



Community Infrastructure Levy and Section 106 Governance and Expenditure Framework

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1.0 INTRODUCTION

- 1.1 In 2014, West Lancashire Borough Council adopted the Community Infrastructure Levy (CIL) which allows the Council to charge a levy on new development in the area and is used by the Council to fund the provision, improvement, replacement, operation, or maintenance of infrastructure needed to support new development in their area (*Planning Act 2008, Section 216(1)*). It cannot be used to remedy existing deficiencies unless these are exacerbated by new development.
- 1.2 Prior to the introduction of CIL, Section 106 (S106) of the Town and Country Planning Act 1990 made provision for the payment of financial contributions, or the physical delivery of infrastructure required in association with new development by way of legal agreements (S106 Obligations).
- 1.3 S106 Obligations remain a beneficial tool as a source of funding and/or deliver some types of infrastructure required as a direct result of new development that cannot otherwise be secured through CIL.
- 1.4 This document sets out the procedures for how West Lancashire Borough Council will administer and expend both of these funding sources.

2.0 SECTION 106 OBLIGATIONS - OVERVIEW

- 2.1. Planning obligations are legal obligations entered into to mitigate the impacts of a development proposal.
- 2.2. This can be via a planning agreement entered into under section 106 of the Town and Country Planning Act 1990 by a person with an interest in the land and the local planning authority; or via a unilateral undertaking entered into by a person with an interest in the land without the local planning authority.
- 2.3. Planning obligations run with the land and are therefore registered as local land charges. They are legally binding and enforceable.
- 2.4. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the following statutory tests, that they are:
 - necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.

(as set out in Regulation 122 of the Community Infrastructure Levy 2010 (as amended) and as policy tests in the National Planning Policy Framework)

- 2.5. They will be used to secure the infrastructure on a site-by-site basis where those matters cannot be addressed through a planning condition. This is to be done in line with the adopted Local Plan and any relevant Supplementary Planning Documents (SPDs) in effect at the time of decision-making.
- 2.6. S106 obligations specify the use and/or location where any provision or contribution received must be carried out. Where the Council is signatory to a S106 Obligation, the Council must see that S106 contributions are spent in accordance with the Council's Obligations as set out in the obligation to discharge its responsibilities.
- 2.7. The expenditure process for S106 contributions must therefore reflect this.

3.0 SECTION 106 OBLIGATIONS – ALLOCATION OF FINANCIAL HEADS OF TERM PROCEDURE

- 3.1 These procedures are to be applied in cases where a S106 obligation has secured the payment of a financial contribution to the Council to deliver infrastructure required in association with a new development. There are two types of S106 obligations: for specific projects and for non-specific projects.
- 3.2 A Specific Project is defined as a project where the criteria for the expenditure of the S106 contribution(s) is specified within the S106 Obligation heads of terms. There is therefore less of a requirement to seek authority on what the funding can be spent on. However, there still a requirement to assess whether a project meets those criteria when it comes to allocation of funding and project delivery.
- 3.3 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' within a particular area, ward or parish. These are termed "Non-Specific Projects".
- 3.4 The process for allocating S106 funding is the same for Specific and Non-Specific projects.

S106 Contributions Equal to or Less than £50,000

- 3.5 A maximum limit of £50,000 (inclusive) is set to identify what is to be considered a small value S106 project contribution. For the avoidance of doubt, this may include projects that are over £50,000 but have secured match funding from another source.
- 3.6 In these cases, the Council will first notify the relevant departments at Borough or County Council, Parish / Town Councils or other relevant infrastructure providers of the availability of the contribution(s) once received and set out the criteria within which to design the project.
- 3.7 Once prepared, detailed information on the project including feasibility, design and delivery costs must be submitted to the CIL/S106 Team that, in consultation with the Council's Legal Services and other such relevant consultees including the CIL/S106 Officers Working Group, will assess its appropriateness.
- 3.8 Subject to the details being acceptable and the value of the S106 contribution being equal to or below the imposed threshold of £50,000, the CIL/S106 Team will seek delegated authority from the Assistant Director of Planning and Regulatory Services in discussion with the Lead Member for authorisation to proceed with the project. Any allocations of expenditure will be reported by way of a Members Update.
- 3.9 Alternatively, where a project is being delivered by West Lancashire Borough Council, following consultation and written approval from the CIL/S106 Team, the project manager may also seek delegated authority from the Assistant

Director of Planning and Regulatory Services in discussion with the Lead Member to seek authorisation of the appropriateness of the project and allocation of funding. For clarity, the CIL/S106 Team will independently consult with the Council's Legal Services and other such relevant consultees including the CIL/S106 Officers Working Group, on the appropriateness of the project prior to giving any written confirmation of support.

S106 Contributions Equal to or Above £50,001

- 3.10 Where a project and criteria for expenditure of S106 contributions is specified in the S106 Obligation, but the value is equal to or above £50,0001, following submission of the project details and consultation, the decision will be referred to the Policy and Resources Committee for authorisation on expenditure.
- 3.11 Alternatively, where a project is being delivered by West Lancashire Borough Council, following consultation and written approval from the CIL/S106 Team, the project manager may also refer the decision on the appropriateness and allocation of funding to the Policy and Resources Committee. Again, for clarity, the CIL/S106 Team will independently consult with the Council's Legal Services and other such relevant consultees including the CIL/S106 Officer Working Group, on the appropriateness of the project prior to giving any written confirmation in support.
- 3.12 Table 1 below provides a summary of the process of allocating S106 funding:

Request for S106 contribution is equal to or below £50,000	Consultation with Legal Services, relevant consultee(s), S106/CIL Officers Working Group. Delegated to Assistant Director of Planning and Regulatory Services in discussion with the Lead Member. Reported as a Members update.
Request for S106 contribution is equal to or above £50,001	Consultation with Legal Services, relevant consultee(s), CIL/S106 Officers Working Group. Delegated to Policy and Resources Committee

- 3.13 Once projects are approved, through any route set out above, they are required to be delivered in accordance with the S106 and CIL Expenditure and Project Monitoring Procedure as set out at Chapter 10 of this document.

Monitoring Fees

- 3.14 Regulation 122(2A) permits the Local Planning Authority to charge a sum in respect of the cost of monitoring and reporting in relation to the delivery of planning obligations within its area.

- 3.15 Monitoring fees must fairly and reasonably relate in scale and kind to the development and must not exceed the authority's estimate of the cost of monitoring the development for the lifetime of the planning obligations.
- 3.16 Monitoring fees are set out in the "Local Planning Fee Schedule" [Microsoft Word - LOCAL PLANNING FEE SCHEDULE - FINAL.docx \(westlancs.gov.uk\)](#) and are reviewed on an annual basis as appropriate. They are currently set at £500 + VAT per obligation.
- 3.17 The monitoring fees collected will be ringfenced and utilised for the administrative costs associated with the monitoring of S106 obligations.

4.0 SECTION 106 OBLIGATIONS – WEST LANCASHIRE BOROUGH COUNCIL SPECIFIC

4.1 West Lancashire Borough Council will use S106 obligations to secure the following specific requirements necessary to make a development acceptable in planning terms:

- On-site affordable housing provision
- Transport and highways infrastructure provision and/or improvements
- On-site public open space provision
- Site specific infrastructure such as health and education provision
- Ecological mitigation measures

On-site Affordable Housing

4.2 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 using S106 obligations in line with the Local Plan Affordable Housing Policy (RS2).

Transport and Highways Infrastructure Provision and/or Improvements

4.3 Following formal consultation on a site-by-site basis through the planning process, site-specific transport and highways contributions will be formally secured through S106 obligations following a specific request from the Lancashire County Council acting as the Highways Authority (LCC). These contributions will be spent in accordance with the S106 Financial Contributions Expenditure Procedure.

4.4 LCC may use either S106 and Section 278 (S278) obligations, where localised conditions of a site require specific mitigation measures that may be delivered by a developer. These are to be communicated through specific consultation responses through the planning process.

4.5 S106 and S278 obligations may both 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.

On-site Public Open Space Provision

- 4.6 The provision of site-specific open space is secured and is based on the application of the standard requirements within the Provision of Public Open Space in New Residential Development SPD (July 2014).
- 4.7 This adopted document requires that a residential development of 40 units or more, open space is delivered on-site and that maintenance of the open space is the responsibility of the developer. This requirement is secured through a S106 obligation. In exceptional circumstances, and where it can be justified, ownership of the public open space land may be transferred to the Council along with a contribution to cover the Council's costs of maintenance for a period of 10 years.
- 4.8 Any amendment to this requirement will be set out in any newly adopted Local Plan and/or accompanying SPD superseding the Provision of Public Open Space in New Residential Development SPD (July 2014).

Education Provision

- 4.9 In certain circumstances it may be appropriate for contributions to education provision to be sought on some developments. Such contributions are 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.
- 4.10 LCC, as the Education Authority, will advise on a case-by-case basis as to when contributions are needed, based on the LCC Methodology for Education Contributions in Lancashire (2016) or any such superseding document.
- 4.11 Where a financial contribution is received by the Council on behalf of LCC as the Education Authority to deliver educational provision by way of a S106 obligation, the Council will see that it is spent in accordance with the S106 Financial Contributions Expenditure Procedure.

S106 for Suitable Alternative Natural Greenspace (SANGs) and Biodiversity Net Gain (BNG)

- 4.12 SANGs are recreation space to deflect visitors from protected sites and their delivery and funding can be secured through S106 agreements. In England, BNG is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and requires developers to deliver BNG of 10%. This means a development will result in more or better-quality natural habitat creation than there was before the development.

- 4.13 S106 obligations are used to secure significant on-site or off-site habitat creation or enhancement. The S106 obligations set out a habitat plan and a monitoring strategy that is to be carried out and reported at various stages over a period of 30 years. The Council is responsible for monitoring compliance with the requirements of these plans and therefore must seek its reasonable costs in doing so, including costs incurred by the Council in seeking the professional services of suitably qualified Ecologists.
- 4.14 The Council is currently preparing a schedule of fees for these monitoring purposes, in order that it can administer the BNG function and monitor and report accordingly, as required by the legislation. Fees will be collected by the Council upon the commencement of each development subject to a S106 for BNG.
- 4.15 Following collection of such fees, these will be administered appropriately under full delegated procedures towards expenditure incurred by the Council in retaining professional services and internal administrative and monitoring requirements.
- 4.16 There may be other ecological measures that are required through development and these will be considered on a case-by-case basis.

5.0 COMMUNITY INFRASTRUCTURE LEVY (CIL) – OVERVIEW

- 5.1 The Community Infrastructure Levy (CIL) was adopted by West Lancashire Council in 2014.
- 5.2 The levy is set locally and is set out in the Council's adopted CIL Charging Schedule (1 September 2014). The Council must collect and administrate the levy in accordance with the Regulations.
- 5.3 The schedule will be revised from time to time in line with timescales in producing and adopting future Local Plans. Any new charging schedule will be consulted upon and independently examined before any future adoption. The schedule is made available for viewing via the Council's website.
- 5.4 The Regulations require local authorities to use the levy to fund *"the provision, improvement, replacement, operation, or maintenance of infrastructure needed to support new development in their area"* (*Planning Act 2008, Section 216(1)*). It cannot be used to remedy existing deficiencies unless these are exacerbated by new development.
- 5.5 CIL may be used to fund a wide range of infrastructure, including play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes, police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant plan. Charging authorities may not use the levy to fund affordable housing.
- 5.6 The Regulations set out how the Council is to identify "infrastructure". This is done through the Infrastructure Delivery Plan (IDP).
- 5.7 The Council developed and published its current IDP in 2012 to inform the preparation of the current Local Plan (2012-2027) and has since been reviewed and updated to reflect the latest information available, in collaboration with its infrastructure partners, to inform the preparation of the next Local Plan.
- 5.8 The 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.
- 5.9 Alongside the IDP, sits the Infrastructure Delivery Schedule (IDS). This is a list all infrastructure projects identified as being necessary to support development proposed through the Local Plan. It is a live document and is updated annually.
- 5.10 The IDS records the details of the projects. Where possible, it includes delivery timescales, anticipated costs and any identified funding streams which can assist delivery. This information helps to identify and evidence funding gaps where CIL or S106 funding may be considered appropriate to support.

6.0 ADMINISTRATING THE COMMUNITY INFRASTRUCTURE LEVY – OVERVIEW

- 6.1 The Regulations set out how the monies received by the Council must be apportioned.

Administration Fee – 5%

- 6.2 Of the 100% of CIL revenue collected, the regulations permit the Council to retain 5% 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.
- 6.3 The Regulations require that the administrative fees collected must be allocated and spent in full on an annual basis.

Neighbourhood Portion - 15 or 25%

- 6.4 The CIL Regulations require that 15% of the funds collected within the area where the chargeable development takes place are to be passed to the community through Parish or Town Councils, capped at a maximum of £100 per existing Council Tax dwelling per year. The figure rises to 25% for those areas with adopted Neighbourhood Plans in place and then there is no cap in place. In the Borough, this only applies to Burscough Town Council.
- 6.5 Where there is no Parish or Town Council (e.g., in 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”. Therefore, if new development takes place in Skelmersdale and a CIL charge is collected, the neighbourhood portion of that amount will be spent in Skelmersdale. Likewise, if a CIL charge is collected from new development in Ormskirk, the neighbourhood portion will be spent in Ormskirk.
- 6.6 The Regulations require the Neighbourhood Portion to be allocated and transferred to the Parish/Town Councils on a biannual basis in April and October every year.

Strategic Portion – 70 or 80%

- 6.7 The Borough Council is to retain the majority of the CIL revenue collected 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, so long as it is on infrastructure that supports new development.

- 6.8 The Regulations do not set out any specific requirement on how and when the Council should spend the Strategic Portion. This is left to the authority to decide.
- 6.9 Therefore, the Strategic Portion is allocated and spent in accordance with the terms set out in *The Strategic Portion: Prioritisation and Allocation Procedure and S106* and *CIL Expenditure and Project Monitoring Procedure* chapters of this document.

