

# CIL Position Statement on CIL and Planning Obligations

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## Introduction

1. Cheshire East Council resolved on the 9<sup>th</sup> February 2016 to undertake the work necessary for the preparation and approval of a Community Infrastructure Levy (“CIL”) charging schedule administered by Cheshire East Council.
2. In line with the CIL regulations, the council prepared a preliminary draft charging schedule for consultation along with a CIL charging zone map as the council’s initial proposals for the levy, for public consultation between the 27 February 2017 and the 10 April 2017.
3. The council intends to consult on the draft charging schedule in late 2017. The CIL charging schedule, if adopted, will compliment existing mechanisms, such as planning obligations (S.106 agreements). The Community Infrastructure Levy, should only be adopted, if it will support the provision of infrastructure required to deliver the Local Plan Strategy and if it can be set at an economically viable rate. However, updated evidence relating to viability, its relationship with S106 obligations and any government reforms to the system of development contributions should be considered before deciding whether to proceed to examination and, ultimately, adoption.
4. Subject to CIL being adopted, all developments that commenced after the adoption date may be liable to pay the new levy, depending on their nature, scale and location.
5. This position statement supports policy IN2 (Developer Contributions) of the adopted Local Plan Strategy and sets out the council’s potential approach to securing planning obligations and defines the interactions between CIL and S.106 / Section 278 Planning obligations after CIL has been adopted and implemented. It demonstrates that there will be no ‘double dipping’ between CIL and planning obligations (developers paying twice for the same item of infrastructure). It also provides a transparent system for identifying what infrastructure should be funded through CIL and under which circumstances infrastructure would be provided as a planning obligation.

## Background

6. A section 106 planning obligation can only be taken in account in determining planning applications where the following tests from Regulation 122 of the CIL Regulations 2010 (as amended) are met:
  - That it is necessary to make the development acceptable in planning terms;
  - That it is directly related to the development; and
  - Fairly and reasonably related in scale and kind to the development.

7. Regulation 122 ensures these tests are a statutory requirement. The intention of the regulation was to provide greater clarity regarding the purpose of planning obligations since the introduction of the CIL regulations.
8. Since April 2015 and in accordance with CIL regulations 122 and 123, the council can only pool up to five S106 contributions towards the provision of an infrastructure item. The council is preparing a list of infrastructure items that it intends to fund (wholly or partly) through CIL, known as the 'Regulation 123 list'. S.106 developer contributions cannot be collected for infrastructure items included in the 'Regulation 123' list.
9. The draft 'Regulation 123 list' is derived from the council's Infrastructure Delivery Plan (IDP). An update of the IDP was published in July 2016 and a draft Regulation 123 List has been published alongside the CIL draft charging schedule for consultation.

### Local Plan Strategy

10. Policy IN1 (Infrastructure) of the adopted Local Plan Strategy considers how infrastructure delivery will take place in a phased, timely and co-ordinated manner guided by the Infrastructure Delivery Plan and site specific requirements to support the proposals in the Local Plan Strategy. Point 3 of Policy IN1 (Infrastructure) includes reference to the Community Infrastructure Levy (CIL) and how, upon adoption of a Charging Schedule, will be used to pool development contributions towards local and strategic infrastructure that will serve the wider community.
11. Policy IN2 (Developer Contributions) explains the council's approach and objectives to make sure that the necessary physical, social, public realm, economic and green infrastructure is in place to deliver sustainable development. Contributions will be used to mitigate the adverse impacts of development (including any cumulative impact). Such contributions will help facilitate the infrastructure needed to support sustainable development in the Borough. Once CIL is in place, Section 106 agreements will continue to be used for site specific costs and affordable housing, in line with regulation 122 of the CIL regulations 2010 (as amended).

### Use of S.106 receipts

12. The Planning Practice Guidance states that *"as background evidence, the charging authority should also provide information about the amount of funding collected in recent years through Section 106 agreements. This should include information on the extent to which their affordable housing and other targets have been met"*. The level of S.106 monies secured over recent years is set out in Table 1.
13. Table 1 gives a summary of the total monies secured by S106 agreements from development in the borough;

**Table 1: S.106 amounts secured 2013-2017 (note – figures have been rounded)**

Year	1 April 2013 – 31 March 2014	1 April 2014 – 31 March 2015	1 April 2015 – 31 March 2016	1 April 2016 – March 2017	Total
S.106 receipts	£17,346,117	£17,506,916	£31,910,392	£19,671,738	£86,435,163

14. Taking account of the figures noted in table 1 (above), a total of £5,202 has been secured (per average contribution per dwelling) for residential schemes in the borough.

