

## Community Infrastructure Levy (CIL) - Guidance Note for Town and Parish Councils (February 2018)

The following guidance note has been prepared to assist Town and Parish Councils with the use and administration of CIL. It provides the background to CIL and the relevant responsibilities for both Town and Parish Councils and Folkestone and Hythe District Council in relation to the meaningful proportion of CIL funding. It also provides guidance on how Town and Parish Councils may determine their infrastructure priorities or CIL expenditure.

### What is CIL?

CIL is a new way of collecting contributions from developments towards the provision of infrastructure required to support growth within the District. It is a tariff that will be applied per square metre of new development and varies by scale, use and geography. There are 4 residential CIL zones (A-D) across the District (map information presented within Appendices 1 and 2 refer), as well as the CIL commercial and retail zone in Folkestone town centre that have been established on the basis of scheme viability (Appendix 3 refers).

<b>Zone (as per maps at appendices 1 &amp; 2)</b>	<b>CIL rate /£ per sq m</b>
<b>A</b>	<b>£0</b>
<b>B</b>	<b>£50</b>
<b>C</b>	<b>£100</b>
<b>D</b>	<b>£125</b>

The CIL Charging Schedule can be located on the Council's website<sup>1</sup>. The CIL rates set out within the Charging Schedule is subject to indexation.

### Roles and Responsibilities

The District Council is the Charging Authority for CIL and is responsible for setting CIL rates, collecting the charge and allocating expenditure for CIL. The Town and Parish Councils, subject to this advice note, are recipients of CIL funds under the CIL Regulations and are responsible for spending and reporting on CIL.

Under the CIL Regulations<sup>2</sup>, Regulation 59 require the Charging Authority (Folkestone and Hythe District Council) to pass on a meaningful proportion of CIL to Town and Parish Councils in which the development takes place. According to the CIL Regulations (as amended), for areas where there is no neighbourhood plan in place this sum will equate to some 15% of CIL receipts from development within their administrative area up to a maximum of £100 per Council tax dwelling per annum. This rises to 25% where a neighbourhood plan is in place.

<sup>1</sup> <https://www.folkestone-hythe.gov.uk/planning/community-infrastructure-levy>

<sup>2</sup> <https://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>

**Figure 1: Relationship between the levy and neighborhood plans in England**

Parish council	Neighbourhood plan	Levy
✓	✓	25% uncapped, paid to parish
✓	x	15% capped at £100 per Council tax dwelling, paid to parish
x	✓	25% uncapped, local authority consults with community
x	x	15% capped at £100/dwelling, local authority consults with community

### District Council – Roles and Responsibilities

Financial Implications – The District Council will make two payments to the Town or Parish Council covering the following payments periods for CIL:

- 1) For payments made between the 1st April and 30th September, monies will be transferred on or before the 31<sup>st</sup> October
- 2) For payments made between the 1st October and 31st March, monies will be transferred on or before the 30<sup>th</sup> April.

It should be noted that the payment of larger CIL sums may be subject to instalments to Folkestone and Hythe District could which, in turn, could result in instalment payments to the Town or Parish Councils.

Sharing Information – The District Council must report on the amount of CIL received and spent within their area for any financial year by the 31st December. Such information should be published on the Council’s website.<sup>3</sup>

The District Council is also committed to advising the Town and Parish Councils of the CIL sums secured within a financial year at appropriate times to enable them to prepare bids for the use of core CIL funding.

The Infrastructure Delivery Plan (IDP) is the document that identifies the key infrastructure required to support growth resulting from housing and employment allocations during the Plan period to 2031. The District Council is in the process of reviewing the IDP so that an updated version can be produced to support the Places and Policies Local Plan (PPLP) submission draft, the requirements of which are included within the site-specific policies themselves. Importantly, the IDP will identify the priority projects required to be funded within the district via s106 and CIL, other funding sources and the potential funding gap that may remain in place. The infrastructure schemes that will be funded through CIL originate in the IDP and are

<sup>3</sup> <https://www.folkestone-hythe.gov.uk/planning/community-infrastructure-levy>

listed in what is commonly called a 'Regulation 123 (Reg 123) list'. The Reg 123 list also cites project exclusions that will continue to be funded via s106 contributions.

