Infrastructure white paper.</p> <p>However, my figures for what we have collected do not match up for South for the period 1 April 2016 to 31 July 2020, using the “Date Paid”. I have attached my report and the figures are slightly different:</p> <p>Total £21,129,440.74 Parish £3,839,001.29 Admin £1,094,065 DC £16,196,373.68</p> <p>Kind regards Lisa</p> <p>Lisa Moss Community Infrastructure Officer</p>	
<p>Planning Development</p>		
<p>Active Communities – as current recipient</p>	<p>Support:</p> <ul style="list-style-type: none"> • Removal of the requirement to 'wherever possible, spend the funds in the area they were generated'. • Allow the use of CIL funding across the district council boundary for funds that were generated in the garden town area, providing that this is for projects within that area. • Addition of the option to allow funds to be used on existing infrastructure if this supports development (as allowed by the regulations), as well as for new infrastructure items as identified in the IDP, providing that they meet corporate priorities • <p>These changes provide much needed flexibility and agility to allow council departments to respond to changing demands and priorities.</p>	<p>No action required. Concerns to be raised to SMT and members</p> <p>Regarding the question at the end of comments:</p> <p>The reviewed strategy would take any unspent / unapproved funds into the new allocation process.</p>

	<p>Concerns: AC officers are concerned that the ring fenced 20% allocation will no longer be available and the potential negative implications for the team to deliver necessary capital and infrastructure projects that support the development of local leisure facilities. Previously the team was given the steer that CIL and S106 should be used wherever possible to deliver capital and infrastructure projects. The proposed changes may reduce the team's ability to maintain and improve the council leisure facilities. To date the funding allocated to Leisure has not been spent as the team was in the process of developing a CIL Spending Strategy to outline how the funding will be used to deliver local leisure infrastructure projects. Under the proposed process, the team will write a delivery and action plan for the following financial year and submit a GW1 to access the CIL funding. Clear criteria for assessing and prioritising applications for CIL funding is needed so that AC officers can prepare competitive applications. It would be useful if the decision-making process included consideration of the short, medium- and long-term implications of not using CIL for the proposed project. For example, if a boiler upgrade in a leisure centre is not delivered, the council would not meet its contractual obligations and resulting in a forced centre closure due to lack of hot/cold water. This then has reputational implications with residents not being able to use the centres, and financial implications with a loss of income.</p> <p>Would the CIL funding that has already been collected and allocated to Leisure remain allocated or would it be unallocated?</p>	
Public Realm – <i>as current recipient</i>	<p>The public realm team is being integrated into the new internal work force which will focus on providing and GM and WC services as of November 2020.</p> <p>With regard to the report these are my views: -</p> <ol style="list-style-type: none"> 1. The removal of the percentage split requirement will allow bigger projects to be pursued 2. The removal of the requirement to spend funds in the area that they were generated means that larger contributions can be put together to deliver bigger strategic projects. 	<p>No action required.</p> <p>Point 4 relates to internal processes rather than the strategy.</p>

	<p>3. Both the above will enable projects to be completely funded (if justifiable) from CIL funding, ensuring that CIL funding is used to deliver the Council's priorities.</p> <p>4. It would be good practice if the award of CIL was linked into the GW1/2 project process, so that all authorisations were brought together slim lining the process. Currently having two separate routes, one to get the funding agreed and one to get the project agreed, is ineffective and time consuming. Being able to make the process simpler will ensure that one clear decision is taking to promote the Council's priorities. Currently, having two separate processes for approval slows the process down and is confusing. As the council's become more reliant on CIL funding, it will need to be incorporated into an earlier stage of the project process, so that when budgets are agreed by members, propose grants, CIL and the amount the council will have to contribute are all clearly set out within the agreement probably as part of the budget setting process.</p>	
<p>Arts Officer – <i>as current recipient</i></p>	<p>These changes seem a very sensible and practical approach to contributions we have received to date. It has previously been difficult to create projects based around small sums of money in localised areas, that don't particularly relate to the broader need. This revision of the policy will allow us to apply internally for funding to achieve meaningful projects. It is also an opportunity to rephrase the element that says Public Art Infrastructure to relate it back to the NPPF definition of Cultural Infrastructure this way we could support our arts venues to accommodate a growing population</p>	<p>No action required</p>
<p>Countryside Team – <i>as current recipient</i></p>	<p>I have looked through the various documents and the proposed amendments to the Spending Strategy and I support the proposed changes. The new strategy will allow more flexibility for internal spending which I support and although the 5% allocation for Biodiversity and Green Infrastructure will be removed I am comfortable with this as the Councils new corporate priorities should mean that it will still be possible to allocate CIL funding to these type of projects, including those supporting tree planting and climate mitigation.</p> <p>I do however have a few questions and queries which need to be addressed:</p>	<p>Points raised are procedural and do not need to be covered in strategy apart from, perhaps, how admin underspend is dealt with.</p> <p>Points A. 1 and 2. Need to clarify process for funding being bid for / allocated a) in budget setting and b) during financial year if unused funds are available – cover in discussions with finance</p>

- a. As you aware I did put forward proposals for spending the 5% which had been allocated to the Biodiversity Green Infrastructure pot but was unable to take this forward as the process for agreeing the expenditure was (and is still) far from clear. This issue has been frustrating for the organisations who were hoping to benefit from the proposals and ultimately wasted a lot of officer time.

