

# Westminster’s Community Infrastructure Levy CIL Spending Policy Statement October 2022

This document sets local policies and priorities to guide the allocation of Community Infrastructure Levy funds. It constitutes local policy to inform CIL allocations by Westminster City Council. It replaces the earlier Spending Policy Statement (adopted November 2017).

In addition to the requirements and restrictions of national legislation and regulations, all CIL spending decisions must have regard to this document.

## Introduction

Westminster’s Community Infrastructure Levy (CIL) addresses the cumulative impact of development and growth on the City. In concert with other planning obligations, it is a key source of funding projects which provide and enhance the infrastructure required to support growth.

CIL must be spent on the provision, improvement, replacement, operation, or maintenance of public infrastructure needed to support development or growth. CIL can be used to provide new infrastructure or to repair or update existing infrastructure, if that is necessary to support development or growth. It can also be used for anything else that is concerned with addressing the demands that development or growth places on an area.

CIL is allocated by the council on the project’s merits and in accordance with the legal requirements governing council decisions and the requirements of the legislation and regulations governing CIL, its administration, application, and reporting requirements. Further to these requirements, CIL is allocated in line with the policies and priorities set out in local policy, as set out by this document.

The council will seek to supplement the policies set out in this document with more detailed guidance intended to amplify and explain the application of a particular policy to CIL allocations.

## CIL types

The CIL Regulations set requirements for spending CIL in particular ways. The council addresses these requirements by splitting CIL receipts into three ‘pots’ for each CIL type.

CIL Type	Percentage of receipts	Process
Strategic CIL – see section 1	70 - 80%	Strategic CIL is allocated via the annual capital budget process. Spend decided by a strategic, evidence-based approach, which refers to infrastructure planning undertaken by the council. Spend can be anywhere within Westminster - or outside – providing the infrastructure funded is required to support development and growth in Westminster and conforms to legislation and regulations and the policies set out in this document.

Neighbourhood CIL – see section 2	Currently 15% of CIL collected in respect of development in each neighbourhood capped at £100 per council tax dwelling. This increases to 25% (uncapped) in areas where a neighbourhood plan is in place.	Neighbourhood CIL is allocated via an application process to allow the community to identify the projects it seeks to fund. NCIL is collected retained by the Council and spent by it in consultation with the neighbourhood area. Spend can be anywhere within the neighbourhood area – or outside – providing the infrastructure funded is required to support development and growth in Westminster and conforms to legislation and regulations and the policies set out in this document.  <i>Note: Within neighbourhood areas designated as a Community Council eg Queens Park, the Neighbourhood CIL is passed directly to the Community Council who spend it.</i>
Administrative CIL – see section 3	5% of CIL collected	Spend applied to costs of administrative expenses for collection and enforcement in line with legal restrictions on the use of this funding.  <i>Note: 4% of the Mayoral CIL collected by the council can also be retained for this purpose.</i>

## Infrastructure

### Definition

For purposes of CIL, Westminster adopts a broad, holistic, and flexible definition of public<sup>1</sup> infrastructure:

Community infrastructure is the framework of physical assets e.g. facilities and equipment, services, and systems needed to support and sustain a community of people, provided to all members of that community.

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The definition is intended to be flexible. The council will consider arguments setting out how any asset, service, or system constitutes infrastructure.

<sup>1</sup> CIL is concerned with the provision and improvement of public infrastructure, i.e. infrastructure which supports and sustains the community, and not that which supports private enterprises, such as a business or exclusive group. However, it is recognised that private enterprises rely on public infrastructure in addition to their private infrastructure; for example, digital communications networks are public infrastructure, whilst the ICT facilities of a business are private infrastructure, even though those facilities rely on the public network. Furthermore, public infrastructure can be provided by private enterprises; indeed, most utility companies providing public infrastructure such as water and electricity are private enterprises.

