



Report to Cabinet 29 June 2016

Adoption of Crawley Community Infrastructure Levy (CIL) Charging Schedule and Associated Documents

Report of the Head of Strategic Housing and Planning Services, **SHAP/54**

1. Purpose

- 1.1 The purpose of the report is to seek approval for the adoption of the Crawley Community Infrastructure Levy (CIL) Charging Schedule as approved by the Planning Inspectorate through independent examination. By adopting the Charging Schedule the Council is able to commence collection of CIL contributions from qualifying new residential and retail developments with effect from 17 August 2016. Approval is also sought for an Instalments Policy for allowing staged CIL payment on larger developments and a Policy on Discretionary Relief for Social Housing.

2. Recommendations

- 2.1 The Cabinet is asked to recommend to the Full Council that:
- a. the Crawley CIL Charging Schedule (Appendix A) and supporting evidence, as approved by the Inspector be adopted and published in accordance with Regulation 25 of the CIL Regulations 2010 (as amended).
 - b. the CIL Instalments Policy (Appendix B) be adopted for CIL payment on larger developments.
 - c. the Crawley CIL Charging Schedule and Instalments Policy is implemented and takes effect from 17th August 2016 with CBC being the collecting authority.
 - d. The Council's Regulation 123 list (Appendix C) is approved. Delegated authority for minor alterations to the CIL Charging Schedule, Regulation 123 list, and supporting documents is given to Head of Strategic Housing and Planning in consultation with the Portfolio Holder for Planning and Economic Development.
 - e. the Discretionary Social Housing Relief Policy (Appendix D) is adopted

3. Reasons for the Recommendations

- 3.1 Following the CIL Examination and receipt of the Inspector's Report in March 2016 the Charging Schedule is required to be approved by resolution of the Full Council in accordance with section 218 of the Planning Act 2008 and Regulation 25 of the CIL Regulations 2010 (as amended).

- 3.2 In order to collect the monies the Council has to formally agree and set an implementation date from which the CIL Charging Schedule will take effect. The Council is proposing to implement CIL from 17th August 2016. This will enable the Council to collect money from liable residential and retail development in order to make a financial contribution to delivering the necessary infrastructure that is required across the borough.
- 3.3. Alongside the Charging Schedule, the Council is required to approve the borough wide Regulation 123 List, the Instalments Policy, and a policy introducing discretionary social housing relief from CIL.

4. Background

- 4.1 CIL was introduced by the Planning Act 2008, as a charge which local authorities can choose to levy on qualifying developments within their area. The money raised by the levy is to be used to assist in the delivery of a wide range of infrastructure to support development in Crawley.
- 4.2 Following a commitment by the Council to introduce the CIL in Crawley, a Charging Schedule was prepared and supported by a number of evidence base documents, including a Viability Assessment, a CIL Infrastructure Delivery Schedule and a Regulation 123 List. In line with the CIL Regulations issued in 2010 and amended thereafter, two stages of formal consultation have been undertaken on the CIL Charging Schedule and supporting evidence. An initial six week consultation on a Preliminary Draft Charging Schedule took place in February to March 2015. On 9 September 2015, the Cabinet resolved that the CIL Draft Charging Schedule be approved for a further six week consultation, followed by submission to the Planning Inspectorate. The consultation took place from September to November 2015.
- 4.3 On 21 December 2015 the Draft Charging Schedule, supporting evidence and consultation responses were submitted to the Planning Inspectorate for independent examination which was carried out through the written representations procedure during February 2016.
- 4.4 Following independent examination of the Crawley CIL Draft Charging Schedule, the Inspector's Report was received by the Council on 4 March 2016. In accordance with the procedure set out in Regulation 212 of the Planning Act (2008) the Report concluded that the CIL Charging Schedule provides an appropriate basis for the collection of the levy in the borough, and could be recommended for approval without modification.
- 4.5 Following receipt of the report, officers have been formulating additional supporting policy guidance that complements CIL. These comprise an instalments policy to enable development to phase payments, and a discretionary social housing relief policy that extends eligibility for CIL relief to all types of affordable housing for which need is identified in the Crawley Local Plan.
- 4.6 Approval of the Charging Schedule by Full Council is necessary in order to enable the Council to begin collecting CIL and thereby to help fund and deliver local and strategic infrastructure needed across Crawley.

