

## Appendix B - 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.

### Please note:

- Where a change is suggested to the CIL Governance, it has been highlighted in **ORANGE**.
- Where a priority area has been identified in the CIL Governance, it has been highlighted in **GREEN**.
- Where no change is suggested to the CIL Governance, there is no highlighting and the text box remains **WHITE**.

## Governance of CIL

No.	Issues Raised	Recommendation	Justification
1(green)	<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 sought to ensure that other funding sources have been maximised.</p> <p>Whether an applicant has sought to maximise other funding will need to be considered as part of the individual project itself and 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>Members may also want to consider as part of the discussion as to whether they wish to seek maximisation of funding or majority funding.</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> <p>The new emphasis of the CIL Spending Board is to consider the community benefit of the bids and also to encourage that the majority of the funding comes from other sources. It is therefore not considered appropriate to define a percentage or amount to allow the Board more flexibility in allocation CIL funds to worthy causes.</p>

No.	Issues Raised	Recommendation	Justification
2(green)	<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 to allow successful bids where there are clear benefits but it is not yet deliverable.  Change recommendations to allow the CIL Spending Board to be able to allocate monies to a project, but that they not be paid until the scheme is ready to proceed.</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 community benefit and 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(orange)	Concerns were raised that some applications asked for CIL towards a majority of the 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 seek to ensure that they seek to maximise funding from other sources.</p> <p>We propose to make it clear to the CIL Spending Board how much of the overall cost of the project that the bid, if approved would contribute to. This is just to inform the decision of the Board.</p>	See comments above (1)
4(white)	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 E) which makes the timetable 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. This document also makes it clear that any bid if the money is not spent or given then the bid will be reported back to the Spending Board.

No.	Issues Raised	Recommendation	Justification
5(white)	Whether members happy with the current level of delegation	<b><u>No Change.</u></b>	<p>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 Chairman and the Vice Chairman meet with officers to review a summary of the bids and discuss the assessments that have taken place. 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.</p>

No.	Issues Raised	Recommendation	Justification
6(orange)	<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></p> <p>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>Until this is in place, it is suggested that any organisation making a bid considers the infrastructure needs of the District and therefore the bid pro-forma has been amended to reflect this.</p>	<p>The Infrastructure Delivery 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 which are suggested in the new bill laid before Parliament. These will still highlight the priority for Infrastructure in the District and will help the CIL Spending Board understand whether there is an infrastructure need.</p>

No.	Issues Raised	Recommendation	Justification
7(green)	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><b><u>Change Proposed:</u></b></p> <p>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> <li>• who will be attending the CIL Spending Board</li> </ul>	This makes the process quicker when needing to contact the person legally and financially responsible for the CIL project and does not impact on the validity or success of the bid.

## The Bidding Process

No.	Issues Raised	Decision	Justification
8(orange)	<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 continue to assess each bid under the criteria for assessing bids as part of the validation process. The CIL Spending Board also have 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 as the same information is requested in each pro-forma.</p> <p>It is recognised that some organisations making the bids may have more expertise and resources to complete the complex pro forma.</p> <p>Due to this, upon guidance from the new Chairman of the Board officers have already written to inform Parish and Town Councils that they can provide more advice and guidance where needed. Officers will also look to provide guidance to any applicant and make this clear on the website where they are looking to submit their bid. Whilst officers cannot complete the pro-forma for them we can explain what information we are asking for.</p>