<sup>2</sup> This broad definition encompasses any public asset, service, or system which facilitates an individual's or group's ability to: maintain a modern dwelling; utilise energy, potable and waste water, waste services, and communications technology; travel; communicate and access information; engage in household, social, communal, civic, artistic, cultural, or leisure activities; maintain and improve their physical and mental health, primarily through access to health care and physical activity; be kept safe from harm, including harm to their person and their possessions presented by crime and environmental threats such as pollution, weather, and flood risk; educate themselves; engage in leisure activities; and access multi-functional green and blue spaces and other natural features. This list is informed in part by: Dr Larry Beeferman and Dr Allan Wain. Harvard University. "Infrastructure: Defining Matters". 2012.

Categorisation is useful for infrastructure planning, monitoring, and reporting purposes, but it is not intended to be exclusionary. The following categories are used by Westminster:

- **Public realm and transport**, including public realm, public transport, walking and cycling, highways and bridges, and river transport;
- **Health services**, including health facilities, and emergency services;
- **Community and leisure**, including family hubs, community facilities cultural facilities, public toilets, cemeteries, sports facilities, and play spaces;
- **Education**, including early years provision, primary and secondary education, special education needs and adult, further and higher education;
- **Green infrastructure**, including parks and open spaces, sustainable drainage (SuDS), green spaces; biodiversity corridors, tree planting and management; heat networks; and
- **Utilities and waste**, including water infrastructure, flood risk management, energy, digital infrastructure, smart technology, and recycling and waste.

For CIL purposes, infrastructure consists of primary infrastructure and other secondary requirements related to the function of the primary infrastructure. Secondary requirements can be directly related to the infrastructure delivered or could be indirectly required. For example, education infrastructure includes the facility such as a school building, the staff which run the service including teachers and administrators, and materials, both those directly related to the education provision such as textbooks and computers as well as those indirectly required to support the education provision including cleaning supplies.

### *Infrastructure needs*

The broad, holistic and flexible definition of infrastructure for the purposes of CIL is supplemented by detailed evidence identifying infrastructure requirements.

The Infrastructure Delivery Plan (IDP) sets out infrastructure requirements across the City. It outlines strategic priorities for infrastructure. It also specifies named projects, including in the Infrastructure Delivery Schedule, which lists detailed projects to be delivered over the City Plan 2019-2040 period, with a particular focus on the first 5 years. The Infrastructure Funding Statement (IFS) includes a statement of infrastructure projects that may be wholly or partly funded by CIL. Both the IFS and the IDP are aligned to strategic priorities identified in national policy and in relevant legislation, as well as with local priorities identified in the council's City Plan. The six infrastructure categories are used in both documents.

Infrastructure requirements include the need for new infrastructure, to replace existing infrastructure, and to expand, update, or otherwise alter existing infrastructure, as well as maintenance requirements. CIL can fund any of these requirement types, as long as the infrastructure supports development and the growth of the City; CIL cannot be used to remedy existing deficiencies, although existing deficiencies which are exacerbated by new development are appropriate.

### **Policies and criteria for CIL funding**

The policies and criteria in this section apply to both Strategic CIL and Neighbourhood CIL funding.

## *Policies and priorities*

### Infrastructure priorities

Any infrastructure project which meets national and local requirements, as set out in the legislation, regulations, and this document, will be considered eligible for CIL funding. However, given that CIL is a finite resource, not all eligible projects can be allocated funding.

The council identifies five priorities for CIL spending. Each priority is justified by evidence demonstrating a need for that infrastructure as well as by alignment with ambitions articulated in other council strategies. Infrastructure which contributes to delivering these priorities will be prioritised for CIL funding. The priorities are:

**1. Affordable housing (enabling)**

Projects to help deliver truly affordable homes. CIL cannot be spent directly on affordable housing, but it can be allocated to projects which enable the development of affordable homes. For example, CIL could fund a small playground within an estate regeneration scheme.

**2. Green transition**

Projects which enhance and accelerate climate action to achieve net zero ambitions.

**3. Sustainable and active travel**

Projects that make it easier, safer, and more convenient to travel by foot, bicycle, or public transport.

**4. Community facilities**

Facilities that offer spaces and provide services within communities, including Family Hubs, libraries, and public toilets.

