

**West Lancashire Borough Council**

**(Update to the) Governance Framework for  
Community Infrastructure Levy and Section 106 Expenditure**

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## **1.0 INTRODUCTION**

- 1.1 In 2014, West Lancashire Borough Council introduced the Community Infrastructure Levy, which allows local authorities in England to raise funds from developers who are undertaking new building projects in their area. The money collected must be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure to support new development. It cannot be used to remedy existing deficiencies unless these are exacerbated by new development.
- 1.2 The Council's adopted CIL charging schedule sets out the levy rates that apply to new developments across the Borough. The schedule was informed by local economic viability evidence and was subject to consultation and independent examination before it was adopted by the Council on 23 July 2014, with effect from 1 September 2014.
- 1.3 As the CIL charging and collecting authority, the Council must administrate CIL in direct accordance with the CIL Regulations 2010 (as amended). Those regulations state that the majority of CIL monies must be applied to fund the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of the Council's area. A smaller proportion of monies, collected in an area, are passed to local councils to be spent on projects in their area, with the intent that they can directly benefit the area in which a development occurred. A much smaller proportion of monies are retained by the Borough Council for administration costs. To ensure that the whole process is transparent, the CIL Regulations stipulate that Councils must report all CIL receipts and expenditure on an annual basis.
- 1.4 The CIL Governance and Expenditure Framework was first prepared and adopted by the Council in 2015 to set out how the Council would determine and report the expenditure of CIL receipts. Since then, there have been a series of amendments to the CIL Regulations, most notably in September 2019, which have changed some of the requirements to CIL's administration. For example, the 2019 amendments made significant changes to how Councils are required to report CIL receipts and expenditure, which need to be reflected in our governance processes. The same amendments have also removed pooling restrictions on Section 106s and the requirement for a Regulation 123 list which will now be replaced by an alternative method of reporting. In addition, it is deemed good practice to regularly review operations to ensure that they remain the most appropriate and effective.
- 1.5 This document will form the revised framework relating to the governance of the CIL funding process, as well as the Council's approach to Section 106 (S106) obligations which are also used to fund new infrastructure.
- 1.6 Whilst CIL relates to the overall cumulative impact of development in general, legislation governing the use of S106 obligations means that they must be used to offset the implications of an individual development (necessary to make a development acceptable in planning terms, directly related to the development and

fairly and reasonably related in scale and kind to the development). Therefore, whilst CIL funds are held within a centralised pot, with flexibility on how to spend those receipts, S106 agreements specify a particular use for the sums received. The expenditure process for CIL and S106 therefore must differ. Nevertheless, the 2019 CIL regulation amendments have made reporting of both CIL and S106 receipts and expenditure mandatory, from December 2020, within a new 'Infrastructure Funding Statement'. The Government are keen to improve public accessibility to, and transparent reporting of, data relating to developer contributions.

1.7 CIL revenue, and decisions relating to its expenditure, must operate within a collection of multiple inter-related documents, plans and frameworks (Figure 1). Clear governance, prioritisation and effective project management are required to ensure that CIL funds, and any existing or future S106 funds, are used most effectively to deliver infrastructure across the Borough and to successfully mitigate the impacts of development. This approach will assist in securing a high quality environment and sustainable economic growth in West Lancashire.

1.8 This document will set out:

- The identification of infrastructure needs
- Overview of S106 and CIL
- Expenditure process for S106 commuted sums
- Expenditure process for CIL monies
- Monitoring and Reporting

Figure 1: Documents feeding into the CIL Funding Process



## **2.0 IDENTIFYING INFRASTRUCTURE NEEDS IN WEST LANCASHIRE**

### **Infrastructure Delivery Plan**

- 2.1 The Infrastructure Delivery Plan (IDP) provides important evidence regarding the infrastructure required to support development in the Borough, advising on both current provision and delivery, and anticipated future requirements. Infrastructure is essential to support additional (as well as existing) housing provision and economic growth, to mitigate the current and anticipated effects of climate change, and to create thriving and sustainable communities.
- 2.2 The IDP is prepared in close liaison with a range of infrastructure and service providers and is an iterative process, designed to continue to identify and respond to infrastructure opportunities and needs in close partnership with providers.
- 2.3 The first IDP was produced to inform the preparation of the Local Plan (2012-2027), and since then has been updated with each stage of the Local Plan Review process. As the Council starts to prepare a new Local Plan, the IDP will form an important part of the background evidence.

### **Infrastructure Delivery Schedule**

- 2.4 Alongside the IDP, sits an Infrastructure Delivery Schedule (IDS) which lists all the infrastructure schemes identified as being necessary to support that development proposed through the Local Plan. It is a live document, able to be updated at any time.
- 2.5 The IDS records the details for each of the individual schemes listed within it, including, where known, delivery timescales, anticipated costs and any identified funding streams which can assist delivery. This information helps to identify and evidence a funding gap i.e. those schemes where a funding deficit remains and where CIL may be considered in order to plug this gap. Not all schemes within the IDS will require CIL funding, as they may be deliverable through other sources including Government or private/developer funding. The inclusion of a project on the IDS does not guarantee that it will receive CIL funding in future; indeed CIL is not capable of funding all infrastructure. CIL can, however, be used as a mechanism to lever in additional funding and projects with match funding available may receive greater weight during assessment.
- 2.6 The purpose of the IDS is therefore, in the first instance, to record infrastructure schemes to support new development. Yet the IDS also comprises an important part of the CIL Expenditure Process, which will be explained below in Section 5.0.

### **3.0 PLANNING CONTRIBUTIONS (SECTION 106 AGREEMENTS)**

- 3.1 S106 obligations must be used to deliver benefits to local communities that can offset the negative impacts caused as result of a specific development. The CIL Regulations 2010 (amended) state that obligations may only be used where it is:
- i) necessary to make a development acceptable in planning terms;
  - ii) directly related to the development; and
  - iii) fairly and reasonably related in scale and kind to the development.
- 3.2 Historically, S106 obligations have been used by the Council to secure affordable housing, transport and highways improvements and public open space contributions or on site provision. Although S106 obligations can be used to secure other infrastructure requirements such as health and education provision, there has been limited usage of such obligations within the borough for these types of infrastructure.
- 3.3 Since the introduction of the CIL Regulations in 2010, the Government's intent has been that the use of S106 obligations should be scaled back to site specific issues and that the focus for developer contributions should be on an up-front CIL system to help deliver infrastructure requirements that provides more certainty to all.
- 3.4 To ensure that developers were not 'double-charged' for developer contributions, through both CIL and S106, CIL Regulation 123 required that Councils published a list of infrastructure projects or types which it intended to fund wholly or partly through CIL. Any items not included within the Regulation 123 list were to then be secured through a S106 obligation where this requirement met the above statutory tests. It also prevented a Council pooling contributions from more than five S106 obligations, entered into after 6 April 2010, to deliver an infrastructure project or type. These measures were designed to encourage local authorities to move away from S106 obligations and to CIL.
- 3.5 The 2019 CIL amendments, introduced 1 September 2019, abolished Regulation 123 and in doing so removed pooling restrictions and the requirement for a Regulation 123 list. Instead, Councils must, from December 2020, annually produce an Infrastructure Funding Statement which includes a requirement to set out those infrastructure types or projects it intends to fund through CIL, along with estimates of anticipated future receipts, as well as revenue and expenditure to date. The Infrastructure Funding Statement will be detailed later in this document. The changes also mean that Councils are no longer restricted in terms of how many obligations they can pool together to fund a single infrastructure project.

