



Town Clerk: Caroline Leet

# EDENBRIDGE TOWN COUNCIL

## COMMUNITY INFRASTRUCTURE LEVY (CIL)

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## COMMUNITY INFRASTRUCTURE LEVY (CIL)

### 1. Background information

- 1.1 The Community Infrastructure Levy (CIL) replaces the use of Section 106 (Legal Agreements) which have been used in the past to secure funding for new development and towards infrastructure to support new development. This money has either been used by District Councils towards local projects or has been given to County Councils towards highway infrastructure, schools or libraries, for example. In some cases, Legal Agreements will still be used to secure other non-monetary provisions.
- 1.2 The Community Infrastructure Levy (CIL) is a charge that local authorities can set on new development in order to raise funds to help fund the infrastructure, facilities and services in their area. Most new development which creates net additional floor space of 100 square metres or more, or creates a new dwelling, is potentially liable for the levy. Some developments may be eligible for relief or exemption from the levy. (The Planning Portal website gives further information and guidance on CIL.)
- 1.3 The levy only applies in areas where a local authority has consulted on, and approved, a charging schedule which sets out its levy rates and has published the schedule on its website. Sevenoaks District Council (SDC) adopted its charging schedule in February 2014; details are available on its website.
- 1.4 When a development takes place, the town or parish council will receive 25% of the CIL contribution received from that development. The remaining contributions remain with SDC to allocate and spend on local and strategic infrastructure projects and are awarded through the SDC CIL Board.
- 1.5 Developers may pay the levy as land or infrastructure as well as by cash if the charging authority chooses to accept these alternatives. However, the relevant percentage of the cash value of levy receipts must be passed on to a parish or town council in cash.

## 2. Introduction

- 2.1 To ensure that Edenbridge Town Council manages the funds correctly and spends this money appropriately, it has taken guidance from SDC and the procedures it sets out for its own CIL Spending Board.
- 2.2 The Town Council has its own CIL Board and Terms of Reference for that committee. All members of the Town Council are eligible to vote of CIL applications. This will allow all Members an opportunity to speak for or against the proposals put forward for spending. It will also ensure a proper debate is held to understand the issues involved in each project and most importantly to ensure that the money is prioritised and spent appropriately.
- 2.3 These procedures are designed to ensure consistency and that that decisions on how CIL are prioritised in an open, transparent, appropriate and fair manner.

## 3. How should parish and town councils spend their CIL funds?

- 3.1 While parish and town councils are not required to spend their funding in accordance with the charging authority's priorities, parish and town councils are advised to work closely with the charging authority to agree priorities for spending the neighbourhood funding element and for this to be reflected in the authority's infrastructure funding statement, where appropriate.
- 3.2 Where a neighbourhood plan has been made, it should be used to identify these priorities.

## 4. Guidelines for CIL

- 4.1 Under CIL (amendment) Regulations 2013 [regulation 8](#), 59C, a local council must use CIL receipts passed to it in accordance with regulation 59C a or b, to support the development of the local council's area, or any part of that 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.*

4.2 The equalisation of CIL receipts paid at the discretion of the SDC Cabinet, to ensure the receipt of 25% of all the CIL monies secured in your area at the highest rates set out in the CIL charging schedule.

4.3 CIL monies need to be spent within 5 years of receipt. SDC as the charging authority will serve notice for the recovery of monies paid to the Town Council if they have not been spent; there is no discretion over this.

4.4 There is also no requirement to spend the monies collected within the parish/town. There is already a high demand for parish and town councils, Kent County Council (KCC) (schools and highways) and the NHS who have already requested to SDC significant amounts of money through its infrastructure plan. Whilst SDC has no control over the Town Council's CIL money, it is keen to work with parish/town councils to ensure that an adequate amount of CIL receipts go toward significant and much needed projects.

