



City of Westminster

Cabinet Member Report

Decision Maker:	Cabinet Member for Business, Licensing and Planning
Date:	14 June 2021
Classification	For General Release
Title:	Westminster CIL and S106 – Project Allocations
Wards Affected:	All
Financial Summary:	<p>This report seeks to allocate a total of £0.100m of funding from the Marylebone Neighbourhood CIL portion to the St Marylebone CE School to support the construction of a Green Roof Terrace.</p> <p>CIL governance and spending procedures continue to be developed and implemented using existing resources.</p>
Report of:	Director of Policy and Projects

1.0. Executive Summary

- 1.1. Westminster City Council's Community Infrastructure Levy (CIL) is a charge applied to development to help fund strategic and neighbourhood infrastructure that is required to support the development of the borough of Westminster. Westminster City Council's CIL was formally introduced on 1st May 2016, and as of 12th April 2021 a total of £107.421m has been received. Westminster City Council (WCC) has collected a total of £87.985m for the Strategic CIL Portion, and a total of £14.065m for the Neighbourhood CIL Portion.
- 1.2. CIL has encouraged proposals to be put forward to deliver projects that, as well as dealing with demands placed on infrastructure to support new development, can also deliver wider benefits to the local community. The committee has previously agreed funding allocations of £53.903m for infrastructure projects: £52.036m from the council's 'strategic' CIL portion, and £2.104m from the CIL neighbourhood portion.
- 1.3. The purpose of this report is for the Cabinet Member to consider and approve a funding application for Neighbourhood CIL funding, following successful implementation of the governance arrangements for this aspect of CIL approved by the committee in December 2018.

2.0. Recommendations

- 2.1. The Cabinet Member is asked to approve the following Neighbourhood CIL bids for allocation:
 - i) Redevelopment of the Science Department at St Marylebone CE School.

3.0. Reasons for Decision

- 3.1. In order to ensure robust and effective expenditure and reporting in line with the Community Infrastructure Levy Regulations 2010 (as amended) and in accordance with the council's strategic priorities, CIL spending policy statement and its framework for resource allocation and management.

4.0. Background

- 4.1. The Community Infrastructure Levy (CIL) is a charge that local authorities can impose on new development to help raise funds to deliver infrastructure that is required to support the development and growth of their area. WCC's CIL came in to force on the 1st May 2016 and applies to liable developments that were granted planning permission on or after this date. CIL is payable when works to implement the development commence. As of April 2021, the council has received a total of £107.421m of Westminster CIL.

- 4.2. On the 20th February 2017 Cabinet approved the governance arrangements for administering the WCC Community Infrastructure Levy (CIL) and some of the remaining 'pooled' resources secured through section 106 (s106) agreements, including the establishment of this committee.
- 4.3. The Cabinet CIL Committee held its inaugural meeting on the 2nd November 2017. The committee approved the CIL Policy Spending Statement and considered projects that were put forward for funding from the strategic CIL 'City Portion' and s106 resources.
- 4.4. To date the committee has agreed to allocate £53.903m of CIL funding to projects, as detailed in the council's decision statements of 3rd November 2017, 28th March 2018, 26th July 2018, 31st August 2018, 12th December 2018, 3rd July 2019, 19th October 2019, 21st January 2020, 15th April 2020, 29th July 2020, 25th October 2020, 25th January 2021 and 12th April 2021.
- 4.5. CIL Regulations require apportionment of CIL receipts between:
- the City CIL Strategic Portion (70-80%) – spent by the Council according to its strategic infrastructure priorities;
 - a Neighbourhood Portion of receipts from development in each neighbourhood (15-25%) – spent by the Council in agreement with the neighbourhood communities concerned (other than in Queen's Park, where the portion is paid to, and spent by, the Community Council);
 - a CIL Administrative Portion (5%) – spent by the Council on the administrative costs of CIL collection and administration.
- 4.6. The purpose of this report is therefore for the committee to consider and approve further allocations of funding for projects from the CIL Neighbourhood Portions.

