



Mayor and Cabinet

Top up of the NCIL Borough Wide Pot and proposing an additional Borough wide priority

Date: 10th March 2021

Key decision: Yes

Class: Open

Ward(s) affected: All

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Outline and recommendations

At its meeting on the 11th March 2020 Mayor and council agreed the spending priorities for the borough wide allocation of the NCIL fund

This report sets out a proposed top up of the current borough wide pot with CIL receipts collected during the period 2018-2020 and the inclusion of an additional priority that allows project proposals that will assist in Lewisham's Covid-19 recovery.

It is recommended that Mayor and Cabinet:

- *To agree a top up of the existing borough wide fund by a further £396,161 which was collected through CIL receipts during the period of April 2018 – March 2020 bringing the available funding available through the borough wide pot to £977,094*
- *To agree the additional priority addressing projects that aim to assist in Lewisham's Covid-19 recovery that will benefit Lewisham's communities at a borough wide level.*

Timeline of engagement and decision-making

The current NCIL strategy was agreed through Mayor and Cabinet on the 5th June 2019 and Full council 24th July 2019.

The priorities for the Borough Wide pot were agreed through Mayor and Council on the 11th March 2020.

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1. Summary

- 1.1. The community infrastructure levy (CIL) is a levy that local authorities can choose to charge on “chargeable” new development in their area.
- 1.2. The Community Infrastructure Levy Regulations 2010 requires that a charging authority must apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area. Neighbourhood CIL is defined through R59F of the CIL Regulations (2010) and enables the council to allocate a portion of CIL receipts to be spent wider matters namely, *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.”
- 1.3. At its meeting 24th July 2019 Council agreed to allocate 25% of CIL receipts as Neighbourhood CIL and use the ward structure as the basis for distribution. It was also agreed that the 25% would be distributed with a portion of receipts retained in each ward where they were generated, a portion redistributed across the wards based on the index of multiple deprivation (IMD), and a portion set aside for projects that will propose a borough wide benefit (borough wide pot).
- 1.4. Figures included in the report presented to Council were based on CIL receipts from 2015 to 2018 and allocated £580,933 to the borough wide pot.
- 1.5. At its meeting 11th March 2020 Mayor and Cabinet agreed the priorities on which projects would have to address to qualify for the borough wide pot.
- 1.6. This report provides an update on the progression of the borough wide pot and seeks agreement from M&C to top up the borough wide pot with a further £396,161 from receipts collected in 2018 to 2020, as well as adding an additional priority to the agreed priority list.

2. Recommendations

- 2.1. It is recommended that Mayor and Cabinet:
 - To agree a top up of the existing borough wide fund by a further £396,161 which was collected through CIL receipts during the period of April 2018 – March 2020 bringing the available funding available through the borough wide pot to £977,094
 - To agree the additional priority addressing projects that aim to assist in Lewisham’s Covid-19 recovery that will benefit Lewisham’s communities at a borough wide level.

3. Policy Context

- 3.1. The contents of this report are consistent with the council’s policy framework.
- 3.2. The NCIL strategy will contribute to the implementation of the council’s seven corporate priorities from the Corporate Strategy 2018-2022 through supporting local projects that are aligned with those objectives.
- 3.3. The overall NCIL strategy will provide funding and a system to help support the implementation of the Corporate Strategy, and this report is consistent with the seven

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priorities identified:

- Open Lewisham – Lewisham is a welcoming place of safety for all where we celebrate the diversity that strengthens us
- Tackling the housing crisis – everyone has a decent home that is secure and affordable
- Giving children and young people the best start in life – every child has access to an outstanding and inspiring education and is given the support they need to keep them safe, well and able to achieve their full potential
- Building and inclusive local economy - Everyone can access high quality job opportunities, with decent pay security in our thriving and inclusive local economy
- Delivering & defending: Health, Social Care and Support – Ensuring everyone receives the health, mental health, social care and support services they need
- Making Lewisham greener – Everyone enjoys our green spaces and benefits from a healthy environment as we work to protect and improve our local environment.
- Building safer communities – Every resident feels safe and secure living here as we work together towards a borough free from the fear of crime.

