



# D - Object D Guidance

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



## **D) Object D Guidance**

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# 1 Registering an Object D project – *Public Parks and Amenities*

- 1.1 This document provides guidance on the Landfill Tax Regulations 1996 (Regulations) governing the types of *public park and amenity projects* that can be undertaken under the Landfill Communities Fund scheme. It sets out the governing 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 The Regulations governing Object D are as follows:

33(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...above are-

- (a) ...that the provision of the park or amenity is not required by a relevant condition; and
- (b) ...that the park or amenity... is not to be operated with a view to profit

(10) For the purposes of paragraph... (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 would 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, 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 not available more than four evenings or two days a week, or less 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 is interpreted as being within ten miles of a site. 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 the project site is adversely impacted by a licensed landfill site that 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 ([www.hmrc.gov.uk](http://www.hmrc.gov.uk)) or through the relevant authority (e.g. The Environment Agency [www.environmentagency.gov.uk](http://www.environmentagency.gov.uk)). 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 closest applicable landfill site does not have 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, it is deemed to 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 project must not be required as part of a condition of any planning permission granted to the contributing Landfill Operator. All LCF monies must be spent on works above and beyond any requirements that have been placed on the contributing Landfill Operator through;

- 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 such a person 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 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 EBs running costs (or a relevant percentage).



## **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 would include all costs that can be directly linked to improvements on site, such as contractors, volunteer management, signage and other interpretative materials that will be kept on site and provide, maintain or improve the park or amenity itself. It can also include any costs incurred in connection with the acquisition of any land and buildings including legal fees. Direct project costs may be directly 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 and educational material, publicity including leaflets and posters for the park or amenity, opening ceremonies 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, single project applications that cover multiple parks or amenities are not able to be approved as a single project, but may be approved separately.

#### **4.5. Does my project require proportional registration?**

**4.5.1** ENTRUST recognises that 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 important to note that the guidance outlined in paragraph 3.2.3 still applies for projects which are proportionally registered.

**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 percentage of the project which is the same as the proportion of time the park or amenity is open to the general public. The most common example of this is works to school sites, when only the school pupils have access to the amenity (i.e. a sports hall) during the day but this is then opened up to the general public when the pupils are not using it.

**4.5.3** To ensure the proportion of expenditure charged to the LCF is compliant, ENTRUST requires confirmation of the days and hours that the park or amenity is open to the general public and a calculation showing the percentage of the total time the facility is available hence the proportion when it is available for public use.

#### **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 was 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 three small meeting rooms that are exclusively leased out to a local business. The area of these meeting rooms are equal to 35% of the total floor space of the community centre, this was 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** – The existing village hall preserves the built environment. It is regarded as an amenity as it makes both the social and built environment more pleasant providing a facility for the community. The 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 provision of the MUGA preserves the social environment by providing a facility which will benefit the general public. It is regarded as an amenity as it makes the social environment more pleasant, allowing the public to use the sporting facility.
- 5.3 Outdoor Play Area** - The project aims to improve a public park by replacing disused play equipment with fun, varied, high quality play experiences 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. 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.
- 5.4 Renovation of a sports playing field** – The project looks to maintain the 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 environment. It is considered an amenity as it makes the area more pleasant.
- 5.5 Provision of a boardwalk over reed beds** – The boardwalk links to a path from a cycle path and protects the natural environment as well as making the area more accessible and pleasant to the general public.

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