5.0. Overview of Westminster CIL Receipts

- 5.1. The following summary provides a breakdown of WCC CIL receipts for the City CIL strategic portion, the neighbourhood portion and the administration portion for each financial year from 1st May 2016:

Period	City CIL Strategic Portion	Neighbourhood Portion	Administration
01/05/2016 – 31/03/2017	£2.060m	£0.376m	£0.128m
01/04/2017 – 31/03/2018	£11.311m	£1.806m	£0.690m
01/04/2018 – 31/03/2019	£21.848m	£3.040m	£1.310m
01/04/2019 – 31/03/2020	£31.187m	£5.498m	£1.955m
01/04/2020 – 31/03/2021	£18.391m	£2.816m	£1.116m

01/04/2021 – 07/07/2021	£3.127m	£0.602m	£0.196m
Total	£102.476m	£13.189m	£5.124m

Westminster Strategic CIL allocations

- 5.2. The committee has agreed to allocate funding of £52.036m to projects to date from the City CIL Strategic Portion. These allocations have been apportioned to the indicative “funding pots” agreed by Cabinet by infrastructure types shown in the table below.

Infrastructure Type	Indicative percentage allocation of Westminster’s CIL - the ‘City CIL Strategic Portion’	Total Allocated
Public realm / Transport	50%	£28.568m
Health / Community Services	10%	£4.045m
Education	5%	£1.766m
Parks / Sport and Leisure	5%	£2.751m
Utilities / Waste	10%	£4.377m
Other Priorities / Contingency	20%	£10.528m
Total		£52.036m

- 5.3. It is worth noting that Cabinet acknowledged that the above “pot” allocations are indicative, and that the council reserves its right to depart from them if that proves necessary (because there is a major project requiring funding in a particular year, for example). These are broad allocations and in practice there are likely to be overlaps between them.
- 5.4. Following these allocations, the remaining balance of CIL monies received to 25th January 2021 means that £51.62m remains available for allocation to strategic infrastructure projects.

Future CIL Income

- 5.5. Between 1st May 2016 and 26th March 2021, demand notices for a potential value of £129.570m have been issued. These notices are raised following the grant of planning permission and set out what the liable charge would be should work on the development start. The realisation of the remainder of these monies is therefore totally dependent on a developer implementing their planning permission. In Westminster it is common to have multiple planning permissions on a site or for a permission not to be implemented. This figure, while informative, should not therefore be treated as guaranteed future income.

5.6. Between 1st May 2016 and 7th June 2021, demand notices totalling £125.969m have been issued, with a total of £107.421m collected. Where a demand notice has been issued, this means that development has commenced and that CIL is now due for payment. The council's CIL instalment policy allows developers fixed timescales at 90, 180 and 360 days (post-commencement) to pay the amount due. The number of instalments available is dependent on the total amount of CIL due, with higher CIL charges allowing for more time to pay. A further £8.679m is due to be collected over the next year on developments that have already commenced. Further demand notices may also be issued if other developments commence.

6.0. Westminster's CIL: The Neighbourhood Portion

Overview of Neighbourhood CIL

- 6.1. Cabinet agreed that the Senior Officer Working Group should oversee the engagement and allocation processes for the neighbourhood portion of CIL and make recommendations to the Cabinet CIL Committee about the allocation of Neighbourhood CIL.
- 6.2. There are 21 neighbourhood areas throughout Westminster, yet not all of the city's land area is designated, with the bulk of Vincent Square and St. James's wards remaining undesignated. A full list of the ring-fenced neighbourhood portion of CIL is included at Annex A and is broken down by neighbourhood area. As set out in legislation this is set at 15% of CIL receipts in a neighbourhood area capped at £100 per council tax paying dwelling, per annum. Where a neighbourhood area has an adopted neighbourhood plan, the percentage allocated to the neighbourhood rises to 25% uncapped. Local communities in the undesignated areas of the city are still entitled to a say over the neighbourhood portion of CIL in this area.
- 6.3. The total monies assigned to the neighbourhood portion of CIL is £14.065m as of 12th April 2021. A detailed summary of Neighbourhood CIL balances can be found in Annex A.

Summary of Bids from Westminster's Communities for Allocation of Funding from Westminster's CIL Neighbourhood Portion

- 6.4. The Cabinet CIL Committee agreed the governance arrangements for assessing applications from neighbourhood forums and other community organisations in December 2018. Two bidding rounds will be open per year to allow local communities to apply for neighbourhood CIL. The council launched its first neighbourhood CIL bidding round on 11th June 2019. Applications were accepted until 11th September 2019 and were supported by 'application surgeries' where interested parties met with officers to discuss the process and potential projects. Following the close of the application period, all applications were assessed against the agreed criteria in legislation and the council's CIL Spending Policy Statement.