### **Use of S106 contributions**

- 3.6 In accordance with the statutory tests governing the use of planning obligations, S106s will continue to be used to address site specific issues and to secure affordable housing, where those matters cannot be addressed through planning condition. This will be done on a site by site basis and in line with the adopted Local Plan and any relevant Supplementary Planning Documents (SPDs) in effect at the time of decision-making.

### ***For transport and highways***

- 3.7 As the Council is a two tier authority, site-specific transport and highways contributions are formally secured through S106 obligations based on requests from the Highways Authority (LCC), who is consulted on a site by site basis.
- 3.8 LCC, as the Highways Authority and public transport executive for Lancashire, has prepared the West Lancashire Highways and Transport Masterplan. This document, and its sub-documents such as the Route Management Strategy, provides greater detail relating to strategic highways and transport improvements required across West Lancashire to deliver economic growth and support development in the Local Plan. The improvements cover all aspects including the highways network, rail network, bus services, cycling and walking.
- 3.9 In addition, LCC has produced a Local Transport Plan for Lancashire, LTP3, which sets out LCC's spending priorities in relation to transport until 2021. An LTP4 is currently being prepared by LCC to replace LTP3. The Highways & Transport Masterplan and the LTP are both key documents and have informed the Infrastructure Delivery Schedule (IDS) and will continue to be considered in determining how CIL contributions and other sources of available funding could be spent on highways and transport infrastructure in West Lancashire.
- 3.10 In relation to case by case site-specific highways improvements, LCC will still have the use of both S106 and Section 278 (S278) obligations, where localised conditions of a site require specific mitigation measures. These will continue to be communicated through individual consultation responses to development proposals. For clarity, both S106 and S278 obligations may only be used where the requirement meets the necessary statutory tests limiting the improvement to site specific measures. In addition, S106 and S278 obligations may only be used where the Council does not intend to fund such infrastructure improvements through CIL and have indicated this through the Infrastructure Funding Statement- An example could be specific junction improvements or highway widening.

### ***For public open space***

- 3.11 The provision of site-specific open space is currently secured based on the application of the standard requirements within the Provision of Public Open Space in New Residential Development SPD (July 2014), which sets out the new requirements for development proposals in securing adequate levels and types of public open space. Where development is of a substantial size, 40 units or more, policy requires that open space is delivered on-site and that maintenance of the open space is the responsibility of the developer. However, in exceptional circumstances, and where it can be justified, maintenance may be passed to the Council along with payment for a period of 10 years. Where this is the case, the developer will be required to enter into a Section 106 obligation with the Council to secure such funding.
- 3.12 It is currently anticipated that this practice will continue for the foreseeable future, but any update to this process will be set out in any newly adopted Local Plan or accompanying SPD.

***For affordable housing***

- 3.13 The provision of affordable housing is secured through S106 obligations that are based on the Council's Affordable Housing Policy (RS2) within the West Lancashire Borough Council Local Plan (2012 – 2027) on a site by site basis and subject to viability constraints. This approach will remain unchanged and affordable housing will continue to be secured through the use of S106 obligations or planning conditions, in line with the Local Plan Affordable Housing Policy (RS2).

***For education***

- 3.14 While requests are rare, in certain circumstances it may be appropriate for contributions to education provision to be sought on some developments. Such contributions will continue to be secured through S106 agreements, where there is a demonstrated need for a specific development to contribute to such an improvement to make the development acceptable in planning terms and subject to development viability. LCC, as Education authority, will advise on a case by case basis as to when contributions are necessitated, based on the LCC Methodology for Education Contributions in Lancashire (2016).

***For ecology***

- 3.15 In some cases, the Council can seek to secure planning contributions to provide ecological improvements. The introduction of a requirement in the National Planning Policy Framework (NPPF) to ensure new developments deliver biodiversity net gain enables Councils to secure off-site gains, secured by way of planning obligations or guidance, where such net gain cannot be provided on site through the development. Where significant harm cannot be wholly or partially avoided, Councils can look to



secure effective mitigation measures through planning obligations<sup>1</sup>. Applicants may also propose measures to achieve biodiversity net gain through a unilateral undertaking. Benefits can be achieved entirely on-site or by using off-site gains where necessary. Off-site measures can sometimes be secured from 'habitat banks', which comprise areas of enhanced or created habitats which generate biodiversity unit 'credits'. Dependent on individual circumstances, planning conditions, obligations or even CIL (where a Council indicates it as an infrastructure item on their IFS) may all be potential mechanisms for securing and funding ecological enhancements.

### **Expenditure Process for S106 Obligations**

- 3.16 Whilst the Council will use CIL as the primary method of collecting planning contributions, historic S106 funds along with any newly secured funds on a site by site basis will continue to be spent in accordance with the related legal agreements as drafted. Therefore, a protocol to manage this process must be in place.

#### **Non-specific schemes**

- 3.17 Historically, S106 agreements have been used to secure funding through the broadest definition of provision, for example 'alternative transport' or 'new or improved public open space'. The expenditure of S106 contributions must be done in line with the specific wording of the relevant S106 agreement to ensure that it is a legitimate use of the monies. The Council must ensure that proposed projects meet the stipulations of the agreements that the monies stem from.
- 3.18 The Council regularly issue notification to Parish Councils and Ward Members of available S106 receipts in each parish/ward, and invite them to suggest schemes for the use of the monies. In addition, the Council's leisure or planning services, and County Council's transport and highways services, are also able to suggest schemes. Proposals must be sent to the Council's S106/CIL Officer who will circulate proposals to the relevant officer working group.
- 3.19 The Council have two officer working groups; one for public open space, and one for transport and highways. Both groups have a mix of officers from relevant departments and include strategic planning, development management and legal. For public open space there are also representatives from leisure, estates, housing and street scene teams, and, for the transportation group, representatives from highways and development and public transport at LCC attend. The latter includes a number of LCC officers as they are the responsible Highways Authority and Public Transport for the borough and the main delivery body of such infrastructure.
- 3.20 The officer working groups assess whether or not proposals meet the stipulations of the originating S106 agreement. Where the group determine proposals do not meet

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<sup>1</sup> See PPG 'natural environment' - <https://www.gov.uk/guidance/natural-environment>

the S106 requirements, officers will work with the proposer(s) to refine the project so it will accord with the requirements, or, in limited cases, will outright reject the proposal. Where the group consider proposals do meet the S106 requirements, a report will be prepared to seek Cabinet approval for the project.

