

 Brent	Cabinet 17 April 2023
	Report from Corporate Director, Communities & Regeneration
NCIL – Model and Approach	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Appendix 1 - Brent Neighbourhood Community Infrastructure Levy – Review
Background Papers:	None
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1. Purpose of the Report

- 1.1 To review and change the approach to delivering community grants.
- 1.2 This report seeks to review the current Neighbourhood Community Infrastructure Levy (NCIL) programme as agreed by Cabinet in 2020 and make amendments in accordance with the recommendations of the internal audit review of the pilot You Decide programme, the Resources and Public Realm Scrutiny Committee, and lessons learned.

2. Recommendations

Cabinet to:

- 2.1 Agree the name of NCIL Grant to be referred to as Community Grant (NCIL).

- 2.2 Agree to open one Community Grant (NCIL) round per financial year.
- 2.3 Agree to the amount of community grant to be released as set out in paragraph 5.1 for distribution across the Brent Connects areas.
- 2.4 Agree to allocate up to an additional £500,000 'pot' for boroughwide projects.
- 2.5 Agree to revise the award process for the Community Grant (NCIL) in line with paragraph 5.1 of this report.
- 2.6 Delegate authority to the Corporate Director Communities and Regeneration to undertake a consultation on neighbourhood priorities and consider the responses to the consultation and thereafter proceed with implementing the model for the community grant.

3. Background

- 3.1 Brent Council currently offers three grants within the Strategy and Partnerships Service:
 - NCIL (current name)
 - Edward Harvest Trust Fund (EHTF)
 - Love Where You Live (LWYL)
- 3.2 Currently, all three grant funds are closed to applications.
- 3.3 The grants will become available to open in 2023:
 - Love Where You Live – April 2023
 - Edward Harvist – June 2023
 - NCIL (current name) – September 2023
- 3.4 These grants have seen a notable increase in demand since 2017. As of February 2023, 212 live projects across all three grants are being monitored. This is comprised of 196 NCIL, 2 Edward Harvest Trust Fund and 14 LWYL.
- 3.5 The growth in grant applications has increased pressure on grant administrators. The table below outlines the number of live projects per grant.
- 3.6 LWYL has an annual budget of £50k from the existing Strategy and Partnerships budget. An existing grant assessment criteria is in place and used by Officers to make decisions on grant applications. Residents and organisations can apply for the LWYL Grant online and by paper/email. The maximum award of £500 will be monitored to ensure an even spread across all Brent Connects Areas.

3.7 Edward Harvist Trust Fund provides Brent Council with an annual grant income of approximately £70k to be spent on local initiatives as set out in the Edward Harvist Trust criteria.

Grant Fund Name	Number of Projects
NCIL	196
Edward Harvist	2
LWYL	14

3.8 The current monitoring approach to all grants is determined by the amount awarded to the organisations.

- Under £10,000 – end of project report only
- £10,000-£20,000 – 1 face-to-face visit and final project report
- £20,000-£50,000 – 2 visits and 2 reports
- Over £50,000- quarterly reporting and at least 2 visits.

3.9 For the purpose of this paper, the primary focus is Community Grants (NCIL).

3.10 The Community Infrastructure Levy (CIL) is a charge which is levied on new development in the area, with NCIL being a portion of the CIL income. It is designed to address the community's infrastructure or other needs that are being placed or will be placed on communities due to the development.

3.11 An Annual Infrastructure Statement that includes the distribution of NCIL is a statutory requirement that is published online each year.

3.12 The NCIL distribution is administered and monitored to meet the agreed formula as follows:

- **Neighbourhood Plan Area:** Legislation requires that areas with a Neighbourhood Plan (Harlesden and Sudbury Town) are entitled to 25% (Uncapped) of the total CIL collected in their neighbourhood forum area.
- **Non-Neighbourhood Area:** Legislation requires that each area is entitled to 15% (capped) of the total CIL collected in their area.

3.13 From August 2017, NCIL was administered using a standard grant assessment process. Applications submitted online with supporting evidence were assessed by a panel consisting of the Head of Strategy & Partnerships and the Head of Planning and Development Services. Applications were assessed based on value for money, the impact of development on the area and how it aligns with the Neighbourhood Priority.

3.14 The Cabinet decision of January 2019¹ (Appendix 1) outlines that of the remaining amount for the Non-Neighbourhood Area, 50% goes to Wembley,

¹ [Decision - Brent Neighbourhood Community Infrastructure Levy – Review](#)

and the other 50% is equally split between the four Brent Connect Areas. Accordingly, 12.5% is allocated to each Brent Connect Area.