9(orange)	Currently Local Member support is a requirement for a successful bid	<p><b><u>Change proposed.</u></b></p> <p>Whilst member/local support is desirable, it should not invalidate or be determined before the bid is fully considered by the Board A bid should be encouraged to have some form of local support, and would therefore score more highly in the assessment of all the bids but this is not a requirement. The encouragement for a bid to have local support will be reflected in the guidance notes and pro forma.</p>	<p>As laid out 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> <p>It has been suggested that we should look to encourage local support for a bid, which would help the Board fully understand the support of the community. But it is not considered appropriate to make a decision on this issue before the bid is presented to the CIL Spending Board so the bid can be considered in full. It will be made clear in the assessments what local support has been expressed for an application.</p>
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No.	Issues Raised	Recommendation	Justification
10(orange)	<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(orange)	<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 about the status of the funding. Officers must consider the security of the funding when assessing the bids to be able to advise the Board as to whether they consider a scheme is deliverable or not. The 'Criteria for Assessing Bids' will be amended to include this. Further recommendations are proposed for the CIL Spending Board. This will give flexibility to allow them to set aside funding or defer making a decision if they consider that 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. This will impact upon the suitability of the bid.</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(orange)	It is considered that, in order to assess bids properly, 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>	When assessing the bids the officers and Members will consider the Social, Economic and Environmental benefits of the scheme. In the past most of the bids submitted considered their scheme would show clear 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.

**Validation Process/Assessment of Bids**

No.	Issues Raised	Decision	Justification
13(orange)	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. Some of the criteria have been amended to make the assessment easier to understand and also to reflect the fact that the CIL Spending Board want to maximise the community and public benefit.</p>

No.	Issues Raised	Recommendation	Justification
14(orange)	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 a bid will be looked upon more favourably 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. The pro-forma is proposed to be amended to allow an opportunity to address this issue.</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. It is however suggested that the Parish and Town Council provide a reason if they are not providing some of the funding towards a project that they are putting forward.</p>

15(orange)	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.	<b><u>Proposed Change:</u></b> It is recommended that all the criteria laid out in the assessment of Bids should be linked closely to the CIL Spending Boards Key Considerations. In the report officers will highlight which criteria the bid scores highly against and the criteria where they were weaker to assist the Board in making their decision.	The Assessment of Bids by officers considers the benefits of an application in order to make a recommendation to the Board. To be consistent, the criteria by which the bids are assessed should also be reflected in the CIL Spending Boards Key Considerations, as these will be the reasons the Board will make a decision.
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No.	Issues Raised	Recommendation	Justification
16(white)	Need to provide further clarification as to what match funding is considered to be.	This has already been addressed in (3) above.	
17(white)	Do we need to provide a more robust assessment to consider whether the scheme would provide value for money	<u>No Change</u>	<p>This questions whether Members would require a more robust assessment as to whether a scheme is value for money for example a cost benefit analysis.</p> <p>The emphasis for assessing bids is changing with these new recommendations to focus on assessing the community benefit that a project can bring to an area. As the criteria for assessing the bids already includes looking at the overall community benefit and the Key Recommendations of the CIL Spending Board are proposed to be amended to include that overall consideration of the community benefits of a scheme. It is considered that this amended assessment and the recommendations will be sufficient to meet our aims and an assessment to consider the costs and value for money in itself is not necessary.</p>

**The CIL Spending Board**

No.	Issues Raised	Decision	Justification
18(orange)	<p>Format of the CIL Spending Board as laid out in Appendix X1 of the Constitution and how it makes decisions needs to be made clear.</p>	<p><b><u>Proposed Change:</u></b>            Officers have drafted amendments to the terms of reference to ensure that they reflect best and current practice. See Appendix A.</p>	<p>Members were unsure of the process that should be followed when considering and debating all the bids before making a decision to ensure consistency of their recommendations and that the money available was allocated to the most appropriate projects. So clear guidance of the process is required to assist the Board.</p>
19(white)	<p>Too many applications to consider in one meeting. Therefore should there be a policy to limit the number of applications that are presented to the CIL Board.</p>	<p><b><u>No immediate Change:</u></b></p>	<p>Consideration has been given 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. Officers are exploring whether this is achievable without unfairly prejudicing applicants.</p>