**5. Accessible and inclusive public spaces**

Projects to make parks, playgrounds, and other public spaces truly inviting and accessible to all community members., such as designing out physical barriers and instituting programming suitable for people with different needs. New spaces which are designed to be accessible and inclusive, and improvements to existing spaces to achieve this.

### Revenue spending

CIL can fund costs associated with the operation and maintenance of infrastructure, such as staffing costs, facilities operating costs, and other ongoing costs. This includes revenue costs associated with new CIL-funded infrastructure or with existing infrastructure.

As with all CIL spending, revenue costs must be related to infrastructure required to support growth or development.

Revenue costs will be funded by CIL only for a time-limited period and only for projects which can demonstrate future self-sufficiency or other sources of funding. The time limit will be set on a case-by-case basis, informed by availability of CIL and the evidence projecting when the project will no longer require CIL revenue. For example, CIL could fund the costs to

run a new community centre, but only where a business plan demonstrates that income would cover costs within a given period. These limitations are necessary because CIL is a finite resource and future revenue is not guaranteed, therefore indefinitely relying on CIL would likely result in projects being suddenly shut down.

Projects are prohibited from returning to seek additional CIL funding for revenue costs at the end of the time-limited period.

Funding will be released piecemeal according to a schedule agreed with the delivery partners. Where a project has achieved self-sufficiency earlier than expected, future funds release could be terminated.

Revenue cost allocations will not exceed the total amount of CIL available minus all other project allocations at the point at which the allocation is decided. This is to guarantee that there will be sufficient funding to meet costs. At the strategic level, revenue spend should not demand such a large proportion of CIL that capital projects cannot be funded. If revenue spending becomes 40 per cent, 60 per cent, and then 80 per cent of total allocated CIL, the cabinet member and cabinet will be advised, to ensure proper oversight of the proportion dedicated to revenue.

#### Monitoring requirements

CIL-funded projects will be subject to monitoring requirements to ensure projects are delivered as agreed and to facilitate reasonable modifications during project lifetimes.

Project managers are required to submit update reports every six months, unless otherwise agreed. These reports will set out activity and works that have taken place in the previous six months and a programme for future works. Barriers to delivery should be noted where these are identified.

Project managers are also required to submit evidence of project completion, such as photographs, documentary evidence including invoices, and other evidence.

Bespoke monitoring requirements will be applied to projects as appropriate. Requirements might be imposed regarding time limits, progression and completion submission requirements, and more.

#### Evidence and feasibility studies

In addition to direct spend on infrastructure, CIL can fund anything necessary to deliver infrastructure or anything else that is concerned with addressing the demands that development places on an area.

CIL can fund research into infrastructure needs. It can also fund feasibility studies to investigate whether and how to deliver an infrastructure project.

#### *Criteria*

In addition to the requirements set out in national legislation and regulations, to be considered eligible for CIL funding projects shall meet the following defined criteria. This criterion is applied to all CIL allocations, in addition to the separate criteria applied

specifically to Strategic CIL and that applied to Neighbourhood CIL. The criteria could be applied using a scoring system.

#### Deliverable

The council must be certain that projects will be started and delivered within reasonable periods. Projects should be supported by, where appropriate and possible: technical feasibility studies; necessary design work; and robust business and funding plans. Ideally, programme of works can demonstrate delivery timetables. Where required, projects should either have, or demonstrate that they are likely to secure, any necessary legal powers and/or regulatory consents required for implementation, such as planning permission.

All delivery partners, including project managers and contractors, should be engaged and supportive from the earliest point possible.

Funding requests should be calculated to ensure that the request represents sufficient funds to enable the delivery.

Potential barriers to delivery should be identified and addressed satisfactorily.