4. Background

- 4.1. CIL is a levy that local authorities can choose to charge on new development in their area. Local authorities must spend the levy on infrastructure needed to support the development of their area, which can include a wide range of infrastructure such as schools, hospitals, roads, open space and leisure facilities.
- 4.2. Neighbourhood CIL is defined through R59F of the CIL Regulations (2010) which enables the council to allocate a portion of CIL receipts to be spent on local priorities, with spending of this portion subject to a wider definition of *“The charging authority may use the CIL to which this regulation applies, or cause it to be used, 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.”*
- 4.3. The full background to Lewisham’s agreed NCIL approach is set out in the report presented to M&C on 5 June 2019 and Full Council 24 July 2019.
- 4.4. The NCIL ward fund was launched in August 2019 with a consultation exercise inviting members of the public to submit ward priorities they would like to see addressed. Ward assembly meetings were then used to ratify the top 5 or 6 project priorities in each ward.
- 4.5. The progression of the NCIL ward fund was impacted as a result of the pre-election

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period for the general election in 2019 and again due to the national lock down as a result of the Covid-19 pandemic. As a result of this 17 out of 18 wards ratified their priorities with Downham still outstanding.

- 4.6. In response to the public safety concerns with holding physical meetings and council officers being redeployed to support the Council's Covid-19 response, the resources needed to effectively manage the implementation of the agreed programme were not available. As a result of this the NCIL ward fund process has been temporarily paused.
- 4.7. It is currently intended that the ward fund will be restarted during 2021. A review of the current strategy will need to take place in light of the public health situation and any restrictions at that time. This may necessitate changes or adaptations to the current agreed process to ensure its successful completion, which would be brought to Mayor and Cabinet for approval at a future date if required.
- 4.8. Further to the approach agreed to NCIL set out through M&C and Full Council, a set of spending priorities for the Borough Wide NCIL fund was agreed through M&C on 11 March 2020. The following allocation was agreed were:

- £100,000 to be allocated to the development of Council borough wide Air Quality initiatives that promote community involvement
- An open call for projects that should meet the following priorities:
 - Initiatives that seek to support local community groups to contributing to tackling crime and anti-social behaviour
 - Provision of high quality mentoring services and those designed to keep Lewisham's children and young people safe from exploitation, violence and serious youth crime
 - Support for people with learning disabilities and/or issues with mental health to find employment opportunities

In order to identify projects for which the remainder of the fund may be allocated

- Resolve that such funding should support services that are borough-wide, as far as possible, but provide extra focus on the most deprived wards in the borough as defined by the Indices of Multiple Deprivation

5. Borough Wide NCIL pot top up

- 5.1. Lewisham's agreed NCIL approach for the borough wide NCIL fund allocated 25% of NCIL monies collected from 2015-2018 into a borough wide pot which amounted to £580,933
- 5.2. During the period covering 2018-2020, the council collected a further £6,602,686 in CIL receipts
- 5.3. Applying the agreed approach used when allocating the initial funding into the borough wide pot, a further £396,161 is now available to top up the borough wide pot. This would result in a total borough wide pot of £977,094

6. Additional Borough Wide priority

- 6.1. It is proposed that an additional priority be added to the list of agreed borough wide priorities that would allow the allocation of funds from the borough wide pot to be awarded to:

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- Projects that will assist in Lewisham's Covid-19 recovery by demonstrating a benefit to Lewisham's communities at a borough wide level.