5. Key Information

5.1 The Charging Schedule

The Crawley CIL Charging Schedule (Appendix A) sets out the CIL charges for Crawley as approved by the Inspector, they are:-

Development	Proposed Charge (£ per sqm)	Zone
Residential	£100	Boroughwide Zone**
General Retail A1-A5* (excluding Food Supermarket)	£50	Boroughwide Zone**
Food Supermarket A1* (less than 3000sqm)	£100	Boroughwide Zone**
Food Supermarket A1* (3000sqm plus)	£150	Boroughwide Zone**
All other uses	£0	Boroughwide Zone**

*ancillary commercial car parking structures will not be subject to CIL charges.

**Boroughwide Zone excludes land within the defined Airport Zone which is exempt from CIL.

5.2 Approval of the Charging Schedule is required to enable the Council to begin implementing and collecting the levy.

5.3 Implementation Date

It is recommended that the Charging Schedule is implemented from 17th August 2016, meaning that any planning decisions made on or after this date for CIL liable development (i.e. not those with relief, or approval of Reserved matters applications) will have to pay the CIL charges. This should allow sufficient time for the Council to ensure that the appropriate administrative and IT systems are in place to start collecting and charging CIL in Crawley.

5.4 It is also important to give sufficient notice to prospective developers and applicants as to when CIL will take effect. To ensure that applicants are aware of this date, the Council's Development Management team have already been informing anyone undertaking pre-application advice and a notice has been published on the Council's website.

5.5 Regulation 123 List

Under Regulation 123 of the CIL Regulations (2010) as amended, the Council is required to publish a list of infrastructure that it intends to fund wholly or partly through CIL money. The purpose of the list is to distinguish between those types of infrastructure that the Council intends to fund through CIL and those areas where s106 Agreement or s278 Highways Agreement will be sought to make the development acceptable in planning terms. This will ensure that there is no double charging for developers.

5.6 A draft Regulation 123 List was published for consultation at both previous stages and was examined alongside the Charging Schedule. The Council's Regulation 123

List is contained within Appendix C of this document. Subject to local consultation, this list can be reviewed and updated regularly as funding and infrastructure priorities may change over time.

5.7 CIL Instalments Policy

The CIL Regulations also allow a Charging Authority to publish and implement an Instalments Policy enabling CIL charges to be paid in instalments. This is particularly important for larger schemes, where phased payments provide the opportunity to assist in the viability of a scheme and ensure that payments are scheduled in proportion to the scale of development. A draft CIL Instalments Policy was prepared following internal consideration of legal and finance implications. This Policy is set out in Appendix B

5.8 Other Forms of Relief Available

The CIL Regulations introduce certain forms of mandatory CIL relief relating to some types of minor development, development for charitable purposes, and social housing (as defined in the Regulations).¹ The Regulations also give charging authorities the power to introduce specified forms of discretionary relief, further extending eligibility for relief beyond the mandatory criteria. If the Council wants to use any of these reliefs, it is required to issue formal documents giving notice of any discretionary relief from paying CIL that will be made available in its area, and explain the circumstances in which it will be made available, whilst citing the date from which it will apply.

5.9 Alongside the Regulation 123 list and the Instalments policy Crawley Borough Council has consulted on a Discretionary Social Housing Relief Policy that will extend the range of types of social housing eligible for CIL relief. Whilst most affordable housing (as defined in the National Planning Policy Framework and Local Plan) is already exempt from CIL, some forms of social housing encouraged in our Local Plan may not qualify. By introducing a discretionary social housing relief policy the Council can specify relief for those tenure types that do not meet the mandatory relief criteria, ensuring that they are not disadvantaged by being liable to CIL.