4.5 In accordance with the Community Infrastructure Levy Regulations 2010 (as amended) Infrastructure Projects (defined in section 216 of the Planning Act 2008) , which fall under the [regulation 123](#) include (**but are not limited to**);

- Transport schemes other than site-specific access improvements
- Road and Transport Facilities
- Flood defence schemes
- Water quality schemes
- School and Educational Facilities
- Health and social care facilities
- Police and emergency services facilities
- Community facilities
- Communications infrastructure (beyond that directly secured by agreement between the developer)
- Green infrastructure (new and improved areas of open space) other than site-specific improvements or mitigation measures (for example improvements to parks and recreation grounds)

- See Appendix C for more information

## 5. Validation

5.1 The Town Clerk will collate and validate the Bids. The following will not be put to the CIL Board for consideration:

- Those schemes for which a pro-forma has not been completed
- Those scheme where the bidding organisation does not have the legal right to carry out the proposed scheme or the support from the statutory provider of the service
- Those scheme that could clearly not be defined as infrastructure to support development

The Town Clerk's validation will be agreed by the Chairman of the CIL Board in advance of papers being published for the CIL Board.

5.2 A second stage validation process will take place, which will assess the proposed bids against the following criteria:

- The need for the scheme
- Whether the scheme supports the local or key infrastructure projects
- Whether the applicant is working in partnership to implement the scheme
- Is the scheme part of an existing Strategy or Plan
- The public benefit of the scheme
- Has the applicant sought to maximise funding from other sources
- Is there clear project management
- Is the scheme deliverable
- Are there the necessary permissions in place
- Does the scheme and Bid have local support
- Has the Scheme already had CIL funding

5.3 A written response will be provided to the bidder to explain the decision. This may suggest that a revised submission is considered.

5.4 Each Bid will be scored against how they perform against each category. The initial assessment and recommendations will be provided to the Chairman and Vice Chairman of the CIL Board in advance of the papers being published for the CIL

Board Meeting. The Report to the CIL Board will include a summary of what criteria the bids score highly against and those where they perform weaker against.

5.5 Bid forms will not be published on the Town Council's website in the event that there may be sensitive information. However, details of the scheme can be included in the minutes of the CIL Board.

## 6. CIL Board's Key Considerations

6.1 The CIL board's key considerations will be whether there is a public and overall community benefit of the proposed scheme for residents in Edenbridge. In determining this, consideration will be given to the following issues in making its recommendation.

- Whether sufficient evidence has been provided to demonstrate a strong social, environmental or economic justification for the scheme
- Whether sufficient evidence has been provided to demonstrate a strong link between new development and the scheme
- Whether sufficient evidence has been submitted to show that the project involves partnership working
- Whether the scheme forms part of a planned, local, economic or community strategy to address the need for local or strategic infrastructure
- Whether sufficient evidence has been provided to show the clear public benefit to the scheme
- Whether other funding sources have been considered
- Whether there is sufficient certainty that the scheme will be delivered, including considering whether the project has all the necessary permissions in place and evidence has been provided to demonstrate that there are sufficient maintenance arrangements in place
- Whether the scheme has local support
- Whether the project has already benefited from CIL through other Parish and Town Councils or SDC
- Whether overall the scheme provides a strong community benefit

6.2 Limited CIL funding is available and it is unlikely that it will fund all of the Bids and schemes presented. Where it is necessary to choose between schemes that could

both be appropriate uses of CIL (i.e. they satisfy all of the considerations set out above), the Board will give particular consideration to the public benefit of the schemes for residents in Edenbridge.

## 7. Types of recommendations

7.1 The Board may make the following recommendations and resolutions:

- Funding for the scheme is approved subject to a formal agreement letter being agreed and signed by both parties. Payment will be made on only once the agreement has been signed. If no agreement has been signed within 6 months the Bid will be reported back to the CIL Board to be reconsidered.
- Where a scheme requires planning permission or other legal agreements, funding for the scheme will be secured and set aside. The funding will only be paid upon completion of a formal agreement letter being agreed and signed by both parties and the necessary planning permissions granted. If planning or other legal permission is not granted, the bid will be reported back to the CIL Board to be reconsidered
- Funding for the scheme is not approved on the basis that other proposed schemes have been given greater priority
- Funding for the scheme is not approved on the basis that insufficient evidence has been provided to justify it
- A decision of the provision of funding a scheme is deferred. It is considered that further evidence is required to fully show the benefits of the scheme.
- A decision of the provision of funding for a scheme is deferred. It is considered that further evidence is required to indicate whether the project is viable

7.2 If the decision is for the application to be refused then an applicant should be given sufficient information to understand the reason why. If it is deferred then the applicant should be given sufficient clarity over what information is required for the Bid finally to be determined.

