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Community Infrastructure Levy (CIL) Spending Protocol

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1. Introduction & Overview

What is the Community Infrastructure Levy?

- 1.1. The Community Infrastructure Levy (CIL) is a charge which new development in Havant Borough has to pay. The CIL charging schedule sets out the rates of CIL that apply to Havant Borough. Further guidance on the charging regime is available at www.havant.gov.uk/planning-policy/community-infrastructure-levy-cil.
- 1.2. The Community Infrastructure Levy system recognises that new development places pressure on the Borough's infrastructure networks, necessitating expansion and improvement of existing assets and the provision of new infrastructure. CIL funds gathered must be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of the area.
- 1.3. The majority (approximately 80%) of CIL funds collected must be used for strategic projects. A further 15%¹ is set aside for the Neighbourhood Portion. The remaining 5% of CIL funds are used for administration of the service. Different processes and principles govern the spending of the Strategic CIL funds and the Neighbourhood Portion, as set out in sections 3 and 4 of this protocol.
- 1.4. CIL is an important tool for the Council to use to help deliver the infrastructure needed to support the Corporate Strategy, including its supporting place-making strategies, namely the Local Plan² and the Havant Regeneration Strategy³. There is, however, a 'funding gap' between what can reasonably be acquired through CIL and other developer contributions and the full requirements for the expansion of local infrastructure networks. As a result, CIL should only be considered to be one of many, rather than a single reliable source of funding for infrastructure, and many projects will be funded only in part through CIL.

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Status of this document

- 1.5. This document sets out Havant Borough Council's policy framework, including the Capital Strategy, governing the spending of CIL and how this will be used to improve and expand the Borough's infrastructure. A set of more detailed process notes accompanies the protocol in order to set out the how this works in practice for both Strategic and Neighbourhood CIL. These also guide bidding and spending bodies and Council Services through the process.
- 1.6. The protocol will be reviewed periodically and updated if necessary to take account of lessons learnt in its implementation, changes to priorities in the Borough's development strategy or amendments to national regulations or guidance.

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¹ The Neighbourhood Portion rise to 25% in areas which are covered by a made Neighbourhood Plan.

² www.havant.gov.uk/localplan

³ www.havant.gov.uk/have-with-havant

2. Guiding principles

Funding Infrastructure to support development

- 2.1 For the purposes of CIL Infrastructure includes roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities, and open spaces⁴ (NB this is not an exhaustive list). Infrastructure is defined for the purposes of this Spending Protocol as the “services necessary for development to take place and which play a critical role in supporting new development”.
- 2.2 In line with the regulations, CIL funds will be spent in Havant on *the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of the area or outside of the borough where to do so would support the development of the area*.⁵ The levy can be used to fund new infrastructure, increase the capacity of existing infrastructure or to repair failing existing infrastructure, as long as the spend is necessary to support development.
- 2.3 Havant Borough Council, as a guiding principle, will use its CIL to implement its Corporate Strategy and the supporting strategies concerning the development and place making of Havant Borough, namely, the Havant Borough Local Plan and the Havant Regeneration Strategy. CIL will be used to support development through the improvement of the Borough’s existing infrastructure network and the provision of new infrastructure. All CIL funded projects must contribute to this aim.

Best Use of Funds

- 2.4 In order to ensure that CIL funds are used to best effect, projects will only be funded if they meet the following conditions:
- a) The Project is in the Infrastructure Delivery Plan (IDP).⁶
 - b) The project relates to fixed infrastructure/~~‘immovable’ items.~~
 - c) The project goes beyond pure maintenance to improve an asset or provide a new asset.
 - d) The proposal is a capital project.
 - e) The project delivers clear and significant benefits to users/~~the community.~~
 - f) The project is in line with the Council’s Corporate Strategy, including any relevant supporting strategies such as the Regeneration Strategy, Local Plan and Climate Change and Environment Strategy.
 - g) The project supports a Havant Borough Council Asset or supports delivery of the priorities of the Corporate Strategy in partnership with an Infrastructure Provider.

⁴ S216 Planning Act 2008 <https://www.legislation.gov.uk/ukpga/2008/29/section/216>

⁵ [The Community Infrastructure Levy Regulations 2010 \(as amended\)](https://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents)
<https://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>

see also CIL Guidance <https://www.gov.uk/guidance/community-infrastructure-levy#spending-the-levy>

⁶ As the IDP can be timebound, projects proposed that are considered suitable for inclusion in this plan will also be considered

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<https://www.legislation.gov.uk/uksi/2010/948/regulation/59/made> and
<https://www.legislation.gov.uk/uksi/2012/2975/regulation/7/made>: ¶

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- h) The benefits would last long term (minimum 10 years⁷) without having to be replaced or upgraded.
- i) The funding sought is for project delivery, rather than solely project development or feasibility.
- j) The Council is not aware of other dedicated funding or delivery mechanisms for the project whereby the project could be delivered in full.