7.0 THE ADMINISTRATIVE PORTION: APPORTIONMENT AND EXPENDITURE PROCEDURE

- 7.1 Regulation 61 of the CIL Regulations 2014 (as amended) states that a collecting authority may apply administrative expenses incurred by it in connection with CIL.
- 7.2 West Lancashire Borough Council applies this regulation. When applied, the regulations permit that 5% of all the CIL receipts collected are retained by the collecting authority for use on administration of CIL service. This also includes 5% of the receipts collected in relation to CIL surcharges or late payment interest.
- 7.3 The Council will hold these receipts in a separate ring-fenced account.
- 7.4 Regulation 61 (3)(b) requires that the total amount of CIL that may be applied to administrative expenses incurred during a year shall not exceed 5% of CIL collected in that year.

8.0 THE NEIGHBOURHOOD PORTION: APPORTIONMENT AND ALLOCATION PROCEDURE

- 8.1 The CIL Regulations require that 15% of the CIL receipts collected is passed to the local community through the Parish or Town Council (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. This is called the Neighbourhood Portion.
- 8.2 The Borough Council will calculate and set the capping rate of each local council area on an annual basis in April, in consultation with the Borough Council's Council Tax Department's most recent figures.
- 8.3 Any Neighbourhood Portion that exceeds the local council cap, will be retained by the Borough Council to administer and spend in accordance with the Strategic Portion procedures within that local council area.
- 8.4 The Neighbourhood Portion that the local councils receive is to be spent at the discretion of that 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."*
- 8.5 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 a local council rises to 25% and is not subject to capping.
- 8.6 Table 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.
- 8.7 Regulation 59D requires that, relevant payments should be made biannually by 28 October and 28 April. Payments are transferred to the local councils via payment requisition in accordance with these dates. This process is set out in Appendix 4.
- 8.8 Prior to each transfer date, the CIL/S106 Team will notify local councils that are to receive a Neighbourhood Portion. Should they wish to, the local council may confirm in writing that they wish the Borough Council to retain any or all the Neighbourhood Portion due to them, to spend it on more strategic infrastructure priorities.

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

Table 2: Relationship between the levy and neighbourhood plans in England

- 8.9 The Borough Council has the right to recover any Neighbourhood Portion that has been ‘misapplied’ or not spent within a 5 year period.
- 8.10 Where recovery of funding has taken place, the Borough Council will hold that amount ring-fenced in its strategic funding account to spend on future projects within that local council area.
- 8.11 Local councils must report on their receipts and expenditure of their CIL Neighbourhood Portion by way of an annual report. Full details of this are set out in Chapter 13 of this document – *Reporting Receipts and Expenditure – Parish/Town Councils*.
- 8.12 The Borough Council will use these reports to check expenditure is in accordance with the regulations. Local Councils should ensure that they use their earliest receipts first, so to avoid having to return monies.

Expenditure of CIL the Neighbourhood Portion in Non-Parished areas

- 8.13 In West Lancashire, there are some areas which are non-parished, 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 parish.
- 8.14 Where funds are collected in an area without a parish/town 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 that entire non-parish area.
- 8.15 In areas without a parish/town council, the Borough Council will retain the neighbourhood portion and will engage with the local community where development has taken place and agree with them how best to spend the neighbourhood portion.
- 8.16 Each year, the CIL/S106 Team will consult on the use of available CIL monies in non-parished areas alongside the Annual CIL Funding Programme (CFP)

consultation process. Of those schemes assessed and shortlisted for CIL expenditure in the financial year, the CIL/S106 Team will check which fall within non-parished areas and whether there is a relevant neighbourhood portion that could be used in place of the strategic funding portion.

- 8.17 Alternatively, if £50,000 or less of NCIL funding is requested for a project in a non-parished area and appropriate public consultation has already taken place, the request can be considered under delegated procedures by the Assistant Director of Planning and Regulatory Services in discussion with the Lead Member at any time outside the CIL funding programme. Members will be informed by way of a Members Update.
- 8.18 Such projects will be assessed and prioritised for allocation in the same way as the CFP process and in accordance with the criteria for assessment following suitable consultation with Legal Services and the CIL/S106 Officers Working Group.
- 8.19 This ensures that the Council can continue to facilitate local neighbourhood projects speedily and flexibly in response to local community needs.

9.0 **THE STRATEGIC PORTION – PRIORITISATION AND ALLOCATION PROCEDURE – THE ANNUAL CIL FUNDING PROGRAMME**

- 9.1 The CIL Regulations require that 70/80% (dependant on whether a parish or town council is in place) of the CIL receipts collected are retained to fund the provision, improvement, replacement, operation, or maintenance of infrastructure needed to support new development in their area (*Planning Act 2008, Section 216(1)*). This portion of funding is known as the Strategic Portion.
- 9.2 95% of receipts relating to surcharges or late payment interest, where applicable, is also retained by the Borough Council and included in the strategic portion.
- 9.3 There is no regulatory requirement of a time limit within which to spend the strategic portion, nor is there a limit on the amount of the strategic portion that can be spent within any one financial year. It is up to the funding authority to decide on how it wishes to administer the strategic portion.
- 9.4 This section of the document sets out how West Lancashire Borough Council administers and spends the strategic portion on suitable capital projects. This is referred to as the annual CIL Funding Programme (CFP). A timetable and summary of the stages involved is contained at Appendix 7 of this document.

Limit on Small Value CIL Contributions

- 9.5 A maximum limit of £50,000 is set to identify what is to be considered a small value CIL project contribution. For the avoidance of doubt, this may include projects that are over £50,000 but have secured match funding from another source.
- 9.6 In any one financial year the total amount allocated in small value CIL contributions is limited to £200,000. This includes those projects that are received and considered outside the CIL Funding Programme during the course of a financial year. This is to ensure that the majority of the CIL receipts are retained and can accumulate for large scale future infrastructure projects.
- 9.7 Small value CIL contribution funding requests may be considered outside the CIL Funding Programme only following an identified underspend in the CIL Funding Programme and if the request does not allow the £200,000 limit to be exceeded.
- 9.8 Such funding requests can be considered under delegated procedures by the Assistant Director of Planning and Regulatory Services in discussion with the Lead Member at any time outside the CIL funding programme. Members will be informed by way of a Members Update.

Call for Bids

- 9.9 On an annual basis in spring, the CIL/S106 Team will contact internal and external infrastructure and service providers, Members and Parish/Town Councils with the invitation to submit updated information relating to existing project proposals on the IDS, or to submit new projects for inclusion on the IDS.
- 9.10 Alongside this, the CIL/S106 Team will invite bids through the annual CIL Funding Programme (CFP) for those projects that wish to seek CIL funding to assist in their delivery.
- 9.11 The CFP Bid Application Form and guidance, contained at Appendix 7 of this document and sets out the information to be supplied by the bidder for assessment purposes.

First Assessment

- 9.12 The criteria that every project bid must meet is set out at Appendix 6 of this document.
- 9.13 The project bids received are initially triaged and assessed against the criteria by the CIL/S106 Team firstly in consultation with the CIL/S106 Officer Working Group, with the group making recommendations as to their suitability.
- 9.14 The CIL/S106 Officer Working Group will also seek to realise opportunities to utilise other funding sources other than the strategic CIL funding portion, such as available S106 funding or the neighbourhood portion where retained by the Borough Council.
- 9.15 Where S106 funding or the Neighbourhood Portion is available, the project is to be considered and assessed in accordance with that other expenditure procedure.
- 9.16 If it is found that a project clearly does not meet the assessment criteria, bidders will be notified and explanation given as to why their project bid will fail to progress to the next stage.
- 9.17 Bidders will be given a final opportunity to provide further information and/or justification or the project will be publicised with the recommendation that it does not meet criteria. Where possible, officers may signpost unsuccessful bidders to alternative sources of funding for their projects. Bidders may request that the project may be included in the IDS for the opportunity for it to be considered in the future for funding.

Public Consultation

- 9.18 Public consultation by the Borough Council on the use of CIL monies is not a mandatory requirement of the CIL regulations. However, the government CIL guidance does encourage public engagement, certainly when seeking to fund projects using the neighbourhood portion retained by the Council for the non-parished areas. The Borough Council will take the opportunity to carry out public consultation of all the bids received.
- 9.19 The Borough Council will publicise for a 4 week period through the following methods:
- Information on the Council's CIL webpages and consultation webpages
 - E-mail to all Parish Councils and Members
 - E-mail to all infrastructure providers
 - Press release / publicity through Councils' social media
 - Electronic online response form to complete
- 9.20 An overview of each project received through that annual CFP will be provided with a recommendation as to whether it meets the CIL funding criteria or not.
- 9.21 Consultees will be requested to provide their support or otherwise to each project and also requested to put forward new projects suggestions for consideration for inclusion in the IDS and possible future CIL funding opportunities.

Second/Final Assessment and Approval of Allocation and Expenditure

- 9.22 All relative and meaningful responses received through the public consultation will be taken into consideration by the CIL/S106 Team in consultation with the CIL/S106 Officers Working Group.
- 9.23 Projects are then shortlisted and identified as to whether they are suitable or not to qualify for funding.
- 9.24 A report of final recommendations is then prepared for the Policy and Resource Committee for its consideration and final approval for the allocation and expenditure of the strategic portion of funding.
- 9.25 If any other sources of funding have been identified as suitable for use of a project, such as S106 and/or the neighbourhood parish portion, this will also be recommended, and approval sought from the Policy and Resource Committee at the same time.
- 9.26 As with the funding approved for allocation and expenditure by way of the S106 process, the approved expenditure of the CIL strategic portion on projects will

be carried out in accordance with the S106 and CIL Expenditure and Project Monitoring Procedure at Chapter 10 of this document.

Projects Requiring £100,000 or more CIL Contribution

- 9.27 Infrastructure projects that require more than CIL contribution of £100,000 or more are considered to be large scale projects. Such projects are already highly likely to be contained within the IDS. The majority of capital projects to be delivered by the Borough Council will have already undergone public consultation prior to their development.
- 9.28 Where public consultation has taken place and projects are supported, these projects can be considered for CIL funding by the Borough Council at any time, as appropriate outside the CFP. This ensures that the Council can continue to facilitate strategic projects speedily and flexibly in line with wider strategies, implementation and capital timetables.
- 9.29 These projects will be assessed and prioritised for allocation in the same way as per the CFP and in accordance with the criteria for assessment.
- 9.30 As with S106 procedure for allocation, following consultation and written approval from the CIL/S106 Team, a Council led project manager may also refer the decision on the appropriateness, allocation and expenditure of the CIL strategic portion of funding to the Policy and Resources Committee. For clarity, the CIL/S106 Team will independently consult with the Councils Legal Services and other such relevant consultees including the CIL/S106 Officers Working Group, on the appropriateness of the project prior to giving any written confirmation of support.

10.0 S106 AND CIL EXPENDITURE AND PROJECT MONITORING PROCEDURE

- 10.1 The section of the document sets out the requirements following the formal approval of allocation and expenditure of funding through either the S106 or CFP process.
- 10.2 Following approval by the Policy and Resource Committee or under delegated procedures, the CIL/S106 Team will notify the Project Manager of a successful project of the outcome and instruct the Council's Legal Services to draft Grant Agreements (GA)/Memorandums of Understanding (MOU) for agreement between the relevant parties. These agreements will set out the details of the project to be delivered, monitoring and reporting requirements, expenditure timescales and evidence and clawbacks if not expended appropriately or in time. This is in acknowledgement that complex projects have longer timeframes for delivery and completion. GA and MOU templates are provided at Appendix 7 to this document.
- 10.3 As a default, any CIL or S106 funding will be secured for expenditure within two financial years from approval.
- 10.4 The Council's Capital Programme Finance Business Partner and Departmental Business Partner must be notified of the approval and signing of the agreement before financial arrangements are made to spend the funding.
- 10.5 The CIL/S106 Team will liaise with the Project Managers, as set out in these agreements, to ensure project delivery within the timeframes of the agreement and project.
- 10.6 Any variation to projects following the approval of the allocation of funding must be made in writing and provide justification for the variation. These can be considered by the CIL/S106 Team in consultation with Legal Services, relevant consultee(s) and CIL/S106 Officers Working Group.
- 10.7 A variation that is considered to significantly alter the expenditure or nature of the project that has previously been approved by the Policy and Resources Committee will be returned to that committee for further consideration and approval/refusal.
- 10.8 Variations considered to be minor and that do not significantly change the expenditure amount or nature of the project will be delegated to the Assistant Director of Planning and Regulatory Services in conjunction with the Lead Member with a recommendation for approval/refusal.

11.0 PAYMENTS IN KIND

- 11.1 Regulation 73 and 74 of the CIL Regulations 2014 (as amended) may allow for the Borough Council to accept land and/or infrastructure to be provided, instead of money, in order to satisfy all or part of a charge arising from the levy.
- 11.2 Payment in kind is subject to several conditions and its acceptance is at the discretion of the charging authority. Where accepted, for the purposes of the neighbourhood portion, the equivalent 15/25% monetary value must still be passed to the relevant local council.
- 11.3 The Borough Council has not enacted this part of the regulations, nor has it adopted a Payments in Kind policy.
- 11.4 The Borough Council reserves the right to regularly review its position in these matters should a need arise that would add value and benefit the community by way of assisting the delivery of infrastructure necessary to mitigate the impacts of new development in its Borough.