4. Renaming of NCIL to Community Grant

- 4.1 It is proposed to change the name of NCIL to Community Grant. This will not affect existing responsibilities. The statutory requirement for NCIL funded projects will be maintained in the new Community Grant model. All projects will be required to demonstrate that they both:
- i. Meet the CIL Regulations ‘to support the development’ of an area through:
 - 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.
 - ii. Address one or more of the neighbourhood priorities from the latest consultation.
- 4.2 As agreed in the 2020 Cabinet paper we are obligated to conduct a Neighbourhood Priority consultation in 2023. The Neighbourhood Priorities must be subject to consultation as they determine the NCIL criteria for the next three years. A consultation of four weeks is recommended and will be completed by end of June 2023.
- 4.3 As stated, NCIL funding is a portion of CIL- 15% for Non-Neighbourhood Areas and 25% for Neighbourhood areas with an adopted Neighbourhood Plan. Following the Cabinet Decision in 2019, each Brent Connect Area is classed as a Non-Neighbourhood Area, so each has its own individual NCIL pot of funding.
- 4.4 The NCIL funding distributed to each Brent Connect Area will vary annually and comparatively across localities. Since 2017, Wembley has been the Brent Connect area that generates the highest CIL revenue and is likely to continue to do so as the remainder of the growth area is built out.

5. Community Grant (NCIL) Model

- 5.1 The model proposes an allocation to each ward in the borough to be spent on a Brent Connect area basis, totalling £1m in this financial year, from the funds available to each Brent Connects area.
- 5.2 The allocation remains the same as outlined in 3.14.
- 5.3 The table below sets out this approach ensuring that the Council maintains its obligations to apportion the money accurately in line with statutory guidance.

Brent Connects Area	Number of wards	NCIL Project Spend (£m)
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Wembley	8	0.365
Harlesden	3	0.136
Kilburn	3	0.136
Kingsbury and Kenton	5	0.227
Willesden	3	0.136
Total	22	1

5.4 This proposal seeks approval to allocate up to an additional £500,000 'pot' for boroughwide projects. These will be projects that mitigate the impact that development has on the borough as a whole.

6. Community Grant Process

6.1 The Community Grant Process will take approximately 24 weeks from application to receipt of funds due to the increased due diligence and safeguarding checks as well as the introduction of the Brent Connects Panels. This will be preceded by an eight-week period of detailed communications to ensure full coverage of the borough and will include outreach activities, planned workshops and drop in events to ensure community organisations are aware of the new process.

Weeks	Activity
1 - 8	Community Grant Opens – support given to applicants by officers and CVS Brent
8 – 12	Due Diligence and Safeguarding checks.
12 - 18	Internal officer review including finance, legal team and department representatives
18 - 22	Brent Connects Chairs with Ward Councillors Panel x 5
22 - 24	Formal decisions taken by Corporate Director Communities and Regeneration in consultation with Lead Member, Customer Communities and Culture.

6.2 Each Brent Connects area will make its own recommendations on projects to be funded. All Brent Connects area panels will review applications using the same assessment criteria. Each Panel will consist of all Ward Councillors in the locality.

6.3 The formal decision to award will be taken by the Corporate Director, Communities and Regeneration provided the award does not exceed £100k. This approach reflects the Local Government Act that does not have provision for Ward Councillors to make decisions on funding. The Constitution allows for Cabinet Members to make funding decisions up to £50k only. Therefore, the Corporate Director will consult with the Lead Member as part of the decision-making process for awards between 50k and £100k.

6.4 Should an award be £100k or less, the award process for boroughwide projects will be:

- Officer assessment.

- A joint panel of all Brent Connects Chairs will be convened to discuss applications.
- The panel will make recommendations to the Corporate Director Communities and Regeneration in consultation with the Cabinet Member for Customers, Communities & Culture.

6.5 Should an award be more than £100k, the award process for boroughwide projects will be:

- Officer assessment.
- A joint panel of all Brent Connects Chairs will be convened to discuss applications.
- Officers in liaison with the Cabinet Member for Customers, Communities & Culture will make recommendations to Cabinet for decision/approval.

6.6 The outline application process will be as follows:

- Applicants will still apply for funding online using the existing Grants portal. The Grant Portal is a licenced product that expires in 2023. Work is underway to identify a new product to improve user experience.
- A communications and engagement plan will be delivered to raise awareness, and face-to-face grant workshops will provide advice and guidance to residents and organisations needing support.
- The Council webpage and grants portal will be refreshed to provide clear guidance, legal requirements, and relevant criteria for each grant.
- Applicants will be informed of all due diligence documentation required and will be informed of when to expect a decision to be announced.
- Upon receipt of the application, the officers will undertake initial checks. Applications that do not meet the minimum criteria will be declined.
- Applications will be reviewed by a cross-department group of officers to ensure projects are viable and align with service priorities and meet statutory obligations.
- The Officer group will also take oversight of funding allocations to ensure each Brent Connects area stays within its allocation and does not overspend.
- Officers will prepare the applications to be sent to Brent Connect Panels.
- Officers will then present the Brent Connects Panel recommendations to the Corporate Director of Communities and Regeneration in consultation

with the Cabinet Member, Customer Communities and Culture to ratify under delegations for the formal decision-making for all projects under £100,000. Projects over £100,000 will go to Cabinet.