### Specific schemes

- 3.21 In some cases, particularly since the introduction of CIL, the Council has stipulated that certain projects or types of infrastructure must be provided using S106 obligations, for example the funding of pupil places in schools. The ultimate use of the monies is clearly stated and so there is less of a requirement to check that the project accords with the definitions of the agreement. In these cases, the relevant departments at Borough or County Council, or other relevant infrastructure providers, are notified of the availability of monies with which to develop that project's design. Detailed information on the project, including costs and delivery, must be submitted to officers, who will check the appropriateness of the scheme. Subject to the details being acceptable, and the value of the project being under the Council protocol limit of £10,000, officers will then seek Delegated Authority from the Corporate Director of Place and Community in conjunction with the relevant portfolio holder for Planning, for authorisation to proceed with the project. Where the S106 agreement specifies a scheme, but the value exceeds the value of £10,000, the decision will be referred to Cabinet.
- 3.22 Once projects are approved, through either route, officers will liaise to ensure project delivery within the timeframes of the agreement and project.
- 3.23 Given affordable housing will continue to be secured through S106 obligations or planning conditions and will remain unaffected by CIL, this protocol remains unchanged (Appendix 3).
- 3.24 For the avoidance of doubt, the following will apply:

Specific scheme under value of £10,000	Delegated to Director of Place and Community in conjunction with the Portfolio Holder
Specific scheme equal to, or above, value of £10,000	Delegated to Cabinet
Non-specific scheme below £10,000	Delegated to Cabinet
Non-specific scheme equal to, or above value of, £10,000	Delegated to Cabinet



## 4.0 COMMUNITY INFRASTRUCTURE LEVY

### CIL funding splits and apportionment

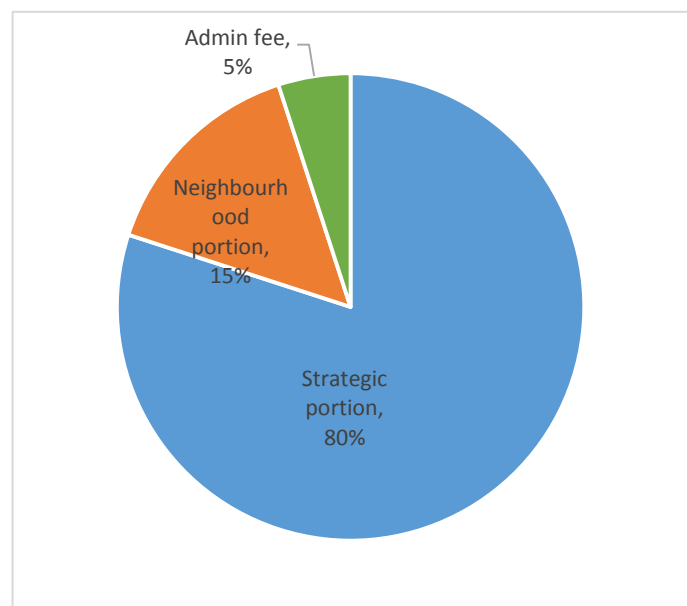
4.1 The CIL regulations specify how CIL funds should be apportioned for expenditure.

#### **Administration Fee – 5%**

4.2 Of the 100% of CIL revenue collected, the regulations permit the Council to retain 5% (annually) for the purpose of administering the CIL. This is to allow for the cost of preparing the CIL charging schedule, the additional Council resources to administer the collection, spending and monitoring of CIL funds and for the cost of IT software to help administrate the CIL process.

#### **Neighbourhood Portion - 15 or 25%**

4.3 The CIL Regulations require that 15% of the funds collected within the area where the chargeable development takes place be passed to the community through parish or town councils, capped at £100 per Council Tax dwelling plus an applied indexation figure. The figure rises to 25% for those areas with adopted neighbourhood plans in place and there is then no cap in place.



4.4 Where a neighbourhood plan is adopted, the 25% is applied to those liabilities created after the date of adoption (i.e. planning permissions granted after the date of the neighbourhood plan's adoption). It is not applied retrospectively to existing liabilities or receipts.

4.5 Where there is no parish or town council (e.g. Ormskirk and Skelmersdale), the Council will retain the neighbourhood portion and, in line with regulation 59F of the CIL Regulations 2010 (as amended), the Council must spend the funds within the "relevant area", i.e. this is ring fenced for expenditure in either Ormskirk or Skelmersdale, based upon where the development took place. CIL Planning Practice Guidance requires that the Council engages with the local community in an open and transparent way in order to prioritise how these funds should be spent.

#### **Strategic Portion – 70 or 80%**

- 4.6 The Borough Council is able to retain the majority of the CIL revenue collected in order to deliver strategic infrastructure priorities. Once the administration fee and the neighbourhood portion have been deducted, this will leave either 70% or 80% of the funds depending on whether there is a Neighbourhood Plan or not. This can be spent on strategic priorities for infrastructure identified by the Borough Council, in consultation with infrastructure providers, the public and other stakeholders. This strategic portion does not have to be spent within the parish or ward in which development occurs but can be pooled and spent anywhere in the Borough, as long as it is on infrastructure that supports new development.

### ***Definition of Infrastructure***

- 4.7 In terms of what this strategic portion can be spent on, the CIL Regulations 2010 (as amended), Regulation 59(1) reads as follows:

*A charging authority must apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area.*

- 4.8 In terms of how infrastructure is defined in the context of this regulation, [Section 216\(2\) of the Planning Act 2008](#) provides an inclusive list of infrastructure types that can fall within the definition of infrastructure for the purposes of CIL. Section 216 goes on to allow the CIL regulations to vary this list, which it does through CIL Regulation 63 (by excluding affordable housing from the definition of infrastructure). Infrastructure therefore includes:

- (a) roads and other transport facilities,*
- (b) flood defences,*
- (c) schools and other educational facilities,*
- (d) medical facilities,*
- (e) sporting and recreational facilities, and*
- (f) open spaces.*

- 4.9 The list, however, is not exhaustive and so, in line with the guidance, CIL can be used to fund a wider range of items. CIL Planning Practice Guidance<sup>2</sup> states that “the levy can be used to fund a very broad range of facilities such as play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, district heating schemes and police stations and other community safety facilities.” but emphasises, in accordance with CIL Regulation 63, the levy cannot be used to fund affordable housing.

- 4.10 The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development.

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<sup>2</sup> Paragraph: 144 Reference ID: 25-144-20190901, Revision date: 01 09 2019

### *Suitable Alternative Natural Greenspace*

- 4.11 Charging authorities can choose to use levy income to provide new or improved areas of open space, including Suitable Alternative Natural Greenspace (SANGS) or similar approaches, which provide recreation space to deflect visitors and reduce the impacts on protected sites arising from development. SANGS are open space and are within the definition of the levy. To ensure compliance with the Conservation of Habitats and Species Regulations 2017, the local authority must be clear that it intends to prioritise the use of the levy to deliver SANGS and maintain its effectiveness in the long term. Where appropriate to do so, this should be set within the relevant development plan and within the Infrastructure Funding Statement.
- 4.12 The Council's preferred approach is to use S106s to secure SANGS (or any ecological mitigation) to ensure that the requirements accord with Biodiversity Net Gain stipulations, are site-specific and meet the tests of CIL Regulation 122.