CIL does not have to fully fund all the infrastructure schemes listed in the IDP. The CIL funding that is passed onto Town and Parish Councils can be spent on a wider remit than detailed on the Reg 123 List but must be used to support the development of the area.

These bids will be prepared and considered in accordance with the Council's governance arrangements.

It is recommended that information provided from Town and Parish Councils will be reported to Cabinet within an annual CIL and s106 report, which is then required to be published on the Council's website by the end of December following that financial year. This report must meet the legislative requirements set out in Appendix 4 to this document.

### Town and Parish Councils – Roles and Responsibilities

Financial Implications - Town and Parish Councils must make proper arrangements for the proper administration of their financial affairs as set out in Section 151 of the Local Government Act 1972. They must have systems in place to ensure effective financial control in accordance with the Accounts and Audit (England) Regulations 2011. These requirements also apply when dealing with the neighbourhood funding payments under the CIL.

The Town or Parish Council are responsible for spending CIL funds within 5 years of their receipt or run the risk of the District Council recovering the charge. In the event of a Town or Parish Council wishing to hold CIL funds for longer than 5 years the District Council should be notified as soon as possible.

If a Town or Parish Council does not wish to receive some or all of its CIL funding it must write to the District Council informing them of their position. At any time a Town or Parish Council can resume their right to receive funding by writing again to the District Council.

Sharing Information – Town and Parish Councils are required under Regulation 62A of the CIL Regulations to publish via their website or that of the Charging Authority the amount of CIL received and spent within their area, a summary of the projects on which CIL was spent, details of any CIL returned to the District Council and any balances brought forward from previous years. This should occur no later than the 31st December following the reporting year (1st April to 31st March).

A copy of this report should be sent to the District Council. It would be good practice to also publish a copy of the report in any Town/ Parish newsletter or on local noticeboards.

There is no prescribed format for reporting on CIL. The income received from the CIL should also be included in the overall published accounts but is not required to be identified separately therein.

Should the Town or Parish Council wish to report on its CIL spending via the Charging Authorities website, it should provide a full copy of the relevant paperwork no later than the 1st December each year.

### **Spending CIL Receipts**

The CIL Regulations state that a local council must use CIL receipts passed to it in accordance with Regulation 59A or 59B to support the development of the local council's area, or any part of that area, by funding

- (a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
- (b) anything else that is concerned with addressing the demands that development places on an area.

This gives Parish and Town Councils considerable freedom to spend their proportion of CIL on the things that address the impacts of development on their area. Notwithstanding this freedom there are a number of factors that should be considered when developing a CIL spending plan.

#### *- What are the Infrastructure Needs?*

Town or Parish Councils should carefully consider whether the expenditure addresses the extra demand on infrastructure and services that are caused by development within their area and be clear on the links between infrastructure and growth. CIL cannot be used as a replacement for every day Town or Parish Council expenditure and misspent CIL can be claimed back by the Charging Authority.

The production of a Town or Parish Infrastructure Delivery Plan (IDP) can be a useful starting point for the prioritisation of infrastructure projects and input into the Council's wider Infrastructure Delivery Plan is welcomed. A local IDP will assist in understanding how the needs of the town fit with the wider programme for infrastructure works. Cross references to the District Council Infrastructure Delivery Plan would strengthen this work.

#### *- What are our responsibilities?*

Is the Town or Parish Council aware of the wider 'strategic' infrastructure requirements of the District, and how this could impact on the potential scope for 'local' infrastructure? Neighbourhood expenditure should be agreed in the full knowledge of both the needs of a local area and, in so far as it is possible, an understanding of where other strategic investment will be made in the area by the Council and its partners. Town and Parish Councils should be clear that there may be on going operational and maintenance costs associated with the provision of new infrastructure and will need to be clear how such costs will be met for the life of the infrastructure, as such costs will be outside the scope of CIL.