12.0 POOLING OF S106 AND CIL

- 12.1 The 2019 CIL amendments, introduced on 1 September 2019, removed restrictions on pooling S106 obligation contributions. This means that the Borough Council is not restricted in terms of how many obligations they can pool together to fund a single piece of infrastructure.
- 12.2 This also means that the Borough Council may seek to use both S106 contributions and monies derived from the CIL process to fund a single piece of infrastructure.
- 12.3 For projects where CIL and S106 funding are to be pooled and the combined value of these sources of funding is less than or equal to £50,000, these projects will be assessed and prioritised in accordance to both allocation processes. The CIL/S106 Team will seek delegated authority from the Assistant Director of Planning and Regulatory Services in conjunction with the Lead Member for authorisation to proceed with the project. Any allocations of expenditure will be reported by way of a Members Update.
- 12.4 For projects where CIL and S106 funding are to be pooled and the combined value of these sources of funding is equal to or more than £50,001, these projects will be assessed and prioritised in accordance with the respective allocation processes. The decision on the appropriateness, allocation and expenditure of the funding will be referred to the Policy and Resources Committee.
- 12.5 Once projects are approved, through any route set out above, they are required to be delivered in accordance with the S106 and CIL Expenditure and Project Monitoring Procedure as set out at Chapter 10 of this document.

13.0 REPORTING RECEIPTS AND EXPENDITURE

Infrastructure Funding Statement (Borough Council)

- 13.1 The reporting of S106 and CIL receipts and expenditure is mandatory under the CIL Regulations. This is called the Infrastructure Funding Statement (IFS). Regulation 121(A), Schedule 2 of the Regulations sets out the full reporting requirement.
- 13.2 For CIL Income and Expenditure, for the reporting year, this is summarised as follows:
- the total value of CIL set out in all demand notices issued
 - total amount of CIL collected
 - the total amount of CIL receipts which have been allocated/not allocated;
 - the total amount of CIL expenditure
 - the total amount of CIL receipts allocated but not spent
 - the total CIL expenditure, broken down in to Administrative, Neighbourhood and Strategic portions;
 - details of the items of infrastructure on which CIL has been allocated, and how much each item;
 - details of the items of infrastructure on which CIL has been spent, and how much on each item
 - details of any amounts passed or recovered from Parish/Town Councils
- 13.3 For S106 Income and Expenditure, for the reporting year, this is summarised as follows:
- the total amount of money to be provided under any planning obligations which were entered into
 - the total amount of money received
 - the total amount of money received before the reported year but not yet allocated
 - details of any non-monetary contributions to be provided e.g. number of affordable housing units, educational provision,
 - the total amount of money allocated but not spent for funding infrastructure;
 - the total amount spent, itemised including monitoring expenses;
 - the total amount allocated
 - details of the items of infrastructure on which S106 monies has been allocated, and how much each item;
- 13.4 In accordance with the regulations the Borough Council will publish its IFS by 31 December each year on the Councils website.

County Councils

- 13.5 County Councils must also publish an IFS for their receipts and expenditure. The Borough Council will ensure the reports align. This includes:
- summary details of any funding or provision of infrastructure which is to be provided through a highway agreement under section 278 of the Highways Act 1980 which was entered into during the reported year,
 - summary details of any funding or provision of infrastructure under a highway agreement which was provided during the reported year.

Parish/Town Councils

- 13.6 Regulation 62A of the CIL regulations 2010 (as amended) requires Parish/Town Councils to monitor and report how the neighbourhood portion of the CIL funds have been spent on an annual basis.
- 13.7 This reporting is summarised as follows:
- 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.
- 13.8 The Parish/Town Council are required to publish this report on its own website or, where a Parish 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 December following the reported year.
- 13.9 Where there is no parish council, the Borough Council will determine how the local monies should be spent. The Borough Council will prepare the annual report and publish it on the Council website.
- 13.10 In addition to the annual Parish reporting, the Borough Council will also provide a report to the Planning Committee on a biannual basis itemising the amounts allocated and transferred to each Parish/Town Council and itemise the source of the funding from the approved development.

14.0 MONITORING THE FRAMEWORK

14.1 Below is the list of documents that inform this Governance and Expenditure Framework that may, from time-to-time, be amended or fully updated:

- West Lancashire Borough Council Corporate Priorities
- West Lancashire Borough Local Plan 2017 – 2027 and associated policies
- Infrastructure Delivery Plan
- Infrastructure Funding Statement
- Burscough Town Council Adopted Neighbourhood Plan
- Health and Wellbeing Strategy 2018 – 2021
- Leisure Strategy 2015 – 2025
- Housing Strategy Action Plan 2024 – 2029
- Financial Inclusion Strategy 2021-2024
- CIL Charging Schedule
- Provision of Public Open Space in New Residential Development SPD (July 2014)

14.2 The CIL/S106 Team will carry out a regular review of these documents to ensure that any changes in strategy or priority are considered within the context of the procedures contained within this document.

14.3 The Framework will also be reviewed when new or amended legislation is enacted.

14.4 On an annual basis and in line with the annual CIL Funding Programme, the annual financial review of income, expenditure and what is retained is carried out in April. This will inform decisions as to whether additional measures are required to the limit the overall expenditure of the funding available and secures the availability of CIL and S106 funding for future years.

14.5 This will include a review of the £50,000 limit and £200,000 annual funding limit on small value CIL contributions received throughout a financial year. This is to take into account the amount of strategic portion received in that financial year, what has been retained from previous years and the anticipated CIL receipts in the next financial year.

14.6 Upon review, if the CIL/S106 Team consider it appropriate that the thresholds be changed, it will prepare a report with justification and recommendations for consideration and decision of the Planning and Resource Committee.

14.7 Any other required changes that are deemed to be of significant importance, and that will require amendment to the Framework, will be proposed by the CIL/S106 Team to the CIL/S106 Officers Working Group. Amendments will be reported to the Policy and Resource Committee with recommendations for proposed changes.

Appendix 1 - 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 requirement for CIL
Calculated through	Obligations guidance	CIL Regulations 2010 (as amended), West Lancashire Borough Council CIL Charging Schedule 2014
Collected for	Specific POS schemes Specific transport schemes Education Affordable housing Biodiversity Net Gain Monitoring	Public open space Sports facilities Green infrastructure Transport and highways Public realm Community facilities
Used	Site specific	Across the Borough
Payment due	Various triggers	Upon commencement
Projects assessed through	Officers working groups in consultation with Legal	Annual CIL Funding Programme Assessment Criteria
Public consultation required	No	No – But carried out through the Annual CIL Funding Programme
Projects approved by	Delegated authority or Policy and Resources Committee Dependent on use and value	Delegated authority or Policy and Resources Committee Dependent on use and value
Receipts and expenditure reported through	Infrastructure Funding Statement	Infrastructure Funding Statement

Appendix 2 – S106 Obligations - Allocation and Expenditure Procedure

CALL FOR PROJECTS			
Correspondence sent in Spring (alongside CIL Funding Programme) to Borough Councillors and Parish/Town Councils to notify of available S106 funding. Invitation to identify suitable projects for the use of the funding. No deadline for submission.			
Available S106 funding reported bi-monthly to the CIL/S106 Officers Working Group and requests for internal capital projects.			
SUBMISSION OF PROJECTS			
Formal submission of projects bids by Parish Council or Ward members to the Borough Council.			
Capital Projects developed by Borough or County Council officers where no local proposal has been submitted.			
CONSULTATION			
Consultation CIL/S106 and/or LCC Transport and Highways Officers Working Groups			
Consultation with Legal Services to assess project in terms of suitability in relation to the S106 obligation.			
ASSESSMENT			
Suitability against S106 Obligation	Feasibility	Match-funding opportunities	Timescale for delivery
APPROVAL			
Project contribution £50,000 or less: Delegated to Assistant Director of Planning and Regulatory Services in discussion with the Lead Member		Project contribution £50,001 or more: Delegated to next available Policy and Resources Committee	
Council led project managers may also seek authority of the allocation and expenditure of S106 funding in line with the above, following consultation and written confirmation of support from the CIL/S106 Team. CIL/S106 Team to independently consult officer working groups and Legal officers to assess appropriateness and support for allocation prior to any written confirmation of support.			
POST APPROVAL LEGAL ARRANGEMENTS			
External Project – Legal Services instructed and Grant Agreements prepared and executed.			
Internal Project – Legal Services instructed and Memorandum Of Understanding prepared and executed.			
POST APPROVAL FINANCIAL ARRANGEMENTS			
Payment arrangements agreed with Project Manager.			
Councils Capital Projects Finance Officer and Department Financial Business Partner informed and provided copy of approval and agreement. Purchase orders raised.			

Appendix 3 – CIL Neighbourhood Portion – Allocation and Expenditure Procedure

PARISH AREAS - NCIL PORTION RECEIVED AND TRANSFERRED	
NO NEIGHBOURHOOD PLAN 15% of CIL receipts within a parish allocated to Parish Council	NEIGHBOURHOOD PLAN 25% of CIL receipts allocated to Town Council
<ul style="list-style-type: none"> • Allocation capped at £100 per council taxed dwelling for that parish. • Parishes may request Borough Council to retain its portion. • Transferred to Parish/Town Council by way of Transfer Requisition every April and October 	
IDENTIFY INFRASTRUCTURE SPENDING PRIORITIES	
<ul style="list-style-type: none"> • Local Councils encouraged to carry out community engagement • Local Councils responsible for identification of projects for <ul style="list-style-type: none"> ○ <i>the provision, improvement, replacement, operation or maintenance of infrastructure</i> ○ <i>anything else that is concerned with addressing the demands that development places on an area</i> 	
REPORTING	
<ul style="list-style-type: none"> • Parish Councils to report their CIL receipts and expenditure of the previous financial year no later than 31 December every year. • Reports must be published. • Where unable to do so Parish/Town Council must provide the Council a copy of their annual report to publication on the Council's Website no later than 31 December every year. 	
RECOVERY OF MISSPENT OR UNSPENT RECEIPTS	
<p>Borough Council will review all reports following publication and has 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.</p> <p>Borough Council will serve notice on a 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.</p> <p>The Borough Council will retain those amount for future spending within that parish area.</p>	

NON-PARISHED AREAS - NCIL PORTION RECEIVED

15% of receipts collected in non-parished areas are retained by Borough Council for expenditure and ring-fenced in financial accounts.

IDENTIFY INFRASTRUCTURE SPENDING PRIORITIES

- Suitable projects are identified as
 - *the provision, improvement, replacement, operation or maintenance of infrastructure*
 - *anything else that is concerned with addressing the demands that development places on an area*
- Projects can be identified, shortlisted and publicised through the annual CFP
 - Only comments received from people residing or working in the non-parished area will be taken into account through public consultation of the CFP
 - Projects identified in non-parished areas, with available Neighbourhood CIL receipts, will be prioritised to use local, rather than strategic monies.
- Projects can be identified by Council Project Managers through CIL/S106 Officers Working Group following previous community engagement can be considered at any time.

ASSESSMENT

Project received through annual CFP will be assessed in line with the CFP procedure

Project received at any other time will be assessed by way of consultation with the CIL/S106 and/or LCC Transport and Highways Officers Working Groups as appropriate.

APPROVAL

Project received and shortlisted through the CFP delegated to Policy and Resources Committee

Project received at any time where monetary NCIL request less than or equal to £50,000 delegated to Assistant Director of Planning and Regulatory Services in conjunction with the Lead Member

Project received at any time where monetary NCIL request equal to £50,001 or more delegated to next available Policy and Resources Committee

POST APPROVAL LEGAL ARRANGEMENTS

External Project – Legal Services instructed and Grant Agreements prepared and executed.

Internal Project – Legal Services instructed and Memorandum Of Understanding prepared and executed.

POST APPROVAL FINANCIAL ARRANGEMENTS

Payment arrangements agreed with Project Manager.

Councils Capital Projects Finance Officer and Department Financial Business Partner informed and provided copy of approval and agreement. Purchase orders raised.

Appendix 4 – CIL Strategic Funding Allocation and Expenditure Procedure

The timescales for updating the IDS and producing the CFP sits 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 annual IDS and CFP.

CIL FUNDING PROGRAMME TIMETABLE	Infrastructure Projects Received through the CIL Funding Programme
Call for Bids (April/May)	<p>CIL receipts and expenditure for previous financial year confirmed. Projected CIL income estimated for the following financial year based on committed projects.</p> <p>Infrastructure and service providers contacted to invite updates on existing projects and submission of new projects for inclusion on the IDS.</p> <p>Infrastructure and service providers contacted to invite bids on existing projects contained within the IDS or new projects that may require CIL funding.</p>
First Assessment (June/July)	Assessment of updates/bids received against CIL Funding Assessment Criteria and preparation of bids for public consultation.
Public Consultation (July/August)	<p>Public consultation stage of project bids submissions.</p> <p>Consideration of consultation outcomes.</p>
Final Assessment and Approval (September/October)	<p>Final assessment undertaken and projects shortlisted, taking into account that the total of funding amount requests of £50,000 or less must not exceed the annual spending cap of £200,000.</p> <p>Draft CFP of projects shortlisted for approval and updated IDS presented to Policy and Resources Committee for agreement.</p>
Post Approval – Legal Arrangements (November/December)	Successful project managers notified and Grant Agreements / Memorandums of Understanding prepared in consultation with Legal Services for execution.
Post Approval Financial Arrangements (November/December)	<p>Capital Projects Financial Business Partner informed of all projects approved and financial arrangements for transfer/expenditure of funding confirmed.</p> <p>Infrastructure Funding Statement prepared and publicised and funding ready to be drawn down when required.</p>

PROJECT BIDS RECEIVED OUTSIDE THE ANNUAL CIL FUNDING PROGRAMME

Infrastructure Projects requiring £50,000 contribution or less (Small Value Contributions)

Requests can be considered only following an identified underspend in the CIL Funding Programme and if the request does not exceed the annual £200,000 limit for small value contributions.

Projects are subject to assessment against the CIL Funding Criteria and consultation with the CIL/S106 Officers Working Group

Considered under delegated procedures by the Assistant Director of Planning and Regulatory Services in discussion with the Lead Member

Infrastructure Projects requiring contribution of £100,001 or more

Projects can be taken forward to Policy and Resources Committee at any time, following assessment against the CIL Funding Criteria and in consultation with the CIL/S106 Officers Working Group, if suitable public consultation previously carried out.