## 5.0 THE LOCAL PORTION: APPORTIONMENT AND APPLICATION OF 'LOCAL' CIL MONIES

5.1 The CIL Regulations require that 15% of the CIL receipts collected should be passed to the local community through the parish or town council (the 'local council'). This is subject to a capping of £100 per council tax dwelling, plus the application of an indexation rate, within the local area where the development has taken place. These funds are to be spent at the discretion of the local council on local priorities and in accordance with regulation 59C of the CIL Regulations 2010 (as amended), which states:

*A local council must use CIL receipts passed to it in accordance with regulation 59A or 59B 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.*

5.2 Where a neighbourhood plan is adopted, in line with regulation 59A of the CIL Regulations 2010 (as amended), the minimum requirement to be passed to the 'local council' would rise to 25% and is not subject to capping.

5.3 Figure 2 is an extract from the Government's CIL Guidance Document (September 2019) and demonstrates the relationship between CIL receipts and the neighbourhood proportion in differing scenarios.

*Figure 2: Relationship between the levy and neighbourhood plans in England*

Parish council	Neighbourhood plan	Levy
✓	✓	25% uncapped, paid to parish each year
✓	x	15% capped at £100/dwelling (indexed for inflation), paid to parish each year
x	✓	25% uncapped, local authority consults with community about how funds can be used, including to support priorities set out in neighbourhood plans
x	x	15% capped at £100/dwelling (indexed for inflation), local authority consults with community to agree how best to spend the neighbourhood funding

Source: Gov.uk CIL Guidance, Paragraph 145, Revision date September 2019

### **Expenditure of CIL local monies in Parished areas**

- 5.4 In West Lancashire, the majority of the Borough is covered by parish councils. Therefore, the CIL Regulations require the Council to transfer the neighbourhood portion of CIL receipts generated in these areas directly to the parish council for the area twice a year.
- 5.5 Regulation 59D states that, in the absence of a timetable agreed by the Council as charging authority, relevant payments should be made by 28 October and 28 April. Payments are transferred to the parish council via payment requisition in accordance with these dates. This process is set out clearly in Appendix 1.
- 5.6 Prior to each transfer date, the Parish Council are notified of the sums to be paid to them. Should they wish to, they may confirm in writing that they wish the Borough Council to retain any or all of the neighbourhood portion due to them, in order to spend it on more strategic infrastructure priorities.
- 5.7 The Parish Council will be free to spend the funds handed over on local priorities (subject to regulation 59C referred to above) and are obliged to report annually on CIL expenditure. In line with statutory provisions, the Council has the right to recover CIL receipts that have been 'misapplied' or not spent within a 5 year period.
- 5.8 Parish Councils must publish their CIL annual reports on their website, and/or submit them to the Borough Council. The Council will use these reports to check expenditure is in accordance with the regulations. Parish Councils should ensure that they use their earliest receipts first, so to avoid having to return monies.

### **Expenditure of CIL local monies in Non-Parished areas**

- 5.9 In West Lancashire, there are some areas which are unparished, including Skelmersdale and Ormskirk. These areas are subject to regulation 59F of the CIL Regulations 2010 (as amended), which addresses the use of CIL in an area without a 'local council'.
- 5.10 For clarity, where funds are collected in an area without a parish council in place, the neighbourhood portion is not ring fenced to the ward in which development has taken place but the neighbourhood portion may be spent in the entire relevant area without a local council, e.g. the neighbourhood portion of a CIL receipt from a development in Scott ward can be spent on new infrastructure anywhere in the non-parished area covered by the three Ormskirk wards of Scott, Knowsley and Derby.
- 5.11 In areas without a parish council, the Council will retain the neighbourhood portion of the CIL receipts but must engage with the local community where development has taken place and agree with them how best to spend the neighbourhood portion.



- 5.12 The Council is required to set out clearly and transparently their approach to engagement and this is set within the Council's Statement of Community Involvement.
- 5.13 Each year, the Council will consult on the use of available CIL monies in non-Parished areas alongside the strategic consultation process. Of those schemes assessed and shortlisted for CIL expenditure in the financial year, officers will check which fall within non-Parished areas and whether relevant local monies could instead be utilised in place of strategic monies. This ensures that strategic monies are used in the most flexible of ways to ensure best value.

## **6.0 THE STRATEGIC PORTION – PROCESS FOR PRIORITISATION AND EXPENDITURE**

- 6.1 Once CIL funds are received and the Council has deducted the allocations to the administration fee and the neighbourhood portion, it is vital that there is a robust and transparent mechanism in place for prioritising how the strategic portion is spent.

### **The Infrastructure Delivery Schedule (IDS)**

- 6.2 The IDS helped to support and underpin the Local Plan and demonstrate the funding gap with which to justify the introduction of the CIL Charge. It records those infrastructure projects that have been identified as needed to support the growth and development across the Borough. The IDS records details of infrastructure schemes including information about their costs, funding gaps, other funding sources, and delivery timescales. The IDS is a “live” document, regularly updated with the latest information on infrastructure projects and improvements. The IDS, therefore, forms an appropriate base for considering how the spending of CIL funds may be prioritised.
- 6.3 In order to allow officers and elected members to think more broadly and strategically about infrastructure delivery, the IDS will continue to include schemes and projects expected to be delivered within the short term (up to 1 year), medium term (1-5 years) and long term (5 years plus). The IDS will be published annually to inform decision-making on how CIL monies should be spent.

### **Updating the IDS via engagement with Infrastructure Providers**

- 6.4 The Council will continue to liaise regularly with a range of infrastructure and service providers to update information on existing projects and to identify any new projects for inclusion on the IDS. These providers include, but are not limited to,:

- *Lancashire County Council*
- *West Lancashire Borough Council*
- *West Lancashire Clinical Commissioning Group*
- *NHS England*
- *Lancashire Wildlife Trust*
- *Environment Agency*
- *Network Rail*
- *Highways England*
- *North West Ambulance Service*
- *Lancashire Police*
- *Lancashire Fire and Rescue*

- 6.5 Through discussions, providers are required to identify where deficiencies in infrastructure exist or will become apparent as a result of new development and growth. Where possible, they are then required to suggest schemes or projects to

assist in meeting the deficiency and, if appropriate, these would then be included in the IDS. Providers are encouraged to provide as much information as possible on delivery timescales and other sources of funding in order to enable officers and members to make informed decisions.

- 6.6 The Council will contact infrastructure and service providers, Members and Parish Councils at least once a year (usually in Spring) to invite them to submit updated information relating to existing schemes on the IDS, or to submit new schemes for inclusion on the IDS.
- 6.7 The public are also able to submit suggestions for schemes through the consultation processes (explained below).