## Affordable Housing

15. The affordable housing requirement set out in policy SC5 (affordable homes) in the Local Plan Strategy is that the council will seek affordable housing to be provided up to a target of at least 30%. Affordable housing will be sought on all new residential schemes that meet the following criteria:
- i. In developments of 15 or more dwellings (or 0.4 hectares) in the Principal Towns and Key Service Centres at least 30% of all units are to be affordable;
  - ii. In developments of 11 or more dwellings (or have a maximum combined gross floorspace of more than 1,000 sq.m) in Local Service Centres and all other locations at least 30% of all units are to be affordable;
  - iii. In future, where Cheshire East council evidence, such as housing needs studies or housing market assessments, indicate a change in the Borough's housing need the above thresholds and percentage requirements may be varied;
16. As an indication, for the period November 2013 until 31 March 2017, 2,991 affordable units have been provided for with an average of 26% affordable housing achieved per site (59% rented and 40% intermediate products).
17. The provision of affordable unit's onsite or contribution towards off site provision will be sought through S.106 and not through CIL.

## Scope of planning obligations

18. The council has undertaken a review of the infrastructure types / projects noted in its Infrastructure Delivery Plan. Table 2 (below) sets out the approach to funding infrastructure (by type) and the position of the council in seeking contributions to the delivery of such infrastructure.

Infrastructure Type / Project	S.106 Infrastructure / Mitigation	S.278 Mitigation	CIL Funded Infrastructure
Transport	<p>Transport assessments, Travel Plans and Travel Plan monitoring in line with Policy C04 (Travel Plans and Travel Assessments) of the Local Plan Strategy.</p> <p>Highway works to mitigate the direct impact of development including site access, junction improvements and enabling safe and convenient access by all modes of transport.</p> <p>Site related pedestrian, cycle or bus facilities /</p>	<p>Highway works to mitigate the direct impact of development including site access, junction improvements and enabling safe and convenient access by all modes of transport.</p>	<p>Funding for transport to deliver the Local Plan Strategy will be generated through S106 / S278 agreements apart from the following projects that may benefit from CIL funds:</p> <p><b>Alsager</b></p> <ul style="list-style-type: none"> <li>• B5077 Crewe Road/B5078 Sandbach Road North junction improvements</li> </ul> <p><b>Crewe</b></p> <ul style="list-style-type: none"> <li>• Improvements to the A5020 Weston Gate Roundabout</li> <li>• Crewe Bus Station Relocation</li> </ul>

	<p>service provision.</p> <p>n.b Improvements may include works directly within or related to the development site, where the needs for such works are identified in a transport assessment.</p>		<p><b>Macclesfield</b></p> <ul style="list-style-type: none"> <li>• Macclesfield Town Centre Movement Strategy</li> </ul> <p><b>Nantwich</b></p> <ul style="list-style-type: none"> <li>• Burford junction improvements, to include complementary improvements on surrounding network</li> <li>• Alvaston roundabout junction improvements</li> <li>• Peacock roundabout junction improvements</li> </ul> <p><b>Wilmslow</b></p> <ul style="list-style-type: none"> <li>• A34/A538 West junction improvements</li> <li>• A34/ Alderley Road / Wilmslow Road</li> </ul> <p><b>General</b></p> <ul style="list-style-type: none"> <li>• Canal towpath improvements</li> </ul>
Energy	Overall requirement dependent on demand from individual schemes, phased completion and short term supply. As such to be secured through S.106 agreement as required	Not applicable	Not applicable
Water	Site related infrastructure including flood defence requirements such as the installation of SUDs in line with policy SE13 (Flood Risk and Water Management) of the Local Plan Strategy	Not applicable	Not applicable
ICT / Digital	Development specific requirement delivered through S.106 agreement as required by policy CO3 (digital	Not applicable	Not applicable

	connections) of the Local Plan Strategy		
Education	<p>Planning obligations sought for catchment areas towards site specific school projects including:</p> <ul style="list-style-type: none"> <li>• Early Years Education</li> <li>• Primary Education</li> <li>• Secondary Education</li> <li>• Special education needs provision</li> <li>• Employment and training initiatives</li> </ul>	Not applicable	<p>New, extended or improved school provision for the following projects that may benefit from CIL funds:</p> <p>CS8 South Macclesfield Development Area  CS44 Back Lane / Radnor Park  CS46 Giantswood Lane to Manchester Road, Congleton</p>
Health	Planning obligations sought for secondary and tertiary health care facilities that meet the requirements of the regulation 122 of the CIL regulations.	Not applicable	The provision, improvement, replacement, operation or maintenance of new and existing primary health care facilities and services.
Community Facilities	Development specific new community facilities to be delivered via S.106 agreement.	Not applicable	Not applicable
Recreation and Sporting Facilities	Any site specific measures identified in line with policy SC1 (Leisure and Recreation), SC2 (Indoor and outdoor Sports Facilities) and SE6 (Green Infrastructure) of the Local Plan Strategy	Not applicable	<p>New, extended or improved provision for the following projects that may benefit from CIL funds:</p> <p>Macclesfield Leisure Centre / athletics stadium</p>
Open Spaces	The provision of onsite or nearby green infrastructure including open space, wildlife protection etc. Please refer to policy SE3 (Biodiversity and Geodiversity) and SE6 (Green Infrastructure) of the emerging Local Plan Strategy	Not applicable	Not applicable

**Table 2 Relationship on CIL adoption with S.106 and S.278 agreements**