## 8. Reporting

8.1 In addition to the above, as a Town or Parish Council are required to report on the amount of CIL receipts received and the spending of CIL for each financial year.

8.2 The National Planning Practice Guide (PPG), in paragraph 80 states that Parish, Town and Community Councils must make arrangements for the proper administration of their financial affairs (under [Section 151](#) of the Local Government Act 1972). These requirements will also apply when dealing with neighbourhood funding payments under the Levy as specified in the [regulation 121B](#) (a re-enactment of regulation 62A inserted by the 2019 Regulations)

8.3 The following information will be published annually and submitted to SDC:

- Total CIL receipt collected each year
- Total CIL expenditure for the financial year
  - a) What items (projects) CIL has been applied
  - b) The amount of CIL expenditure on each infrastructure project
- The value of CIL subject to any recovery notices and the amount that remains to be paid back.
- The amount of CIL retained (not spent) from the year in question and CIL receipts retained in previous years.

8.4 This information must be published on the website on or before 31st December following the reported year.

## 9. Review

9.1 For good governance, these procedures will be reviewed in line with recommendations from SDC.

9.2 The Council may decide to review these procedures as needed, but a minimum of once every four years

## COMMUNITY INFRASTRUCTURE LEVY (CIL) BOARD

### TERMS OF REFERENCE

#### Introduction

The Community Infrastructure (CIL) Board has delegated authority to make decisions on behalf of the Town Council and shall consider Bids for CIL funding in accordance with the law, Town Council's Standing Orders, Financial Regulations and the CIL guidance framework.

#### 1. CIL Board Membership

- 1.1 The Membership of the CIL Board shall consist of all 15 Members of the Town Council. All Members are expected to attend the meetings
- 1.2 A Chairman and Vice-Chairman will be appointed
- 1.3 All decisions will be made at the CIL Board meetings
- 1.4 The quorum shall be 5 Members (one-third of Council)

#### 2. Conduct of the Board Members

- 2.1 It is incumbent that Members ensure that they remain impartial and receptive to all points debated before reaching a decision on how to vote on a bid
- 2.2 Members should remain at meetings until the end of the meeting, unless they have a compelling reason not to do so
- 2.3 Members who are not present for consideration of all Bids, or who are not present during the whole of the discussion, should not vote on any Bid as they will not have heard all the arguments for and against the proposals
- 2.4 Members should be informed when a Bid is submitted by the Town Council or involves the provision of infrastructure on Council land
- 2.5 Subject to the Council's Code of Conduct and the Localism Act 2011 (or any Act superseding these Acts), Members can vote on all Bids, but must make declarations of interest, lobbying and pre-determination before the Bids are debated
- 2.6 Members should contact the Town Clerk before a meeting if they have any doubt in their minds regarding a potential Disclosable Pecuniary Interest (DPI)
- 2.7 Members must avoid reaching a judgement before all relevant evidence is presented to the Board. All Members must ensure that they never give the impression of closing their minds to information relevant to the Bid

### **3. Validation**

- 3.1 Bids will be validated by the Town Clerk and the Chairman of the CIL Board (as set out in the guidance notes) before they are put to the CIL Board for consideration:

### **4. Decision making and voting on Bids**

- 4.1 After Bids have successfully completed the validation process, and any amendments made if necessary, they will be presented to the CIL Board to consider
- 4.2 Members will consider each application and vote by show of hands
- 4.3 Every decision must be made by a majority of Members present and voting. (Provided that a quorum is present it is immaterial that a quorum of Members takes part in the voting.)
- 4.4 If there is an equality of votes, the Chairman presiding will have a second and the casting vote

### **5. Meetings**

- 5.1 The CIL Board will aim to meet at least twice-yearly
  - 5.2 A summary of the Bids, including the amount requested, will be published with the meeting papers. The full Bid pro-forma will not be published as it may contain sensitive information
  - 5.3 The CIL Board meetings will follow meeting procedures and speaking protocol (appendix B) and the Standing Orders
6. The Community Infrastructure (CIL) Board shall consider bids for CIL funding in accordance with the Town Council's Standing Orders, Financial Regulations and the CIL guidance framework.
  7. The Membership of the CIL Board shall consist of all 15 members of the Town Council.
    - 7.1 A Chairman and Vice-Chairman will be appointed
  8. The CIL Board will aim to meet at least twice-yearly