5.10 The proposed discretionary housing relief policy is set out in Appendix D. This clarifies that qualifying social housing dwellings defined as follows will be eligible for relief from CIL:

Type of tenure	CIL exempt nationwide (mandatory CIL relief)	CIL exempt in Crawley (discretionary CIL relief)	Further definition/Policy basis for counting as 'affordable' housing
Social rented	✓		National Planning Policy Framework (NPPF) Annex 2
Affordable rented	✓		NPPF Annex 2
Shared equity		✓	NPPF Annex 2
Discounted homes for sale (not including Starter homes)		✓	NPPF Annex 2
Shared ownership	✓		NPPF Annex 2
Discounted market rents (not		✓	Local Plan Policy H4 & para 6.71

¹ The government has further indicated that Starter Homes will not be liable to CIL.

exceeding Local Housing Allowance rates) including rent to buy			
Starter homes	✓		Tbc by Central Govt

- 5.11 Where the tenures benefiting from discretionary relief are accepted this must be through a signed Section 106 agreement or unilateral undertaking attached to the relevant planning permission. It is proposed that in Crawley discretionary social housing relief will be extended beyond nationwide CIL exemption to cover shared equity homes, discounted homes for sale and discounted market rent as acceptable affordable housing tenures. This brings the scope of CIL relief into line with the range of affordable housing types sought by Local Plan Policy H4.
- 5.12 In order to qualify, claims for discretionary housing relief must be submitted on the CIL Claiming Exemption and Relief form, with appropriate supporting evidence as specified on the form. In addition, relief can only be granted by Crawley Borough Council prior to the commencement of the development. In line with the CIL Regulations, where a dwelling granted social housing relief from CIL (including discretionary social housing relief) ceases to meet the criteria for social housing relief within the seven year clawback period this will be a 'disqualifying event', and CIL will become liable.
- 5.13 Additional Documents Consultation
The 'Additional Documents' supporting the CIL Charging Schedule (i.e. the Instalments Policy, Regulation 123 List and Discretionary Social Housing Relief Policy) were published for a 4-week consultation period between 26 April and 23 May 2016. From the Consultation 9 further representations were received. They were all in support of the CIL charge and no objections were raised but additional clarification was requested in regards to the Regulation 123 list. The representations and the council's responses to them are set out in full in Appendix E.

6. Implications

- 6.1 Once the implementation date is agreed it must be complied with, so all IT and support staff resources will need to be in place. For IT purposes the CIL administration system provided by DEF is to be utilised and costs for this are being met within existing budgets.
- 6.2 The introduction and implementation of CIL alongside the planning process will be handled by existing staff resources within the Development Management, Forward Planning and Finance teams. However, delivery of the projects funded by the CIL, and governance of that process will have an additional impact on staffing. This work is to be led by the new posts being created as part of the expanded Economic Development Team.
- 6.3 Arrangements for the governance of CIL monies collected by Crawley Borough Council will need to be established. Proposals for governance will come forward by spring 2017 for consideration by members and Cabinet approval.
- 6.4 Officers will continue to input into discussions and advice with developers regarding implications for s106 contributions, and a guidance note covering the new

arrangements for developer contributions is being prepared for publication later this year.

6.5 Legal Implications

The legislation governing the development, adoption and the administration of a Community Infrastructure Levy (CIL) is contained within the Planning Act 2008 and the Community Infrastructure Levy Regulations as amended. The National Planning Policy Guidance is also important in guiding this process.

6.6 The Charging Schedule has been prepared and published in accordance with the CIL Regulations 2010 (as amended) and part 11 of the Planning Act 2008.

6.7 In line with Regulation 25 of the CIL Regulations 2010 (as amended), as soon as reasonably practicable after adoption of the CIL Charging Schedule, the Council will need to:-

- a) Publish the Charging Schedule and an Adoption Notice on the Council's website.
- b) Make the Charging Schedule available to view at the Town Hall and Crawley Library.
- c) Give notice by local advertisement of the adoption of the Charging Schedule and the locations that the Charging Schedule is available to view.
- d) Give notice to all those persons who requested to be notified of the adoption of the CIL Charging Schedule.

6.8 Equalities Implications

The CIL Charging Schedule and associated policies are considered to be consistent with the requirements of the Equality Act 2010. The national legislative framework for CIL has been subjected to an Impact Assessment which concluded that there was no impact on Statutory Equality Duties. The infrastructure demands in Crawley to be addressed through CIL have been assessed as part of the examination of the Local Plan, including associated legal compliance tests. The rates set out in the Charging Schedule have meanwhile been assessed through consultation and examination solely on the basis of viability, i.e. the financial contribution which different types of development can make without endangering their delivery or the achievement of any Local Plan policies. This narrow focus avoids the introduction of any adverse impact on any group with protected characteristics.