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Maximising the reach of CIL

- 2.5 The Council is committed to improving the Borough's infrastructure network. The Infrastructure Delivery Plan highlights that there is a 'funding gap' between what can reasonably be acquired through CIL and other developer contributions and the full requirements for the expansion of infrastructure networks.
- 2.6 As a result, CIL is unlikely to fund projects in full. The Council expects delivery teams and organisations to identify and bring to the table other sources of funding that will contribute to the delivery of the projects seeking CIL funding.
- 2.7 Similarly, CIL is a suitable pot of money to be used as match funding for external bids for infrastructure funding.

⁷ Neighbourhood Infrastructure Projects may be for a proportionate timescale relative to the monies requested

3. Strategic CIL

Principles of Strategic CIL spend

- 3.1 The Strategic (or 'main') CIL Pot, approximately 80% of collected funds, will be used by Havant Borough Council to deliver infrastructure that supports the whole Borough. Projects should be of a scale which offer wider than purely local benefits for parts of the Borough.
- 3.2 Strategic funds will be prioritised to address identified infrastructure priorities including those outlined in the Local Plan, and the adopted Corporate and Regeneration Strategy Documents, and address the impacts of development.
- 3.3 There is no requirement to tie the expenditure of any particular CIL receipt to a particular location or development. Since the funds will be used for strategic infrastructure projects, these are considered to benefit the whole borough.

Annual Strategic CIL Funding Proposal

- 3.4 Once a year (usually in the Autumn), stakeholders involved in development and delivery of infrastructure may put forward expressions of interest in respect of projects for funding through CIL and these dates will be advertised on the council's website. While it is expected that Havant Borough Council will use a sizeable proportion of the Strategic Pot to fund capital infrastructure projects, external organisations are also key deliverers of infrastructure to support development and the Corporate Strategy, and funding is also open to these organisations. The Council is particularly keen to hear from organisations with the responsibility and/or ability to deliver the projects identified in the Council's Development Strategies ⁸.
- 3.5 Proposals will be considered against the guiding principles in Section 2 and assessed competitively against each other to form the basis of an annual Strategic CIL Funding Proposal.
- 3.6 The Strategic CIL Funding Proposal will be presented to Cabinet, for consideration as part of the capital budget setting process, before being agreed by Full Council.
- 3.7 Once funding to a project is confirmed, generally funds will be retained by the council until that project is delivered, and funds transferred once proof of successful delivery is received by the CIL Team. This is to safeguard against misuse of CIL funds.

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⁸ **The Local Plan** (adopted and emerging); **The Local Plan Evidence Base** (for example Transport Assessments; Open Space, Sport & Recreation Strategy; Coastal Strategies and Studies etc); **The Infrastructure Delivery Plan**; **The Council's Regeneration Strategy**

3.8 Associated process notes will set out the process in more detail and will be kept under review to ensure the process is efficient and effective. They will not alter the principles set out in this protocol.

4. Neighbourhood Portion

Principles of Neighbourhood Portion CIL spend

- 4.1 The Neighbourhood Portion, 15% of collected funds (see further below), will be used by Havant Borough Council to deliver infrastructure at a neighbourhood and community scale.
- 4.2 National CIL regulations require the Neighbourhood Portion to be used to support the development of the area by funding
- a. *the provision, improvement, replacement, operation or maintenance of infrastructure; or*
 - b. *anything else that is concerned with addressing the demands that development places on an area.*⁹

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- 4.3 The focus of the Neighbourhood Portion funds will be on improving and expanding the capacity and quality of infrastructure assets owned and managed by Havant Borough Council and Havant Borough Council led projects that support delivery of the Corporate Strategy or Local Plan (and evidence bases that support these).¹⁰ This will deliver substantial improvements to local infrastructure assets that area used by a wide variety of residents and groups.

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Neighbourhood Portion Distribution

- 4.4 Havant Borough is unparished, and therefore the Borough Council retains the CIL Neighbourhood Portion and allocates it to community scale projects.
- 4.5 Regulations do not set out at what geographical scale funding allocations in non-parished areas should be made. In Havant, the Council has decided to allocate these funds across the whole Borough. It means that funding can be used in the areas of most need and projects prioritised on their merits rather than geographical availability of funding.
- 4.6 One exception must be noted to the Borough-wide approach: In any area that has an adopted Neighbourhood plan, some funding will be ringfenced. This is because CIL regulations require 25% (instead of 15%) of funds in areas with adopted Neighbourhood Plans to benefit that area.