### **Identifying and shortlisting projects**

- 6.8 Schemes within the IDS will be assessed and shortlisted as to their priority and suitability for delivery using CIL funding. This, together with the level of CIL funding available, will inform and justify which schemes are brought forward through the CFP.
- 6.9 Schemes to be included within the CFP should meet an infrastructure need generated by new development in the current Local Plan period and be included in the Infrastructure Delivery Schedule (IDS). In addition, schemes should be shown to deliver enduring benefits and preferably be identified within a relevant strategy(s) document. Schemes may be favoured where they offer multiple and/or wider as well as local benefits and lever in other funds that wouldn't otherwise be available (match funding).
- 6.10 Therefore, if an elected representative, an infrastructure provider or any other stakeholder wishes CIL to fund, either wholly or partly, any particular infrastructure projects, the first step is to demonstrate why the given project should be included within the IDS and how it meets the infrastructure needs generated by new development. A proforma and accompanying guidance note are available to assist this process.

### ***Assessment***

- 6.11 To assess projects on the IDS for CIL funding, and to assist in prioritising those projects which are suitable, the Council uses the information submitted on each project to assess schemes against a number of key criteria.
  - 1. Are CIL monies needed to deliver the project?
  - 2. Does the project meet a local need or demand that has arisen from new development?
  - 3. When can the infrastructure be delivered?
  - 4. Are clear project costs and funding known?

5. Are there 'Neighbourhood' CIL monies available in the Parish / Non-Parished area the project is located within that could be used to wholly or partly fund the project?
  6. Does the project help meet at least one of the Council's corporate priorities?
  7. Is the project identified within a relevant local strategy, e.g. the Local Plan, the Highways and Transport Masterplan, the Leisure Strategy?
- 6.12 The first criterion ensures that all infrastructure projects on the IDS which do not require CIL monies are separated off at the outset, reducing unnecessary assessment of projects. The second is essential as CIL monies can only be spent on infrastructure that meets a local need or demand that has arisen from new development. Use of these criteria enable officers to rule out all infrastructure projects which are ineligible to receive CIL monies from further assessment, based on information existing at that time.
- 6.13 The third criterion is necessary to understand whether the project is technically deliverable within two years of receiving the funding and so might benefit from having CIL monies allocated to it for spending in the following financial years. The fourth criterion allows us to consider whether there are clear and realistic costs and firm funding proposals (other than a request for CIL monies) in place that would confirm that the project is not only technically deliverable but financially deliverable as well. Where costs are unknown, the assessment assumes the project is not financially deliverable within the next two years as the Council needs to see more robust proposals before allocating CIL monies to a project. Where a project proposes match-funding from another source, if that match-funding has not been secured, there must also be questions over the deliverability of that project, albeit those questions may not ultimately rule out a project entirely in this assessment, depending on the precise circumstances of the match-funding.
- 6.14 A further consideration within this fourth criterion, but not a definitive one in decision-making, is also whether the project will provide greater value for money by using CIL monies to lever in other funding. While leveraging in match-funding would clearly be a positive, it would not be appropriate to disadvantage a project simply because it does not have access to other funding and would rely solely on CIL monies, hence this factor is not a key criteria.
- 6.15 The fifth criterion allows the Council to consider whether a project might be more suitably funded by "Neighbourhood" CIL monies that are available in an area (the 15% or 25% of CIL income from a development which is automatically passed to the local Parish Council or, in a non-parished area, set aside by the Council to spend specifically in that area) in order to save "strategic" CIL monies for the larger projects that serve a wider area.
- 6.16 The sixth and seventh criteria are necessary to help differentiate and prioritise between projects that meet all of the first other criteria (i.e. when the assessment produces a fairly long shortlist) by considering whether the projects help meet at

least one of the Council's Corporate Priorities and/or are identified within a relevant local strategy as being of strategic importance.

### **Match Funding**

- 6.17 CIL alone will be unable to fund all required infrastructure in the Borough and is instead designed to lever-in match funding opportunities. As set out above, projects which cannot secure additional match funding will not be discounted from consideration, however, the Council will look favourably to those projects who identify and secure other funding sources.

### **Draft CIL Funding Programme (CFP)**

- 6.18 The results of the shortlisting will be reported through a draft CIL Funding Programme report. Officers will seek Cabinet approval to go out to public consultation with the draft programme, before making their final recommendations to Cabinet, who will make the ultimate decision.

### **Shortlisting projects costing less than £100,000**

- 6.19 Whilst the Council are keen to use CIL funding to deliver infrastructure projects in the short-term, the Council also wish to ensure that CIL is allowed to accumulate so as to provide larger funds to support the delivery of larger, costlier schemes and medium to long-term projects. Therefore, Cabinet agreed, in January 2018, that annual CIL Funding Programmes will focus on smaller-scale projects (requiring £100,000 of CIL funding or less) and limit expenditure of CIL on those projects through the CIL Funding Programme to £100,000 each year. In this way, the vast majority of the 'strategic portion' will be saved and allocated towards larger-scale projects, requiring more than £100,000 of CIL funding, which will be coming forward in subsequent years, whilst still allowing smaller infrastructure projects to have CIL funding allocated to them and be taken forward in the current year through the usual decision-making process. This approach strikes an appropriate balance between delivering smaller-scale projects each year and collecting sufficient CIL funding to make a meaningful contribution to the delivery of larger infrastructure projects.
- 6.20 In any year where the £100,000 cap is not reached, the remaining balance will be moved into the 'large-scale schemes' fund.
- 6.21 In any one funding year it is likely that there will be several schemes recommended to receive CIL funding as the Council are keen to deliver as many infrastructure projects as possible with CIL monies. Typically, many of the projects that can be delivered in the short-term are of lower value than those that are planned for the long-term. **As per the original CIL Governance Framework, adopted in 2015, the**

decision on how to allocate this £100,000 annually will continue to be delegated to Cabinet.

### **Shortlisting projects costing more than £100,000**

- 6.22 It is likely that CIL funding for larger, costlier schemes (for example the delivery of a new leisure centre), will be in line with Council strategies and Capital programmes, whether that of the Borough and/or County Council. In these cases, public consultation is not considered necessary as such strategies and programmes will already have been consulted on. The capital strategy will ensure the effectiveness of capital resource is optimised by allocating funding to those programmes and projects that will contribute most to the achievement of the Council’s strategic objectives.
- 6.23 Schemes will be assessed and shortlisted through a similar process as above to ensure that larger strategic schemes, which are to be taken forward using CIL funding, are deliverable and have considered other sources of funding. Rather than limit authorisation of CIL expenditure on such strategic schemes to once a year, as with those projects £100,000 cap for the annual CIL Funding Programme, appropriate projects will be taken to Cabinet as necessary. This ensures that the Council can continue to facilitate strategic projects speedily and flexibly in line with wider strategies, implementation and capital timetables. Authority to allocate CIL funds on these larger strategic schemes will be delegated to Cabinet, irrespective of the cost of an individual scheme.

