

## **Appendix C - Proposed Changes to CIL Spending Board Governance Arrangements**

The following tables detail the proposed changes and issues raised regarding the current CIL Governance arrangements, following feedback received from Members and Officers.

These have been broken down into different areas to make the changes clearer:

- Governance of CIL.
- The Bidding Process (timings and the advice given to people making the bids).
- Validation Process (How we assess the bids).
- The CIL Spending Board (inc. the format of the meeting and the report and what the Board should consider)
- Contracts for and Monitoring of CIL Spending.

Each section will look at the issues raised, the proposed change to address issues (if any are required) and a justification as to the recommendations proposed by officers.

## Governance of CIL

No.	Issues Raised	Recommendation	Justification
1	<p>The original intention of CIL was for it to be used as a 'top up' to assist in funding infrastructure projects.</p> <p>Members have raised a concern that the term "top-up funding" is not clearly defined, and they consider that a definition is needed to help them determine the suitability of bids.</p>	<p><b><u>Proposed Change:</u></b> The Council needs robust criteria and requirements to ensure that all applicants have maximised other sources of funding.</p> <p>Whether an applicant has maximised that funding may need to be considered as part of the individual project itself and also in the context of connected infrastructure projects.</p> <p>It is suggested that no amount should be set and that it is left to the assessment of the bids and the discretion of the CIL Spending Board as to whether the bid is successful.</p>	<p>The phrase 'Top up' is not used in the CIL Legislation.</p> <p>The CIL Legislation also does not define the percentage or amount of CIL that can be given towards any infrastructure project.</p> <p>In addition the Council and applicants should all be clear that CIL cannot provide for all infrastructure requirements rising from developments.</p>

No.	Issues Raised	Recommendation	Justification
2	<p>It is also considered important to clarify how officers and the CIL Spending Board consider bids which do not have planning permission in place.</p>	<p><b><u>Change Proposed:</u></b></p> <p>Change criteria for assessing bids.  Change recommendations to allow the CIL Spending Board to be able to set aside funds for such a project subject to planning permission being in place.  Ensuring that any monies are not paid over until the scheme is finally deliverable.</p>	<p>The criterion currently advises that having planning permission in place is more of a “pre-requisite” to the bid application. However when considering large schemes supported locally, with a clear plan in place it appeared that this was more “advisory”.</p> <p>Whilst it is important to recognise that in some projects planning permission is a clear indication that the project is deliverable. However, In some cases the other benefits of scheme may indicate that it is worth considering the application without planning permission in place.</p> <p>This is because some projects which are supported by a number of neighbourhood, local and business plans are unlikely to have all their paperwork and funding in place. But the security of CIL funding could ensure the project has more certainty. It is therefore considered that the Spending Board should have more flexibility in these cases to weigh up the benefits against the lack of planning permission for a project.</p>

No.	Issues Raised	Recommendation	Justification
3	Concerns were raised that some applications asked for a majority of funding for their infrastructure project and whether that is an appropriate use of CIL.	<p><b><u>Change Proposed:</u></b></p> <p>It has already been agreed that all applicants will be expected to maximise other sources of funding.</p> <p>We propose to make it clear to the CIL Spending Board the percentage to the overall cost of the project that CIL will contribute to. It is then the decision of the Spending Board to consider whether this is an appropriate amount.</p>	See comments above (1)
4	The lead in time to administer the CIL Board by validating bids/applications	<p><b><u>No Change:</u></b></p> <p>Please see attached document (Appendix B) which makes the time table for the Spending Board clear.</p>	The timetable for the CIL Spending Board is not proposed to change. The flow chart makes the process clear to members and applicants and also highlights what needs to happen at every stage of the process. No complaints have been received as to the timings of the process.

No.	Issues Raised	Recommendation	Justification
5	Whether members happy with the current level of delegation	<u>No Change.</u>	Members are already involved in the setting up of the Board and the Governance of CIL. They have agreed the criteria by which the bids should be validated and assessed. The chair and the vice chair meet with officers to review a summary of the bids and discuss the assessments. All the decisions of the board are made by Members. Due to the clear amount of member's involvement and management of the process, it is considered that the amount of delegation should remain the same.

