

D – Object D Guidance

Ensuring *Public Parks and Amenities* projects are compliant with the Landfill Communities Fund

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1. Registering an Object D Project – Public Parks and Amenities

- 1.1 This document provides guidance on the types of *public park and amenity* projects that can be undertaken under the Landfill Communities Fund scheme. It sets out the relevant parts of the governing Landfill Tax Regulations 1996 (Regulations) and then provides guidance on what these Regulations mean in practice. Examples are then listed to give illustrations of compliant projects.

2. The Object D Regulations

- 2.1 Regulation 33 provides as follows:

(2) The objects of a body are approved objects insofar as they are any of the following objects-

...

(d) where it is for the protection of the environment, the provision, maintenance or improvement of-

- (i) a public park; or
- (ii) another public amenity,

in the vicinity of a landfill site, provided the conditions in paragraph (6) below are satisfied;

...

(6) The conditions mentioned in sub-paragraphs (d) and (e) of paragraph (2) above are-

- (a) in a case falling within sub-paragraph (d), that the provision of the park or amenity is not required by a relevant condition; and
- (b) in a case falling within either of those sub-paragraphs, that the park, amenity, building or structure (as the case may be) is not to be operated with a view to profit.

...

(10) For the purposes of paragraphs 3), (3A) and (6) above a condition is relevant if it is-

- (a) a condition of any planning permission or statutory consent or approval granted on the application of any person making a qualifying contribution to the body, or
- (b) a term of an agreement made under-

- (i) section 106 of the Town and Country Planning Act 1990,
- (ii) section 75 of the Town and Country Planning (Scotland) Act 1997, or
- (iii) article 40 of the Planning (Northern Ireland) Order 1991,

to which such a person is a party.

3. Applying the Regulations

3.1 Is my project related to an amenity?

- 3.1.1 Projects which do not relate to a park must relate to another amenity. An amenity is something that makes the environment more pleasant or comfortable and/or improves the aesthetic qualities of an area for the general public.

3.1.2 Common examples of amenities include:

- Activity Centres;
- Bridleways and cycle paths;
- Community centres;
- Village halls;
- Sporting facilities;
- Museums; and
- Libraries

3.2 Is the park or amenity public?

3.2.1 A park or amenity is 'public' if it is for the public as a whole and there are no unreasonable limitations to the people who can use it. Limitations include parks and amenities which are only accessible to specific user groups defined by age, sex, disability, race etc. However, some parks and amenities by their nature may have certain restrictions placed upon their use. For example, use of the equipment in a play area may be restricted to a certain age range due to health and safety reasons, but the amenity as a whole can be used by the general public as they can access the play area.

3.2.2 Ideally the park or amenity will be open and available to the general public at all times. However some types of amenity will have restrictions on when and how the general public can use them.

3.2.3 In general, any park or amenity that is available for fewer than four evenings or two days a week, or fewer than 104 days in any one year, would not be considered sufficiently open to the general public.

3.2.4 A park or amenity is somewhere where the general public can go, join or use without any limit or unreasonable restrictions of use (or with 'reasonable' access costs) being in place.

3.3. **The project must demonstrate protection of the environment by *providing, maintaining or improving* a park or amenity.**

3.3.1 The works you propose must be either for provision, maintenance or improvement targeted on a specific park or amenity.

3.4 **All projects must relate to a park or amenity which protects the environment.**

3.4.1 All projects falling under this object must relate to a park or amenity which protects either the built, natural or social environment. ENTRUST interprets protection to include preservation. The built environment includes buildings and structures on land.

3.4.2 Protection can be defined as shielding from danger, injury, destruction or damage, or to keep something safe from harm, damage or bad influences.

3.4.3 Preservation can be defined as keeping something in its original or existing state or preventing it from being damaged.

3.4.4 EBs will be required to explain how the park or amenity protects either the built, natural or social environment in their project application.

3.5. **In the vicinity of a landfill site**

3.5.1 Object D projects must take place in the vicinity of a licensed landfill site, which we interpret as being within ten miles of a licensed landfill site. (Please note that some funders have their own, more strict, requirements.) Whilst the application form asks for a postcode of the project site, ENTRUST understands that in some instances a grid reference or map showing the ten mile radius

may be more appropriate. If you can provide evidence that your project site is adversely impacted by a licensed landfill site which is further than ten miles away, this can be deemed eligible.

3.5.2 A 'licensed' landfill site is one where there is a licence, resolution or permit authorising disposals of materials as waste in or on the land. Some inactive landfill sites are still 'licensed'. The details of landfill sites can be accessed either on the [HMRC website](#) or through the relevant authority (e.g. the [Environment Agency](#)). You will need to ensure that the landfill site has a licence in place for the project to be compliant. Please contact ENTRUST if you have any queries on this point.

3.5.3 It is important to note that the Regulations do not require the closest applicable landfill site to be owned by the LO contributing to your project (although some funders will require that it is). As long as some part of your project site is within the vicinity of a landfill site, the whole project will be acceptable.

3.6 The project proposals must not be required as part of any planning permission granted to the contributing Landfill Operator.

3.6.1 The works proposed under the project must not be required as part of a condition (of any planning permission) imposed on either the contributing Landfill Operator or a Contributing Third Party.

3.6.2 No LCF monies may be spent on works to meet any requirement in an agreement made under:

- Section 106 of the Town and Country Planning Act 1990;
- Section 75 of the Town and Country Planning Act (Scotland) 1997; or
- Article 40 of the Planning (Northern Ireland) Order 1991,

to which either the contributing Landfill Operator or a Contributing Third Party is a party.