6.9 The Instalments Policy is proposed in order to mitigate any difficulty arising from the default requirement that CIL be paid in a single instalment. This should have a positive impact on those affected by large CIL charges, irrespective of any protected characteristics, and the impact on any persons liable to CIL who suffer socio-economic disadvantage would be positive.

6.10 The Discretionary Social Housing Relief Policy seeks to prevent any form of affordable housing for which need has been identified in Local Plan Policy H4 from becoming CIL liable. In so far as Policy H4 addresses socio-economic disadvantage, the Discretionary Social Housing Relief Policy should therefore mitigate any negative impact arising from the proposed CIL rates.

6.11 Finance Implications

Crawley Borough Council will be the designated Charging Authority and will be responsible for the collection and spending of CIL. Therefore money collected from CIL will be held by the Council. However, much of the infrastructure delivery may be the responsibility of other authorities or stakeholders, such as West Sussex County Council as the education and highway authority. The preparation and examination of the CIL Charging Schedule has been funded from the existing Local Plan budget.

6.12 S106 and CIL

Contributions from developers for new and improved infrastructure are currently delivered through negotiated s106 Agreements that form part of the planning application process. The Government has restricted the use of s106 Agreements as part of the introduction of CIL and s106 agreements must now meet the three legal tests set out in Regulation 122 of the CIL Regulations 2010 (as amended), which states that Planning Obligations should only be used where they are **necessary** to make the development acceptable in planning terms, **directly** related to the development and **fairly and reasonably** related in scale and in kind to the development.

6.13 Since April 2015, the use of s106 contributions has been further limited by the Government with a restriction on the pooling more than 5 financial contributions through s106.

6.14 S106 Agreements will still have a role to play alongside CIL. Further clarity about the types of infrastructure projects which will be funded by each type of contribution, and thus of the types of projects for which s106 contributions will still be sought, is provided in the Council's Regulation 123 List, attached as Appendix C. This will be amplified by the emerging guidance note to be published later this year.

6.15 Therefore, from the introduction of CIL in Crawley, s106 agreements must only be used for site specific infrastructure needed to make an individual development acceptable in planning terms e.g. a specific access road.

7. **Next Steps**

7.1 In order to ensure that CIL is used most effectively by all infrastructure providers to deliver the necessary infrastructure for Crawley, the Council must develop a clear governance structure for the spending of CIL money. Money raised through CIL must be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure.

7.2 The CIL Regulations require that 15% of levy receipts are allocated for spending in agreement with the local community where the development is taking place. The National Planning guidance suggests that this will require engagement with the local community on identifying local infrastructure priorities for CIL, which may be achieved through the Council's existing consultation and engagement processes.

7.3 The remaining 85% of CIL money collected will be spent on strategic infrastructure projects that are required to mitigate the cumulative impacts of development taking place across the borough. As work on developing CIL governance proposals is still ongoing, officers will present CIL governance options for consideration by Members at a later date.

8. **Background Papers**

- Crawley CIL Inspectors Report (March 2016)
<http://www.crawley.gov.uk/pw/web/PUB281486>
- Crawley CIL Draft Charging Schedule SHAP 50 Report to Cabinet 9 Sept 2015

http://www.crawley.gov.uk/pub_livx/groups/operational/documents/committee_report/pub265309.pdf

- Crawley CIL and S106 SHAP 53 Report to OSC 8 Feb 2016
http://www.crawley.gov.uk/pub_livx/groups/operational/documents/committee_report/pub276867.pdf

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Appendix A- Crawley CIL Charging Schedule

Appendix B- CIL Instalments Policy

Appendix C- Regulation 123 List

Appendix D- Discretionary Relief for Social Housing Policy

Crawley Community Infrastructure Levy:

Charging Schedule (July 2016)

The Charging Authority:

The Charging Authority is Crawley Borough Council

Date of Approval:

20 July 2016

Date of Effect:

17 August 2016

Statutory Compliance:

The Charging Schedule and supporting evidence have been prepared and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended) and part 11 of the Planning Act 2008.

What is CIL?