- 6.2. This priority would be intended to support communities to recover, rebuild and adapt which is vital to supporting communities' current and future needs. In terms of the CIL Regulations, this priority recognises the importance of strengthening and supporting our local communities across the Borough whether they are existing or newer communities. The need to promote social cohesion and tackle inequalities that can be more evident or amplified as the Borough grows would enable the Council to address the demands of development on a local area.
- 6.3. A priority that helps support community cohesion will also assist in local growth by encouraging communities to promote healthier, happier and more vibrant neighbourhoods that will support current and new residents making Lewisham an even more desirable place to live, work and visit
- 6.4. In line with the previously agreed borough wide priorities, projects will need to demonstrate how it will benefit communities on a borough wide level or across 2 or more wards within the borough.
- 6.5. The additional priority relating to the covid-19 recovery is supported through the Council's corporate strategy by delivering and defending, health, social care and support and supporting an Open Lewisham.

7. Borough Wide NCIL programme

- 7.1. The proposed process for the implementation of the NCIL borough wide fund is presented below:

Stage 1: Launch/Open Call for Projects – Projected launch date mid/late May 2021 (Open for 8-10 weeks)
<ul style="list-style-type: none"> - Launch of the NCIL borough wide fund using council communications such as social media accounts and local press. Members also to promote the launch of the borough wide fund through inviting relevant groups to apply for funding - Open call for projects development work carried out by council officers that will introduce/invite interested parties to the borough wide fund, offer project development workshops that will assist with the project proposals. - Projects to be submitted to the council via the NCIL e-mail account which will be established and advertised prior to launch.
Outcome: Potential projects identified and proposals submitted

Stage 2: Internal officer assessment of project proposals – Start/Mid August 2021 (6-8 weeks)
<ul style="list-style-type: none"> - Officers to use agreed scoring criteria to identify project proposals that meet the borough wide priorities and NCIL criteria.

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- Officers to prepare a short list of project proposals

Outcome: Short list of project proposals which meet criteria

Stage 3: Mayor and Cabinet – October 2021

- Shortlisted project proposals from the internal officer assessment to be referred to M&C for agreement

Outcome: Mayor and Cabinet to determine approved projects

Stage 4: Grant Agreement and delivery – From October/November 2021

- Project proposals that have been agreed through Mayor and Cabinet will be asked to sign a grant agreement that will set out the terms and conditions of the funding and the monitoring of the grant from the council.

Outcome: Grant formally awarded to successful project proposals

- 7.2. Officer resources supporting the implementation of the NCIL borough wide fund will be shared across the Culture and Communities team and Strategic Planning.
- 7.3. The implementation of the borough wide fund will need to be subject any further demands of the Covid-19 pandemic. There have been significant delays in the implementation of the NCIL programme both at a ward and borough level due to the need to suspend face to face meetings along with the significantly limited staff resources due to officers redeployment to support on the Council's Covid-19 response. The activities and timescales to deliver the NCIL fund will be kept under review in light of ongoing and potential future demands on the Council.

8. NCIL borough wide pot funding structure.

- 8.1. The table below shows how the Council intends to structure the borough wide fund, inviting organisations to submit project proposals that can be delivered within the funding limits outlined through the different categories.

Project Category	Allocation of borough wide pot	Project Value
Category A	£77,094	Grants up to £10,000

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Category B	£100,000	Grants from £10,000 - £35,000
Category C	£400,000	Grants from £35,000 - £50,000
Category D	£300,000	Grants of £100,000

- 8.2. Any funding not allocated during this round of borough wide NCIL would be carried over into the next funding cycle of the borough wide pot.
- 8.3. Successful projects would be subject of a timeframe of 2 years to spend their allocation, beginning on the date of the signing of the grant agreement.
- 8.4. In accordance with the council's current approach to the monitoring of grants, NCIL borough-wide funds awarded under £35,000 would receive light touch monitoring. Specific monitoring arrangements would be agreed with the individual organisation and detailed in the grant agreement.