7. Pre and Post Application Due Diligence and Safeguarding checks

- 7.1 Due diligence will be conducted on all applicants. All applicants will be required to demonstrate how their project meets local needs.
- 7.2 The level of due diligence will be determined by the grant amount requested.
- 7.3 Additional safeguarding checks will be completed for all projects that relate to children and young people or vulnerable adults.

8. Communications and Engagement

- 8.1 A comprehensive communications and engagement plan will be delivered to ensure residents and community organisations are made fully aware of the council's new Community Grant approach. A consultation on the new Community Grant priorities for each area will begin in July 2023 and will be widely communicated.
- 8.2 Communications on LWYL has started to ensure residents are aware of the re-opening from April 2023.
- 8.3 The wider communications and engagement plan will include a range of methods to build awareness of the council's grants programme. These methods will include:
 - Fully supported Member development sessions where the approach to each of the three grants will be fully explained so that Members can actively share details of the grants with residents, community groups and within their wards
 - Detailed training for all Brent Connects Chairs and Vice Chairs to ensure an understanding of the Statutory requirements for the Community Grant
 - Community meetings prior to the opening of the Community Grant
 - Digital communications including e-newsletters, social media, council website article, email signatures and shareable step-by-step infographics for WhatsApp with details of each of the three grants and how to apply
 - Print communications will include articles in future editions of YourBrent Magazine and press releases will be sent to local media
 - Advertising will include JCDecaux high street adverts at key moments throughout the year

9. Next Steps

- 9.1 To launch the communications and engagement plan for the LWYL Grant immediately.
- 9.2 To continue delivery of the Communications and Engagement plan from April to September 2023 covering Edward Harvist and the Community Grant.
- 9.3 Conduct a four-week consultation on the Community Grant set out in section 4.2.
- 9.4 To report back to Cabinet in Autumn following delivery of the Community Grant.

10. Financial Implications

- 10.1 Love Where You Live is funded from an existing budget line; this proposal has no financial impact on this budget, as spend should be the same under this proposal.
- 10.2 Edward Harvist Trust grants are funded from income from the Edward Harvist Trust. Again, this proposal has no financial impact on this budget, as spend should be the same under this proposal.
- 10.3 On NCIL, there is significant amount of money available, the balance is forecast to be £13.9m at the end of 22/23, of which £5.1m is already committed to be spent, leaving £8.8m which has not been committed to projects.
- 10.4 The funding allocations were set out and approved by Cabinet in January 2019. Since then, the process for paying out grants creates a risk of overspends in some areas, when current commitments to fund projects are paid out. This risk can be addressed by cabinet approving the recommendation 1.7 such that the split of NCIL between the Brent Connects areas, of 50% to Wembley Brent Connects area and 12.5% to each of the other Brent Connects areas applied retrospectively from January 2019 to NCIL reserves.
- 10.5 Taken together with the proposals in this paper to spend £1m across the Brent Connects areas, and create a £0.5m borough wide pot (this has been costed as per the allocations of the 50% to Wembley Brent Connects area and 12.5% to each of the other Brent Connects areas), and assuming that the council gets £2.5m of NCIL income next year, this leaves £9.8m for future years at the end of 23/24, the majority of which is for the Wembley Brent Connects Area.
- 10.6 Some areas have spent a much greater share of the NCIL allocated to them to date and are now largely dependent on new CIL income to fund spending in future years. Allocations of monies received in 2023/24 will follow the model set out in the January 2019 Cabinet paper, so this will determine the amount of money available to spend in each area in 2024/25. Given that 2023/24 is widely forecast to be a challenging year for the British economy, CIL receipts in 2023/24 may be lower than previous years, which would limit the spending possible in 2024/25 in some areas.