Appendix 5 - CIL Funding Assessment Criteria

To identify projects on the Infrastructure Delivery Schedule (IDS) suitable for CIL funding, the Council will use the information submitted for each project on the CIL Funding Bid Application Form against the following criteria:

1. Project already identified as strategic infrastructure in the Infrastructure Delivery Schedule (IDS)
2. Link between the project and new development and increase in demand/additional pressures on existing infrastructure
3. Timescale for delivery
4. Final project costs identified and itemised
5. Match funding opportunities realised and secured
6. Other funding sources available (Neighbourhood CIL/S106)
7. Council Corporate Priorities and relevant local strategy documents:
8. Potential barriers and minimising risk
9. Implications of non-delivery
10. Why CIL funding is needed to deliver the project

These are now set out in more detail.

1. Project already identified as strategic infrastructure in the IDS
Identification of projects in the IDS ensures that those which do not require CIL monies are separated off at the outset, reducing unnecessary assessment of projects.
2. Link between the project and new development and increase in demand/additional pressures on existing infrastructure
This is a regulatory requirement. CIL funding can only be spent on capital infrastructure that meets a local need or demand that has arisen from new development. Project bids must identify and evidence a clear link between new development within the area and the need or demand that has arisen. Those projects that do not meet this requirement will not be shortlisted.
3. Timescale for delivery
Projects bids must be delivered within two financial years of receiving the funding. This allows for a rolling programme of delivery and ensures that funding remains available for future CIL funded projects.
4. Final project costs identified and itemised
Projects must be financially deliverable. There must be clear and realistic costs associated with a project. This must include and concept and design costs, itemised physical infrastructure costs and, if required, contingency costs to allow for unforeseeable events that a project may encounter during its implementation.

It is recognised that design costs are not capital costs, however they are necessary and an integral part of the overall successful delivery of the capital infrastructure works in larger scale projects and therefore a small percentage may be included in the final bid amount for CIL funding. Priority will be given to

those projects that will seek to utilise match funding from elsewhere to absorb costs associated with design costs.

Not all projects will require design or contingency cost. However the bid must show that these have been taken into account and considered not to be necessary. Any project that has not taken these factors into account will be considered not to be deliverable and therefore will not be shortlisted for CIL funding.

5. Match funding opportunities realised and secured

Match funding is an important aspect of project funding, to make the most of the CIL funding available and add value to a project. Projects that have secured or are highly likely to secure match funding will be given priority over those that do not. Timescales associated with the financial receipt and deadlines for spending of match funding will be taken into account in the assessment of the project. These details of the match funding must therefore be included with any project bid.

6. Other funding sources available (Neighbourhood CIL/S106)

In its assessment of projects, the Council will consider whether a project might be more suitably funded by a Neighbourhood Portion of CIL monies that are available in an area i.e. the 15% or 25% of CIL income from a development which is passed to the local Parish/Town Council or, in a non-parished area, set aside by the Council to spend specifically in that area. This is in order to save the Strategic Portion of CIL monies for the larger projects that serve a wider area.

The CIL/S106 Team will also identify any suitable S106 funding available that may be used to part or fully fund a project.

7. Meets Council Corporate Priorities and relevant local strategy documents

Following assessment against points 1-6 above, priority will be given to those projects that help the Council achieve one or more of its Corporate Priorities, namely;

- a. Create a clean and environmentally sustainable borough
- b. Generate prosperity in our borough
- c. Foster inclusive and healthy communities
- d. Manage a resilient, financially strong Council

In addition to this, projects will also be assessed and prioritised against strategic priorities contained within the following strategic documents:

- a. West Lancashire Borough Local Plan 2017 - 2027
- b. Health and Wellbeing Strategy 2018 - 2021
- c. Leisure Strategy 2015 – 2025
- d. Housing Strategy Action Plan 2024 – 2029
- e. Financial Inclusion Strategy 2021-2024

f. Burscough Town Council Adopted Neighbourhood Plan (where applicable)

8. Potential barriers and minimising risk

Priority will be given to projects that have sought to identify potential barriers or risks to successful project delivery, and have sought to address or minimise any concerns realised in this respect.

As a minimum requirement, bidders must take the following factors into account:

- a. If land/property owner consent can be achieved (where infrastructure development is proposed on land/property not within the control of the bidder),
- b. Acknowledgement of regulatory requirements such as planning, building or environmental controls and any timescales associated with gaining any required permissions or consents,
- c. Failure to secure match funding identified in any project bid
- d. On-going or future liabilities regarding management or maintenance and who will be responsible for them.

If any feasibility studies have already been carried out in relation to the project should also be disclosed and provided in full to support a project bid.

9. Implications of non-delivery

In the event that CIL funding is not awarded or barriers to delivery able to be overcome, project bidders must explain the consequences of non-delivery of the project.

10. Why CIL funding is needed to deliver the project

Project bids must explain clearly why CIL funding is crucial for the project.

Annual Community Infrastructure Levy (CIL) Funding Programme

Guidance for Infrastructure and Service Providers, Members and Parish/Town Councils



Overview

The Community Infrastructure Levy (CIL) is a financial charge applied to certain new developments and was adopted by West Lancashire Council in 2014. The money collected by the Council is to be used to fund *"the provision, improvement, replacement, operation, or maintenance of infrastructure needed to support new development in their area"*. It cannot be used to remedy existing deficiencies unless these are exacerbated by new development.

CIL funding may be used to fund a wide range of infrastructure, including play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes, police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant local plan.

The Infrastructure Delivery Schedule (IDS) forms a key part of this process. This is a list all infrastructure projects identified as being necessary to support development proposed through the Local Plan. It is a live document and is updated annually.

To help us do this, each year we run the annual CIL Funding Programme. We invite our infrastructure and service providers, members and parish/town councils, to provide updates for the existing projects on the IDS, or provide new suggestions for projects to include on the list. Not all projects will require CIL funding or meet the CIL funding criteria.

The annual CIL Funding Programme starts in Spring each year. Projects are assessed and are subject to public consultation, with final shortlisting and recommendations for approval or otherwise put before the Council's Policy and Resources Committee in Autumn for authorisation.

Successful projects will be confirmed funding before the end of each year. Expenditure of the funding must take place within the following two financial years.

Please complete and return the attached application form if you wish to either:

- provide us with an update on one of your existing projects already included on the IDS
- provide us with details of a new project for inclusion on the IDS
- wish us to consider an existing or new project proposal for this years annual CIL funding programme.

CIL Funding Criteria

We will use the criteria as explained below. Firstly, the assessment is designed to determine if your project suitability qualifies for CIL funding. Secondly, the criteria will help to prioritise those suitable projects where the need is greatest.

You are advised to ensure that sufficient information is provided to enable officers to assess your proposed schemes against these criteria. Any projects which do not, or cannot, provide information will be removed from consideration for CIL funding, but will remain on the IDS for consideration again in future years.

1. Project identified as strategic infrastructure

CIL can only be spent on items listed under the Council Infrastructure Delivery Plan (IDP). Appropriate infrastructure set out in this plan includes strategic transport and highways improvements or provision (including cycle networks, footpaths, bus stops); green infrastructure (including parks, amenity open space, play areas, outdoor sports facilities, playing pitches, semi-natural open space); and community facilities (including libraries, health facilities, community centres, public realm, leisure centres).

CIL cannot be used to fund affordable housing, flood alleviation measures, education or on-site open space or maintenance which will continue to be secured through alternate means.

Those projects that are not related to a type of infrastructure listed on the IDP will not be considered further suitable for funding.

2. Link between the project and new development and increase in demand/additional pressures on existing infrastructure

This is a regulatory requirement. CIL funding can only be spent on the capital costs of infrastructure that meet a local need or demand that has arisen from new development. Project bids must identify and evidence a clear link between new development within the area and the need or demand that has arisen.

Project bids must therefore identify what the need is, and where it derives from. It should set out the economic, social and environmental impacts, who will benefit from the project (whether they are local or from a wider area), and whether the scheme will have any impacts on equality. Given that CIL is public funding, any new or improved facilities should be accessible to a wide range of people.

Projects that do not demonstrate this link will not be shortlisted.

3. Timescale for delivery

Projects bids must be delivered within two financial years of receiving the funding. This allows for a rolling programme of delivery and ensures that funding remains available for future CIL funded projects.

Those projects that are not deliverable in within two financial years will not be considered suitable for CIL funding at this time, though they may well be considered again in future years if they are shown to be deliverable at that time.

You will be required to provide confirmation that your project is deliverable within the next two financial years.

4. Final project costs identified and itemised

Projects must be financially deliverable. There must be clear and realistic costs associated with a project. This must include and concept and design costs, itemised physical infrastructure costs and, if required, contingency costs to allow for unforeseeable events that your project may encounter during its implementation.

It is recognised that design costs are not capital costs, however they are necessary and an integral part of the overall successful delivery of the capital infrastructure works in larger scale projects and therefore a small percentage may be included in the final bid amount for CIL funding. Priority will be given to those projects that will seek to utilise match funding from elsewhere to absorb costs associated with design costs.

Not all projects will require design or contingency cost. However the bid must show that these have been taken into account and considered not to be necessary. Any project that has not taken these factors into account will be considered not to be deliverable and therefore will not be shortlisted for CIL funding.

5. Match funding opportunities realised and secured

Match funding is an important aspect of project funding, to make the most of the CIL funding available and add value to a project. Projects that have secured or are highly likely to secure match funding will be given priority over those that do not. Timescales associated with the financial receipt and deadlines for spending of match funding must be provided and will be taken into account in the assessment of you project.

6. Other funding sources available (Neighbourhood CIL/S106)

In its assessment of projects, the Council will consider whether a project might be more suitably funded by a Neighbourhood Portion of CIL monies that are available in an area i.e. the 15% or 25% of CIL income from a development which is passed to the local Parish/Town Council or, in a non-parished area, set aside by the Council to spend specifically in that area. This is in order to save the Strategic Portion of CIL monies for the larger projects that serve a wider area.

The CIL/S106 Team will also identify any suitable S106 funding available that may be used to part or fully fund a project.

If you are aware of any alternative suitable funding such as the Neighbourhood CIL Portion of S106 funding, please incorporate these within your bid.

7. Meets Council Corporate Priorities and relevant local strategy documents

Following assessment against points 1-6 above, priority will be given to those projects that help the Council achieve one or more of its Corporate Priorities, namely;

- a. Create a clean and environmentally sustainable borough
- b. Generate prosperity in our borough
- c. Foster inclusive and healthy communities
- d. Manage a resilient, financially strong Council

In addition to this, projects will also be assessed and prioritised against the strategic priorities contained within the following strategy documents:

- a. West Lancashire Borough Local Plan 2017 - 2027
- b. Health and Wellbeing Strategy 2018 - 2021
- c. Leisure Strategy 2015 – 2025
- d. Housing Strategy Action Plan 2024 – 2029
- e. Financial Inclusion Strategy 2021-2024
- f. Burscough Town Council Adopted Neighbourhood Plan (where applicable)

Your bid should set out which (if any) of the above strategies and policies your consider your project achieves.

8. Potential barriers and minimising risk

Priority will be given to projects that have sought to identify potential barriers or risks to successful project delivery and have sought to address or minimise any concerns realised in this respect.

As a minimum requirement, you must take the following factors into account:

- a. If land/property owner consent can be achieved (where infrastructure development is proposed on land/property not within the control of the bidder),
- b. Acknowledgement of regulatory requirements such as planning, building or environmental controls and any timescales associated with gaining any required permissions or consents,
- c. Failure to secure match funding identified in any project bid
- d. On-going or future liabilities regarding management or maintenance and who will be responsible for them.

If any feasibility studies have already been carried out in relation to the project should also be disclosed and provided in full to support a project bid.

9. Implications of non-delivery

In the event that CIL funding is not awarded or barriers to delivery able to be overcome, your bid must explain the consequences of non-delivery of the project.

10. Why CIL funding is needed to deliver the project

You must explain clearly why CIL funding is crucial for the project.

Annual CIL Funding Programme Timetable

You will be notified of the exact dates of the programme once these can be set and confirmed by the Council.