### **Timescales for the CIL Funding Programme**

- 6.24 The timescales for updating the IDS and producing the CFP should sit alongside the Council’s process for the Capital Spending Programme to ensure that the IDS reflects the Council’s corporate priorities and explores all opportunities for match funding. Below is an indicative timescale for the IDS and CFP review:

<b>Stage Date</b>	<b>Schemes costing less than £100,000</b>	<b>Schemes costing more than £100,000</b>
March / April	Close of financial year, and CIL receipts and expenditure for that period confirmed. Projected CIL income estimated for the following financial year based on committed schemes.  Infrastructure and service providers contacted to invite updates on existing schemes or submission of new schemes for inclusion on the IDS.	
May / June /	Assessment of schemes on the IDS to prepare a shortlist of projects	

July	appropriate to receive CIL funding in following financial year.	
July / August	Members invited to comment on the shortlist and assessments.  Draft CFP finalised and presented to CMT alongside updated IDS.	Schemes can be taken forward to Cabinet at any time, as appropriate
September	Draft CFP and updated IDS presented to Cabinet for agreement for public consultation for those schemes under the financial cap of £100,000	
September / October	4 week consultation on IDS and draft CFP.  Consideration of the Council's annual capital spending programme review period to help identify cross funding opportunities.	
October / November	Consider consultation feedback and refine IDS and CFP if necessary.	
November	Final CFP and IDS presented to Cabinet for approval to spend identified CIL funds	
December	Infrastructure Funding Statement	
January / February / March	Successful projects notified and agreements prepared.	
April	Implementation and financing of approved schemes can commence	

### **Following approval of monies**

- 6.25 Where projects are being delivered by external parties, that provider will be required to sign an agreement with the Council, confirming how the CIL monies must be used, any timeframes, and agree that any unspent or unused funds will be returned to the Council.
- 6.26 Where projects are being delivered by the Borough or County Council, that provider will be required to provide full details of costs and delivery timescales, and seek approval from officers before commencing the project.

## **Publicity**

- 6.27 The Government are keen to ensure that the CIL process is transparent and that communities understand the benefits that are being delivered as a result of CIL monies. Subsequently, recipients of CIL monies will be encouraged to ensure that any project materials, for example promotional boardings erected on site as the project is delivered, make clear that the project is, at least in part, being funded by Borough Council CIL monies.



## **7.0 PAYMENTS IN KIND**

- 7.1 The CIL regulations allow, in certain circumstances, for the Council to accept land and/or infrastructure to be provided, instead of money, in order to satisfy all or part of the charge arising from the levy. This may be appropriate where the Council has already planned to invest CIL receipts in a project as there may be time, cost and efficiency benefits in accepting completed infrastructure from the party liable for payment of the levy.
- 7.2 Although payment in kind is subject to a number of conditions and is at the discretion of the Council, where these are accepted, for the purposes of the neighbourhood portion, the equivalent value must still be passed to the relevant local council in cash. Therefore, accepting payments in kind has a number of financial implications which must be considered.
- 7.3 Any Payments in Kind policy will need to consider how land and / or infrastructure which is transferred into the ownership of the Council is included on the Council's Asset Register, any land searches necessary before the Council take ownership, any necessary legal agreements relating to how the Council can dispose of it in the future and any issues over the liability for maintaining the land and / or infrastructure.
- 7.4 Ultimately, there are two types of payment in kind: a land payment or an infrastructure payment.

### **Land Payments**

- 7.5 The Council may choose to accept a land payment by entering into an agreement to accept a piece of land equivalent to the value of part or all of a party's CIL liability. The Council would also need to be satisfied that the land in question is suitable and necessary to help deliver all or part of a piece of infrastructure that is consistent with the infrastructure types and projects on the Regulation 123 list.
- 7.6 Regulations 73 and 74 govern the process of land payments and a land agreement must be entered into before development commences. Payment in kind and land payments can only be accepted where:
- the chargeable amount in respect of the chargeable development exceeds £50,000;
  - where the land is acquired by the Council or a nominee of the Council; and
  - the person from whom the land is acquired has assumed liability for the CIL payment.
- 7.7 The agreement cannot form part of a S106 planning obligation and must comply with all the relevant conditions set out in regulation 73 of the CIL Regulations 2010 (as amended) relating to the purpose of acquisition and the valuation process.

### **Infrastructure Payments**

- 7.8 Charging authorities may also enter into agreements to receive a piece of newly developed infrastructure as payment. Where a charging authority chooses to adopt a policy of accepting these infrastructure payments, they must publish a policy document which sets out the conditions attached to such payments in detail.
- 7.9 This policy document will confirm that the authority will accept infrastructure payments and set out the infrastructure projects, or types of infrastructure, they will consider accepting as payment. This document will refer to the Council's Regulation 123 list and the infrastructure provided must be identified to support development within the borough.
- 7.10 As with land payments, infrastructure payments are subject to a number of conditions set out in regulations 73, 73A, 73B and 74 and the infrastructure provided must not be infrastructure that would be necessary to make the development acceptable in planning terms, i.e. the type of measures that may be site specific and would usually form part of a Section 106 obligation under the CIL regulations.

## **8.0 MONITORING & REPORTING**

### **Infrastructure Funding Statement (Borough Council)**

- 8.1 The CIL Regulations require the Council to publish annual reports (for the previous financial year) detailing received and anticipated receipts and expenditure. In accordance with the CIL Regulation amendments in September 2019, this must be reported through an Infrastructure Funding Statement (IFS), which replaces both the former Regulation 123 list and Annual Reports. The IFS must detail monies relating to both the Council's Community Infrastructure Levy and Section 106 obligations.
- 8.2 Following the removal of CIL Regulation 123, which had required Councils to set out a list of those infrastructure types or projects which they intended to fund through CIL and had imposed pooling restrictions on S106 obligations, Councils must also now use the Infrastructure Funding Statement to identify infrastructure needs, the total cost of the infrastructure, anticipate funding from developer contributions, and the choices the authority has made about how these contributions will be used. When preparing an IFS, the Council should consider known and expected infrastructure costs taking into account other possible sources of funding to meet those costs, which will help identify and evidence the infrastructure funding gap in anticipation of future reviews of both the Local Plan and the CIL Charging Schedule.
- 8.3 Authorities can also pool funding from different sources to fund the same infrastructure, providing that they set out in their IFS which infrastructure they expect to fund through the levy and which infrastructure they expect to fund through planning obligations. This enables CIL and S106 receipts to be used on the same items of infrastructure, for example a planning obligation to deliver a new school on a strategic site can be supported with additional CIL funds.
- 8.4 The Council's first IFS must be published by 31 December 2020. As it should set out the infrastructure items that the Council intend to fund in the following financial year, officers recommend that the consultation is undertaken in September/October, with responses informing the recommendations to Cabinet, for a final decision in November. This enables the IFS, each December, to report those infrastructure items to be funded through CIL in the following financial year, aiding public transparency.

### **County Councils**

- 8.5 County Councils must also publish an IFS for their receipts and expenditure. The Borough Council will need to ensure the reports align.

### **Annual reports (Parish Councils)**

- 8.6 Parish Councils are advised to work closely with the Council to agree priorities for spending their neighbourhood funding, and to enable this to be reflected in the

Council's Infrastructure Funding Statement. However, it is up to Parish Councils to decide how they spend their funds. Where a neighbourhood plan has been made, it should be used to identify infrastructure priorities.

