

COMMUNITY INFRASTRUCTURE LEVY

REGULATION 123 INFRASTRUCTURE LIST

October 2014

1. Regulation 123 of the Community Infrastructure Regulations 2010 (as amended) restricts the use of planning obligations for infrastructure that will be funded in whole or part by the Community Infrastructure Levy. The following table comprises Eastbourne Borough Council's Regulation 123 List. It includes the infrastructure types that the Council currently considers it is likely to apply CIL revenues to, and such will not be secured through planning obligations. This is to ensure that there is no duplication between CIL and planning obligations secured through S106 agreements, in funding the same infrastructure projects.

Infrastructure currently considered to benefit from the application of CIL funding

- Strategic and Local Transport Infrastructure and facilities, excluding specific improvements needed to make the development acceptable in planning terms. These exclusions can include (but are not limited to):
 - × Highways crossovers to access the site and local junctions;
 - × Deceleration and turning lanes;
 - × Measures to facilitate pedestrian, public transport and cyclist improvement and access;
 - × Lighting and street furniture needed to mitigate impact of development;
 - × Mitigation works remote from the development where the need for such works is identified in a Transport Assessment.
- Education Provision;
- Library Facilities;
- Children's Play Space, Open Space and Sports Playing Fields;
- Flood Storage Infrastructure Provision and Surface Water Management Infrastructure;
- Police Facilities.

2. It is important to note that this list is subject to future review and may change before the adoption and implementation of CIL by the Council in early 2015. A final version of the Regulation 123 List will be published alongside the adopted CIL Charging Schedule.

The Relationship between the Community Infrastructure Levy and S106 Agreements/Unilateral Undertakings

3. Eastbourne Borough Council will be using the Community Infrastructure Levy as its primary tool to collect development contributions towards strategic infrastructure. There will be some instances in which Section 106 agreements or Unilateral Undertakings are still used, in addition to a CIL charge on the development. These instances would include:
 - (i) Where a development was liable for an affordable housing contribution;
 - (ii) Where there is a requirement for on-site or off site delivery of a specific piece of transport infrastructure (new access road onto the site for example) – these instances (termed exclusions) are stated specifically on the Regulation 123 list;
 - (iii) Where the development required the delivery of any other type of infrastructure which is not listed on the Regulation 123 list.
4. The Council is very unlikely to continue to collect financial contributions through Section 106 agreements, for anything other than affordable housing contributions. In most instances the Section 106 agreement will ensure the on-site or off-site delivery of a specific type of infrastructure. In the limited number of instances in which it does collect financial contributions through S106, the Council will only be able to pool a maximum of 5 contributions to deliver a specific type or form of infrastructure. Affordable housing is exempt from this pooling restriction, and the Council will continue to collect financial contributions, where liable, in this instance. These funds will then be ring-fenced to ensure that they can be used to deliver or part-fund affordable housing on other sites.
5. The current arrangement for collecting Section 106 contributions for all types of infrastructure, except affordable housing, will cease on the adoption date of the Council's CIL Charging Schedule. Applications that are going to be determined near the lead in time of adopting CIL will need to take this into account, and will need to prepare for CIL charges being liable.
6. On the date that the CIL Charging Schedule is adopted, the Council is able to continue to spend and pool any number of financial contributions collected through Section 106 agreements, which have been agreed and signed before the adoption date of CIL. It will not be able to pool any more contributions on or after this point. CIL will then become the primary tool for collecting financial developer contributions.