

Developer Contributions – Town & Parish Engagement

This webinar will cover a brief introduction to Community Infrastructure Levy (CIL) and S106 planning obligation developer contribution mechanisms. The session will focus on s106 planning obligations to help councils understand what it is, how it operates, and how Community Infrastructure Levy will be introduced alongside in the future.

Details of how Dorset Council monitor and report on the performance of developer contributions will be given ensuring town and parishes have comprehensive and UpToDate information at their fingertips.

The webinar will also cover the protocol for spending s106 planning obligations as adopted by Dorset Council in May 2021. Examples will be provided showing how this has been implemented with support given to help guide you through this process.

so...what is Community Infrastructure Levy?

'The Community Infrastructure Levy (the 'levy') is a charge which can be levied by local authorities on new development in their area. It is an important tool for local authorities to use to help them deliver the infrastructure needed to support development in their area'.

[Planning Practice Guidance]

and where does it operate?

West Area CIL

18th July 2016

East Area CIL

3rd January 2017



W&P Area CIL

18th July 2016

Purbeck Area CIL

5th June 2014

why is CIL not used in the former North Dorset area?

- CIL Charging Schedule prepared and examined [Examiner's Report \(dorsetcouncil.gov.uk\)](#) (Dec 2016) – minor modifications required
- Schedule not adopted or implemented – rates regarded as too low, better off using s106
- There's no obligation for councils to develop and adopt a CIL charging schedule
- S106 planning obligations still operate as the sole developer contribution mechanism in the former North Dorset area on major schemes, where tests are met, using adopted Local Plan Policies and supporting evidence to guide the scope and value of obligations.
- Approach set to change on adoption of single charging schedule for Dorset Council alongside emerging Local Plan.
- Viability work underway to explore CIL rates, affordable housing thresholds and other policy costs.

Zone	Rate
Residential development within Shaftsbury	£30 per sq m.
Residential development within Blandford	
Residential development within Sturminster Newton	
Residential development within Gillingham (with the exception of the Strategic Site Allocation)	
These charging zones are set out on maps in Appendix B of the Draft CIL Charging Schedule	
Gillingham Strategic Site Allocation	Nil Rate
This charging zone is set out in Appendix B of the Draft CIL Charging Schedule	
Residential development within rural areas (outside the four main settlements set out above)	£45 per sq m.
Residential flatted developments	Nil Rate
Retirement properties (often referred to as sheltered housing)	£30 per sq m.
Extra care properties and care homes (often referred to as assisted living)	Nil Rate
Retail development outside the town centre boundaries and Gillingham Strategic Site Allocation	£70 per sq m.
All other forms of non-residential floorspace	Nil Rate

when a single schedule is implemented, how will it operate?

- CIL is levied in £ per sqm of the net additional increase in floorspace. The area of existing buildings can be deducted from the final charge in certain circumstances.
- CIL charges are based on the size, type and location of development
- CIL applies to all new dwellings and any other development over 100sqm where charges apply.
- Charging rates are informed by evidence of need for infrastructure and impact of CIL on viability and tested through independent examination.
- CIL charges aren't negotiable or returnable (once paid) but calculations can be appealed



- It provides a mechanism for securing developer contributions but not instead of s106 necessarily
- Where CIL currently operates, s106 is reserved for largest most complex sites with identified sites zero rated (£0). It also typically provides for the delivery of affordable homes and any other site-specific pre-requisites alongside CIL.
- Certain forms of development can benefit from relief from paying CIL (affordable housing; self build; charitable development; annexes and residential extensions).
- Payment is due when development commences but can be paid in instalments depending on value
- Where no one has assumed the liability to pay the CIL charge, the landowner is responsible for paying the charge with surcharges and other penalties applicable where necessary
- Charging rates are index linked annually
- Town and parishes receive a proportion of CIL from development within their areas
- Dorset Council must spend its share of CIL income on infrastructure

where is the local benefit you have sight of?