- 6.5. Applications that are recommended for approval “in principle” means that the proposal is eligible for Neighbourhood CIL Funding and is considered viable, however further engagement with council’s departments is needed prior to allocation of funds. An in-principle allocation does not mean the project is being refused for Neighbourhood funding, rather, it is requesting officers to ensure project viability prior to allocation of funds. Applications recommended for approval means that the project is considered viable by officers and is ready for deployment with no further planning or engagement being necessary.
- 6.6. A written summary of the project bids recommended for funding from the CIL Neighbourhood Portion is provided below. This information has been summarised in Annex B
- 6.7. Redevelopment of Science Department at the St Marylebone CE School: This application is for £100,000 from the Marylebone CIL portion to fund the complete redevelopment of the school’s science department (consisting of six laboratories). The current facilities are outdated, cramped and no longer fit for teaching the contemporary science curriculum. The redevelopment will cost a total of £300,000; £25,000 has come from the Parent-Teacher Association, £75,000 from WCC Department Budget and a further £100,000 from the Wolfson Foundation. The project is eligible for Neighbourhood CIL funding as Education Facilities are recognised as fundable infrastructure. The project is supported by the Ward Members of Marylebone High Street, the Marylebone Neighbourhood Forum, the Marylebone Association, and council officers. It is recommended that this project is approved for allocation.

7.0. Financial Implications

- 7.1. CIL is intended to support the strategic infrastructure that is required to support the development of the local area and there is greater flexibility in how it might be applied than there is with s106 funding. Decisions about CIL are transparent and linked with the council’s strategic priorities including those on the Council’s Capital Programme.
- 7.2. The council is in receipt of £107.421m from CIL since it was launched in May 2016 of which, £87.985m is allocated to City CIL Strategic Portion, £14.065m to Neighbourhood Portion and £5.371m to offset the cost of CIL administration.
- 7.3. From the City CIL Strategic Portion, £NIL is requested for approval in this report. The total allocation of Strategic CIL monies to projects will remain unchanged at £52.036m.
- 7.4. To date, the total allocation of the neighbourhood portion of CIL to projects is £2.104m, leaving a balance of £11.961m.
- 7.5. From the Westminster CIL Neighbourhood Portion, £0.100m is requested for approval in this report. If approved, the total allocation of the neighbourhood portion of CIL to projects will be £2.204m, leaving a balance of £11.861m.

- 7.6. Pooled section 106 (s106) contributions for city-wide purposes have largely been replaced by CIL. Nevertheless, there are residual amounts collected under historic s106 agreements that remain available to spend provided they align with the provisions of the individual legal agreements concerned.

8.0. Legal Implications

- 8.1. The legislation governing the development, adoption and administration of a Community Infrastructure Levy (CIL) is contained within the Planning Act (2008) and the Community Infrastructure Levy Regulations 2010 (as amended). The associated government National Planning Policy Guidance is also important in guiding this process. There are other areas of law which should be considered when assessing certain developments for CIL liability and determining the appropriate sum due. These include matters relating to social housing, procurement, charitable institutions and state aid.

9.0. Equalities

- 9.1. Under the Equalities Act 2010 the council has a “public sector equality duty”. This means that in taking decisions and carrying out its functions it must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act; to advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it; and to foster good relations between persons who share a relevant protected characteristic and those who do not share it.
- 9.2. The council is also required to have due regard to the need to take steps to take account of disabled persons’ disabilities even where that involves more favourable treatment; to promote more positive attitudes toward disabled persons; and to encourage participation by disabled persons in public life.
- 9.3. The 2010 Act states that “having due regard” to the need to promote equality of opportunity involves in particular having regard to: the need to remove or minimise disadvantages suffered by persons sharing a protected characteristic; take steps to meet the needs of persons sharing a protected characteristic that are connected with it; take steps to meet the needs of persons who share a protected characteristic that are different from those who do not; and encourage persons with a protected characteristic to participate in public life or any other activity in which participation by such persons is disproportionately low.
- 9.4. The courts have held that “due regard” in this context requires an analysis of the issue under consideration with the specific requirements set out above in mind. It does not require that considerations raised in the analysis should be decisive; it is for the decision-maker to decide what weight should be given to the equality’s implications of the decision.