3.7 Is the park or amenity not-for profit?

3.7.1 The park or amenity must be run on a not for profit basis to be eligible under Object D. This does not preclude a surplus from being made, but if a surplus is made then it cannot be distributed. Any income derived from the LCF funded part of the project must be spent on an approved object, which includes the EB's running costs (or a relevant percentage). We also allow the income derived to be spent on the maintenance of the project amenity.

4. Approval of Projects

4.1 The focus of the project must be to undertake '*direct project works*' on the park or amenity in question. ENTRUST will review applications to ensure that every proposal concentrates on direct project works and has acceptable additional associated costs.

4.2 "Direct project works" are defined as those that are *solely* attributable to the delivery of the project and include all costs that are necessary for the project to go ahead. This includes all costs that can be directly linked to improvements on site, such as contractors, volunteer management, signage, and interpretative materials that will be kept on site and provide, maintain or improve the park or amenity. It can also include any costs incurred in connection with the acquisition of any land and buildings including relevant legal fees. Direct project costs may be incurred by the EB where their own staff carry out the works.

4.3 "Additional associated costs" include costs that are not necessary for the physical works. This includes elements such as any head office costs not solely related to the project, publicity material (including leaflets and posters for the park or amenity), an opening ceremony and all other activities that do not *directly* result in physical work being undertaken. ENTRUST is not able to approve projects that have excessive additional associated costs (i.e. more than 10% of total project expenditure).

4.4 For a number of reasons (including the requirement to maintain an audit trail and statistics provision) a single project application which covers multiple parks or amenities on different sites is not able to be approved as a single project. However, each park or amenity may be approved separately or by project site.

4.5. Does my project require proportional registration?

4.5.1 ENTRUST recognises that some projects classed as public parks or amenities may not be open to the public all the time. Due to the 'public' requirement as stipulated in the Regulations, the LCF can only fund a project to the extent that it is open to the general public. It is possible to make a proportional registration but it is important to note that where projects which are proportionally registered, the amenity must still be available to the public for at least four evenings or two days a week, or 104 days in any one year (see paragraph 3.2.3 above).

4.5.2 If a project will be used by a restricted group for part of the time it will be open, then the LCF can only fund the same percentage of the project as the proportion of time the park or amenity is open to the general public. The most common example of this is works on school sites, when only the school pupils have access to the amenity (for example, a sports hall) during the day but the amenity is opened up to the general public in the weekday evenings, weekends and during school holidays.

4.5.3 To ensure the proportion of expenditure charged to the LCF is compliant, ENTRUST require the EB to confirm the days and hours when the park or amenity will be open to the general public and a calculation showing the percentage of the total time the facility will be available to the public. The calculation of the proportion when the amenity will be available for public use must be provided with the application for project approval.

Example - Proportional funding for the creation of a small orchard and community garden in the grounds of a school

The community garden and orchard is available for use by the general public outside of school time and during school holidays. This is confirmed by a public access statement from the school governors. Based on the hours the project is available to the general public, 64% of the total project costs can be funded through the LCF.

4.5.4 Proportional registration may also apply where there are areas of a park or amenity that are not available to the general public.

Example – Proportional funding for a roof on a community centre

The community centre has a number of meeting rooms, including 3 meeting rooms which are exclusively leased out to a local business. The area of these 3 meeting rooms is equal to 35% of the total floor space of the community centre; this is confirmed by a floor plan. Based on the percentage of the centre that is available to the general public, 65% of the total cost of the new roof can be funded through the LCF.

5. Project Examples

5.1 Village Hall Refurbishment

A village hall is regarded as an amenity as it makes both the social and built environment more pleasant by providing a facility for the community. Refurbishment of the existing village hall constitutes preservation of the built environment. The proposed project improves a public amenity by replacing the old kitchen. The amenity is open to the general public on a free and unrestricted basis, making this a compliant project.

5.2 Building a new multi-use gaming area (MUGA)

The MUGA is regarded as an amenity as it makes the social environment more pleasant, allowing the public to use the sporting facility. The provision of the MUGA preserves the social environment by providing a facility which will benefit the general public. Building the MUGA constitutes the provision of a public amenity. The amenity is open to the general public on a free and unrestricted basis, making this a compliant project.

5.3 Outdoor Play Area in a park

The project aims to improve a public park by replacing disused play equipment with varied high quality play equipment in a naturalistic setting. Good play facilities will help to reduce crime and help to build a safer community and can discourage anti-social behaviour, therefore improving the social environment. Additionally, the project provides equipment with a low environmental impact (use of bark, recyclable and long lasting materials) and demonstrates protection of the natural environment by planting more trees and providing better landscaping. Although the play equipment is for children, the park continues to be open to the general public on a free and unrestricted basis, making this a compliant project.

5.4 Renovation of a sports playing field

The project is for the maintenance of surfaces at a sports playing field which is used for many sporting events. This protects the current sporting structure on the land and so can demonstrate protection of the social and natural environment. A sports playing field is considered an amenity as it makes the area more pleasant. The sports playing field is open to the general public on a free and unrestricted basis, making this a compliant project.

5.5 Provision of a boardwalk over reed beds

The project is for the provision of a boardwalk over reed beds to link a footpath with a cycle path. The boardwalk will make the area more accessible and pleasant to the general public (and so is an amenity) and it will protect the natural environment. The amenity is open to the general public on a free and unrestricted basis, making this a compliant project.