

Guidance for Parish Council on CIL Reporting

Royal Borough of Windsor & Maidenhead Council

Community Infrastructure levy

(CIL)

November 2023

Introduction

This guide is intended to support Parish Councils to understand your roles and responsibilities relating to Community Infrastructure levy (CIL) and the benefits that it can have for your communities. The guide has been updated following a change in the CIL Regulations which took effect on 1 September 2019.

Background

CIL has been in operation since September 2016. The adopted CIL Charging Schedules set out the rates per square metre for charged developments, which is payable on commencement of developments, that were consented after its introduction. This includes development delivered through Planning Permissions, Permitted Development and Permission in Principle.

The CIL rates were set as part of the introduction of CIL process, through a review of local requirements. These rates are subject to annual indexation published on 31 December each year and will result in changes to values charged. *

*RICS Community Infrastructure levy (or RICS CIL Index) must be applied to the CIL levy rates to ensure that they keep up with inflation. For 2021, the rate has gone down by one to 333 from 334. The link to the site and explanation is below: -

<https://www.rics.org/uk/products/data-products/rics-community-infrastructure-levy-index/>

CIL is paid to the Council by developers on commencement of development and often in instalments. It can take two years before all instalments are paid, although this year, due to COVID there are instances where the payment period has been increased, to assist in delivering the area's housing needs.

**<https://www.gov.uk/guidance/coronavirus-covid-19-community-infrastructure-levy-guidance>

Once CIL has been received it is split in the following way as per the CIL Regulations and these may informally be referred to as 'pots' or 'funds':

- Administration - which is 5% CIL retained by RBWM to pay for systems and salaries of staff that manage CIL collection and spend processes.
- Neighbourhood - this is 15%* of the total CIL received in the previous 6 months which is paid Parish councils in April and October each year. Where a neighbourhood plan is made in the Parish, then this proportion is increased to 25% for any development where planning permission was granted after the neighbourhood plan was made.
*The 15% is subject to a 'cap' at £100 (indexed) per council tax dwelling in the parish area;
- Borough - The rest of the CIL goes to the Borough Infrastructure CIL Fund which is then allocated to infrastructure projects that make the development in the area sustainable - e.g. extensions to schools and health. This may be spent on infrastructure projects identified in the local Plan's Infrastructure Delivery Framework or through bids received.

NB. Commencements should be formally communicated to RBWM by the developers, but occasionally this process does not happen. If the Parish Council becomes aware of development having commenced in their area, they are encouraged to email the Infrastructure Team. This will aid the monitoring of commencements and allow us to issue CIL Demand Notices for payment of the CIL as soon as development has commenced.

1. When is CIL paid to Parish Councils?

There is a statutory requirement for us to make the payments of Neighbourhood CIL to parishes by certain deadlines.

Diagram 1 (below) shows the period of collection and the statutory payment deadlines for Neighbourhood CIL:

Diagram 1

CIL received 1 October to 31 March

Paid by 28 April

CIL received 1 April to 30 September

Paid by 28 October

CIL Parish Councils may formally agree a different payment time for receiving their Neighbourhood CIL, however the payment timing does not affect the calculation of the Neighbourhood CIL and the application of the 'cap'. The parish council must notify the infrastructure team as soon as possible if it decides not to receive any Neighbourhood CIL.

The CIL team will contact your Clerk by email to confirm the amount of CIL to be paid directly to your parish by the 28 April/28 October.

1.1 Parish Meetings/Unparished Areas

Any Neighbourhood CIL received for areas where there is a Parish Meeting, or the area is unparished, is held by RBWM as required by CIL Regulations under regulation 59F.

Under this CIL regulation the council will retain and then spend the Neighbourhood CIL as follows:

To support the development of the relevant 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.

2. How much CIL will the Parish council receive?

The amount of Neighbourhood CIL that a parish council will receive is directly based upon the amount of CIL received by RBWM from the new development within in the parish area. The payment of CIL by instalments means it may take up to two years for the CIL liability to be paid in full.

At the point a planning permission is granted for CIL liable development, the council issues a CIL Liability Notice which states the amount likely to be due at that point in time.

The amount in the Liability Notice can be reduced or altered by the developer due to the following factors:

- Exemptions for self-build housing may be applied.
- Exemptions for annex buildings may be applied.
- Exemptions for extensions to a property may be applied (including garages)
- Exemptions for Affordable Housing may be applied.
- Deductions based on existing buildings in use/recently in use to be demolished or converted.

These exemptions must be applied for and granted before a development commences, and any of these would affect how much CIL becomes payable at the point of commencement.