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⁹ Regulation 59C of The Community Infrastructure Levy (Amendment) Regulations 2013 <https://www.legislation.gov.uk/ukxi/2013/982/regulation/8/made>; see also CIL guidance at <https://www.gov.uk/guidance/community-infrastructure-levy#spending-the-levy>

4.7 In any area with an adopted Neighbourhood Plan¹¹ 15% of the funds raised will be considered as part of the area wide allocation, and an additional 10% will be ringfenced currently specifically for Emsworth. The Council will work with the Neighbourhood Forum, or appropriate other local groups if the Neighbourhood Forum no longer exists, to consider how to spend that 10% in the Neighbourhood Area.

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Annual Funding Awards

4.8 The Neighbourhood Portion will be made available on an annual basis to project delivery teams in line with the table below:

Infrastructure Asset Theme	Proportion of funds
Parks, play, open spaces, sport and leisure	50%
Public realm and public facilities in urban areas	25%
Community Centres	12.5%
Walking and cycling paths and public transport facilities	12.5%

4.9 This distribution will be kept under review (see section 6).

4.10 The amount of Neighbourhood Portion available for the forthcoming financial year will be confirmed as part of the budget setting process. The sum will be based on the CIL Neighbourhood Portion receipts confirmed at the end of the previous financial year. Allocated spends will be included in the Council's quarterly reporting.

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4.11 Despite funds being 'made available' through the budget process, delivery teams will have to make funding requests for specific projects to the CIL Team. The decision on funding will be made by the Executive Head of Place, in consultation with the relevant Cabinet Lead. Eligibility of the project for CIL funding will then be confirmed. As an additional safeguard for the appropriate use of funds, CIL monies will not be released until proof of successful delivery has been received by the CIL Team.

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4.12 Associated process notes will set out the process in more detail and will be kept under review to ensure the process is efficient and effective. They will not alter the principles set out in this protocol.

¹¹ At the time of writing, this applies only to Emsworth

5. Interim Spending Decisions

Provisions for Strategic CIL Interim Spends

- 5.1 In exceptional circumstances, it may be expedient to propose a spend from the Strategic CIL fund outside of the annual funding cycle. Interim spends must remain exceptional and must not be a way to avoid competing against other projects through the annual funding proposal process. Therefore, any such spend would only be acceptable where the proposed spend meets the criteria for CIL spend as set out in the regulations and this protocol, and where:
- a) It would be financially expedient (for example, where CIL could be used as match funding to bid for grant funding from another body such as central government) and the decision cannot wait until the next annual allocation of funds;
- or
- b) Funding is needed to cover a minor overspend on an ongoing CIL funded project.

- 5.2 Where it becomes expedient for a decision to be made outside of the annual preparation of the annual CIL Strategic Funding Proposal, and the above criteria are met, interim spends may be considered as set out in the Capital Strategy (more information in the process note):

(a) 'Capital spending is strictly defined and is principally incurred in buying, constructing or improving physical assets such as buildings, land and vehicles, plant and machinery. It also includes grants and advances to be used for capital purposes. The Council's policy on capitalisation is included in the Accounting Policies of the Statement of Accounts. The policy states that only assets with a value over £15,000 will be capitalised and therefore expenditure under these limits is deemed to be a revenue cost'.

(b) 'Where it appears that any scheme in the capital programme will be overspent by 10% or £50,000, whichever is the greater, a report shall be made to the Cabinet. The Chief Finance Officer will advise the Cabinet whether or how requests for additional capital finance can be achieved within the overall capital programme. The Chief Finance Officer is authorised to approve virements within the capital programme as outlined in Standing Order 63.'

- 5.3 In some circumstances, only the principle of future CIL spend will need to be established, for example to support bids for external funding or to aid project planning and feasibility work. The Strategic CIL funding would still need to be applied for formally through the next bidding round

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In the case of the neighbourhood portion, interim spends are not envisaged, as the full amount of available funding will have been allocated through the budget each year.¶

¶ However, similar to the Strategic CIL, the CIL Team can at any point in the year assess proposals and provide advice on whether the scheme would be suitable for neighbourhood CIL funding. Officers will also be able to give broad estimates as to the possible CIL allocation for each budget in the coming year. Relevant delivery teams can then use this information on the availability of CIL, for example to support bids for external funding.

6. Monitoring and Reporting

- 6.1 The Council will monitor CIL receipts and spends and the sum remaining in the fund each year. The CIL Regulations require the Council to produce and publish an Infrastructure Funding Statement annually with this information.
- 6.2 Following the allocation of CIL funds to a project the Council will expect delivery of that project to the agreed timescales. This applies whether funding comes from the Strategic CIL or the Neighbourhood Portion. Project leads are expected to report their progress on delivery to the CIL Team.
- 6.3 Where projects are not delivered to the agreed timescale or are unlikely to be delivered due to a change in circumstances the funds will be 'returned' for reallocation to other projects.
- 6.4 In addition to ongoing monitoring by officers, the Council's spending of CIL will be monitored and reviewed annually by the Planning Policy Committee. Their role will also consider whether the funding distribution for the Neighbourhood Portion set out in this protocol remains appropriate.

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