No.	Issues Raised	Recommendation	Justification
6	<p>Currently all the money given through the CIL Spending Board has resulted in a majority of smaller projects receiving funding. There is concern that in the future, some of the larger infrastructure projects may need larger amounts of CIL set aside to ensure that it will come forward.</p>	<p><b><u>No immediate change.</u></b>            After the adoption of the new Local Plan and Infrastructure Development Plan, members may choose to change the current Governance of CIL to allow a certain percentage of the CIL income to be set aside to support some of the ‘major’ infrastructure projects, with the remaining amount to be spent through the CIL Spending Board.</p>	<p>The Infrastructure Development Plan (IDP), is an evidence base document which supports the Local Plan. It highlights the priorities and deficiencies of infrastructure in the District which are required to bring forward the Local Plan. It is suggested that we wait for the adoption of the new Local Plan before changing the allocation of CIL funds.</p> <p>Members should note that the IDP is a live document and will be reviewed frequently to ensure that the priorities of infrastructure are up to date.</p> <p>This may however change with the introduction of Infrastructure Funding Statements.</p>
7	<p>Requests have been made by Legal and Finance that more details of the person /organisation who will be legally responsible for the delivery of the scheme.</p>	<p><b><u>Change Proposed:</u></b>            It is proposed to change the pro forma to include the following:</p> <ul style="list-style-type: none"> <li>• who will be the point of contact for the bid,</li> <li>• who will be the relevant person to contact when drawing up the legal contract,</li> <li>• who will be legally responsible for receiving the money. Giving full company/charity name and registered no.</li> </ul>	<p>This makes the process quicker when needing to contact the person legally and financially responsible for the CIL project.</p>

## The Bidding Process

No.	Issues Raised	Decision	Justification
8	<p>A number of queries were received from organisations on how much information to submit as part of the bid. Some organisations submitted detailed applications including drawings, fully costed budgets, project management timetables etc. Other applications submitted the minimum amount of information required.</p>	<p><b><u>Change Proposed:</u></b>            We will assess each bid under the criteria for assessing bids as part of the validation process. The CIL Spending Board also have a clear Key Considerations to assess each bid by. This ensures consistency.</p> <p>It is proposed that we provide a more detail guidance note for organisations submitting bids to help them understand what is required.</p>	<p>Processes are already in place to ensure consistency when considering bids.</p> <p>Officers are happy to provide more advice, where possible to assist individuals, parish and town councils, charity groups and other organisations to help them submit their bids</p>
9	<p>Currently local Member support is a requirement for a successful bid</p>	<p><b><u>Change proposed.</u></b>            Whilst member/local support is desirable, it should not invalidate a Bid. It is therefore no longer a necessity to get a local Member to support a bid in order for it to be successful.</p>	<p>As laid out in the currently, if a bid does not have member support it will not get through the validation process. As some wards only have one Member and as other local Members may not support a specific scheme, this should not prevent a bid coming forward and being able to be assessed against all the other criteria.</p>

No.	Issues Raised	Recommendation	Justification
10	<p>It needs to be made clear if the applicant has previously received money from CIL or any other source of funding from the Council regarding the project or site.</p>	<p><b><u>Change proposed.</u></b></p> <p>The information needs to be requested through the pro-forma. The pro-forma will therefore need to be amended to include this. Officers will make this information clear in the CIL Spending Board Report.</p>	<p>This will ensure that Members of the CIL Spending Board are aware of whether the applicant has received any other forms of funding from the Council towards the project or existing infrastructure to support the project as this could influence the suitability of a Bid.</p> <p>For example: Community Fund, Section 106 etc</p>
11	<p>The applicant needs to make it clear the monies that they have secured for the project, the funding they are waiting for and the funding they have not yet secured.</p>	<p><b><u>Change proposed:</u></b></p> <p>The pro- forma should be amended to request this information in regard to the status of the funding. Officers must consider the security of the funding when assessing the bids to be able to advise the Board. Therefore the Criteria for assessing bids will be amended to include this. Further recommendations should be proposed for the CIL Spending Board. This will allow flexibility to allow them to set aside funding or defer making a decision if the all funding is not secure.</p>	<p>There have been a few occasions where funding has been applied for from other sources that had not yet been received, or where funding was likely and had not yet been confirmed.</p> <p>It is considered important to allow the CIL Spending Board to be flexible with its recommendations.</p>

No.	Issues Raised	Recommendation	Justification
12	It is considered that in order to properly assess bids, SDC need to make it clear what we consider an environmental benefit to be.	<p><b><u>Change proposed:</u></b>  This will be made clearer in the criteria for assessing bids.</p>	<p>When assessing the bids the officers and Members will consider the Social, Economic and Environmental benefits of the scheme. Most of the bids submitted considered environmental benefits by looking at the small scale benefits i.e. that it would make the immediate environment more attractive if a new building was replaced or that the building was more energy efficient. It is considered that this approach does not fully understand or take into account the wider environmental benefits a scheme could provide for example landscape enhancements or creation of habitats etc.</p>