## COMMUNITY INFRASTRUCTURE LEVY (CIL) BOARD

### MEETING PROCEDURES AND SPEAKING PROTOCOL

1. At the beginning of the meeting the Chairman (or the Town Clerk / RFO) will introduce:
  - a summary of the CIL funding available and where the CIL receipts have come from
  - a summary of the CIL Bids
  - Indicate which Bids Members or members of the public have asked to speak on
  
2. Representation(s) will be received from the company/person/body submitting the Bid and will be expected to present their Bid to the CIL Board. Visual aids are allowed by speakers (of up to 5 slides). Speakers will be invited to do so by the Chairman in the following order for a maximum of 3 minutes:
  - Company/person/body responsible for the Bid
  - A member of the public wishing to speak for the Bid
  - A member of the public wishing to speak against the Bid
  - A Local Council representative.
  - The Chairman retains discretion to allow additional speakers
  - Members will have the opportunity to ask questions of the speakers
  
3. Those wishing to speak must contact the Town Council before 5pm on the day of the CIL Board meeting at the latest. However, at the Chairman's discretion, late registration may be accepted until the start of the meeting.
  
4. The company/person/body submitting the Bid will be expected to present their Bid to the CIL Board.
  
5. Each bid will then be presented individually by the Chairman for Members to discuss and consider:
  - The Chairman will read out each project title, lay out the key considerations and recommendation of each Bid
  - Members will have the opportunity to ask questions of the officers present
  - Discussion of each Bid will take place at the discretion of the Chairman

6. A bid is likely to be deferred if the Board considers that they reasonably require further information in order to determine it.
7. A decision on each Bid will only be made at the end of the meeting after all the Bids have been discussed. This ensures that every bid is considered and discussed before any decision is made.
8. The Board can only consider the Bid put before them and the details provided by the applicant. This means that the Board cannot amend any details of the Bid or the amount of money awarded at the meeting. They can only agree, refuse or defer if they consider more information is needed or that further investigation is required to be carried out in regard to the costs of the project.
9. Each bid should be given consideration under the CIL Board's key consideration (item 6 of the guidance notes).
10. After all the bids have been considered individually and any amendments made (see point 8), a vote will take place on the motion. The Chairman will advise the meeting of the result.
11. Board meetings to be held at the Chairman's discretion taking into account the level of CIL income.

Appendix C

***Types of infrastructure that fall within the definition of ‘infrastructure’ and is a guide to the types of possible projects. Funding will not be restricted to these.***

<b>Infrastructure Category</b>	<b>Type of Infrastructure/Project</b>
<b>INFRASTRUCTURE</b>	
<b>Highways &amp; Transport</b>	Road networks Rail networks Bus services Cycling and walking routes Public Rights of Way (PROWs) Car parking facilities (including electric vehicle charging points)
<b>Flooding</b>	Flood defences (Note – Blue Green Infrastructure can also provide solutions to mitigate any effects).
<b>Utilities</b>	Water Supply Wastewater Water quality Waste management and facilities (including recycling facilities)
<b>Communications</b>	Telecommunications equipment High speed broadband
<b>SOCIAL INFRASTRUCTURE</b>	
<b>Community facilities</b>	Places of worship Sport venues Leisure Centres laying pitches Meeting places Libraries Cultural buildings or infrastructure Leisure and play equipment

<b>Education</b>	Pre-school and nursery schools Primary education Secondary education Post 18 / higher education Adult education Special educational needs
<b>Health and social care facilities</b>	GP surgeries Dental services Hospitals and community trusts Mental health services Adult social care services Children's social services
<b>Police and emergency services facilities</b>	Schemes involving physical infrastructure for the police, fire and rescue services, and ambulance services.
<b>OTHER INFRASTRUCTURE</b>	
<b>Blue-Green infrastructure</b>	Natural / semi-natural open space Maintenance or improvement of bodies of water Biodiversity Parks / country parks Local Wildlife Sites Local Nature Reserves Areas of Outstanding Natural Beauty
<b>Other</b>	Minerals Energy