- 9.5. All decisions on spending CIL will themselves be subject to assessment to ensure the 2010 Act duties are complied with. The council will review its CIL charging schedule on a biennial basis.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

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BACKGROUND PAPERS

Report to Cabinet dated 20th February 2017 on the Governance of the Westminster Community Infrastructure Levy (CIL) and Pooled Section 106 Resources

Report to Cabinet CIL Committee dated 2nd November 2017 on the Governance of the Westminster Community Infrastructure Levy (CIL) and Pooled Section 106 Resources

Decision Statement of Cabinet CIL Committee dated 3rd November 2017 on the Governance of the Westminster Community Infrastructure Levy (CIL) and Pooled Section 106 Resources

Report to Cabinet CIL Committee dated 26th March 2018 on Westminster Community Infrastructure Levy (CIL) and Pooled Section 106 Funding – Project Allocations (Q4)

Decision Statement of Cabinet CIL Committee dated 28th March 2018 on Westminster CIL and Pooled Section 106 Funding – Project Allocations

Report to Cabinet CIL Committee dated 25th July 2018 on Westminster Community Infrastructure Levy (CIL) and Pooled Section 106 Funding – Project Allocations (Q1)

Decision Statement of Cabinet CIL Committee dated 26th July 2018 on Westminster Community Infrastructure Levy (CIL) and Pooled Section 106 Funding – Project Allocations (Q1)

Cabinet Member Report to Cabinet Member for Place Shaping and Planning dated 28th August 2018 on Westminster Community Infrastructure Levy (CIL) – Ward Member Proposals

Decision Statement of Cabinet Member for Place Shaping and Planning dated 31st August 2018 on Westminster Community Infrastructure Levy (CIL) – Ward Member Proposals

Report to Cabinet CIL Committee dated 5th December 2018 on Westminster Community Infrastructure Levy (CIL) – Project Allocations (Q2)

Decision Statement of Cabinet CIL Committee dated 12th December 2018 on Westminster Community Infrastructure Levy (CIL) – Project Allocations

Report to Cabinet CIL Committee dated 1st July 2019 on Westminster Community Infrastructure Levy (CIL) and pooled Section 106 contributions – Project Allocations

Decision Statement of Cabinet CIL Committee dated 3rd July 2019 on Westminster Community Infrastructure Levy (CIL) and pooled Section 106 contributions – Project Allocations

Report to Cabinet CIL Committee dated 9th October 2019 on Westminster Community Infrastructure Levy (CIL) and pooled Section 106 contributions – Project Allocations

Decision Statement of Cabinet CIL Committee dated 10th October 2019 on Westminster Community Infrastructure Levy (CIL) and pooled Section 106 contributions – Project Allocations

Annex A: CIL Balances to 26th March 2021

Total CIL Collected: £107,421,635.12

Strategic CIL Collected: £87,985,365.51

Strategic CIL Allocated: £52,036,589.00

Strategic CIL Available: £53,973,467.64

Total Neighbourhood CIL Available: £13,176,304.08

Neighbourhood Area	Collected	Allocations	Available
Queens Park	£2,097.74		£2,097.74
Notting Hill East	£12,400.07	£10,000.00	£2,400.07
Bayswater	£510,674.53	£169,579.00	£341,095.53
Little Venice and Maida Vale	£1,599,059.40	£215,621.00	£1,383,438.40
Belgravia	£690,640.98	£74,000.00	£616,520.98
Church Street	£606,692.64		£606,692.64
Churchill Gardens Estate	£0.00		£0.00
Ebury Bridge	£0.00		£0.00
Fitzrovia West	£524,586.79	£152,000.00	£372,586.79
Hyde Park and Paddington	£910,534.73	£682,000.00	£228,534.73
Knightsbridge	£67,821.88	£20,000.00	£47,821.88
Maida Hill	£32,590.59		£32,590.59
Marylebone	£1,673,661.12	£245,125.00	£1,428,536.12
Mayfair	£1,554,853.84	£161,003.00	£1,393,850.84
Pimlico	£8,844.28		£8,844.28
Soho	£375,591.38	£40,700.00	£334,891.38
South East Bayswater	£744,258.64		£744,258.64
St James's	£65,542.77		£65,542.77
St John's Wood	£1,411,777.04		£1,411,777.04
Victoria	£430,851.80		£430,851.80
Westbourne	£182,873.32		£182,873.32
Outside Neighbourhood Areas	£1,914,667.43	£145,000.00	£1,778,226.94
TOTAL	£13,310,191.77	£1,747,018.74	£11,523,661.51

Annex B: Projects put forward for funding from Westminster’s Community Infrastructure Levy (CIL) ‘Neighbourhood Portion’

Project Name	Neighbourhood Area/Forum	NCIL Sought
Redevelopment of Science Department at the St Marylebone CE School	Marylebone	£100,000
TOTAL Neighbourhood CIL Sought		£100,000