<p>Call for Bids (April/May)</p>	<p>Infrastructure and service providers contacted to invite updates on existing projects and submission of new projects for inclusion on the IDS.</p> <p>Infrastructure and service providers contacted to invite bids on existing projects contained within the IDS or new projects that may require CIL funding.</p>
<p>First Assessment (June/July)</p>	<p>Project bidders contacted and requested to provide any missing/updated information in support of their bid.</p> <p>Assessment of updates/bids received against CIL Funding Assessment Criteria and preparation of bids for public consultation.</p> <p>Notification of bids that are not suitable for CIL funding and so will not progress.</p>
<p>Public Consultation (July/August)</p>	<p>Public consultation stage of project bids submissions (4 weeks).</p> <p>Consideration of consultation outcomes.</p>
<p>Final Assessment and Approval (September/October)</p>	<p>Final assessment of project bids.</p> <p>CFP and updated IDS presented to Policy and Resources Committee with recommendations for approval/refusal.</p> <p>Successful project managers notified of outcome.</p>
<p>Post Approval – Legal Arrangements (November/December)</p>	<p>Grant Agreements / Memorandums of Understanding prepared in consultation with Legal Services for execution.</p> <p>These documents will set out the terms and conditions of the funding, to be entered into by the Council and third party/project owner.</p>
<p>Post Approval Financial Arrangements (November/December)</p>	<p>Payment of funding to third parties will be upon receipt of an invoice for the full amount upon completion of the project or other such arrangements if previously agreed in writing and set out in the Grant Agreement.</p> <p>If the project is to be provided by a Council service, payment will be made via an internal transfer of funds upon completion of the project or other such arrangements if agreed in writing.</p> <p>Where the project is not delivered or funding misappropriated, the funds will be required to be paid back in full.</p> <p>Any underspend is to be paid back to the Council.</p>

**ANNUAL COMMUNITY INFRASTRUCTURE LEVY (CIL)
FUNDING PROGRAMME
APPLICATION FORM**



Complete this form to apply for Community Infrastructure Levy (CIL) Funding. Guidance is attached. Feel free to attach supplementary information or evidence to this form. If there is any information you wish us to keep confidential, please identify this clearly. Once completed, please return to CIL@westlancs.gov.uk

PART 1 - PROJECT DETAILS

Project Name/Title	
Location Provide a plan/map showing the location of the proposed works or accurate description of the location.	
Description Provide a brief description of the project, outline main works to be carried out.	
Detail Provide detail of the works proposed, including description of various elements of the project.	
Infrastructure Delivery Schedule Is the project already an existing project listed in the IDS?	YES <input type="checkbox"/> NO <input type="checkbox"/>
If NO please continue to "Part 2 - Your Details" to submit a new application.	
If YES please provide the reference number	
Has the project started? If YES, please provide a brief update on how the project is progressing, providing likely timescales for completion.	YES <input type="checkbox"/> NO <input type="checkbox"/> Update:
Has this project been completed? Please provide the completion date.	YES <input type="checkbox"/> NO <input type="checkbox"/> Completion Date:
Do you wish us to remove the project from the IDS or consider an application for this Annual CIL Funding Programme?	Remove from IDS <input type="checkbox"/> Make Application <input type="checkbox"/>

There is no need to continue with this form. Please return form to CIL@westlancs.gov.uk	Reasons:
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Part 2 – YOUR DETAILS

Full Name	
Address	
Telephone	
Email	
Organisation/Company Name	
Address (if different from above)	
Telephone	
Email	
Project Manager/Lead Officer Details (if different from above)	
Project Partners Details (if applicable)	

PART 3 – PROJECT AIMS

Does the project propose:		
Provision of new infrastructure	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Improvement of existing infrastructure	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Replacement of existing infrastructure	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Operation	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Maintenance	YES <input type="checkbox"/>	NO <input type="checkbox"/>

Does the project propose:		
Provision of new infrastructure	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Improvement of existing infrastructure	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Replacement of existing infrastructure	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Operation	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Maintenance	YES <input type="checkbox"/>	NO <input type="checkbox"/>

Geographical area that will benefit from the project:		
Neighbourhood / local	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Town / large village	YES <input type="checkbox"/>	NO <input type="checkbox"/>

Borough wide / beyond	YES <input type="checkbox"/>	NO <input type="checkbox"/>
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What benefits will the project deliver to the local area?		
Economic improvements	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Environmental improvements	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Social improvements	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Explain the benefit(s) in more detail		

Does the proposal have a positive impact on equality?		
This includes gender, race, age, religion, sexuality, disability. Please identify and explain if and how any specific equalities groups would be affected by the project.	YES <input type="checkbox"/>	NO <input type="checkbox"/>

What is the overall aim of the project and what do you hope it will achieve?		

PART 4 - CRITERIA FOR ASSESSMENT

Criteria 1. Will the project deliver strategic infrastructure in the Councils Infrastructure Delivery Plan?		
Strategic transport and highways improvements or provision - Including: Cycle network provision and improvements, footpaths, bus stops etc.	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Strategic green infrastructure - Including: Parks, amenity open space, play areas, outdoor sports facilities and playing pitches, semi-natural open space.	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Community facilities - Including: Libraries, health facilities, community centres, public realm, leisure centres etc.	YES <input type="checkbox"/>	NO <input type="checkbox"/>

Criteria 2. Link between the project and new development		
Does the project meet a local need or demand that has arisen or been exacerbated as a result of new development?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Identify the new development and provide the relating planning application reference number (if known).	Planning Application Reference:	

Describe what demand or additional pressure the new development has put on existing infrastructure.	
Explain how the project will address this new demand or additional pressure.	
Would the project support or enable future growth or planned development in West Lancashire?	YES <input type="checkbox"/> NO <input type="checkbox"/>
If YES, explain how this project would support future development. Please provide details of any specific development proposals, sites or growth which would be supported, enabled or unlocked by the project.	

Criteria 3. Timescale for delivery	
If your project was successful in gaining CIL funding, when would it be able to start?	
How long would it take for the project to complete?	
Do you confirm that the project can be delivered within 2 financial years of receiving funding?	YES <input type="checkbox"/> NO <input type="checkbox"/>

Criteria 4. Project Costs
Please complete the table below providing a breakdown of the different elements of your project. Please make clear if funding is being sought for revenue costs (eg on-going maintenance). Costs associated with preparing the CIL funding bid should not be included.

TABLE A

PROJECT ITEM	AMOUNT (£)
Concept and Design Costs (If applicable)	
Capital Costs (Please itemise e.g materials/equipment)	
Revenue Costs (Please itemise e.g. Project management/labour/on-going maintenance)	

Contingency Costs (If applicable)	
Other - please provide description	
TOTAL PROJECT COSTS	

Criteria 5. Match funding opportunities, secured or realised

Please complete the table below indicating other sources of funding that you intend to put towards the project. This includes your own capital funding/resources. If match-funding has been secured, please provide the date it was secured and deadline (if any) for expenditure. If not secured, please provide likely date of confirmation of outcome.

TABLE B

SOURCE OF FUNDING (DESCRIPTION)	STATUS (Secured/Not Secured)	AMOUNT (£)
TOTAL MATCH FUNDING AVAILABLE		

FINAL COMMUNITY INFRASTRUCTURE LEVY BID AMOUNT

Please use the figures you have provided in the tables above to calculate and confirm the full amount of CIL Funding the project requires.

TABLE C

Total Project Costs (Table A)	
Total Match Funding Awarded (Table B)	
COMMUNITY INFRASTRUCTURE LEVY BID AMOUNT BEING REQUESTED (Table A - Table B)	

Criteria 6. Other funding sources available

Are you aware of any other available sources of funding that the Council may hold, such as S106 funding, that may be suitable for the project? Please provide details.	
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Criteria 7. Corporate Priorities and Local Strategy Documents

What Corporate Priority will the project help the Council achieve? Please tick all that apply.

Create a clean and environmentally sustainable borough	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Generate prosperity in our borough	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Foster inclusive and healthy communities	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Manage a resilient, financially strong Council	YES <input type="checkbox"/>	NO <input type="checkbox"/>

Is the project identified within a relevant local strategy document? Please tick all that apply.	
West Lancashire Borough Local Plan 2017 – 2027	YES <input type="checkbox"/> NO <input type="checkbox"/> Policy Reference (if known):
Health and Wellbeing Strategy 2018 - 2021	YES <input type="checkbox"/> NO <input type="checkbox"/>
Leisure Strategy 2015 – 2025	YES <input type="checkbox"/> NO <input type="checkbox"/>
Housing Strategy Action Plan 2024 – 2029	YES <input type="checkbox"/> NO <input type="checkbox"/>
Financial Inclusion Strategy 2021-2024	YES <input type="checkbox"/> NO <input type="checkbox"/>
Burscough Town Council Adopted Neighbourhood Plan (where applicable)	YES <input type="checkbox"/> NO <input type="checkbox"/>
Other – Please State	

Criteria 8. Potential Barriers and Minimising Risk	
Please note, you may be requested to provide evidence of your answers at a later date.	
Do you/your organisation own or lease the land/property where the project is to be delivered?	YES <input type="checkbox"/> NO <input type="checkbox"/>
If NO, do you have permission of the land/property owner?	YES <input type="checkbox"/> NO <input type="checkbox"/>
What enquiries have you made into possible regulatory requirements the project may trigger. What was the outcome of your enquiries? (e.g. Planning, building, environmental controls, procurement requirements)	
If you have identified match funding as part of the project but it has not yet been secured, please provide what back-up/contingencies you have in place to ensure successful project delivery should match-funding be unsuccessful.	
What ongoing or future liabilities in relation to management or maintenance are associated with the project. Who will be responsible for these?	
Provide details of any community engagement that has been carried out in relation to the project. Please provide the feedback that resulted. Specifically, to what degree the project is supported and if any objections were received.	

Criteria 9. Implications of Non-delivery
If CIL funding cannot be achieved and the project could no longer be delivered, please describe the impact that this may have on your community in failing to address the identified need or demand that has arisen from the new development.

Criteria 10 - Why is CIL Funding specifically required for this project?

Thank you for completing this application form.
Please send completed applications to CIL@westlincs.gov.uk no later than *****

Appendix 7 – Template for Grant Agreements

Dated

2024

WEST LANCASHIRE BOROUGH COUNCIL

[RECIPIENT]

Grant Agreement

Kay Lovelady
Legal and Democratic Services Manager
West Lancashire Borough Council
52 Derby Street
Ormskirk
Lancashire
L39 2DF



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GRANT DETAILS

<p>Project Title</p>	<p>[Summary title]</p>
<p>Council Details</p>	<p>West Lancashire Borough Council, 52 Derby Street, Ormskirk, Lancashire. L39 2DF</p>
<p>Recipient Details</p>	<p>[TBC – NOTE: this must include:</p> <ul style="list-style-type: none"> • Full registered entity title, as referred to on Companies House • Registered company / charity address • Company / Charity registered number]
<p>Background</p>	<p>[NOTE: General information can be provided as to the purpose / background of this agreement. For example, for the UKSPF project we included the following:</p> <p>(A) The Council is a lead authority for the purpose of the UK Shared Prosperity Fund.</p> <p>(B) The Council has agreed to pay the Grant to the Recipient to assist it in carrying out the Project.</p> <p>(C) This Agreement sets out the terms and conditions on which the Grant is made by the Council to the Recipient.]</p> <p>(D) These terms and conditions are intended to ensure that the Grant is used for the purpose for which it is awarded.</p>
<p>Grant</p>	<p>Grant funding: £[] (if applicable)</p> <p>CIL Contribution: £[] (if applicable)</p> <p>TOTAL: £[] [NOTE: THIS IS THE TOTAL SUM I.E. EXTERNAL GRANT CONTRIBUTION AND CIL CONTRIBUTION]</p>

Grant Commencement Date	<p><i>[NOTE: PLEASE SELECT ONE OF THE FOLLOWING OPTIONS:]</i></p> <p>i) From and including [DATE].</p> <p>OR</p> <p>ii) From and including the date of this agreement.</p>
Grant Period	From and including the Grant Commencement Date to and including the Grant Completion Date
Project Start Date	[DATE] or such other date as may be agreed by the parties
Grant Completion Date	<p>[[DATE] or such other date as may be notified by the Council in respect of the required completion of the delivery of the Project or such date as may be agreed between the parties from time to time.</p> <p><i>[NOTE: THE GRANT COMPLETION DATE MUST NOT BE LATER THAN THE DATE SPECIFIED FOR WORKS IN ANY OVERARCHING GRANT AGREEMENT OR RELEVANT CIL PROVISIONS OR S106 AGREEMENT</i></p> <p><i>NOTE: ANY POTENTIAL EXTENSIONS TO BE INCLUDED HERE]</i></p>
Community Infrastructure Levy (CIL) clauses	<p>Applicable, as set out at Schedule 3.</p> <p>Not Applicable</p>
S106 clauses	<p>Applicable, as set out at Schedule 4.</p> <p>Not applicable</p>
Project Specific Grant Terms	<p>Applicable, as set out at Schedule 5.</p> <p>Not applicable</p> <p><i>[NOTE: INCLUDE REFERENCE TO GRANT FUNDING AGREEMENT AND GRANT FUNDING DOCS, GRANT OFFER LETTER, GRANT DATA SHARING AGREEMENT, GUIDANCE NOTES]</i></p>
Monitoring requirements	Applicable, as set out at Schedule 2.

<p>Nominated Representatives</p>	<p>Council: [] [email:] or such other person as the Council may nominate from time to time in writing.</p> <p>Recipient: [] [email:] or such other person as the Recipient may nominate from time to time in writing.</p>
<p>Document Order of Priority</p>	<p>Where there is a conflict or inconsistency between the terms of the Agreement, the Grant Details or any Schedules, the following order of priority shall apply:</p> <ol style="list-style-type: none"> 1. Grant Details 2. Schedule 5- Project Specific Grant Terms 3. Schedule 6 – Grant Funding Documents 4. Schedule 4 – Section 106 Obligations 5. Schedule 3 – Community Infrastructure Levy 6. Schedule 7 – Data Protection Clauses 7. The clauses of the Agreement 8. Schedule 1 – The Project 9. Schedule 2 – Monitoring and Reporting
<p>Schedules</p>	<p>Schedule 1 – The Project Applicable</p> <p>Schedule 2 – Monitoring and Reporting Applicable</p> <p>Schedule 3 – Community Infrastructure Levy [Applicable] [Not Applicable]</p> <p>Schedule 4 – Section 106 Obligations</p>

	<p>[Applicable] [Not Applicable]</p> <p>Schedule 5 – Project Specific Grant Terms</p> <p>[Applicable] [Not Applicable]</p> <p>Schedule 6 – Grant Funding Documents</p> <p>[Applicable] [Not Applicable]</p> <p>Schedule 7 – Data protection</p> <p>[Applicable] [Not Applicable]</p>
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DRAFT

In witness whereof this document has been executed as a deed and delivered on the date first stated above.

[NOTE: USE THIS EXECUTION BLOCK IF OVER £50K]

Executed as a deed by affixing the common seal of

West Lancashire Borough Council in the presence of:

.....

Authorised Signatory

.....

Print name

Executed as a deed on behalf of **[RECIPIENT]** by a

director, in the presence of:

.....

Name:

Address:

.....

Occupation:

Director

[NOTE: USE THIS EXECUTION BLOCK IF EXECUTED UNDERHAND AND BELOW £50K]

This agreement has been entered into on the date stated at the beginning of it.

Signed by an Authorised Signatory for and on behalf of

West Lancashire Borough Council:

.....

Authorised Signatory

.....