I would therefore like clarity from the spending team of exactly what processes need to be followed to get agreement for expenditure. To this end I have two questions:

1. If the expenditure is agreed as part of the Councils annual budget setting process as specified in paragraph 20 and 27 is there a specific process for bidding for the CIL funds as part of the budget setting process?
 2. If the CIL monies are not fully allocated in the budget setting process then what is the process for accessing the funds? The simple statement that the funds have to be spent in line with the financial procedure rules does not provide any clarity over the process that Officers would have to follow to access funding during the year. I would suggest that some form of process map is drawn up so that there is a clear path to follow detailing what is required and what level of authorisations are required. This will be particularly important if there are competing demands for funding as somebody will have to make the decision as to which go forward.
- b. In paragraphs 8 – 10 the total amount of CIL received up to July 2021 (should this be 2020?) is stated as £20,452,697. In paragraph 10 it suggests that £288,677 was spent on admin over a similar period. Under CIL regs the Council is allowed to spend up to 5% of CIL funds on administration. It would appear (if these figures are right) that the Council has only spent 1.4% of CIL funds on administration. One of the main reasons the Council finds it hard to spend CIL funding is that Officers have been told that we cannot utilise CIL funding to

Process map for applying / approvals to be covered in process rather than spending strategy

Point B. Need to agree process for dealing with underspend of CIL admin. Is preference a. to allocate underspend for the year back into strategic pot or b. to look at which departments receive CIL during the year and allocate remaining admin amount to those teams to cover their admin costs – Cover in discussions with finance

	<p>help us to generate good projects as the admin percentage (5%) has already been used. If this is not the case then could Officers not utilise the unused proportion of the admin funding to help them to work up good quality projects that help us meet our corporate priorities?</p>	
Communications	<p>Online meeting with E East on 18/08/2020 – formal response not yet received but communications will support at the appropriate points when details of any changes are to be made public and have also suggested a one or two page plain English summary to be created to accompany the revised strategy when published.</p>	<p>Update and work with communications as required.</p>
Community Enablement	<p>We support the changes to the CIL spending strategy. Particularly the ability for any department to apply to use CIL funds for projects providing that they meet the criteria set out in the CIL regulations and the spending strategy. It is also good to see that funds won't need to be spent in the areas they were generated'</p> <p>In light of the reduced funding the grants function in the Vale has received over the last couple of years, and the ability to be able to use CIL on existing infrastructure, this could provide an excellent opportunity for the service to bid for funds to run a capital grants scheme/in line with the requirement of CIL regulations and the spending strategy.</p> <p>If possible, it would be great to see a specific reference to running a grants scheme as an example of what the funds applied for, could be used for.</p>	<p>No action required – unless funding is allocated for a grants scheme</p>
<p>Community Engagement – <i>please advise if public consultation would be required for reviewed strategy, point 28 of SMT report</i></p>	<p>In terms of to consult or not to consult it comes down to what material difference will the proposed changes make, what, if any, influence a consultation will have on the outcome, if it is a foregone conclusion that the council needs to be more 'agile' with its money and prop up its budget then there is no point in a consultation. It becomes a comms and information piece of work (and probably a carefully handled one) not consultation.</p> <p>From what we understand this wouldn't require a public consultation per se. However, if there is scope for the proposed amendments to be</p>	<p>Comments added into report – Point 28. No amendments to strategy required.</p>

	<p>influence via a stakeholder consultation then it would be very targeted consultation aimed at town and parishes only we would suggest. It seems T&P would be most impacted from the proposed amendments, however from my reading of the paper there is minimal scope to influence the final decision / outcome as the narrative reads as if this is a ‘must do’ because of budgetary pressures. It’s important to establish to what extent this is ‘a tell’ rather than ‘an ask and give us your views’.</p> <p>It sounds as if there is potentially a good news story around the revisions re: upgrades to existing infrastructure will be allowed once the policy revisions are adopted. The potential hot potato is the section around not spending the money in the same geographical area that it came from.</p> <p>Top and tail: I think it all turns on if this - if the spending strategy decision of the council is a done deal and can’t be influenced avoid consultation. Having said that you might want to consider how a feedback activity might take place so T&P are informed of what is coming and have opportunity to ‘have their say’ give some ‘fast feedback’ or a focus group style approach in order to hear how this is going to land with them. This would need to be clearly labelled as an engagement not consultation (i.e. their feedback will not influence the decision as that’s already been taken) but we are open to hearing views on what this will mean in practice.</p>	
Equalities Officer	No further comments to add	No action required
Garden Towns Team – please advise if cross boundary usage should refer to garden town boundary or area of influence.	<p><i>CIL regulations allow for funds to be spent in neighbouring authorities but the council will not exercise this option with the exception of funds generated in the Didcot Garden Town area (which covers parishes in both South Oxfordshire and Vale of White Horse district areas), providing that the project(s) are within that area. This provision will be replicated in the Vale of White Horse District Council CIL spending strategy.</i></p> <ul style="list-style-type: none"> We welcome this exception and flexibility which will contribute positively to the development of the garden town across two districts as one. 	<p>Didcot Garden Town boundary to be included as an appendix to the strategy.</p> <p>Wording of point 30 (Can the levy be spent outside South Oxfordshire?) to be updated to reflect the final point in the consultation response</p>