#### *- How can we engage with the local community to determine their infrastructure needs?*

Town and Parish Councils will need to consider the capacity of existing groups and local residents to engage in the CIL process and to ensure that such processes are inclusive, that all members of the community contribute to determining how local CIL may be spent, including those who are least vocal and most vulnerable. Town and Parish newsletters can be an effective mechanism for communication as can a website or Social Media presence.

*- How can CIL funds be maximised?*

There is a temptation to spend CIL receipts quickly on short term/quick win infrastructure projects, however Town and Parish Councils should consider the long-term housing growth and resulting infrastructure needs when developing plans for the spending of CIL. It may take some time for sufficient funds to accumulate for more strategic infrastructure or there may be other funding opportunities which will allow the delivery of more significant infrastructure projects which would have wider benefits for the local community. The District Council can provide information with regards to future CIL liabilities identified via site allocations or planning permissions within a parish or town council area.

While Town and Parish Councils are not required to spend their neighbourhood funds in accordance with the charging authority's priorities there are likely to be common infrastructure projects. It may be good practice to discuss the expenditure of CIL funds with the District Council as early discussions will ensure that projects are in line with the Regulations and will also allow other funding sources to be explored (including any CIL funding managed by the District Council).

If so minded, Town and Parish Councils can return some of these receipts to the District Council to enable mutually beneficial projects to proceed.

Where a town or parish Council support a 'Payment in Kind, ' for example via the provision of local highway improvements that are not required by s106 to mitigate the impact of development these will be funded from the town or parish component of CIL in the first instance.

### **Neighbourhood Plans and CIL**

CIL is not only designed to pay for infrastructure needed to support growth, it is also designed to incentivise communities to welcome and promote development within their areas. Where development is in an area covered by a Neighbourhood Plan the proportion of CIL receipts received by the Town, Parish or Neighbourhood will increase to some 25% without the £100 per dwelling cap. In many areas this could amount to a substantial increase in funding.

Town and Parish Councils should carefully consider whether the benefits of introducing a Neighbourhood Plan, noting that such plans should comply with national and local planning policies outweigh the costs for its introduction, examination and any referendum. Such costs can be reimbursed via CIL or a proportion of CIL income.

Guidance relating to Neighbourhood Planning can be found on the Councils website<sup>4</sup> or via directly contacting the planning policy team.

### **Further Information**

For further information on this note please contact James Hammond, Strategic Policy Officer on 01303 853435 or by using the email [planning.policy@folkestone-hythe.gov.uk](mailto:planning.policy@folkestone-hythe.gov.uk)

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<sup>4</sup> <https://www.folkestone-hythe.gov.uk/planning/community-infrastructure-levy>