Print name

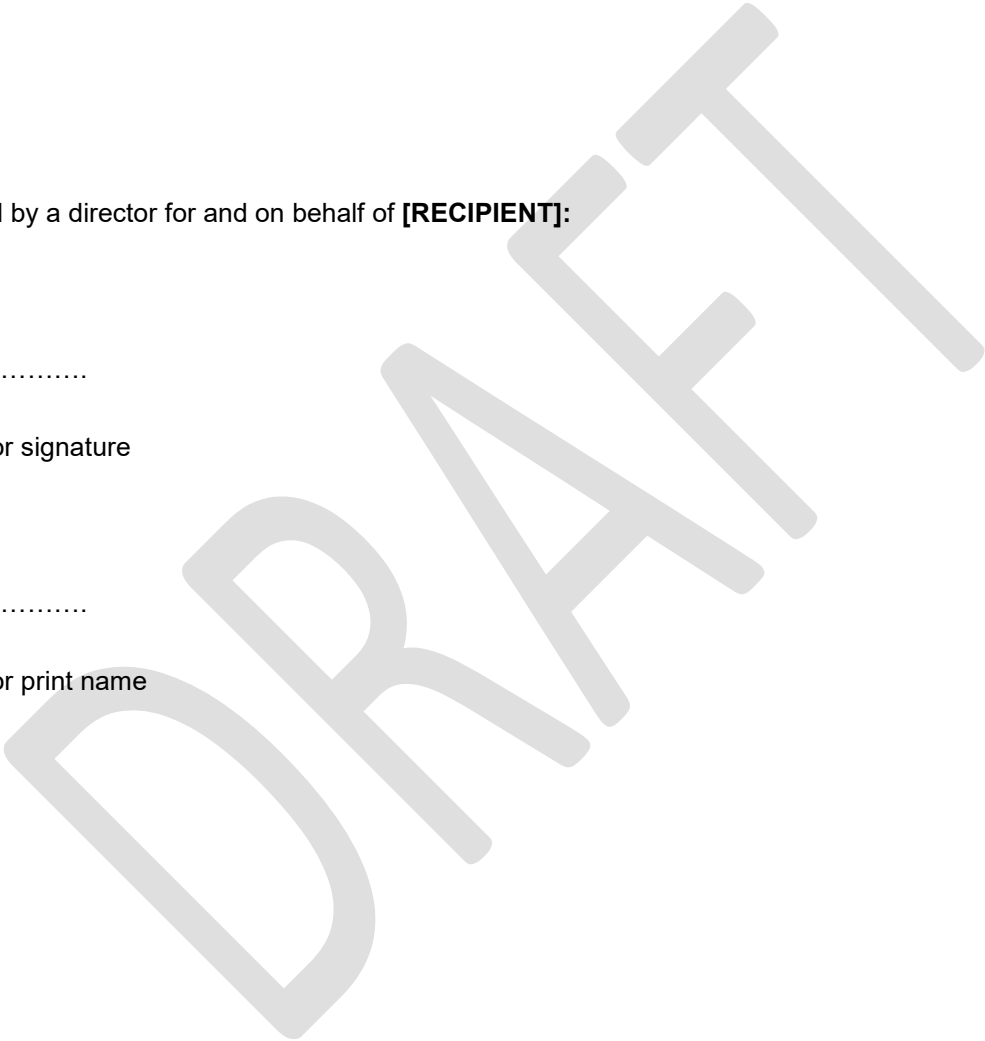
Signed by a director for and on behalf of **[RECIPIENT]**:

.....

Director signature

.....

Director print name



AGREED GRANT TERMS AND CONDITIONS

1. DEFINITIONS

1.1 In this Agreement the following terms shall have the following meanings:

Application: means the application made by the Recipient to receive the Grant.

Bribery Act: the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) as amended, and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.

Disclosure and Barring Service: means the criminal records checks provided by the governments Disclosure and Barring Service.

Domestic Law: the law of the United Kingdom or a part of the United Kingdom.

EIR: means the Environmental Information Regulations 2004 and any subordinate legislation made under that Act from time to time together with any updates, amendments and guidance or codes of practice issued by the relevant government department concerning the legislation..

EU GDPR: the General Data Protection Regulation ((EU) 2016/679).

EU Law: the law of the European Union or any member state of the European Union.

FOIA: means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any updates, amendments and guidance or codes of practice issued by the relevant government department concerning the legislation.

Governing Body: the governing body of the Recipient including its directors or trustees.

Grant: the sum set out in the Grant Details to be paid to the Recipient in accordance with this agreement.

Grant Commencement Date: as set out in the Grant Details.

Grant Completion Date: as set out in the Grant Details.

HRA: means the Human Rights Act 1998 and any subordinate legislation made under that act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

Information Acts: means the Data Protection Legislation, FOIA and the EIR, as amended from time to time.

Information Commissioner: has the meaning set out in the Data protection Legislation.

Intellectual Property Rights: all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know-How however arising for their full term and any renewals and extensions.

Know-How: information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.

Nominated Representative: the individual who has been nominated to represent the Council and Recipient respectively for the purposes of this Agreement.

Personal Data: shall have the same meaning as set out in the Data Protection Legislation.

Procurement Legislation: means all applicable procurement legislation in force from time to time including the Public Contracts Regulations 2015, Concession Contracts Regulations 2016, Defence Security Public Contracts Regulations 2011 and the Utilities and Contracts Regulations 2016 together with any updates, amendments and guidance or codes of practice issued by the relevant government department concerning the legislation and the Procurement Act 2023 together with any updates, amendments and guidance or codes of practice issued by the relevant government department concerning the legislation once this comes into force.

Prohibited Act:

(1) offering, giving or agreeing to give to any servant of the Council any gift or consideration of any kind as an inducement or reward for:

- (a) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with the Council;
or
- (b) showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with the Council;

(2) entering into this Agreement or any other contract with the Council where a commission has been paid or has been agreed to be paid by the Recipient or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Council;

- (a) committing any offence:
 - (i) under the Bribery Act;
 - (ii) under section 117 of the Local Government Act 1972;
 - (iii) under legislation creating offences in respect of fraudulent acts; or
 - (iv) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with the Council; or
- (b) defrauding or attempting to defraud or conspiring to defraud the Council.

Project: the project described in Schedule 1.

Project Start Date: as set out in the Grant Details.

Required Reports: means the reports listed at Schedule 2, together with a risk register and insurance review in the format requested by the Council.

Required Report Dates: the following dates:

- (a) the dates detailed at Schedule 2 (if any) and
- (b) the dates notified by the Council to the Recipient from time to time
- (c) the date falling ten working days prior to the last day of the Grant Period.

Subsidy Control Rules: means the Subsidy Control Act 2022 and any other subsidy control rules applying from time to time in England.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4) of the Data Protection Act 2018

1.2 If there is any conflict or ambiguity between any of the provisions in the main body of this agreement and the schedules, such conflict or inconsistency shall be resolved according to the Document Order of Priority detailed in the Grant Details.

1.3 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.

- 1.4 **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.5 The schedules form part of this Agreement and shall have effect as if set out in full in the body of this agreement and any reference to this Agreement includes the schedules.
- 1.6 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.7 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.8 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.9 Unless expressly provided otherwise in this agreement, a reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted and includes any subordinate legislation made under it, in each case from time to time.
- 1.10 A reference to **writing** or **written** excludes fax and includes e-mail provided that email is sent between the parties Nominated Representatives.
- 1.11 A reference to this Agreement or to any other agreement or document is a reference to this Agreement or such other agreement or document as varied from time to time.
- 1.12 References to clauses and schedules are to the clauses and schedules of this Agreement and references to paragraphs are to paragraphs of the relevant schedule.
- 1.13 Any words following the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those term.
- 1.14 Any reference to consent or approval of the Council in this agreement shall unless otherwise notified by the Council mean the consent of approval of the Council's Nominated Representative.

2. PURPOSE OF GRANT

- 2.1 The Recipient shall use the Grant only for the delivery of the Project and in accordance with the terms and conditions set out in this Agreement. The Grant shall not be used for any other purpose without the prior written agreement of the Council.
- 2.2 The Recipient shall commence the Project by the Project Start Date (if any).
- 2.3 The Recipient shall not make any significant change to the Project without the Council's prior written agreement.

- 2.4 The Recipient shall comply with the Project Specific Grant Terms set out in Schedule 5 and the Grant Funding Documents set out in Schedule 6, as applicable.
- 2.5 The Recipient shall comply with the requirements of the Community Infrastructure Levy set out in Schedule 3 and Section 106 Obligations set out in Schedule 4, as applicable.
- 2.6 Where the Recipient intends to apply to a third party for other funding for the Project, it will notify the Council in advance of its intention to do so and, where such funding is obtained, it will provide the Council with details of the amount and purpose of that funding. At the Council's request the Recipient will provide contact details of any such third party to the Council and permit the Council to contact that third party to verify the details of any third-party funding. The Recipient agrees and accepts that it shall not apply for duplicate funding in respect of any part of the Project or any related administration costs that the Council is funding in full under this Agreement.
- 2.7 For the avoidance of doubt the Recipient shall not use the Grant for the following purposes: payments that support activity to influence or attempt to influence Parliament, Government or political parties, or to influence the awarding or renewal of contracts or grants, or to influence legislative or regulatory action.

3. PAYMENT OF GRANT

- 3.1 Subject to clause 15, the Council shall pay the Grant to the Recipient in accordance with the terms of Schedule 1, subject to the necessary funds being available when payment falls due and if no such terms are specified then payment shall be on such terms as the Council deems reasonable. The Recipient agrees and accepts that payments of the Grant can only be made to the extent that the Council has available funds.
- 3.2 No Grant or part of the Grant shall be paid unless and until the Council is satisfied that such payment will be used for proper expenditure in the delivery of the Project.
- 3.3 The amount of the Grant shall not be increased in the event of any overspend by the Recipient in its delivery of the Project.
- 3.4 The Recipient shall promptly repay to the Council any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where either an incorrect sum of money has been paid or where the Grant or part of the Grant has been paid in error before all conditions attaching to the Grant have been complied with by the Recipient.
- 3.5 The Recipient understands and acknowledges that:
- (a) the Council is under no obligation to fund any subsequent activities or projects related to the Project that the Recipient may wish to carry out;

- (b) the Council is not responsible for any overspend by the Recipient on the Project and the Council has no obligation to increase the Grant in those circumstances; and
- (c) any exit costs (including employment costs) that may be incurred by the Recipient at the end of the Project are the responsibility of the Recipient and the Council will not (unless they were included and approved within the Application and are part of the Grant) provide funding or bear any responsibility for those exit costs.
- (d) The Council is not responsible and shall have no liability to the Recipient in the event a Grant payment is delayed.

4. USE OF GRANT

- 4.1 The Grant shall be used by the Recipient for the delivery of the Project in accordance with the agreed budget set out in Schedule 1.
- 4.2 Where the Recipient has obtained funding from a third party in relation to its delivery of the Project (including without limitation funding for associated administration and staffing costs), the amount of such funding shall be included in the budget in Schedule 1 together with a clear description of what that funding shall be used for.
- 4.3 The Recipient shall not use the Grant to:
 - (a) make any payment to members of its Governing Body;
 - (b) purchase buildings or land; or
 - (c) pay for any expenditure commitments of the Recipient entered into before the Commencement Date,unless this has been approved in writing by the Council.
- 4.4 The Recipient shall not spend the Grant or any part of the Grant on the delivery of the Project after the Grant Period.
- 4.5 Should the Grant or any part of the Grant remain unspent at the end of the Grant Period, the Recipient shall ensure that any unspent monies are returned to the Council or, if agreed in writing by the Council, shall be entitled to retain the unspent monies to use for charitable purposes as agreed between the parties.
- 4.6 Any liabilities arising at the end of the Project including any redundancy liabilities for staff employed by the Recipient to deliver the Project must be managed and paid for by the Recipient using the Grant or other resources of the Recipient. There will be no additional funding available from the Council for this purpose.

5. SUBSIDY CONTROL

- 5.1 The Recipient, having taken appropriate advice, warrants that it is not aware that the Project or anything comprised in this agreement is or is likely to infringe the Subsidy Control Rules.
- 5.2 The Recipient will inform the Council immediately if it becomes aware or forms the opinion that anything comprised in the Project will infringe or is likely to infringe the Subsidy Control Rules.

6. PROCUREMENT

- 6.1 The Recipient shall, comply as necessary, with the Procurement Legislation (where applicable to the Recipient) when procuring goods and services in connection with the delivery of this Project and in any event follow such policies and procedures that are required in order to ensure that value for money has been obtained in the procurement of the goods and/or services funding by the Grant monies.

7. ACCOUNTS AND RECORDS

- 7.1 The Grant shall be shown in the Recipient's accounts as a restricted fund and shall not be included under general funds.
- 7.2 The Recipient shall keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of the Grant monies received by it.
- 7.3 The Recipient shall keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the Grant for a period of at least six years following receipt of any Grant monies to which they relate. The Council shall have the right to review, at the Council's reasonable request, the Recipient's accounts and records that relate to the expenditure of the Grant and shall have the right to take copies of such accounts and records at its expense.
- 7.4 The Recipient shall provide the Council with a copy of its annual accounts within six months (or such lesser period as the Council may reasonably require) of the end of the relevant financial year in respect of each year in which the Grant is paid.
- 7.5 The Recipient shall comply and facilitate the Council's compliance with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Council which may apply in relation to the Grant or this Agreement.

8. THIRD PARTY FUNDING

- 8.1 The Recipient warrants to the Council that it has disclosed in the Application and/or prior to entering into this Agreement any other sources of funding for the Project that, at the time of submission of the Application, had either been received or were being sought by the Recipient, with details as to the purposes to which that funding has been or will be applied. The Recipient must inform the Council if, at any time before the end of the Grant Period, it receives any funding from any other source or person towards the Project not stated in the Application and/or declared to the Council to be already committed to the Recipient, including the amount of that funding and purposes to which it is to be applied.
- 8.2 Where, before or during the Grant Period, the Recipient receives any funding from any other source or person towards the Project that is not match funding or was not already committed to the Recipient and disclosed in the Application and/or to the Council, the Council may, where that funding duplicates funding contained in the Grant, require repayment of part of the Grant (up to the amount of duplicate funding received) in accordance with clause 15.