11. Legal Implications

- 11.1 Strategic CIL is limited to the provision, improvement, replacement, operation, or maintenance of infrastructure (reg. 59). By section 216 Planning Act 2008, infrastructure is defined as comprising (a) roads and other transport facilities; (b) flood defences; (c) schools and other educational facilities; (d) medical facilities; (e) sporting and recreational facilities, and (f) open spaces;
- 11.2 Regulations 59A and 59F authorises the application of NCIL by a local council. In either case such an application is limited by reg. 59C or as appropriate reg. 59F (3) to 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 Counsel confirms that: the Explanatory Memorandum accompanying the 2013 regulations stated that the explanation for the creation of NCIL was “to help communities to accommodate the impact of new development and strengthen the role and financial autonomy of neighbourhoods.”
- 11.4 As regards the limitation in reg. 59C it is stated in para. 7.15 Of the Explanatory Memorandum that “Regulation 59C gives parish and community council’s greater freedom over what to spend the neighbourhood funding element on. These wider spending powers are important because they allow the community to decide what they need to help mitigate the impact of development.
- 11.5 Part (a) is the same authorisation as applied to strategic CIL whilst (b) is very evidently an extension. It is, however, intended to be a limitation. The wording is not such that it is intended to confer unlimited power to apply the monies for any purpose. It is a limitation which has to be abided by as an application which does not comply with reg. 59C will be an unauthorised application giving rise to issues for the Council.
- 11.6 Development has a statutory meaning which is set out in section 209 of the 2008 Act modified by reg. 6. Section 209 provides that ““development” means— (a) anything done by way of or for the purpose of the creation of a new building, or (b) anything done to or in respect of an existing building.” This adds little to construing part (b) save to note that in this context “anything” is limited by the context to works or use relating to a building.
- 11.7 What is to be provided by the funding if it is not infrastructure has to be justified as addressing demands that are being placed or will be placed on the area by reason of the construction of new buildings or work to or changes of use of existing buildings. It is not enough that what is to be provided is for the general wellbeing of the area.

- 11.8 The Council should set out clearly and transparently their approach to engaging with neighbourhoods using their regular communication tools for example, website, newsletters, etc. The use of neighbourhood funds should therefore match priorities expressed by local communities, including priorities set out formally in neighbourhood plans.
- 11.9 Division of the area of Brent in line with this report and the 2019 Cabinet report is not required under the CIL regime it is a course of action which reflects the rationale for the NCIL. Once put in place it cannot be ignored but has to be taken into account.
- 11.10 It is important that these projects assessed by the Brent connects panel seek to address demands which arise from development.
- 11.11 Under S1 of the Localism Act 2011 the Council has a general power of competence to do anything which an individual may do unless it is expressly prohibited. The giving of grants to voluntary organisations is a discretionary power which must be exercised reasonably taking into account all relevant considerations and ignoring irrelevant considerations.
- 11.12 In awarding grants, Officers will need to have regard to the general duty of best value pursuant to section 3(1) of the Local Government Act 1999 and to the public sector equality duty pursuant to the Equality Act 2010.
- 11.13 Schedule 3 paragraph 9.5 and paragraph 9 of the table provides that Neighbourhood Community Infrastructure Level grants may be made by the Corporate Director of Communities and Regeneration up to the value of £100k.
- 11.14 The Council may use funds from the Community Infrastructure Levy to recover the costs of administering the levy. [Regulation 61](#), as amended by the [2014 Regulations](#) allows the Council to spend up to 5% cent of their total levy receipts on administrative expenses.

12. Equality Implications

- 12.1 Participatory budgeting aligns the links between equality and community empowerment and participation in local financial decision-making. Discontinuing Participatory Budgeting will remove this alignment. This may impact groups if they perceive this as losing their voice in making local financial decision.
- 12.2 In pausing the You Decide initiative this has the potential to impact certain demographic who had higher success rate for example disability theme schemes had 87.5% success rate.
- 12.3 This has the potential to impact the number and demographics of organisations applying to NCIL if reverting to the traditional grant application process. Smaller organisation who may not have the skillset or capability. This is being migrated by grant workshops programme being devised by Officers and CVS Brent.

- 12.4 An Equality Analysis (EA) of all grant programmes is completed and continually reviewed. The overall assessment is that Brent's grant programmes have a positive impact in terms of promoting equality. Each project also completes an initial screening of the likely impact of their plans on the protected characteristics.
- 12.5 Under Section 149 of the Equality Act 2010, the council has a duty when exercising its functions to have 'due regard to the need to:
- Eliminate unlawful discrimination, harassment, victimisation, and other conduct prohibited under the Act;
 - Advance equality of opportunity; and
 - Foster good relations between those who share a "protected characteristic" and those who do not.
- 12.6 This is the Public Sector Equality Duty (PSED). The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. This is being addressed as at point of application we ask protected characteristics of organisation and benefices of the project. All projects must provide their equality policy/statement that aligns with Council obligation to receive funding.

Report sign-off:

Zahur Khan

Corporate Director Communities and Regeneration