**Validation Process/Assessment of Bids**

No.	Issues Raised	Decision	Justification
13	Clearer guidance for the two-part validation process and how each criterion is scored.	<p><b><u>Proposed Change:</u></b> The pro forma and guide for assessing bids is proposed to be amended to reflect other concerns in this report.</p> <p>It is proposed that these documents are made publically available for Members and the public to fully understand how we assess CIL bids.</p> <p>There is no proposed change to the 2 stage validation process.</p>	<p>The criteria laid for the initial validation of the bids is laid out in Appendix X1 of the Constitution this ensures that a pro-forma has been completed, that the organisation making the bid has the legal right to carry out the project and that the project is providing infrastructure. If these are not in place the bid cannot be carried forward and is therefore considered to be invalid. As these are essential elements to the project it is considered that this is the correct approach.</p> <p>The second validation process looks more at a set of criteria to help officers assesses the benefits of the bid. Again this is a consistent and fair approach as every bid is assessed under the same criteria.</p>

No.	Issues Raised	Recommendation	Justification
14	Should Parish and Town Councils be encouraged to spend their own money and contribute to the Bids.	<p><b><u>Proposed Change:</u></b> There is a need to make it clear where the CIL money came from. The pro forma will be amended to reflect this. It will also be clarified in the criteria for assessing bids, which will ensure that it will assist a bid if PC/TCs contributed some of their CIL funds.</p> <p>If the PC/TC do not provide their CIL money the other benefits to the scheme will still be considered in the same way and this would not prevent a bid from not being considered.</p>	<p>At the current time, the way the Governance and assessment is written, it is not clear that if a Parish or Town Council give their own CIL money towards a project, whether it would help or hinder the assessment of the bid.</p> <p>It is important to clarify this and make it clear that the inclusion of PC/TC CIL monies would impact positively on the assessment of the bid. It is recommended that if no donation is made it should not prevent a bid from being considered. This can be discussed at the meeting.</p>
15	There is a need to review and clarify the criteria against which bids are assessed and ensure that these are followed through into the Key Considerations for the CIL Spending Board.	<p><b><u>Proposed Change:</u></b> It is recommended that all the criteria laid out in the assessment of Bids should also be included in the CIL Spending Boards key considerations.</p>	<p>The Assessment of Bids considers the Benefits of an application. To be consistent this criterion will also need to be reflected in the CIL Spending Boards Key Considerations.</p>

No.	Issues Raised	Recommendation	Justification
16	Need to provide further clarification as to what Match Funding is considered to be.	This has already been addressed in (3) above.	
17	Do we need to provide a more robust assessment to consider whether the scheme would provide value for money	<u>No Change</u>	This questions whether Members would require a more robust assessment as to whether a scheme is value for money. As the criteria for assessing the bids already includes an overall cost benefit assessment and the Key Recommendations of the CIL Spending Board are proposed to be amended to include that overall consideration of the benefits of a scheme compared to the cost. It is considered that a balanced overall assessment of the costs compared to the benefits of a scheme is sufficient.

### The CIL Spending Board

No.	Issues Raised	Decision	Justification
18	Format of the CIL Spending Board as laid out in Appendix X1 of the Constitution needs to be made clear.	<b><u>Proposed Change:</u></b> Officers intend to draft amendments to the terms of reference to ensure that they reflect best and current practice.	Members were unsure of the process that should be followed when considering and debating all the bids to ensure consistency of their recommendations. So clear guidance of the process is required to assist the Board.
19	Too many applications to consider in one meeting g (7 applications presented at the first CIL Board).	<b><u>No immediate Change:</u></b>	To limit the number of applications to be discussed to a shortlist of five/six applications. Officers are aware of members concerns on this issue, however officers are having to explore whether this is achievable without unfairly prejudicing applicants.

No.	Issues Raised	Recommendation	Justification
20	There was no speaker(s) for some applications.	<u>No Change</u>	<p>During the bidding process, officers, in the pro-forma and also in the covering letter encourage applicants to appear at the Board to support their bids.</p> <p>An application is not invalid and cannot be prevented from going in front of the Board should a speaker not be present. Therefore a bid cannot be refused solely on this Ground. However if the Board consider that further evidence is required and they cannot question the applicant at the Board directly to gain that information, they have the option under the constitution to either defer the bid or recommend that funding is not approved on the basis that insufficient evidence is provided. If relevant this will be made clear to the Board at the beginning of the meeting.</p>

No.	Issues Raised	Recommendation	Justification
21	Is it acceptable for the CIL Spending Board to alter the amount of CIL given under each bid.	<p><b><u>Proposed Change</u></b> Amend Appendix 1 of the Constitution to clarify that the amount of money requested cannot be changed at the CIL Spending Board by Members or applicants.</p> <p>Amend the recommendations to allow the Board to defer applications.</p>	<p>If the CIL Spending Board consider that the applicant is applying for too much CIL, it should not be possible for them to change the amount of CIL funding on the night as any alteration could make the project unviable.</p> <p>It is recommended that if the Board have concerns with the amount of CIL asked for, that the project be deferred to allow the applicant to demonstrate whether the project could still be carried out with the lesser amount. Or whether the project could be altered to take into account the lesser amount. This could mean that the impact of the project is reduced.</p> <p>Officers assess and make recommendations on the exact information provided in each bid. If the project or amount of money changes, for consistency, the project will again need to be assessed through the validation process again. This will be made clear to the Board at the beginning of the meeting.</p>