9. Overall Conclusions/recommendations

- 9.1. In conclusion, following the impact of Covid-19 within Lewisham's communities it is recommended that:
- The NCIL Borough wide fund be topped up by £396,161 with eligible NCIL receipts collected throughout 2018-2020, increasing the funding available through the borough wide fund from £580, 933 to £977,094
 - That an additional priority to be added to the existing borough wide priorities that will assist in Lewisham's Covid-19 recovery by demonstrating a benefit to Lewisham's communities at a borough wide level

10. Financial implications

- 10.1. This report is seeking approval from Mayor and Cabinet to top up the existing NCIL borough wide fund by a further £396,161 bringing the available funding available through the borough wide pot to £977,094.
- 10.2. The Council commenced receipts of Community Infrastructure Levies in 2015 and received a total of £9.287m between 2015 and 2018. A total of £580,933 was allocated to the NCIL borough wide pot as agreed by Mayor and Cabinet in June 2019. During the period covering 2018 to 2020, the council collected a further £6,602,686 in CIL receipts, and the top up has been calculated based on the previously agreed methodology.
- 10.3. The report is also seeking approval for an additional priority to be added to the existing priorities. Any spend on these priorities will be contained within the fund and will add no further pressure to the Council's finances.

11. Legal implications

- 11.1. Regulation 59 of the Community Infrastructure Levy Regulations 2010 requires that a charging authority must apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area.

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Section 216 of the Planning Act 2008 defines infrastructure as including—
roads and other transport facilities, (b) flood defences, (c) schools and other educational facilities, (d) medical facilities, (e) sporting and recreational facilities, and (f) open spaces

- 11.2. Regulation 59F provides that where all or part of a chargeable development is in an area which is not a parish council then a charging authority, which in this instance is the council, may use or cause to be used the CIL which would have had to have been passed to a parish council, 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.
- 11.3. Therefore any projects that come forward as part of this additional priority will still need to meet either (a) or (b).
- 11.4. The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 11.5. In summary, the council must, in the exercise of its function, have due regard to the need to:
- (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; (b) advance equality of opportunity between people who share a protected characteristic and those who do not; (c) foster good relations between people who share a protected characteristic and persons who do not share it.
- 11.6. The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 11.7. The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:
<https://www.equalityhumanrights.com/en/publication-download/technicalguidance->

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- 11.8. The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
 2. Meeting the equality duty in policy and decision-making
 3. Engagement and the equality duty
 4. Equality objectives and the equality duty
 5. Equality information and the equality duty
- 11.9. The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <https://www.equalityhumanrights.com/en/advice-and-guidance/publicsector-equality-duty-guidance>

12. Equalities implications

- 12.1. In addition to the Public Sector Duty under the Equality Act 2010, the NCIL borough-wide fund seeks to further positively address the disproportionate impact COVID 19 has had across many of our communities including; BAME communities, people with disabilities, individuals with no recourse to public funds and those living in more deprived areas of the borough. To meet the needs of those whose needs are currently not being met through the provision of services, activities and projects that will have a positive and lasting benefit.

13. Climate change and environmental implications

- 13.1. As Air Quality is recommended as one of the priorities for the borough-wide NCIL pot is expected that any infrastructure funded within this area will have a positive impact in reducing air quality and improving the environment although the nature of this can not be determined ahead of the application and assessment process

14. Crime and disorder implications

- 14.1. As Community Safety is recommended as one of the priorities for the borough-wide NCIL pot is expected that any infrastructure funded within this area will have a positive impact in reducing crime and disorder although the nature of this can not be determined ahead of the application and assessment process

15. Health and wellbeing implications

- 15.1. The purpose of all NCIL funding is to offset any impacts of development and population growth so the expectation is that any and all projects that receive funding will improve the wellbeing of the local community.

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16. Social Value implications [to be completed only when awarding a contract]

16.1. N/A

17. Background papers

17.1. Appendix 1 – Mayor and Cabinet paper – 5th June 2019

17.2. Appendix 2 – Mayor and Cabinet paper – 11th March 2020

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20. Comments for and on behalf of the Director of Law, Governance and HR

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