	<ul style="list-style-type: none"> • If possible, can we provide more detail regarding the DGT boundary and specify the town and parish wards within in it. They include Didcot, Milton, Appleford, Sutton Courtney, Harwell and East Hagbourne. • We would like this exception to only be inclusive of the DGT boundary rather than the Area of Influence (AOI) in addition. Potential confusion with the AOI and parishes within this could cause concern. • We also wanted to use the review of the strategy as an opportunity to request this small addition: <ul style="list-style-type: none"> ➤ Could the CIL Spending strategy reference that any applications for CIL funding in relation to projects delivered within DGT should align and/or promote the DGT principles and priorities where possible? this approach will contribute positively to creating a high-quality place across the garden town and districts. 	
Partnership and Insight – <i>re corporate priorities</i>	<p>The revised strategy references links to the 6 emerging themes in the 2020-2024 Corporate Plan for South Oxfordshire. Now that restrictions on the use of CIL funds have been used, this will enable more of the council priorities to be realised and this is reflected in the wording of the strategy.</p> <p>The removal of restrictions on spending of funds where they are raised and within district boundaries will allow South Oxfordshire to partner with other district authorities on the achievement of corporate goals.</p> <p>A question proposed is to what extent can the funds now be directed towards the achievement of the council’s climate emergency goals/projects?</p>	Response to query: <i>The reviewed strategy will require for projects funded by CIL to meet the council’s corporate priorities. Therefore, providing the corporate plans set out these goals / projects, spending of CIL funds should fit in with these i.e. if CIL funding was sought to provide a sports hall and the corporate priorities state that new infrastructure (or enhancements to existing infrastructure) must be carbon neutral / use eco-friendly materials etc then this will need to be demonstrated for CIL funding to be allocated to that project. We feel strongly that these priorities</i>

		<p><i>should be set at a corporate level rather than in the CIL strategy so we don't find ourselves in a situation where a project is in line with the corporate priorities but when CIL funding is requested, it is declined as the CIL spending criteria is different / more stringent than the corporate requirements.</i></p> <p><i>Ideally allocation of the funding should be agreed as part of the budget setting process and will therefore be agreed by full council.</i></p> <p>The requirements above are included within the draft of the reviewed strategy, therefore no amendment is required.</p>
<p>Partnership and Insight – <i>re Climate Emergency Response</i></p>	<p>Climate Emergency response</p> <p>1) When the CIL proposals are brought to CEAC, It would be helpful if the documentation could give specific examples of how the CIL changes will support action on the Climate Emergency</p> <p>2) If CIL funds are to be used for the enhancement of existing council infrastructure it is important that projects consider our Climate Emergency carbon neutral targets and do not take a Business as Usual approach. In particular, we should aim where possible to replace natural gas with renewable technologies. It is suggested that further detail is added to the CIL strategy to reflect these points.</p>	<ol style="list-style-type: none"> 1. Details of type of project / infrastructure that CIL could be used for can be given at the CEAC. We will also state that the funds should be used in line with corporate priorities and be driven from the top down. 2. The CIL Spending Strategy links to corporate priorities. Therefore, if this is included in the priorities, projects seeking CIL funding should

	<p>3) It is noted that the deleted Regulation 123 list does not include any examples of energy infrastructure within the approved list of infrastructure types. Therefore, whilst council officers could be used to considering CIL funds for biodiversity improvements, they will not have any experience of using this funding to reduce carbon emissions. It is suggested that the CIL strategy includes an element of education and promotion of these new opportunities which could include:</p> <ul style="list-style-type: none"> · electric vehicle charging points · battery storage · renewable energy installations such as ground mount solar · private wire electricity supplies 	<p>already meet the criteria required by the council. It will then need to be determined if the individual projects meet CIL regulations (capital project, infrastructure, supports development).</p> <p>3. Examples to be included in the climate implications section to promote use of CIL for these purposes. Again, these opportunities should be included in the corporate priorities and the access to CIL funding should fall in line with this.</p>
Risk Management		
Programmes and Assurance – <i>compatibility with the gateway process</i>		
IT – <i>Ocella reporting / capabilities to support the reviewed strategy</i>		