- 8.7 Regulation 62A of the CIL regulations 2010 (as amended) requires local councils (Parish Council) to monitor and report how the neighbourhood portion of the CIL funds have been spent on an annual basis.
- 8.8 This reporting must include:
- How much CIL has been collected;
  - How much of that money has been spent;
  - The items of infrastructure on which it has been spent;
  - The amount of expenditure on each item of infrastructure;
  - The details of any CIL funds recovered by the Council; and
  - The amount of CIL retained at the end of the reported year
- 8.9 The local council is required to publish this report on its website or, where the local council does not have a website, the website of the Borough Council. A copy of the report must be sent to the Borough Council by 31<sup>st</sup> December following the reported year.
- 8.10 Where a local council does not have the capability to carry out such monitoring and reporting, the Borough Council may be able to assist subject to negotiation and an administrative charge.
- 8.11 Where there is no local council, and the Borough Council determine how the local monies should be spent, then the Borough Council will prepare the annual report and publish it on the Council website.

#### **Failure to spend receipts, or spend on appropriate infrastructure**

- 8.12 In accordance with Regulation 59E, the Council can request that local councils (i.e. parish councils) who have i) not spent CIL monies within 5 years of their receipt and/or ii) not spent them appropriately on infrastructure projects, must pay back their unspent, or misspent CIL monies so that the Council can use the funds to deliver necessary infrastructure. The Council will therefore use parish council monitoring reports to review the use of funds by local councils and determine whether any requests for the return of neighbourhood monies should be made.
- 8.13 The Council are aware that in some cases, particularly in areas that have large development sites paying CIL instalments over several years, local councils may identify costlier infrastructure projects that require the accumulation of CIL receipts extending across a period of more than five years. The Council will therefore, on a case-by-case basis, use legal agreements to enable local councils to retain monies beyond the five year period, where a clear project(s) has been identified and can be shown to be deliverable in the near future.

## 9.0 Summary of differences between the S106 and CIL processes

	S106	CIL
Collected from	Site-specific needs identified through a planning application	Developments that meet the trigger for CIL
Calculated through	Obligations guidance	CIL Regulations 2010 (as amended)
Collected for	Specific POS schemes Specific transport schemes Education Affordable housing	Public open space Sports facilities Green infrastructure Transport and highways Public realm Community facilities
Used	In relation to a specific site	Across the Borough
Payment due	Various triggers	Following commencement
Projects assessed through	Officer working groups	CIL Funding Programme
Public consultation required	No	Yes
Projects approved by	Delegated authority; or Cabinet  Dependent on use and value	Cabinet
Receipts and expenditure reported through	Infrastructure Funding Statement	Infrastructure Funding Statement

## **APPENDIX 1- NEIGHBOURHOOD PORTION PROTOCOL**

### **Process for Administrating and Spending the Neighbourhood Portion of CIL Receipts**

CIL regulations require that at least 15% of the CIL receipts collected should be passed to the local community through the Parish or Town Council, capped at £100 per council tax dwelling within the local area (usually the parish where the development has taken place) per year. This figure rises to 25%, without cap, where the CIL chargeable development is within an area covered by an adopted Neighbourhood Plan. The neighbourhood portion of CIL receipts will be passed to the Parish Councils twice a year – in April and October.

Where no Parish Council exists (Ormskirk, Skelmersdale and Bispham), receipts will be retained by the Borough Council who will undertake consultation to determine the most appropriate projects to spend the money on. The Statement of Community Involvement will set out more detailed information on how and when community consultation will occur.

In accordance with CIL Regulation 59C, CIL neighbourhood funds must be spent on:

- a) the provision, improvement, replacement, operation or maintenance of infrastructure;*
- b) anything else that is concerned with addressing the demands that development places on an area*

### **Identifying priorities**

To make clear what they expect CIL money to be spent on, Parish Councils are encouraged to publish a list of the infrastructure projects which the community sees as priorities for delivering and would like to see provided with CIL funds. This is not a legislative requirement, but consulting the community and listing priorities in this way provides clarity and reduces uncertainty as to what the neighbourhood portion of CIL receipts in any given parish will be spent on. Where possible, this list should have regard to wider priorities as set out within the Council's Infrastructure Funding Statement.

### **Reporting**

In accordance with CIL Regulation 62, Parish Councils must report annually on their CIL receipts and expenditure and make this publically available.

## **Recovery of misspent, or unspent, receipts**

The Borough Council retains the right to recover CIL receipts that have not been spent on appropriate projects, or where monies have not been spent within 5 years of receipt by the Parish Council.

Where monies are required to be paid back, the Borough Council will serve a notice on the Parish Council stating the amount of CIL receipts to be repaid, the reasons for why those monies should be repaid, and the date repayment should be made by.

A Parish Council can notify the charging authority (the Borough Council), in writing, that they do not want to receive all, or some, of the CIL receipts due to them. The Borough Council will then retain those CIL receipts and allocate them to schemes they identify.

A Parish Council may do this where community priorities for infrastructure are the same as those of the local authority (such as they are agreed a new school or road is needed) or they are unable to identify local infrastructure projects on which to spend the neighbourhood portion.

A Parish Council Guidance Note provides more detail for Parish Councils on the neighbourhood portion of CIL and is available on the Council's website.

## **Protocols for distribution of the Neighbourhood portion**

The following protocols apply for receipt and expenditure of CIL monies in relation to the neighbourhood proportion.

### **In Parish Council areas:**

Stage	Action
1	CIL Receipts collected by Borough Council.
2	In April and October of each year, the Borough Council will write to each Parish Council confirming the portion due to them (from receipts over the previous six-month period). Parish Councils will also be invited to confirm whether they would prefer the Borough Council to retain all or part of the neighbourhood portion to be spent on strategic infrastructure projects.
3	Relevant amounts will be passed to Parish Councils in April and October.
4	Parish Council should identify the most appropriate ways of using the neighbourhood portion on local infrastructure, ideally through engagement with the local community.

5	Parish Councils are responsible for the identification and delivery of schemes in their area.
6	<p>Parish Council produce an annual report detailing CIL receipts. Report must include:</p> <ul style="list-style-type: none"> <li>• Total receipts for reported year</li> <li>• Total expenditure for reported year</li> <li>• Summary of CIL expenditure including projects and amounts spent</li> <li>• Details of any notices received (requesting return of monies)</li> <li>• Total receipts retained at end of reported year (i.e. unspent) by returned year, and previous years</li> </ul> <p>The Parish Council must publish the report on its website or provide a copy to the Borough Council to publish on the Council website. It must also send a hard copy of the report to the charging authority (Borough Council). Reports must be received no later than 31 December following the reporting year.</p>
7	The Borough Council will use the Parish Council reports to monitor i) that CIL monies are being spent on appropriate infrastructure items and ii) that CIL monies are being spent within appropriate time periods. Where monies are incorrectly spent, or not spent, the Borough Council may ask for CIL monies to be returned to allow the Council to spend them on behalf of the Parish Council.

**In non-Parish Council areas:**

Only Skelmersdale and Ormskirk are unparished and Bispham does not have a Parish Council. In these locations the Council will retain the neighbourhood portion of the CIL receipts and will engage with the local community as to how the neighbourhood funding should be spent. The Borough Council will then be responsible for reporting CIL receipts and expenditure on an annual basis.