Once CIL has been received the calculations are applied which allocate the funding (15% or 25%) ready for payment by the statutory dates.

Where the CIL is subject to Enforcement action, this cannot be allocated as Neighbourhood CIL until it has been physically received, so there may be occasions when funding is expected in but not received within the estimated 2-year period. Enforcement action can include processes through the Magistrates Courts and may, in rare cases, result in Bailiff action.

The calculation of the amount due to a town or parish council is made after the end of each period (see diagram 1 above) and must consider other CIL legislation. requirements such as the 'cap' on the 15% CIL and whether there are any clawbacks or refunds in the period. Clawback of CIL can occur when a parish council has failed to spend CIL in line with the CIL Regulations (see sections 5 and 7).

Neighbourhood CIL is paid to the town or parish whose parish boundary covers the development. Where a development covers more than one parish the Neighbourhood CIL is calculated based on the relevant CIL liable floor area within each parish. On larger sites this may then result in each parish receiving Neighbourhood CIL at different times.

3. Spending Neighbourhood CIL

Regulation 59c of the CIL Regulations 2010 (as amended) states that the parish councils must spend Neighbourhood CIL on:

- **The provision, improvement, replacement, operation, or maintenance of infrastructure; or**
 - Anything else that is concerned with

**addressing the demands that development
places on an area.**

A list of infrastructure items which a parish council may spend Neighbourhood CIL on is

included as **Appendix A** at the end of this document. This is intended as a guide and is not exhaustive. The Infrastructure Team are happy to answer any queries in relation to spending your Neighbourhood CIL.

Providing the Neighbourhood CIL is spent in accordance with the Regulations it can be used to provide seed or match funding with other grants or funding sources and may be spent collaboratively with other parish councils, community groups or other providers to maximise the benefit to the community and address the effects of development. This could include spending collaboratively as a Community Partnership for example.

3.1 Deadline for Spending Neighbourhood CIL

CIL must be spent within 5 years of the date of receipt, otherwise it must be returned to RBWM. This requirement is detailed within the CIL Regulations (5ge). RBWM may serve a notice on the town or parish council requiring it to repay some or all the Neighbourhood CIL receipts that this regulation applies to, including any Neighbourhood CIL not spent in accordance with Regulation 59c (detailed above in bold).

4. Reporting on Neighbourhood CIL (a statutory requirement)

Regulation 121B states that the parish council must prepare an Annual CIL Report for each financial year (1 April to 31st March) they receive CIL. The report must include the following:

- the total amount of CIL receipts in the financial year
- the total CIL expenditure in the financial year
- details (a breakdown) of the CIL expenditure in the financial year to include:

(i) a description of the items to which CIL has been applied

(ii) the amount of CIL expenditure on each item

- details of any CIL Clawback notices received during the financial year to include:

(i) the total value of CIL receipts subject to notices served to recover CIL

(ii) the total value of CIL receipts subject to a notice served recover CIL in any year that has not yet been repaid to RBWM

The report must comply with accounting and audit procedures as set out in Governance and Accountability for Smaller Authorities in England 2019 (Joint Panel on Accountability and Governance)

A **link** to this guidance follows: <https://www.nalc.gov.uk/library/publications/2897-the-practitioners-guide/files>

A **template CIL Annual Report** is attached **as Appendix B** to this document.

RBWM Guidance for Parish Councils on CIL Reporting

By 31 December of the year that the Annual CIL Report relates to, the parish council must publish the report on their website, and they must send a copy of the report to the Infrastructure Team. Contact details are at the end of this document.

The CIL Report will be reviewed by the RBWM CIL infrastructure team, and where it believes CIL has not been spent in accordance with Regulation 121B then it will notify the parish, to request further information and to advise of the next steps where recovery of the CIL funds is required.

5. Repayment of CIL

If the town or parish council receives a CIL Repayment Notice from RBWM they must respond as required and make immediate arrangements to return the mis/un-spent CIL to the Council, as directed. In accordance with the CIL Regulations, RBWM will spend the returned CIL income to support the development of the 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.

If the Parish Council can provide evidence that it is unable to repay the amount specified in the CIL Repayment Notice, RBWM will clawback this amount from future CIL Receipts.

