

Community Infrastructure Levy

Draft Charging Schedule: Regulation 123 List

May 2019



1 The Regulation 123 List

- 1.1** The Council is required to set out a list of those projects or types of infrastructure that it intends will be, or may be, wholly or partly funded through the CIL. The list does not identify priorities for spending within it, or any apportionment of the CIL funds across the district, and does not signify a commitment from the Council to fund the projects listed through the CIL.
- 1.2** The list is based on the infrastructure requirements for the Local Plan as set out in the Council's infrastructure planning evidence (IDP & IDP Addendum). The list takes into consideration the representations made and updates on infrastructure projects.
- 1.3** A 'meaningful proportion' of CIL raised in an area (the neighbourhood proportion) must be spent on local infrastructure priorities. The Council will work with local communities and Town and Parish Councils to agree their local spending priorities. The neighbourhood proportion can be spent on items on the Regulation 123 list, but it does not have to be, as long as it addresses the demands that development places on an area.
- 1.4** Once the neighbourhood proportion of the CIL income has been allocated to the relevant neighbourhood in which the development has taken place, the remaining money will be pooled and spent on strategic infrastructure priorities to support growth and economic development in the district. The infrastructure spending priorities will be informed by the Regulation 123 List. The predicted CIL income will not meet the estimated infrastructure funding gap. Therefore, CIL money will be spent on infrastructure priorities in conjunction with other sources of funding.
- 1.5** It is intended that the Council will review the Regulation 123 List periodically where appropriate. This will be informed by the most up to date infrastructure planning evidence and the monitoring of CIL collection and spending. Any changes to the list will be justified, clear and subject to appropriate local consultation, in line with the CIL Regulations.
- 1.6** CIL Regulation 123 restricts the use of Section 106 obligations to ensure that individual developments are not charged for the same infrastructure through the duplication of developer contributions. A Section 106 contribution cannot be made towards infrastructure projects on the Regulation 123 List.
- 1.7** From 6 April 2015 the use of Section 106 obligations has been scaled back. Section 106 obligations will still be used to provide affordable housing contributions and matters required to make a development acceptable in planning terms. Section 106 obligations will need to meet the tests in Regulation 122 and 123. From 6 April 2015 no more than five separate obligations can be pooled for an infrastructure project or type of infrastructure, back dated to 6 April 2010.

1.8 The Regulation 123 list can be found in Appendix A. The list includes details about what Section 106 obligations will continue to be used for. For large scale developments there will still be the requirement to provide obligations for matters necessary to make a development acceptable in planning terms, such as open space. For the following sites in the Publication Draft Local Plan, school infrastructure will be required using planning obligations as follows:

- primary provision for Bradley Strategic Site (HS11)
- primary and secondary provision for Chidswell Strategic Site (MXS7)
- primary and secondary provision for Dewsbury Riverside Strategic Site (HS61)

1.9 The Council will ensure that these obligations meet the statutory tests, and that such requirements will not be funded in conjunction with CIL receipts. Rather the CIL receipts will be used to fund infrastructure projects needed to support the development of the district. Details of how the CIL has been spent will be set out in an annual report so it is clear that CIL and Section 106 receipts have not been spent on the same piece of infrastructure. The Council does not have any tariff based policies or other policies relating to planning obligations in the Publication Draft Local Plan that would require amending following the introduction of CIL

Appendix A – Regulation 123 List

Kirklees Council Draft Infrastructure List

(Required by Regulation 123 of Community Infrastructure Levy (CIL) Regulations)

Infrastructure Projects it is intended to fund through CIL*:

Regulation 123 List CIL Infrastructure
Strategic transport infrastructure Kirklees wide
Strategic education infrastructure Kirklees wide
Strategic open space infrastructure Kirklees wide
Strategic flood alleviation schemes Kirklees wide
Strategic community and cultural infrastructure Kirklees wide
Strategic sports, leisure and recreation infrastructure Kirklees wide

*Extracted from the Local Plan Infrastructure Delivery Plan and the Kirklees Local Plan Infrastructure Delivery Plan Addendum) – see for further information on strategic infrastructure projects.

Infrastructure Projects it is intended to fund through S106 & S278 Agreements:

S106 & S278 planning obligations
Transport infrastructure directly related to a specific site which makes a development acceptable in planning terms and is fairly and reasonably related in scale and kind.
Strategic development site school provision which makes a development acceptable in planning terms and is fairly and reasonably related in scale and kind: <ul style="list-style-type: none"> • primary provision for Bradley Strategic Site (HS11) • primary and secondary provision for Chidswell Strategic Site MXS7) • primary and secondary provision for Dewsbury Riverside Strategic Site (HS61)
On-site open space / green space provision as required by Local Plan Policies (which includes requirements for a financial contribution in lieu of on-site provision in certain circumstances) directly related to a specific site which makes a development acceptable in planning terms and is fairly and reasonably related in scale and kind
On-site flooding and drainage mitigation directly related to a specific site which makes a development acceptable in planning terms and is fairly and reasonably related in scale and kind
On-site community and cultural infrastructure directly related to a specific site which makes a development acceptable in planning terms and is fairly and reasonably related in scale and kind
On-site sports, leisure and recreation infrastructure directly related to a specific site which makes a development acceptable in planning terms and is fairly and reasonably related in scale and kind
Affordable housing