9. MONITORING AND REPORTING

- 9.1 The Recipient shall closely monitor the delivery and success of the Project throughout the Grant Period to ensure that the aims and objectives of the Project are being met and that this Agreement is being adhered to.
- 9.2 The Recipient shall provide the Council with the Required Reports on its use of the Grant and delivery of the Project no later than the Required Report Dates. The Council reserves the right to request interim Required Reports throughout the Grant Period, as and when required and the Recipient shall provide the requested information within 10 working days of the Council's request.
- 9.3 Where the Recipient has obtained funding from a third party for its delivery of part of the Project, the Recipient shall include the amount of such funding in its financial reports together with details of what that funding has been used for.
- 9.4 The Recipient shall on request provide the Council with such further information, explanations and documents as the Council may reasonably require in order for it to establish that the Grant has been used properly in accordance with this Agreement.
- 9.5 The Recipient shall permit any person authorised by the Council such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Recipient's fulfilment of the conditions of this Agreement and shall, if so required, provide appropriate oral or written explanations from them.
- 9.6 The Recipient shall permit any person authorised by the Council for the purpose to visit the Recipient once every quarter to monitor the delivery of the Project. Where, in its reasonable

opinion, the Council considers that additional visits are necessary to monitor the Project, it shall be entitled to authorise any person to make such visits on its behalf.

- 9.7 The Recipient shall on completion of the Grant Period confirm whether in its opinion the Project has been successfully and properly completed and for the avoidance of doubt the Recipient's opinion on this matter shall have no bearing on the Council's adjudication on whether the Project has been successfully and properly completed

10. ACKNOWLEDGMENT AND PUBLICITY

- 10.1 The Recipient shall acknowledge the Grant in its annual report and accounts, including an acknowledgement of the Council as the source of the Grant.
- 10.2 The Recipient shall comply with any guidance concerning branding and communication as set out in the Grant Funding Documents.
- 10.3 The Recipient shall acknowledge the Council's contribution in any materials that refer to the Project and in any written or spoken public presentations about the Project. Such acknowledgements (where appropriate) shall include the Council's names and logos (or any future name or logo adopted by the parties) using the templates provided by the Council from time to time.
- 10.4 The Recipient shall not publish any material referring to the Project or the Council without the prior written agreement of the Council. The Recipient shall acknowledge the support of the Council in any materials that refer to the Project and in any written or spoken public presentations about the Project. Such acknowledgements (where appropriate or as requested by the Council) shall include the Council's name and logo (or any future name or logo adopted by the Council) using the templates provided by the Council from time to time.
- 10.5 Any publicity statement, notice or publication by the Recipient, in whatever form and on or whatever medium, must specify that it reflects only the author's views and that the Council is not liable for any use that may be made of the information contained therein.
- 10.6 In using the Council's name and logo, the Recipient shall comply with all reasonable branding guidelines issued by the Council from time to time.
- 10.7 The Recipient agrees to participate in and co-operate with promotional activities relating to the Project that may be instigated and/or organised by the Council.
- 10.8 The Council may acknowledge the Recipient's involvement in the Project as appropriate without prior notice.

- 10.9 The Recipient shall comply with all reasonable requests from the Council to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Council in its promotional and fundraising activities relating to the Project.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 The Council and the Recipient agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, Know-How and any other Intellectual Property Rights whatsoever owned by either the Council or the Recipient before the Commencement Date or developed by either party during the Grant Period, shall remain the property of that party.
- 11.2 The parties agree to provide each other with a non-exclusive, royalty free, non-assignable, revokable licence to use Intellectual Property provided under this Agreement to the other, for the duration of this Agreement for the purposes set out herein.
- 11.3 Where the Council has provided the Recipient with any of its Intellectual Property Rights for use in connection with the Project (including without limitation its name and logo), the Recipient shall, on termination of this Agreement, cease to use such Intellectual Property Rights immediately and shall either return or destroy such Intellectual Property Rights as requested by the Council.

12. CONFIDENTIALITY

- 12.1 Subject to clause 13 (Freedom of Information and Environmental Information), each party shall during the term of this Agreement and thereafter keep secret and confidential all Know-How or other business, technical or commercial information disclosed to it as a result of the Agreement and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Agreement or save as expressly authorised in writing by the other party.
- 12.2 The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to any Know-How or other business, technical or commercial information which:
- (a) at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving party;
 - (b) is already known to the receiving party as evidenced by written records at the time of its disclosure by the disclosing party and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence; or
 - (c) is at any time after the date of this Agreement acquired by the receiving party from a third party having the right to disclose the same to the receiving party without breach of the obligations owed by that party to the disclosing party.

13. FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION

13.1 The Recipient acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 (**FOIA**) and the Environmental Information Regulations 2004 (**EIRs**).

13.2 The Recipient shall:

- (a) provide all necessary assistance and cooperation as reasonably requested by the Council to enable the Council to comply with its obligations under the FOIA and EIRs;
- (b) transfer to the Council all requests for information relating to this Agreement that it receives as soon as practicable and in any event within 2 working days of receipt;
- (c) provide the Council with a copy of all information belonging to the Council requested in the request for information which is in its possession or control in the form that the Council requires within 5 working days (or such other period as the Council may reasonably specify) of the Council's request for such information; and
- (d) not respond directly to a request for information unless authorised in writing to do so by the Council.

13.3 The Recipient acknowledges that the Council may be required under the FOIA and EIRs to disclose information without consulting or obtaining consent from the Recipient. The Council shall take reasonable steps to notify the Recipient of a request for information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practicable for it to do so but (notwithstanding any other provision in this Agreement) the Council shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

14. DATA PROTECTION

14.1 Both Parties will comply with all applicable requirements of and all their obligations under the Data Protection Legislation which arise in connection with the Agreement. This clause 14 and Schedule 7 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

14.2 Any notifications that the Recipient is required to make pursuant to this clause 14 and Schedule 7 shall be made to the Council's Data Protection Officer at dpo@westlancs.gov.uk and in copy the Council's Nominated Representative.

15. WITHHOLDING, SUSPENDING AND REPAYMENT OF GRANT

15.1 The Council's intention is that the Grant will be paid to the Recipient in full. However, without prejudice to the Council's other rights and remedies, the Council may at its discretion withhold or suspend payment of the Grant and/or require repayment of all or part of the Grant if:

- (a) the Recipient uses the Grant for purposes other than those for which it has been awarded;
- (b) the delivery of the Project does not start within one month of the Commencement Date or such date as may be specified in Schedule 1 or such other date as may be agreed between the parties and the Recipient has failed to provide the Council with a reasonable explanation for the delay;
- (c) the Council considers that the Recipient has not made satisfactory progress with the delivery of the Project;
- (d) the Recipient is, in the reasonable opinion of the Council, delivering the Project in a negligent manner;
- (e) the Recipient obtains duplicate funding from a third party for the Project;
- (f) the Recipient obtains funding from a third party which, in the reasonable opinion of the Council, undertakes activities that are likely to bring the reputation of the Project or the Council into disrepute;
- (g) the Recipient provides the Council with any materially misleading or inaccurate information;
- (h) the Recipient commits or committed a Prohibited Act;
- (i) any member of the Governing Body, employee or volunteer of the Recipient has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project or (b) taken any actions which, in the reasonable opinion of the Council, bring or are likely to bring the Council's name or reputation into disrepute;
- (j) the Recipient ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
- (k) the Recipient becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its

winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due; or

(l) the Recipient fails to comply with any of the terms and conditions set out in this Agreement and fails to rectify any such failure within 30 days of receiving written notice detailing the failure.

15.2 The Council may retain or set off any sums owed to it by the Recipient which have fallen due and payable against any sums due to the Recipient under this Agreement or any other agreement pursuant to which the Recipient provides goods or services to the Council.

15.3 The Recipient shall make any payments due to the Council without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise and by such method and to such account as the Council specifies.

15.4 Should the Recipient be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the Project or compliance with this Agreement it will notify the Council as soon as possible so that, if possible, and without creating any legal obligation, the Council will have an opportunity to provide assistance in resolving the problem or to take action to protect the Council and the Grant monies.

16. ANTI-DISCRIMINATION

16.1 The Recipient shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment or otherwise.

16.2 The Recipient shall take all reasonable steps to secure the observance of clause 16.1 by all servants, employees or agents of the Recipient and all suppliers and sub-contractors engaged on the Project.

17. HUMAN RIGHTS

17.1 The Recipient shall (and shall use its reasonable endeavours to procure that its staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement as if the Recipient were a public body (as defined in the Human Rights Act 1998).

17.2 The Recipient shall undertake, or refrain from undertaking, such acts as the Council requests so as to enable the Council to comply with its obligations under the Human Rights Act 1998.

18. SAFEGUARDING AND SECURITY

18.1 The Recipient warrants as follows:

- (a) the Recipient has read and understood the Council's Safeguarding Policy and agrees to abide by the procedures set out in that policy as amended from time to time; and
- (b) that anyone engaged by the Recipient including its employees or anyone acting on the Recipient's behalf who are likely to come into contact with children or vulnerable adults have been subject to the appropriate level of Disclosure and Barring Service check, as defined by the Disclosure and Barring Service guidance from time to time.

18.2 The Recipient recognises that the Council has duties under section 1 of the Counter Terrorism and Security Act 2015 and section 52 of the Modern Slavery Act 2015 and shall comply with any reasonable and lawful guidance given by the Council in respect of those duties.

19. LIMITATION OF LIABILITY

19.1 The Council accepts no liability for any consequences, whether direct or indirect, that may come about from the Recipient running the Project, the use of the Grant or from withdrawal of the Grant. The Recipient shall indemnify and hold harmless the Council, its employees, agents, officers or sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Recipient in relation to the Project, the non-fulfilment of obligations of the Recipient under this Agreement or its obligations to third parties.

19.2 Subject to clauses 19.1 and 19.4, the Council's liability under this Agreement is limited to the payment of the Grant and shall in no circumstances exceed the total value of the Grant.

..

19.3 The Recipient's liability under paragraph 1.7 of Schedule 7 of this Agreement is limited to £10,000,000 (ten million pounds)..

19.4 For the avoidance of doubt, indirect and consequential losses, including loss of profits, loss of goodwill or opportunity and any other wholly excludable losses are excluded in their entirety. Neither party excludes liability for personal injury or fraud.

20. WARRANTIES

20.1 The Recipient warrants, undertakes and agrees that:

- (a) it has all necessary resources, approvals, powers and expertise to deliver the Project (assuming due receipt of the Grant);
- (b) it has not committed, nor shall it commit, any Prohibited Act;

- (c) it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations, and shall notify the Council immediately of any significant departure from such legislation, codes or recommendations;
- (d) it shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the Project;
- (e) it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- (f) it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- (g) all financial and other information concerning the Recipient which has been disclosed to the Council is to the best of its knowledge and belief, true and accurate;
- (h) it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Grant;
- (i) it is not aware of anything in its own affairs, which it has not disclosed to the Council or any of the Council's advisers, which might reasonably have influenced the decision of the Council to make the Grant on the terms contained in this Agreement;
and
- (j) since the date of its last accounts there has been no material change in its financial position or prospects.

21. **INSURANCE**

- 21.1 The Recipient shall effect and maintain with a reputable insurance company a policy or policies in respect of all risks which may be incurred by the Recipient, arising out of the Recipient's performance of the Agreement, including death or personal injury, loss of or damage to property or any other loss (the **Required Insurances**).
- 21.2 The Required Insurances referred to above include (but are not limited to):
- (a) public liability insurance with a limit of indemnity of not less than ten million pounds (£10,000,000) in relation to any one claim or series of claims arising from the Project;
and

(b) employer's liability insurance with a limit of indemnity of not less than five million pounds (£5,000,000) in relation to any one claim or series of claims arising from the Project.

(c) professional indemnity insurance with a limit of indemnity not less than two million pounds (£2,000,000) in relation to any one claim or series of claims arising from the Project.

The Recipient shall (on request) supply to the Council a copy of such insurance policies and evidence that the relevant premiums have been paid.

22. DURATION

22.1 Except where otherwise specified, the terms of this Agreement shall apply from the date of this Agreement until the expiry of the Grant Period or for so long as any Grant monies remain unspent by the Recipient, whichever is longer.

22.2 Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

23. TERMINATION

23.1 The Council may terminate this Agreement and any Grant payments on giving the Recipient one month written notice should it be required to do so by financial restraints or for any other reason.

23.2 The Council may terminate this Agreement with immediate effect by giving notice to the Recipient and recover all its loss if the Recipient, its employees or anyone acting on the Recipient's behalf commits a Prohibited Act. Any limitation of the Recipient's liability under this Agreement shall not apply to this clause.

24. ASSIGNMENT

The Recipient may not, without the prior written consent of the Council, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, except as contemplated as part of the Project, transfer or pay to any other person any part of the Grant. The Council may assign, over to any third party who carries on in the same or similar functions as the Council, the benefit and/or the burden of this Agreement at its discretion.

25. WAIVER

No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

26. NOTICES

All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered or mailed (first class postage prepaid) or emailed to the address of the relevant party, as referred to in this Agreement.

If personally delivered, all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been delivered on the second working day following such mailing or if sent by email during 9am to 5pm on a working day, at the time it is sent or at 9am on the next working day.

The parties may update their address by notifying the other party of any changes in writing.

27. DISPUTE RESOLUTION

27.1 In the event of any complaint or dispute (which does not relate to the Council's right to withhold funds or terminate) arising between the parties to this Agreement in relation to this Agreement the matter should first be referred for resolution to the Nominated Representatives or any other individual nominated by either party from time to time.

27.2 Should the complaint or dispute remain unresolved within 14 days of the matter first being referred to the Nominated Representatives or other nominated individual, as the case may be, either party may refer the matter to the Chief Operating Officer of the Council and the Chair / Chief Executive of the Recipient with an instruction to attempt to resolve the dispute by agreement within 28 days, or such other period as may be mutually agreed by the Council and the Recipient.