- A proportion of CIL receipts are paid to town and parishes where development takes place. The proportion increases from 15% to 25% where there's an adopted neighbourhood plan.
- Infrastructure Funding Statement and Dorset Council website detail monies transferred to town and parishes since implementation of CIL
- Dorset Council issues a Guidance Note alongside payments to advise how the share can be spent.
- Is it the duty of a town or parish council to report on what they spend their CIL proportion on – Dorset Council to review progress with this in 2022.



Recipients of most funding*:

£339,000 – Swanage
£338,000 – Weymouth
£268,000 – Dorchester
£106,000 – Charminster

*since implementation

how can neighbourhoods spend their CIL share?

When

- Money collected 1st April to 30th Sept paid across by 28th October.
- Money collected 1st October to 31st March paid across by 28th April.

What

- The provision, improvement, replacement, operation or maintenance of infrastructure needed to support development, and;
- Anything else that helps to address the demands that new development is placing on their area.

- Need to report on CIL receipts received; expenditure; retained.
- Dorset Council can require CIL to be repaid if not spent or allocated to a specific project within 5 years.
- In areas where there are no parish council, for example in an area which only has a parish meeting group, the CIL is retained by Dorset Council

so how does s106 work?

- S106 addresses the site-specific mitigation requirements from development proposals
- S106 has not been replaced by CIL, it is just used in a more distinct way across most of Dorset Council, with North Dorset being the exception
- Scope and value of contributions guided by planning policies and Grey Green Infrastructure Supplementary Note – LPA engages with towns and parishes to identify local need.

Restrict	Require	Require	Require
restrict the development or use of the land in any specified way	require specified operations or activities to be carried out in, on, under or over the land	require the land to be used in any specified way; i.e. Affordable Housing	require a sum or sums to be paid to the authority (or, to the Greater London Authority) on a specified date or dates or periodically.

Planning obligations must only be sought where they meet all of the following tests:



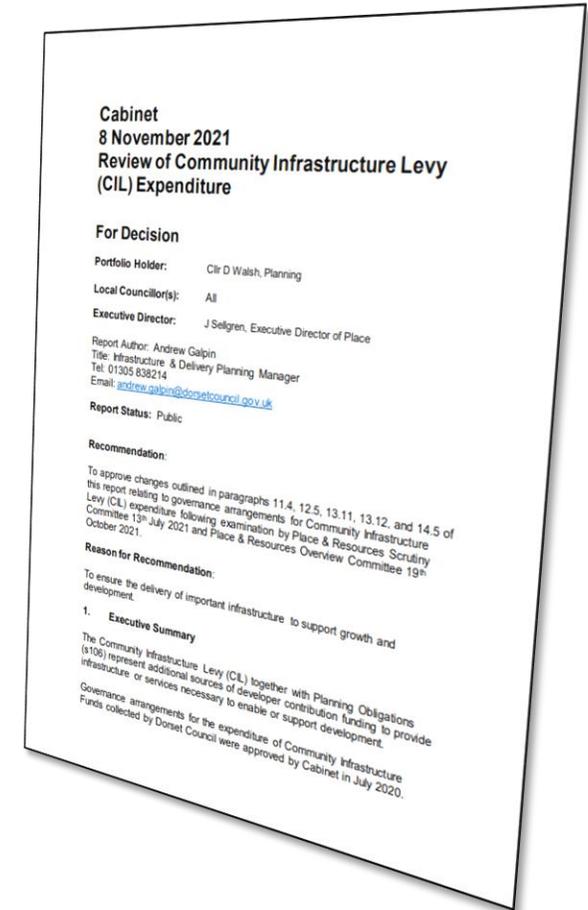
- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.*

so...let's establish the main differences

- S106 is site-specific and justified only having passed the three tests, CIL deals with the broader (cumulative) impact of development on uses deemed chargeable at rate setting stage. The justification for CIL is established at the CIL examination stage.
- S106 agreements can help prescribe the proportion or value of affordable housing, CIL cannot.
- S106 obligations can vary depending on the need and cost of infrastructure and can be negotiated and varied – subject to viability testing. CIL chargeable uses and rates cannot be negotiated or varied.
- Obligations within S106 will be due at negotiated trigger points to deal with development needs. Trigger points also recognise cash flow and delivery. CIL is payable when development commences and in-line with instalment policies.
- S106 are returnable if unspent, CIL is not returnable.

how does the council spend developer contributions?