Working with infrastructure delivery partners, the Council will set out those schemes which it considers to be appropriate and deliverable, and establish the priorities. These schemes will then be put to the community for consultation through the annual CIL Funding Programme. Proportionate consultation and publicity will be undertaken through a range of methods as detailed in the Council’s Statement of Community Involvement. People will be able to state whether they agree, or disagree, with the schemes and priorities and are welcome to suggest alternative projects. The results of consultation will then be fed into final officer recommendations and put before Cabinet for a final decision on the most appropriate schemes to implement. The amount of available CIL receipts must be considered when determining the most appropriate projects.



## Non-Parished areas

Stage	Action
1	CIL Receipts collected by Borough Council
2	15% of receipts collected in non-parished area to be retained by Borough Council
3	Schemes shortlisted for the CIL Funding Programme. Shortlisted schemes in non-parished areas, with available Neighbourhood CIL receipts, will be prioritised to use local, rather than strategic, monies.
4	Cabinet approval to publically consult on any shortlisted schemes as part of the wider annual CIL Funding Programme consultation. Comments will only be considered by those people who are Ormskirk residents or businesses, due to the nature of the funding. Comments received will be considered and used to prepare final recommendations for the Funding Programme. Members will have the final decision in November Cabinet.
5	Borough Council will produce an annual report detailing CIL receipts and publish the report on its website.

## APPENDIX 2 – STRATEGIC CIL FUNDING PROTOCOL

As Table on p.21

Stage Date	Schemes costing less than £100,000	Schemes costing more than £100,000
March / April	<p>Close of financial year, and CIL receipts and expenditure for that period confirmed. Projected CIL income estimated for the following financial year based on committed schemes.</p> <p>Infrastructure and service providers contacted to invite updates on existing schemes or submission of new schemes for inclusion on the IDS.</p>	
May / June / July	Assessment of schemes on the IDS to prepare a shortlist of projects appropriate to receive CIL funding in following financial year.	
July / August	<p>Members invited to comment on the shortlist and assessments.</p> <p>Draft CFP finalised and presented to CMT alongside updated IDS.</p>	Schemes can be taken forward to Cabinet at any time, as appropriate
September	Draft CFP and updated IDS presented to Cabinet for agreement for public consultation for those schemes under the financial cap of £100,000	
September / October	<p>4 week consultation on IDS and draft CFP.</p> <p>Consideration of the Council's annual capital spending programme review period to help identify cross funding opportunities.</p>	
October / November	Consider consultation feedback and refine IDS and CFP if necessary.	
November	Final CFP and IDS presented to Cabinet for approval to spend identified CIL funds	
December	Infrastructure Funding Statement	
January / February / March	Successful projects notified and agreements prepared.	
April	Implementation and financing of approved schemes can commence	

### APPENDIX 3 – PLANNING CONTRIBUTIONS PROTOCOL

Set out below are three protocols for engagement between Infrastructure Providers (for example Lancashire County Council (LCC)) and West Lancashire Borough Council (WLBC) to manage the use of Community Infrastructure Levy (CIL) contributions and historic and new Section 106 (S106) obligations.

#### Process for agreeing the expenditure of new S106 Obligations to be agreed alongside CIL regime

Stage	Action
1	Pre-application - Discussion with applicant to establish likely S106 contributions in line with Planning Policy requirements and CIL Regulations. Engage relevant Infrastructure Provider.
2	Planning Application – Negotiation with the applicant for any S106 obligations required for infrastructure improvement, that are outside the responsibilities of CIL.
3	Planning Decision - Planning Committee consider key issues and grant consent subject to signing of S106 obligation. Legal costs will be payable by the applicant before completion of the S106 obligation.
4	Obligation Completed – Subject to further negotiation, the obligation is signed by the applicant and planning permission granted by the Director of Place and Community in consultation with the relevant Portfolio Holder for Planning.
5	Funds collected – following commencement of development or any other trigger such as completion of a given percentage of the development.
6	Correspondence sent, 1-2 times a year, to all Borough Councillors and Parish Councils reminding them of available receipts and inviting them to identify projects for the use of S106 receipts, (having regard to the restrictions on the use of S106 monies).
	Formal submission of schemes/bid proposals by Parish Council or Ward members to the Borough Council OR schemes developed by Borough or County Council officers where no proposal has been submitted. Schemes circulated to the Officer working group.
7	Officer Working Group – Officers from WLBC and/or LCC Transport and Highways meet to discuss bids received and update on the progress of previously approved projects. Group consider proposals in line with the scope of the legal obligation, and opportunities for match or alternative

	funding.
8	<p>Schemes approved by the officer working group are referred for authorisation as follows:</p> <ul style="list-style-type: none"> <li>• Specific scheme under value of £10,000: Delegated to Director of Place and Community in conjunction with the Portfolio Holder</li> <li>• Specific scheme equal to, or above value of, £10,000: Delegated to Cabinet</li> <li>• Non-specific scheme below £10,000: Delegated to Cabinet</li> <li>• Non-specific scheme equal to, or above value of, £10,000: Delegated to Cabinet</li> </ul>
9	Scheme Design - Infrastructure Providers and WLBC officers work up scheme and establish costs and schedule for works.
10	Schemes approved, purchase orders raised and invoices issued. Payment regime agreed with Infrastructure Provider or contract signed for Infrastructure Provider to deliver scheme.

## **APPENDIX 4 - AFFORDABLE HOUSING SECTION 106 PROTOCOL**

Set out below is a high level Protocol for how the Borough Council will manage the Section 106 process (S106) in respect of Affordable Housing, from the initial discussions with developers, through to the delivery of the housing. This will make it clear where officers and Members will be involved in the process.

### **Affordable Housing**

1. Pre-application – Discussion with applicant to establish likely S106 requirements.
2. Planning Application – Affordable housing requirement established in line with the Planning Policy requirements.
3. Negotiation – Planning Case Officer negotiates with developer on the need for affordable housing including matters relating to property type and number, tenure type, phasing and location requirements for its delivery, delivery mechanisms, and relevant affordable housing conditions with advise from the Housing Strategy & Development Programme Manager. Liaison will also take place with Planning in respect of viability issues that may affect the amount/mix based on agreed Council policy. In the case of an outline application negotiations will only normally take place in relation to the percentage and tenure mix of units to be affordable, with further discussions on other matters at the reserved matters stage. The outline and reserved matters S106 obligations will both be dealt with in the same way as set out in this Protocol.
4. Planning Decision – In the event that Planning Committee support the proposed development then the grant of permission will be subject to the signing of a S106 obligation. Legal costs will be payable by the applicant before completion of the S106 obligation.
5. Obligation Completed – Subject to further negotiation, the obligation is signed by the applicant and planning permission granted by the Director of Place and Community in consultation with Chairman or Vice Chairman of Planning Committee.
6. Member Briefing – Update Report to inform the Affordable Housing Cabinet Panel, which includes the Housing Portfolio Holder, regarding affordable housing contribution agreed.