#### Plan-led and strategic

Projects should be informed by adopted council strategies and action plans, including but not limited to the City Plan and Supplementary Planning Documents (SPD) and Supplementary Planning Guidance (SPG), the Active Westminster Strategy, the Climate Action Plan, the School Organisation and Investment Strategy, the Health and Wellbeing Strategy, and the A Partnership Approach to Open Spaces and Biodiversity in Westminster. For example, a new health facility should help to deliver the vision and goals of the Health and Wellbeing Strategy. Identification of a project or project type in the IDP is a requirement for Strategic CIL and a key consideration for Neighbourhood CIL allocations.

#### Forward-looking

The council must be content that the infrastructure will endure for its expected lifespan. Practically, this requires confidence that the infrastructure will be properly managed and maintained and that it will be properly funded. Management plans setting out action plans for maintenance, programming, administration, and any other relevant requirements should be agreed. Responsible parties should be clearly identified and, where appropriate, reflected in legal agreements or property ownership. Business plans identifying costs and revenue should also be agreed.

Incidental future costs must be considered and addressed.

#### Cost effective

The council must consider that the project represents good value i.e. it provides high quality infrastructure at the lowest available cost.

Contingency costs should be reasonable and reflect industry norms. For construction projects, contingency costs of more than 10% must be justified.

### Zero carbon impact

Where appropriate, reasonable, and possible, projects should estimate their carbon impact. Zero carbon projects or those which achieve carbon reductions will be prioritised, in line with the prioritisation of projects which support the green transition. Projects with carbon impacts must demonstrate how this can be mitigated.

### Equalities

Projects should consider the needs of all members of the community. Where appropriate, consideration should be given to accessibility issues, including any necessary adjustments that could accommodate people with disabilities. Where a project has the potential to impact upon people with a protected characteristic, the impact should be positive or neutral.

### Additional

Funding will not be allocated to projects that are seeking to remedy pre-existing deficiencies, although existing deficiencies exacerbated by new development is appropriate for CIL.

## **Strategic CIL**

A minimum of 70% of the receipts from Westminster's CIL will be applied in whole, or in part, to the provision, improvement, replacement, operation or maintenance of infrastructure that is required to support the development of the City of Westminster. This shall be known as 'Strategic CIL'. It can be spent anywhere in Westminster (there is no necessary geographical link between developments making CIL payments and where revenue is spent). It can also be spent on infrastructure beyond Westminster's boundaries on infrastructure that will support the City's development.

Strategic CIL is allocated annually via the council capital budget process. All proposed spending is reviewed for eligibility for CIL allocation. Of the eligible projects, some will be funded from the Strategic CIL pot; projects which are not allocated CIL can still be included in the capital programme and funded from alternative sources. Funding decisions are taken by the full Council when it agrees the budget.

### *Strategic CIL criteria*

In addition to the requirements set out in national legislation and regulations, to be considered eligible for Strategic CIL funding projects shall meet the following defined criteria. This criterion is applied to Strategic CIL allocations, in addition to general criteria applied to all CIL allocations. It could be applied using a scoring system.

### Plan-led and strategic

Projects must be identified in the IDP. Priority is given to projects explicitly listed in the Infrastructure Delivery Schedule; projects which address needs or relate to infrastructure type requirement narratives can also be allocated Strategic CIL. This ensures that Strategic CIL allocations are informed by a broad understanding of the City's infrastructure requirements considering the pressures of developments and the need to support growth.

Projects must address the principles and policies set out in the City Plan and other council strategies.

#### Timely and spatially appropriate

Projects should deliver the right infrastructure at the right time in the right location. Projects should have regard to the phasing suggested in the Infrastructure Delivery Schedule in the IDP. Where infrastructure requirements are supported by an evidence base with a spatial component, the location should also satisfy the need identified.

#### Priority driven

Projects must strike an appropriate balance between strategic and more locally-based place-making infrastructure to support the development of Westminster and its neighbourhoods and help address the demands that this will place on an area.

### **Neighbourhood CIL**

15% of the Westminster CIL paid by development in each neighbourhood area, capped at £100 per Council Tax dwelling, or 25% with no cap in areas with an adopted neighbourhood plan, will be ring-fenced by the council. The money is retained and spent by the council, in consultation with the local community, except where there is a Community Council the money is transferred directly to the Community Council.

