

## Appendix 1 – Community Infrastructure Levy – background information

### A1.1. Community Infrastructure Levy background

Community Infrastructure Levy (CIL) was introduced by the government as a means of infrastructure funding that would work alongside the existing system of section 106 (s106) obligations. CIL is intended to be the primary mechanism for funding new infrastructure, however, it is not intended to fully replace s106 obligations. A number of restrictions on the continued use of s106 obligations have been implemented as part of the introduction of CIL.

A1.2. CIL takes the form of a set charge (per m<sup>2</sup>) which is levied on all residential development, and on all non-residential development above 100m<sup>2</sup>, some exemptions apply such as affordable housing and charities. Differentiations in the charge can be determined by development type or by development location. To justify a CIL the council must undertake viability testing of the development (types and locations) that it expects to come forward during the plan period. This will indicate whether development can sustain a CIL charge, or whether a nil rate (£0 per m<sup>2</sup>) should be set.

A1.3. Payment of CIL is non-negotiable, unlike s106 obligations.

### A1.4. CIL/s106 split

The government intends that s106 obligations will still be used for site specific infrastructure, for example, an access road to a given development. This means that the council, in testing what money is available to fund infrastructure, needs to make a judgement on what is an acceptable balance between funds that will be delivered through CIL and funds that will be delivered through s106 agreements. If the council considers that it will still seek to deliver a proportion of infrastructure improvements through the use of s106 obligations then it should consider whether setting a high CIL rate will leave enough s106 monies to fund those improvements.

### A1.5. S106 pooling limit

At 6 April 2014 (proposed, but not yet agreed, to be pushed back to 6 April 2015) a pooling limit of five will be applied to s106 obligations for the funding of a specific type of infrastructure or infrastructure project. The date at which the counting for this pooling limit began was 6 April 2010. If the council were to adopt CIL sooner, this limit would apply at the adoption date, the counting date would remain the same.

### A1.6. List of relevant infrastructure (regulation 123 list)

A list of relevant infrastructure should be drawn up by the council. This list, also referred to as the regulation 123 list, is the list of infrastructure that the council intends to charge CIL for. Any infrastructure that is on the list cannot be funded by section 106 obligations. The list of relevant infrastructure is distilled from the infrastructure delivery plan (IDP) – which details the infrastructure that the council, service providers and stakeholders deem necessary to support development proposed by the local plan.

- A1.7. Funding for infrastructure included in the IDP can come from a number of sources, including development funding. Other sources of funding that will be indicated in the IDP will include, but not be limited to; existing capital schemes/programmes (for example with waste water), block funding (for example in the local transport plan), other councils (for example where infrastructure needs cross the borough boundary) and other funding mechanisms, such as the Local Pinch Point fund or other such equivalents.
- A1.8. If the council declines to draw up a list, it is assumed that all infrastructure will be funded by CIL, and none by s106.
- A1.9. The council is not obliged, by including an infrastructure project or type on the list, to commit to funding it.
- A1.10. Advantages/disadvantages  
Among the primary benefits of CIL, is the fact that developers will have more certainty regarding what the likely cost of infrastructure contributions will be for any given development. In turn there is more transparency regarding the spending of CIL as it is specified solely to be spent on infrastructure. Another benefit is that CIL can be pooled for infrastructure projects that are not necessarily linked to a specific development, s106 obligations must relate specifically to the development that is being proposed.
- A1.11. An alternate view is that some developers may wish to see infrastructure contributions spent specifically to enable the development which they are proposing. In essence, they will see the benefit of their own infrastructure contribution.
- A1.12. Duty to pass CIL to local councils  
If a neighbourhood plan has been adopted, the council is obliged by changes to the regulations, which came into force in 2013, to pass 25% of CIL receipts from development in the given area to the local council (parish councils in the case of Maidstone). If it is a non-parished area with a recognised neighbourhood forum and an adopted neighbourhood plan, the Borough Council will administer 25% of the CIL receipts from development in the given area on the behalf of the relevant forum.
- A1.13. Where no neighbourhood plan has been adopted, the council must pass on 15% of CIL receipts, subject to a cap equivalent to £100 per existing dwelling in the area.
- A1.14. If there is no recognised parish council or neighbourhood forum, the proceeds of the CIL would not be passed on, however, the council could still administer funds on behalf of local residents if it considered this the most appropriate way in which to proceed.