No.	Issues Raised	Recommendation	Justification
22	Is there a need to re-consider the recommendations that the CIL Spending Board can make	<p><b><u>Proposed Change:</u></b> It is suggested that Members be given more options in their recommendations:</p> <ul style="list-style-type: none"> <li>• to be able to defer bid applications.</li> <li>• To be able to delay payments - therefore the money is set aside but not paid immediately.</li> <li>• That the money is agreed to be given subject to other funding being agreed for example.</li> </ul>	The current list of recommendations was considered to be too restrictive and did not provide enough options to allow the CIL spending Board to defer or alter considerations.
23	Consider the layout of the report	<b><u>No Change</u></b>	The report covers all the areas required and provides a useful summary for Members.
24	Do we need a standard reason for refusal	<b><u>No Change</u></b>	Options are already available for Members to not approve funding.  Providing a variety of options allows the CIL Spending Board to make decisions on a case by case basis. It is also helpful to have a number of reasons for refusing to approve funding as it allows the applicant to be informed as to the exact reason why.
25	Consider whether the CIL Spending Board should have priorities for spending	<b><u>No Immediate Change</u></b>	Once the Infrastructure Development Plan is in place this may provide more of a steer as to what our priorities are.

No.	Issues Raised	Recommendation	Justification
26	Presentations and visual aids for speakers presenting to the CIL Board are very helpful to set the context of the project	<p><b><u>Proposed Change:</u></b>  It is suggested that Appendix X1 of the Constitution makes it clear the amount of visual aids that a speaker can use and the deadline for submission.</p>	It is agreed that presentations and visual aids are helpful for the Board to understand the project. Appendix X1 of the Constitution does already allow for visual aids. It maybe useful to clarify exacting what they can provide i.e. no more than 5 slides etc.
27	A day meeting (similar to a Licencing hearing) could address the time issues presented from an evening meeting.	<p><b><u>No proposed change</u></b></p>	There was no strong desire or justification to change the time of the CIL Spending Board. Members found it easier to attend evening meetings.

**Contracts for and the monitoring of CIL Spending**

No.	Issues Raised	Recommendation	Justification
28	Contracts need to be drawn up to ensure that the CIL monies are spent appropriately and that the Council is kept informed of the progress of the projects.	<p><b><u>Proposed Change:</u></b></p> <p>All contracts should include:</p> <ul style="list-style-type: none"> <li>• Authority for officers of the Council to enter land.</li> <li>• Ensuring that the money is spent in line of the details laid out in the bid.</li> <li>• Formally notifying us of the start and finish of the project.</li> <li>• Confirmation of what the money has been spent on.</li> <li>• An up-date report should be provided to inform the Council on the progress of the project.</li> <li>• Before and after photographs of the project.</li> <li>• If any projects are promoted, the successful bid applicant should show on any advertisement for the project that Sevenoaks District Council provided money to fund the scheme. This should be provided for at least 12 months following the completion of the project.</li> </ul> <p>All contracts to private companies should also include:</p>	<p>A number of requirements for the spending of CIL are already secured for Local Authorities and Parish and Town Councils through the CIL Legislation.</p> <p>It is therefore proposed to put in place two separate contracts, one for those covered by CIL Legislation and one for those private organisations and businesses that are not.</p> <p>It is likely that Planning Enforcement Team will monitor whether the applicant has complied with the contract.</p>

		<ul style="list-style-type: none"> <li>• Making it clear that if they spend any of the money on anything that is not Infrastructure they need to pay the money back.</li> <li>• If they no longer decide to carry out the work the money should be paid back.</li> <li>• If the money is not spent within 5 years it needs to be returned.</li> </ul>	
29	<p>How do we want to be informed of the progress of each infrastructure project, just written update or do we want it to include architects forms or completion certificates etc.</p>	<p><b><u>Proposed Change:</u></b> This will be incorporated as part of the terms of the contract.</p>	<p>It is important that as a Local Authority we are kept updated on the progress of each bid. It is important that officers request an update based on the size and length of the project.</p> <p>It would be helpful for the Council to receive evidence of the process of the Project i.e. through pictures, or through Completion certificates etc. However, it is considered that this is not essential.</p> <p>It is likely that Planning Enforcement Team will monitor whether the updates are provided and appropriate.</p>