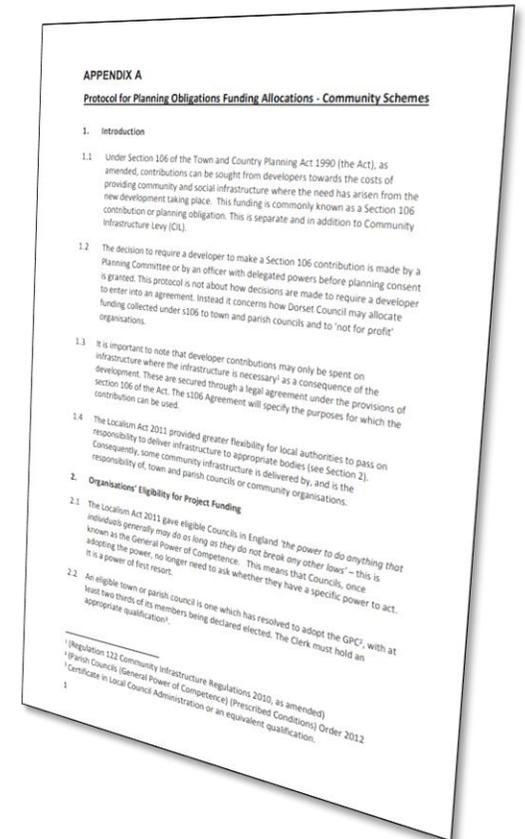
- Spend of s106 is now largely site specific, less flexibility and choice
- CIL spend pre-LGR limited to address specific needs, e.g. habitat mitigation.
- Comprehensive and consistent governance arrangements introduced July 2020 to manage the spend of CIL retained by Dorset Council.
 - Recognising infrastructure priorities of predecessor councils
 - Retaining spend in charging areas where sought
 - Categories of infrastructure open to expressions of interest – process involves DC service areas with input from other stakeholders town and parish councils and DC members
 - Scored and assessed with recommendations flowing to Cabinet for consideration and approval.



do these arrangements also apply to s106 contributions?

No – developer contributions through s106 are now largely site-specific. However, where contributions have been sought without a specific purpose, there is some discretion over how the contribution is spent. This is handled on a case-by-case basis looking at local needs and engaging with appropriate bodies. Whether site specific or not, Dorset Council now requires the receiving body to enter into an agreement to ensure monies are spent appropriately.

- May 2021 – Dorset Council agrees a framework for managing the allocation of s106 developer contributions to appropriate bodies.
- Framework ensures due diligence regarding the appropriateness of the relevant body to manage funds
- Provides assurances that the funds will be spent in accordance with the planning/legal requirements
- Establishes clear principles and consistent approach
- Town and parish councils often best placed to oversee the implementation of s106 funds. Does not have a bearing on the purposes for which the money was collected.
- Provides Dorset Council with a clear decision making route for confirming the body best place to deliver the spend and establishes necessary safeguards.
- Recipient body required to enter into an agreement with Dorset Council to confirm that the money will be spent in accordance with the purposes for which it was collected, and will minimise the financial risk to DC of any claims by developers for the return of unspent funds.



how do we know how the council is performing with developer contributions?

- Dorset Council published its latest Infrastructure Funding Statement in December 2021.
- The IFS reports on collection, allocation, spend and delivery from both s106 and CIL.
- Requirement for IFS forms part of 2019 CIL regulations
- Key numbers for the monitoring year 2020/21:

2020/21	Secured in year	Paid in year	Spent in year	Affordable homes	School places	Planned
CIL	£6.8m	£5.3m	£680k	-	-	£7m
S106	£10.3m	£4.5m	£2.4m (£600k affordable homes, £851k on outdoor recreation)	431	394	£29.4m



[Infrastructure Funding Statement](#)

Questions

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