

Proposed funding of architects' fees for West Felton CE Primary School expansion

Clerk's report for council meeting 12 May 2020 (item 11.20)

The Parish Council has received a request from West Felton CE Primary School (through Cllr David Curtis, School Governor and Parish Council school representative) for £4,000 to fund the professional fees of two architects to draft plans for the proposed school expansion. It has been proposed by Cllr Curtis that this is funded from the CIL Neighbourhood Fund.

Members should be considering:

1. If this is a project that they wish to support
2. Is it permissible to spend CIL Neighbourhood Fund in this way?
3. Whether or not they have the necessary power to spend parish council money on this project?
4. Can the Parish Council afford this?

The Parish Council considered a similar request from the school for this project in September 2018. That was a request for £3,000 to fund initial consultancy fees (namely the professional costs of a land agent acting for a neighbouring land owner from whom the school had hoped to purchase land for their expansion). Whilst the details of this latest request are slightly different, many of the same points advised then by the Clerk also apply here. The advice given then by the Clerk was as follows (taken from the Minutes – ref 138.18):

The Clerk advised that CIL monies can be used by a Parish Council to fund the expansion of a school, as this fell within the definition of 'infrastructure' under the CIL Regulations, but it was very doubtful whether West Felton Parish Council's proposed spending towards initial consultancy fees for West Felton CE Primary School would fall within that definition. However, she further advised that there is no specific statutory power enabling a Parish Council to fund education and as West Felton Parish Council does not possess the 'General Power of Competence' it does not therefore have power to use its Neighbourhood Fund monies for education. She suggested that the best way forward was to work closely with the Local Planning Authority to agree infrastructure priorities and to allow them to retain the neighbourhood funding to spend directly on agreed priorities. Alternatively or in addition to this, she advised that the Council may wish to consider using their power under s137 Local Government Act 1972 ('s137') but such spending would be capped and the Council would need to be of the opinion that the spending would be "... in the interests of (and will bring direct benefit to) their area or part of it or all or some of its inhabitants". The Clerk was of the opinion that funding towards the school expansion project would undoubtedly fall within this, but it would be unwise to rely on s137 for spending on consultancy fees, as there was no categorical certainty of any resulting benefit and it was questionable as to whether any such benefit could be considered "direct".

If Members want to support this request for funds, then it is the Clerk's opinion that the following options should be considered:

1. s137 LGA 1972. This is the only statutory power that could potentially be used in these circumstances. Members must consider whether the s137 criteria underlined above would

be met in these circumstances. It is the Clerk's opinion that there is more scope with this request than there was with the September 2018 request to argue that it 'will' bring 'direct' benefit to the area or part of it or all or some of its inhabitant. The September request was arguably for funding of a more speculative nature and it proved to be that no direct benefit has arisen from that funding. On this occasion, it seems that the plans to be drawn up by the architects will be used and therefore ultimately bring a clear benefit to the area and its inhabitants. The question in the Clerk's opinion is whether that benefit could be considered to be 'direct'. Examples of the usual sort of use of s137 is making grants to disaster appeals/ voluntary organisations (such as to compile a village history) where a 'direct' benefit from spending the money can clearly be seen. Members may wish to consider whether a decision to rely on s137 could be challenged.

2. Work with the Local Planning Authority to agree this funding and allow them to spend CIL Neighbourhood Fund directly on this project.
3. CIL Local. Request that the £4,000 comes from the CIL Local already agreed and allocated towards the school expansion project.

Finally, Members should consider whether the Parish Council can afford this. The request has been made after the setting of the budget for 2020/21, so has not been provided for in the budget. However, if it is to come from CIL Neighbourhood Fund, then it would appear that this could be well afforded, with £54,014 of Neighbourhood Fund being carried forward on 1 April 2020 and the council having received a further £14,719 in April 2020. The 2020/21 budget provides for two projects to be funded from Neighbourhood Fund (Queens Head LED at a cost of £5,020 and playing field equipment repairs at a cost of £300 (although the latter may be significantly more)).