27.3 In the absence of agreement under clause 27.2, the parties may seek to resolve the matter through mediation under the CEDR Model Mediation Procedure (or such other appropriate dispute resolution model as is agreed by both parties). Unless otherwise agreed, the parties shall bear the costs and expenses of the mediation equally.

28. VARIATION

No variation of the Agreement shall be effective unless it is made in writing and signed by the parties' Nominated Representatives.

29. NO PARTNERSHIP OR AGENCY

This Agreement shall not create any partnership or joint venture between the Council and the Recipient, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

30. JOINT AND SEVERAL LIABILITY

Where the Recipient is not a company nor an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this Agreement on behalf of the Recipient shall be jointly and severally liable for the Recipient's obligations and liabilities arising under this Agreement.

31. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

32. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the law of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

33. ENTIRE AGREEMENT

This Agreement (together with all documents attached to or referred to within it) constitutes the entire agreement and understanding between the parties in relation to the Grant and supersedes any previous agreement or understanding between them in relation to such subject matter.

SCHEDULE 1 - The Project

[TO INCLUDE BUT NOT LIMITED TO:

- Value of grant and payment milestones / schedule
- Any outputs and outcomes / objectives / aims.
- Project details.
- Method and timing of payments]

DRAFT

SCHEDULE 2– Monitoring and Reporting

1. REPORTS

- 1.1 **Required Reports:** means the [*quarterly*] [*title of report*] which shall report against each of the [*outcomes and outputs / aims and objectives*] described at Schedule 1 and the [*title*] report which shall be the final report and detail [*description*] following completion of the Project.
- 1.2 **Required Report Dates:** means the [*title of report(s)*] report(s) shall be provided every [*quarter*] and the [*title of final report*] report shall be provided no later than [*date*] or such other date as may be notified by [*the Council / Government department*].
- 1.3 The Recipient shall provide the Council the Required Reports in accordance with the Required Report Dates.

2. MEETINGS

- 2.1 The Recipient and the Council shall meet on a monthly basis to review progress of the Project against the output and outcomes detailed at Schedule 1.
- 2.2 The following personnel shall attend each monthly meeting:
- (a)

NOTE: "MEETINGS" IS AN OPTIONAL REQUIREMENT. YOU MAY NOT REQUIRE MEETINGS TO TAKE PLACE SO THIS SECTION 2 MAY BE REMOVED.

SCHEDULE 3– Community Infrastructure Levy

1. DEFINITIONS

1.1 In this Schedule the following terms shall have the following meanings:

CIL Charging Schedule: West Lancashire Borough Council's Community Infrastructure Levy Charging Schedule adopted in September 2014 as may be amended from time to time.

CIL Contribution: monies paid to the Council as charging authority pursuant to the CIL Regulations for the delivery of Infrastructure'

CIL Regulations: the Community Infrastructure Levy Regulations 2010 as amended.

Infrastructure: infrastructure to support the development of the Council's administrative area as defined in section 216(2) of the Planning Act 2008 (as amended by regulation 63 of the CIL Regulations) and described in the CIL Charging Schedule as relating to strategic transport and highways improvements or provision, parks and open spaces, play areas, outdoor spaces, semi-natural open space, community facilities and public realm.

Infrastructure Funding Statement: means the annual statement published by the Council pursuant to the CIL Regulations (as amended by the Community Infrastructure Levy (2019 Amendment) Regulations) setting out Infrastructure funding received and expenditure.

2. CIL COMPLIANCE

2.1 The Parties agree that where the Grant includes or is entirely made up of a CIL Contribution then the following provisions shall apply in addition to the provisions in the remainder of this Agreement.

2.2 The Grant includes a CIL Contribution of [£] which constitutes [%] of the total Grant.

2.3 The Parties agree and declare that the Project constitutes Infrastructure and expenditure of the CIL Contribution on delivery of the Project is therefore compliant with the CIL Regulations.

2.4 The [Recipient] shall apply the CIL Contribution to the delivery of the Project and for no other purpose without the prior written agreement of the Council.

2.5 In addition to the provisions in Clause 7 and Schedule 2 of this Agreement the [Recipient] shall keep invoices, receipts and accounts relating to the expenditure of the CIL

Contribution and shall provide copies to the Council within [20] days of a written request to do so from the Council.

- 2.6 The [Recipient] shall provide the Council with such other documentation as the Council may reasonably require for the purposes of preparation of its Infrastructure Funding Statement within [20 days] of such a request or such other period as the Council may agree in writing.

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SCHEDULE 4 – Section 106 Obligations

[NOTE: PLEASE CONSIDER THE POINTS BELOW. PLEASE THEN INSERT RELEVANT PROVISIONS (WITH LEGAL ASSISTANCE AS REQUIRED) OR, ALTERNATIVELY, ATTACH SECTION 106 AND INSERT OPTIONAL CLAUSE AMENDED AS NECESSARY]

1. Define the Section 106 Agreement containing the s106 Obligation to be discharged by delivery of the Project i.e. “The Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) dated [DATE] between [NAME PARTIES e.g. (1) [the Council] and [2] [Owner/Developer] and (3) [Mortgagee] and (4) Lancashire County Council] [as varied by [a] Deed[s] of Variation dated [DATE(S)] [Supplemental Agreement pursuant to s106A of the Town and Country Planning Act 1990 (as amended)].
2. Define section 106 obligation to be discharged by delivery of the project pursuant to the grant agreement.
3. Confirm that delivery of the Project will discharge the Council's liability under the s106 Agreement.
4. Check timeframes for delivery/discharge of the s106 Obligation and ensure that this is reflected in period for delivery of the Project in this Grant Agreement.
5. Consider including indemnity whereby Recipient indemnifies the Council for its liabilities relating to discharge of the s106 Obligation? This would need careful drafting to ensure scope of indemnity is limited to discharge of specific s106 Obligation and not all of the Council's obligations in the S106 Agreement.
6. Check repayment or ‘clawback’ provisions in s106 Agreement i.e. there is often a requirement for Council to spend or ‘commit’ s106 contributions for expenditure within specified timeframe (usually between 5 and 12 years) from date of payment of contribution pursuant to s106.
7. Consider including a declaration that completion of this Grant Agreement constitutes ‘expenditure’ or ‘commitment’ of the s106 Contribution for the purposes of discharging the Council's liability pursuant to the repayment provisions in the s106 Agreement?
8. NB. As drafting for this Schedule would require detailed review and consideration of provisions in Section 106 Agreement, strongly advise that legal advice is taken on drafting to ensure discharge of Council liabilities in s106.

[NOTE: OPTIONAL CLAUSE:]

[The Recipient shall comply with [paragraphs [] of the attached Section 106 Agreement/Unilateral Undertaking]] OR [the provisions of the attached Section 106 Agreement/Unilateral Undertaking]]

SCHEDULE 5 - Project Specific Grant Terms

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SCHEDULE 6– Grant Funding Documents

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SCHEDULE 7- Data Protection

[NOTE: PLEASE PICK EITHER OPTION A OR OPTION B. EACH OPTION REFLECTS A DIFFERENT DATA PROCESSING RELATIONSHIP BETWEEN THE PARTIES.]

[OPTION A: CONTROLLER – PROCESSOR CLAUSES]

DEFINITIONS

For the purposes of this Schedule 7 the following terms shall have the following meanings:

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.

1. DATA PROTECTION

- 1.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 1 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 1.2. The parties acknowledge that for the purposes of the Data Protection Legislation, the Council is the Controller and the Recipient is the Processor. Annex A to this Schedule 7 sets out the scope, nature and purpose of processing by the Recipient, the duration of the processing and the types of Personal Data and categories of Data Subject.
- 1.3. Without prejudice to the generality of clause 1.1, the Council will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Recipient and/or lawful collection of the Personal Data by the Recipient on behalf of the Council for the duration and purposes of this agreement.
- 1.4. Without prejudice to the generality of clause 1.1, the Recipient shall, in relation to any Personal Data processed in connection with the performance by the Recipient of its obligations under this agreement:
 - 1.4.1. process that Personal Data only on the documented written instructions of the Council Annex A of this Schedule 7 unless the Recipient is required by Domestic Law or EU Law to otherwise process that Personal Data. Where the Recipient is relying on Domestic Law or EU Law as the basis for processing Personal Data, the Recipient shall promptly notify the Council of this before performing the processing required by the Domestic Law or EU Law unless the Domestic Law or EU Law prohibits the Recipient from so notifying the Council;
 - 1.4.2. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Council, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss,

destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

1.4.3.ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

1.4.4.not transfer any Personal Data outside of the UK or EEA unless the prior written consent of the Council has been obtained and the following conditions are fulfilled:

1.4.4.1. the Council or the Recipient has provided appropriate safeguards in relation to the transfer;

1.4.4.2. the data subject has enforceable rights and effective legal remedies;

1.4.4.3. the Recipient complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

1.4.4.4. the Recipient complies with reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data;

1.4.5.assist the Council, at the Council's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

1.4.6.notify the Council without undue delay on becoming aware of a Personal Data Breach;

1.4.7.at the written direction of the Council, delete or return Personal Data and copies thereof to the Council on termination of the agreement unless required by Domestic Law or EU Law to store the Personal Data; and

1.4.8.maintain complete and accurate records and information to demonstrate its compliance with this Schedule 7 and allow for audits by the Council or the Council's designated auditor and immediately inform the Council if, in the opinion of the Recipient, an instruction infringes the Data Protection Legislation.

1.5. The Council does not consent to the Recipient appointing any third-party processor of Personal Data under this agreement.

1.6. Either party may, at any time on not less than 30 (thirty) days' notice, revise this Schedule 7 by replacing it with any applicable controller to processor standard clauses or similar terms adopted under the Data Protection Legislation or forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

1.7. Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the Data Protection Legislation by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it. The liability of the indemnifying party under this clause shall be subject to the limits set out in this Schedule 7.

ANNEX A [NOTE: Please complete Annex A if using Option A clauses. Please contact Jo Guest or Legal if you require assistance completing this Annex.]

1. Processing by the Supplier

1.1. Scope

1.2. Nature

1.3. Purpose of processing

2. Types of Personal Data

3. Categories of Data Subject

[OPTION B: CONTROLLER – CONTROLLER CLAUSES]

DEFINITIONS

For the purposes of this Schedule 7 the following terms shall have the following meanings:

Agreed Purposes: means the agreed purposes to enable the Recipient to deliver the Project and fulfil their obligations in accordance with the terms of this agreement [and, in respect of the Council, for the purpose of adhering to reporting obligations in accordance with the *[[INSERT RELEVANT GRANT REFERENCE. E.g. UK Shared Prosperity Fund]* grant requirements.]

Permitted Recipients: the parties to this agreement, the employees of each party, any third parties engaged to perform obligations in connection with this agreement.

Shared Personal Data: the personal data to be shared under Schedule 7 of this agreement. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject:

- (a) [TYPE OF DATA, eg. Gender, name, age, address etc]
- (b) [TYPE OF DATA, eg. Gender, name, age, address etc]
- (c) [TYPE OF DATA, eg. Gender, name, age, address etc]

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.

1. DATA PROTECTION

1.1. **Shared Personal Data.** This Schedule 7 sets out the framework for sharing of personal data between the parties as controllers. Each party acknowledges that one party (referred to in this clause as the *Data Discloser*) will regularly disclose to the other party Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

1.2. **Effect of non-compliance with Data protection Legislation.** Each party shall comply with all the obligations imposed on a controller under the Data protection Legislation, and any material breach of the Data Protection Legislation by one party shall, if not remedied in 30 days of written notice from the other party, give grounds to the other party to terminate this Agreement with immediate effect.

1.3. **Particular obligations relating to data sharing.** Each party shall:

1.3.1. ensure that it has all necessary notices and consents and lawful bases in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;

1.3.2. give full information to any data subject whose personal data may be processed under this agreement of the nature of such processing. This includes giving notice that, on the termination of this agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;

1.3.3. process the Shared Personal Data only for the Agreed Purposes;

- 1.3.4. not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
- 1.3.5. ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this agreement;
- 1.3.6. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- 1.3.7. not transfer any personal data received from the Data Discloser outside the UK unless the transferor ensures that (i) the transfer is to a country approved under the applicable Data Protection Legislation as providing adequate protection; or (ii) there are appropriate safeguards or binding corporate rules in place pursuant to the applicable Data Protection Legislation; or (iii) the transferor otherwise complies with its obligations under the applicable Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; or (iv) one of the derogations for specific situations in the applicable Data Protection Legislation applies to the transfer.
- 1.4. **Mutual assistance.** Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:
- 1.4.1. consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;
- 1.4.2. promptly inform the other party about the receipt of any data subject rights request;
- 1.4.3. provide the other party with reasonable assistance in complying with any data subject rights request;
- 1.4.4. not disclose, release, amend, delete or block any Shared Personal Data in response to a data subject rights request without first consulting the other party wherever possible;
- 1.4.5. assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with the Information Commissioner or other regulators;
- 1.4.6. notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;
- 1.4.7. at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this agreement unless required by law to store the Shared Personal Data;

- 1.4.8. use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
- 1.4.9. maintain complete and accurate records and information to demonstrate its compliance with this Schedule 7 and allow for audits by the other party or the other party's designated auditor; and
- 1.4.10. provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Legislation.
- 1.5. **Indemnity.** Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the Data Protection Legislation by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it. The liability of the indemnifying party under this clause shall be subject to the limits set out in this Schedule 7.

Appendix 8 – Glossary of Terms

BNG	Biodiversity Net Gain
CFP	The Annual CIL Funding Programme
CIL	Community Infrastructure Levy
CIL/S106 Officers Working Group	Internal WLBC working group made up of officers from Strategic Planning, Development Control, Legal Services, Leisure Services, Economic Development, Housing Services, Estates and Finance.
IDS	Infrastructure Delivery Schedule
IFS	Infrastructure Funding Statement
LCC	Lancashire County Council
NCIL	Neighbourhood portion of the Community Infrastructure Levy Collected
SANGs	Suitable Alternative Natural Green Space
SPD	Supplementary Planning Document
WLBC	West Lancashire Borough Council