## **Appendices**

**Appendix 1.** CIL charging zones for residential developments - District scale

**Appendix 2.** CIL charging zones for residential developments – Folkestone Town Inset Map

**Appendix 3.** Map to show commercial CIL zone – Folkestone Town Centre Retail and Commercial Area

**Appendix 4.** CIL governance arrangements

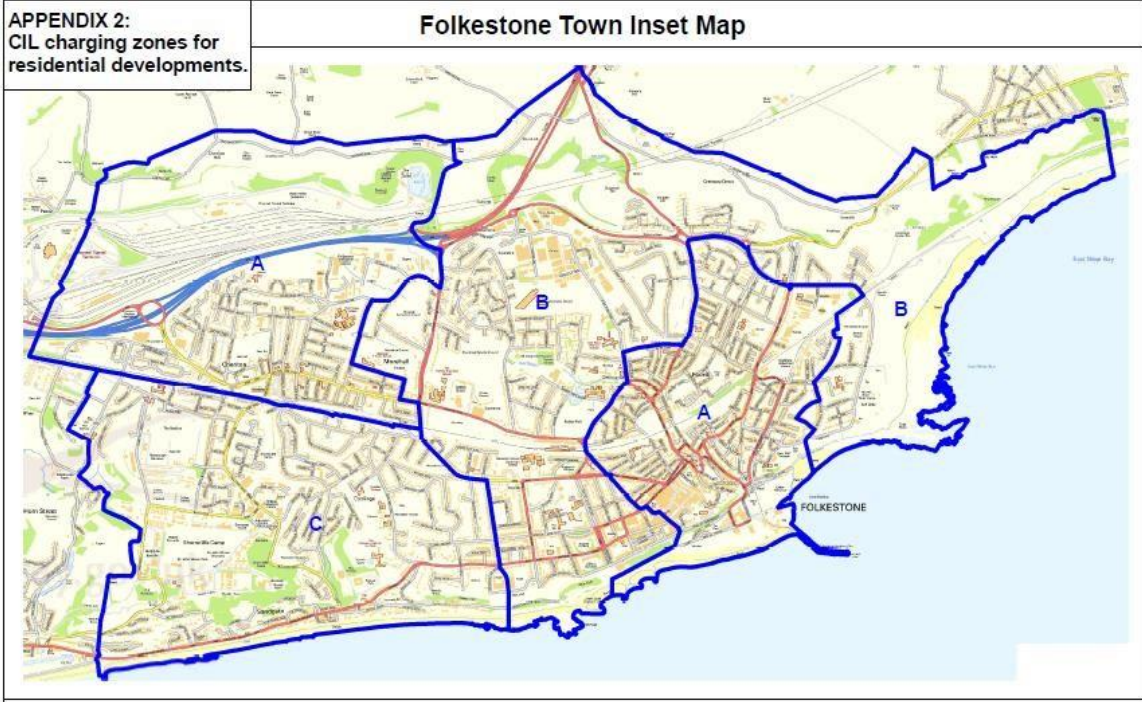
**Appendix 5.** Parish Infrastructure Investment Plan (PIIP) template (Mid Suffolk/Babergh District Council)

**Appendix 1. CIL charging zones for residential developments - District scale**



**Appendix 2. CIL charging zones for residential developments – Folkestone Town Inset Map**





**Appendix 3.** Map to show commercial CIL zone – Folkestone Town Centre Retail and Commercial Area



## Appendix 4.

### Governance arrangements for the spend of CIL monies

#### 1. Background

1.1 The introduction of the Community Infrastructure Levy (CIL) in August 2016 by the District Council necessitates the development of new governance arrangements for spending the money to be collected. There are a number of reasons for this. Under CIL, Folkestone and Hythe District Council acts as a designated charging authority, conferring responsibility on to the Council to:

- Prepare and publish the CIL Charging Schedule (published August 2016),
- Apply the levy revenue it receives to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support development of its area ((Infrastructure requirements are set out in the Infrastructure Delivery Plan (IDP)), and
- Report to the local community on the amount of levy revenue collected, spent and retained each year.

1.2 CIL is intended to be used for general infrastructure contributions whilst s106 obligations are for site specific mitigation. The CIL regulations have 3 important repercussions for s106 obligations:

- The test for the use of s106 is statutory (s122)
- There can be no overlap between the use of s106 and CIL (s123)
- The use of s106 is limited to up to 5 pooled contributions post April 2014 (s123)

1.3 Arrangements continue on the principle that there is a clear need for s106 obligations, but they should be restricted to the regulation of development and in particular site specific mitigation and not used for generic tariff style payments to the LPA. S106 payments continue to be the primary mechanism for securing affordable housing through the planning system.

#### 2. Administration

2.1 The CIL regulations allow the Council to allocate up to 5% of all CIL receipts to assist in the cost of administering CIL. This 5% can be used to recover the costs incurred in adopting CIL, as well as the ongoing monitoring and administration costs year to year. For the first year of CIL income was not received. For the current financial year just £13,000 of CIL income has so far been received, however this is expected to increase in Q3 and Q4.