No.	Issues Raised	Recommendation	Justification
20(white)	There was no speaker(s) for some applications. Should a decision still be made on this bid.	<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>Officers advise that an application should be considered on its own merits, rather than whether a speaker attends at the Board. This may be considered an unfair or inappropriate consideration. It is noted that attendance is not required at other hearings, such as Licensing or Development Control meetings.</p> <p>However, it may be that the Board finds that it has questions which it feels must be answered to give it sufficient information to determine an application. In this case having a speaker present would be advantageous to an applicant. Otherwise the Board may feel the need to defer the application in order for officers to pass the relevant questions to the applicants, or even for the Board to refuse the application completely.</p>

No.	Issues Raised	Recommendation	Justification
21(orange)	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 based on the amount of money requested.</p>	<p>If the CIL Spending Board consider that the applicant is applying for the wrong amount of 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>If the Board has concerns about the amount of CIL applied for, the Board may seek further information or may refuse it on the basis that it is not cost effective or that they have failed to maximise alternative funding sources.</p> <p>If applicants then seek to amend the amount applied for, this should reset the application process and allow officers to go back through the preliminary stages to consider it on the new basis.</p>

No.	Issues Raised	Recommendation	Justification
22(orange)	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 if the project is not yet deliverable - therefore the money is set aside but not paid immediately; and</li> <li>• that if these recommendations are not met that the project is referred back to the CIL Spending Board for re-consideration.</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(white)	Consider the layout of the report	<b><u>No Change</u></b>	<p>The report covers all the areas required and provides a useful summary for Members.</p> <p>However, additional information will be provided as set out elsewhere in this report.</p>
24(white)	Do we need a standard reason for refusal	<b><u>No Change</u></b>	<p>Options are already available for Members to not approve funding.</p> <p>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.</p>

No.	Issues Raised	Recommendation	Justification
25(white)	Consider whether the CIL Spending Board should have priorities for spending	<b><u>No Immediate Change</u></b>	Once the Local Plan is adopted, the Infrastructure Development Plan to support this document will be able to provide more of a steer as to what the Districts Infrastructure priorities are.
26(orange)	Presentations and visual aids for speakers presenting to the CIL Board are very helpful to set the context of the project	<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.	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 is considered useful to clarify exacting what they can provide i.e. no more than 5 slides etc.
27(white)	A day meeting (similar to a Licencing hearing) could address the time issues presented from an evening meeting.	<b><u>No proposed change</u></b>	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(orange)	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>• monies will not be given until any pre-conditions are met;</li> <li>• ensuring that the money is spent in line of the details laid out in the bid (bills and receipts to be provided) and the project may not be amended without Council permission;</li> <li>• the monies must be accounted separately with all records for how it and other monies relating to the project are spent;</li> <li>• unused monies at the end of the project shall be repaid;</li> <li>• money shall be repaid to the Council in full with interest if not commenced, if misspent or if terms of contract breached;</li> <li>• formally notifying us of the start and finish of the project;</li> <li>• an up-date report should be provided to inform the Council on the progress of the</li> </ul>	<p>The Planning Enforcement Team will monitor whether the applicant has complied with the contract.</p> <p>Officers are happy to work with members to look at providing a robust monitoring of the monies spent.</p>

		<p>project. This will be decided depending on the size and length of the project;</p> <ul style="list-style-type: none"><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>Since the last PAC meeting the Legal and Planning Services Teams have been drafting the appropriate contract to incorporate these, and other, terms.</p> <p>A copy of a draft agreement will also be made available on the Council's website for organisations submitting bids to view.</p>	
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No.	Issues Raised	Recommendation	Justification
29(orange)	<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 has been 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>The Council must receive a thorough audit trail to ensure that any money spent through the CIL Board is monitored to ensure that it has been spent correctly and on the project that it was allocated to.</p> <p>The Planning Enforcement Team will monitor whether the updates are provided and are appropriate and sufficient</p> <p>The monitoring will be reported back to the CIL Spending Board.</p>