Contacting us:

By email: Cil@RBWM.gov.uk (preferred way of contact)

By Post: The Town Hall

St Ives Road

Maidenhead

Berkshire

SL6 1RF

Infrastructure items which can be provided or maintained by Parish Councils

Appendix A

Infrastructure Type	Power and Duty	Statutory Provision
Allotments	Provision of allotments Act 1908 5.23	Small Holding and Allotments
Burial Grounds; cemeteries and crematoria	Power to acquire and maintain;10; Power to provide Power to agree to maintain monuments and memorials	Open Spaces Act 1906 ss.9 & Local Government Act (LGA) 1972 s.214 Parish Councils and Burial Authorities (Miscellaneous Provisions) Act 1970, s.1
Bins	Provision of litter bins	Litter Act 1983 ss. 5,6
Bus Shelters	Power to provide	Local Government (Miscellaneous Provision) Act 1953 s.4
Clock	Power to provide public clock	Parish Councils Act 1957, s.2
Closed Church Yards	Power to maintain	LGA 1972, s.215
Commons and common pastures	Power in relation to inclosure, regulation and management and providing common pasture	Inclosure Act 1845; small Holdings and Allotments Act 1908, 5.34
Conference facilities	Power to provide	LGA 1972 s.144
Community Centres	Power to provide and equip building for use of clubs (sport/social/educational); Power to acquire, provide and furnish community building	Local Government (Miscellaneous Provisions) Act 1976 s.19 LGA 1972, s.133
Crime Prevention	Power to spend money on crime prevention	Local Government and Rating Act 1997, 5.31
Drainage	Power to deal with ponds and ditches	Public Health Act 1936 s.260
Entertainment and the Arts	Provision of entertainment	LGA 1972 s.145
Highways	Power to repair and maintain public footpaths and bridleways Power to light roads and public places Power to provide parking places for vehicles, bikes, and motorbikes Power to enter into agreement as to dedication and widening Power to provide roadside seats and shelters and bus shelters	Highways Act 1980 ss.43 & 50 Parish Councils Act 1957 s.3; Highways Act 1980, s.301 Road Traffic Regulations Act 1984 ss.57,63 Highways Act 1980 ss.30, 72 Parish Councils Act 1957 s.1 Road Traffic Regulations Act 1984 s.72

RBWM Guidance for Parish Councils on CIL Reporting

	<p>Power to provide certain traffic signs and other notices</p> <p>Power to plant trees and maintain roadside verges</p> <p>Traffic calming - powers to contribute financially to such schemes</p> <p>Community Transport - power to spend money on community transport schemes</p>	<p>Highways Act 1980 s.96</p> <p>Local Government and Rating Act 1997 s.30</p> <p>Local Government and Rating Act 1997 ss.26-29</p>
Land	Power to acquire and dispose of land	LGA 1972 ss.124; 126; 127
Mortuaries and post mortem rooms	Power to provide	Public Health Act 1936 s.198 Public Health Act 1875 s.164
Open Space	<p>Power to acquire land for public recreation</p> <p>Power to acquire and maintain land for open spaces</p>	Open Spaces Act 1906 ss.9 and 10
Public Buildings and village hall	Power to acquire and provide buildings for public meetings and assemblies	LGA 1972 s.133
Public Toilets	Power to provide	Public Health Act 1936 s.87
Recreation	<p>Power to acquire land for recreation grounds; public walks; pleasure grounds and open space; and to manage and control them.</p> <p>Power to provide a wide range of recreational facilities</p> <p>Provision of boating pools</p>	<p>Public Health Act 1875 s.164;</p> <p>LGA 1972 sch.14 para27;</p> <p>Public Health Acts Amendments Act 1890 s.44;</p> <p>Open Spaces Act 1906 ss.9 and 10</p> <p>Local Government (Miscellaneous Provisions) Act 1976 s.19</p> <p>Public health Act 1961 s.54</p>
War Memorials	Power to maintain, repair, protect and adopt	War Memorial (Local Authorities' Power) Act 1923, s.1; as extended by Local Government Act 1948 s.133
Water Supply	Power to utilise well or spring and to provide facilities for obtaining water from them	Public Health Act 1936 s.125

APPENDIX B - CIL REPORT

Town or Parish Council: _____ 1 April _____ to 31 March _____

A	Total CIL income carried over from previous years	£
B	Total CIL income received (receipts)	£
C	Total CIL spent (expenditure)	£
	Total CIL requested to be repaid in the year	£
	Total value of CIL receipts subject to a Repayment Notice served <u>in any year</u> that has not been repaid.	£
D	Total CIL repaid in the year following a Repayment Notice	£
E	Total CIL retained at year end (A+B-C-D)	£

CIL Expenditure

Items to which CIL has been applied:	Amount spent £
Total spent	£

Signed: _____ Position: _____

Verified: _____ Position: _____