2.2 Administrative expenses associated with the levy include the costs of the functions required to establish and run a levy charging scheme. These functions include levy set-up costs, such as consultation on the levy charging schedule, preparing evidence on viability and the costs of the levy examination. They also include ongoing functions like establishing and running billing and payment systems, enforcing the

levy, the legal costs associated with payments in-kind and monitoring and reporting on levy activity.

2.3 To help with initial set up costs, the regulations allow for a 'rolling cap' on administrative expenses (Regulation 61). This covers the period comprising the first part year that we set the levy and the following three financial years taken as a whole. From year four onwards of the levy operation, the restriction works as a fixed in-year cap, meaning that we may spend up to five per cent of receipts received in-year by the end of that year on our administrative expenses.

2.4 From year four, if the Council spends less than the permitted 5% allowance on administrative expenses, it must transfer the remaining allowance for use on capital infrastructure projects.

### **3. Governance and Allocation**

3.1 In adopting CIL in August 2016 the Council has formally adopted a 'Regulation 123 List' which sets out the types of infrastructure that will be funded via CIL. At present this is only a broad list, identifying infrastructure types that will be considered for support and project exclusions that will continue to be funded via s106 contributions.

3.2 The emerging Places and Policies Local Plan seeks to allocate approximately 45 different development sites to deliver up to 2000 homes in the district by 2031. Having reviewed these sites, taking in to account exemptions and those sites already with planning permission it is projected that these sites could generate a CIL income in the region of £7 million.

3.3 These emerging allocations will have varying impacts on infrastructure and service provision and this must be quantified within the IDP. A number of the allocations will require investment in specific infrastructure upgrades that qualify as project exclusions, to be achieved by s106 (or s278) in the adopted Regulation 123 list. These will in the main be:

- On or off site transport and junction infrastructure required specifically to serve a new development
- On or off site open space, leisure, play space or sports facilities required specifically to serve a development or to mitigate the impacts of a new development
- On or off site primary or secondary facilities (i.e expansion or new school) required specifically to serve a new development or up to 5 developments via pooled s106 contributions
- On or off site health facilities required specifically to serve a new development or up to 5 developments via pooled s106 contributions
- On or off site community facilities required specifically to serve a new development or up to 5 developments via pooled s1-6 contributions

3.4 At present the Strategic Policy Officer is in the process of reviewing the IDP so that an updated version can be produced to support the Places and Policies Local Plan submission draft. Discussions with the SKC CCG, KCC services, KCC Highways and SDC Economic Development, Commercial Services and Communities has

served to identify those projects required to mitigate the impact of development for the IDP.

- 3.5 As an evidence base document supporting the Places and Policies Local Plan, the requirements of which are included within the site specific policies themselves the IDP will identify the priority projects required to be funded within the district via s106 and CIL, other funding sources and the potential funding gap that may remain in place. Although not examined in its own right, the IDP will be a key piece of evidence for the Places and Policies Local Plan and will be scrutinised during the Local Plan examination; the IDP will need to demonstrate that the growth put forward in the plan can be delivered within the plan period and will be supported by adequate infrastructure.
- 3.6 It is therefore recommended that the IDP will form the basis for decision making for the allocation of CIL funding received and held by the District Council. It may be the case that parish and town council priorities reflect those of the IDP and their proportion of CIL is earmarked for such projects. Alternatively discussions with Town and Parish Councils will identify their own priorities, and these can be reflected in updates to the IDP accordingly.
- 3.7 Where a project identified within the IDP as a CIL project there should be a presumption that funding will be released for the delivery of this project, however in doing so decisions will need to be made with regards to priority and appropriate timing and therefore the IDP will need to include a phasing plan that can adapt to the unknown timing of different developments coming forward. The IDP is currently being refined so as to prioritise projects and ensure projects within the IDP are deliverable and that the funding gap is recognised. The IDP will be regularly updated to identify new infrastructure needs and, as such, will be a “live” document.
- 3.8 A request to release funds should be formally made to the Council via an appropriate form and include the following information:
- Details of the scheme and links to the IDP
  - Timetable for delivery
  - Costing for project and how this is fully being met
- 3.9 It is acknowledged that there will be other projects that come forward that may not be identified within the IDP however will seek CIL funding. It is recommended that for projects not reflected within the IDP that are seeking CIL funding are reported to Corporate Management Team (CMT) and Cabinet for approval, and following discussion at the Council’s s106/CIL working group. For those projects, particularly those that are not of a strategic importance requests should be first directed to the town and parish council in whose area the project is located as the project is likely to be of local rather than district importance.
- 3.10 For larger projects, that do provide infrastructure or service delivery of a more strategic scale the following information should be provided:
- Why the scheme requires CIL funding
  - Details of the scheme and links to the IDP
  - Timetable for delivery