Neighbourhood CIL is allocated via an applications process, to allow the local community to propose projects that positively shape the area and help residents achieve their vision for their neighbourhood. Any local individual or group can make an application. Prospective applicants are encouraged to work with council officers to develop a better understanding of the ambitions of the neighbourhoods and to design projects which will achieve those ambitions efficiently, effectively, and in line with local and national requirements and priorities. Applications are reviewed by officers and an internal governance group prior to funding decisions taken by the cabinet member or, in extraordinary circumstances, the full cabinet.

Neighbourhood CIL can be spent within the local neighbourhood area or in other parts of the city or even outside of the city. The council encourages neighbourhoods to work together to develop applications for projects that will benefit them jointly. The council also welcomes applications to fund projects entirely within another neighbourhood area, where the other area has low amounts of Neighbourhood CIL available.

In addition to the provision, improvement, replacement, operation or maintenance of infrastructure, Neighbourhood CIL is appropriate to fund anything else that is concerned with addressing the demands that development places on an area. This could include studies or research to determine infrastructure needs that might differ from other area due to the unique characteristics of the area, or feasibility studies required to support delivery of prospective infrastructure. It also includes the costs associated with the production of plans and strategies that can address the demands of development, such as a Neighbourhood Plan.



## *Neighbourhood CIL criteria*

In addition to the requirements set out in national legislation and regulations, to be considered eligible for Neighbourhood CIL funding projects shall meet the following defined criteria. This criterion is applied to Neighbourhood CIL allocations, in addition to general criteria applied to all CIL allocations. It could be applied using a scoring system.

### Plan-led

Projects must be informed by Neighbourhood Plans, where there is an adopted Neighbourhood Plan.

Projects must also consider any council plans or strategies which set out guidance for the neighbourhood area, either in whole or in part, including the Spatial Strategy policies in the City Plan and conservation area guidance documents. Support the growth plans for Westminster as a whole and for the neighbourhood.

### Local engagement

Projects must have been subject to appropriate levels of engagement and consultation. Local ward councillors, neighbourhood forums, and business improvement districts, where they exist, must be given the opportunity to comment on all proposals within their area.

Priority is given to schemes shown to have the support of the local community.

Relevant infrastructure providers must also be engaged. Projects will not be progressed where relevant infrastructure provider has objected.

### Benefit the community

Applications should articulate how the infrastructure will benefit the local community.

New facilities must be publicly accessible. Where a facility will serve both private and public functions, then CIL should only be sought for the proportion of the public function; for example, if a new hall is available for community activities half the opening hours but reserved for the use of the private group which owns the site the remaining half of opening hours, then Neighbourhood CIL should fund 50% of the costs.

### Cost effective

The council must consider that the project represents good value in the sense that it provides high quality infrastructure at the lowest available cost.

Applications should be supported by at least three quotes for delivery. The lowest quote need not always be selected, but selecting the higher cost must be justified in terms of value.

Projects should identify match funding.

Applicants should always consider whether Neighbourhood CIL is the most appropriate funding source. Alternative funding sources, such as large property holders, third sector

organisations, central government, and council ward budgets, should be considered. Applicants must demonstrate either that 1) they have unsuccessfully sought alternative funding; or 2) alternative funding sources do not exist or are otherwise not appropriate.

#### Minimum amount

To ensure that Neighbourhood CIL is allocated to proposals of a kind and scale that will have appreciable benefits in terms of supporting growth and meeting the demands of development, a minimum financial threshold for the value of a proposal is set at £2,000. Any application to fund a project valued at less than £2,000 must justify use of CIL instead of other funding sources.

#### **Administrative CIL**

A maximum of 5% of Westminster's CIL will be applied to the administrative expenses incurred by the council in connection with Westminster's CIL. All expenditure will be made in line with the regulations.

#### **Reporting and monitoring**

The regulations require local authorities that collect developer contributions to report annually on what they have received and spent through CIL and other developer contributions and include information for the following year on the allocation of these funds. The council will report this information in the annual IFS report.