

Brighton & Hove City Council – Community Infrastructure Levy (CIL) Developer Contributions January 2019

The Ministry of Housing, Communities & Local Government has set out that the Government proposes to remove restrictions in CIL regulation 123 which currently prevents the use of section 106 planning obligations towards infrastructure included on a Charging Authority's 'regulation 123 list'. Until and unless superseded by revised regulation or guidance, the information below sets out the council's existing position for the Draft Infrastructure List and section 106 Planning Obligations consulted upon in March – June 2018.

Draft Infrastructure List

This draft list of infrastructure which may be funded in whole or in part by the CIL, is provided to inform the preparation of the charging schedule and consultation on the Draft Charging Schedule (March 2018), and to ensure no duplication or double charging towards the same infrastructure project between CIL funding and s106 developer obligation.

Regulation 123 of The Community Infrastructure Levy Regulations 2010 (as amended) provides for a CIL Charging Authority to publish a list ("R123 List") of infrastructure that will be, or may be, wholly or partly funded by a CIL. CIL can be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure to support development in the Charging Authority's area.

The alphabetical order of the list does not imply any preference or priority but is assessed from objectives identified in approved council strategies and plans identified in the [Brighton & Hove Council Infrastructure Delivery Plan update 2017](#) which identifies infrastructure required to support development in the City Plan Part One (2016).

The inclusion of a specific infrastructure project on this draft infrastructure and draft R123 list does not commit the council to fund the project (either in whole or in part).

Infrastructure Type or Project which may be funded by Community Infrastructure Levy receipts
<u>Air Quality</u> All off-site citywide Air Quality mitigation and monitoring measures priorities where identified in Infrastructure Delivery Plan.
<u>Education facilities</u> All off-site provision and improvements to new or existing schools and public sector funded education facilities.
<u>Emergency Services</u> Cumulative impacts of development upon services where identified in Infrastructure Delivery Plan.

Energy and Utilities

Strategic renewable energy projects, measures and facilities provision where identified in Infrastructure Delivery Plan.

Flood Risk Management

Strategic Sustainable Urban Drainage Systems (SUDS) surface water flooding - priorities where identified in Infrastructure Delivery Plan

Health Facilities

Off-site citywide health care facilities provision.

Open Space Provision

All off-site provision and improvements to publically accessible parks and other recreation open space facilities including amenity green areas and areas for food growing.

Recreation space built facilities

All off-site provision and improvements including built provision to play space, indoor/outdoor sports, and playing fields.

Provision and enhancement of Green Infrastructure network

Green infrastructure network connectivity including cross boundary infrastructure, rights of way, biodiversity measures and tree planting.

Public realm and cultural infrastructure

Strategic public realm upgrade including environmental improvements, components for delivery of arts, cultural provision and production space and technology.

Transport and Highways

City wide transport improvements including walking and cycling facilities and networks, public transport facilities and services, road safety, and parking and traffic management.

Off-site provision, improvement and maintenance to new and existing public highways infrastructure and rights of way including traffic signals, junction upgrades and lighting.

Section 106 Planning Obligations

Once the CIL charging schedule is adopted, developers or land owners will still be expected to provide site-specific infrastructure which is:

- necessary to make the development acceptable in planning terms
- directly related to the development
- fairly and reasonably related in scale and kind to the development

through a section 106 (s106) obligation under CIL Regulation 122 (as amended). No item on a Regulation 123 infrastructure list will be eligible for s106 contributions to avoid 'double dipping'. In order to provide clarity about the extent of the financial burden that development will be expected to bear so that viability can be robustly assessed, the list below demonstrates which current areas of s106 contributions are proposed to be scaled back and which obligations are to remain secured via s106 obligations:

Current areas of s106 contributions proposed to be scaled back on introduction of CIL:

- Off-site Recreation space contributions;
- Off-site Education provision contributions;
- Off-site Sustainable Transport contributions.

Current areas of s106 contributions proposed to remain secured via s106 on introduction of CIL for on-site /site-specific provision includes:

- Affordable Housing - on site provision or commuted sum in lieu;
- On-site recreation/sports facilities and/or space provision where required by site-specific policy allocation;
- On-site schools/education land and/or building provision where required by site-specific policy allocation;
- Development related transport access, Trunk Roads and highways works provision under s278 and/ or s38 of the Highways Act 1980;
- On-site Local Employment training/job opportunities provision with supporting financial contribution;
- On-site public realm provision including artistic element;
- Development related flood defenses and coastal engineering including site-specific policy allocation mitigation;
- Development related water supply & utilities provision, & wastewater drainage;
- Zero rated (£0 per sq. m) developments where site specific mitigation measures may be required;
- On-site health care facilities, emergency services facilities and other community buildings;
- Development related nature conservation and ecological measures.

The methodologies used to calculate the remaining s106 contribution areas are proposed to continue as set out in the updated Developer Contribution Technical Guidance (March 2017). For further information please go to our [Developer Contributions webpage](#).