- Costing for project and how this is fully being met

- 3.11 It may also be the case that on occasion planning applications propose Payment in Kind via the delivery of land or infrastructure, rather than via a CIL contribution. Where Payment in Kind is proposed as part of a planning application consideration will need to be given in decision taking as to whether the PiK proposed meets the objectives of the Regulation 123 list and IDP. Where Payment in Kind is proposed, and supported by the Parish or Town Council to deliver local objectives (beyond policy requirements) it should include full utilisation of the 15%/£100 per unit of CIL Parish funding amount ahead of the portion of CIL held by the district.
- 3.12 It may be the case that a planning application is recommended for refusal and the officer recommendation is overturned by the Planning and Licensing Committee or an application is supported, subject to a payment in kind. In such an instance, the committee may consider a payment in kind could provide for on or off site infrastructure to mitigate the impact of development, which officers consider goes above requirements set out within regulations. In such an instance this would need to be recorded within the minutes of the P&L committee, alongside any other s106 requirements to be negotiated by the Head of Planning.
- 3.13 The Council's s106 officer working group now includes consideration of CIL funding. The role of the board/group will be to oversee monitoring of income received, future projected income and identify priority projects for CIL funding, based on the projects set out within the IDP that supports allocations within planning policy.
- 3.14 The board/group also provides the appropriate format for discussion with town and parish councils in regard to appropriate projects and would be able to determine whether funding should be released. It is recommended that the group hold planned meetings quarterly, with scope to convene as/when required should a planning application be received that requires consideration with regards to s106 requirements or proposes a payment in kind in lieu of a CIL contribution so as to provide corporate input where needed on such matters ahead of a decision being made.

**Appendix 5.** Parish Infrastructure Investment Plan (PIIP) template (Mid Suffolk/Babergh District Council)

The below template provides an example of the contents of a Parish Infrastructure Investment Plan to assist communities to focus and prioritise their infrastructure spending. A similar approach could be adopted by parish and town councils across the district.

Parish name(s)	
Area covered (if combined area)	
Date of PIIP	
Date of next review	
Date adopted / approved by Parish Council	

<p>Existing infrastructure audit – list of services and facilities within the local area, their condition, location, existing capacity and catchment area.</p>	
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External infrastructure audit – as above, identifying the services and facilities outside the PIIP area that are used by the community.

Community Infrastructure needs and/ or aspirations. This should be based upon the gaps and/or deficits identified in the preceding two rows.

Once completed, please order ordering these needs according to your priorities.



Community engagement- please confirm how you have sought the views of your community and how they have helped to inform your current and future needs.

**Optional:**

Expected growth – location, size and timing of development sites. What impact would these have on your community needs?

<p>Projected income – from all sources including external grants, CIL and Section106 income.</p>	
<p>Your investment priorities – please prepare a list of infrastructure projects to be funded, in order of their priority</p>	