CIL was introduced by the Planning Act 2008 as a tool which local authorities can choose to charge on new development within its area, when it is viable to do so. The money raised by the levy will help to provide funds to assist in the delivery of a wide range of infrastructure to support development in Crawley.

The purpose of CIL is to gain financial contributions from certain viable types of development to help fund new or improved infrastructure to support the level of growth identified in the Crawley Borough Local Plan 2015-30. Although CIL will make a contribution to bridging the infrastructure funding gap, other funding sources will still be necessary.

The CIL charge is based on a calculation related to £'s per m² of net additional floorspace and is payable on 'buildings that people normally go into'. The charge will apply to development of 100m² or more, or the creation of a single dwelling, even if under 100m². There are a number of exemptions to this; including affordable housing, self-build housing and Starter Homes.

The Charges

The CIL rates at which CIL is charged in Crawley are set out in Table 1 below:-

Table 1- CIL rates (£ per sq m)

Development	Proposed Charge (£ per sqm)	Zone
Residential	£100	Boroughwide Zone**
General Retail A1-A5* (excluding Food Supermarket)	£50	Boroughwide Zone**
Food Supermarket A1* (less than 3000sqm)	£100	Boroughwide Zone**
Food Supermarket A1* (3000sqm plus)	£150	Boroughwide Zone**
All other uses	£0	Boroughwide Zone**

*ancillary commercial car parking structures will not be subject to CIL charges.

**Boroughwide Zone excludes land within the defined Airport Zone which is exempt from CIL.

Charging Area

The CIL charging area will be all areas of Crawley borough outside of the defined Airport Zone which will be exempt from CIL as shown by the Map in Appendix 1.

The chargeable amount

The council will need to calculate the chargeable amount of CIL payable using the locally set rates above, multiplied by the gross internal area of new buildings and enlargements to existing buildings, taking demolished floorspace into account. The formal calculation methodology is provided in Regulation 40 of the CIL Regulations 2010 (as amended).

Who will pay CIL?

Subject to viability considerations CIL can be levied on most types of new development which creates net additional floorspace, where the gross internal area of new build exceeds 100sqm. That limit does not apply to new houses or flats and a charge can be levied on a single house or flat of any size, unless it is built by a self-builder, is affordable housing or a Starter Home.

Who will not pay CIL?

The following will not pay CIL²:-

- Minor development of less than 100 sqm net additional gross internal floorspace, unless this is a whole house, in which case the levy is payable.
- houses, flats, residential annexes and residential extensions which are built by 'self-builders'.
- Starter Homes.
- Social (affordable) housing that meets the relief criteria set out in regulation 49/a, or meets the council's discretionary social housing relief policy.
- Changes of use that do not increase floorspace
- Development by charitable institutions which meets the relief criteria set out in regulations 43-48.
- Buildings into which people do not normally go
- Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery
- Structures which are not buildings, such as pylons and wind turbines
- Specified types of development which local authorities have decided should be subject to a zero rate and specified as such in their charging schedules.
- Vacant buildings brought back into their previous use

The floorspace of any buildings that are demolished as part of development proposals will be off-set against the new overall floorspace liability. CIL is not charged on changes of use or internal alterations where there is no net gain in floorspace, provided that the building has been in continuous use for at least six months of the three year period preceding planning permission being granted.

It should be noted that for eligible sites CIL is non-negotiable. However, under the terms of the Regulations and statutory guidance the council could offer discretionary relief from liability for exceptional circumstances. This would provide the council with some flexibility to deal with individual sites where development is desirable but not considered viable. At this stage the council has not adopted an exceptional circumstances policy, but this can be activated or deactivated at any time as long as notice is given by the council.

When is CIL Payable?

Payment of CIL is due from the date of commencement of the liable development. The default position is that the whole amount must be paid within 60 days of commencement, unless the council adopts an instalments policy which is under consideration.

CIL operates on the exchange of formal notices:-

- The person(s) who pay CIL provide the council with an Assumption of Liability Notice, required with the planning application;
- A Liability Notice is issued by the council along with the planning permission decision, stating how much CIL is payable. The responsibility to pay the levy lies with the local landowner;
- Before the development starts the developer provides the council with a Commencement Notice, providing the start date;
- The council will then issue a Demand Notice to ensure that payment is received within 60 days of commencement.

What will CIL be spent on?

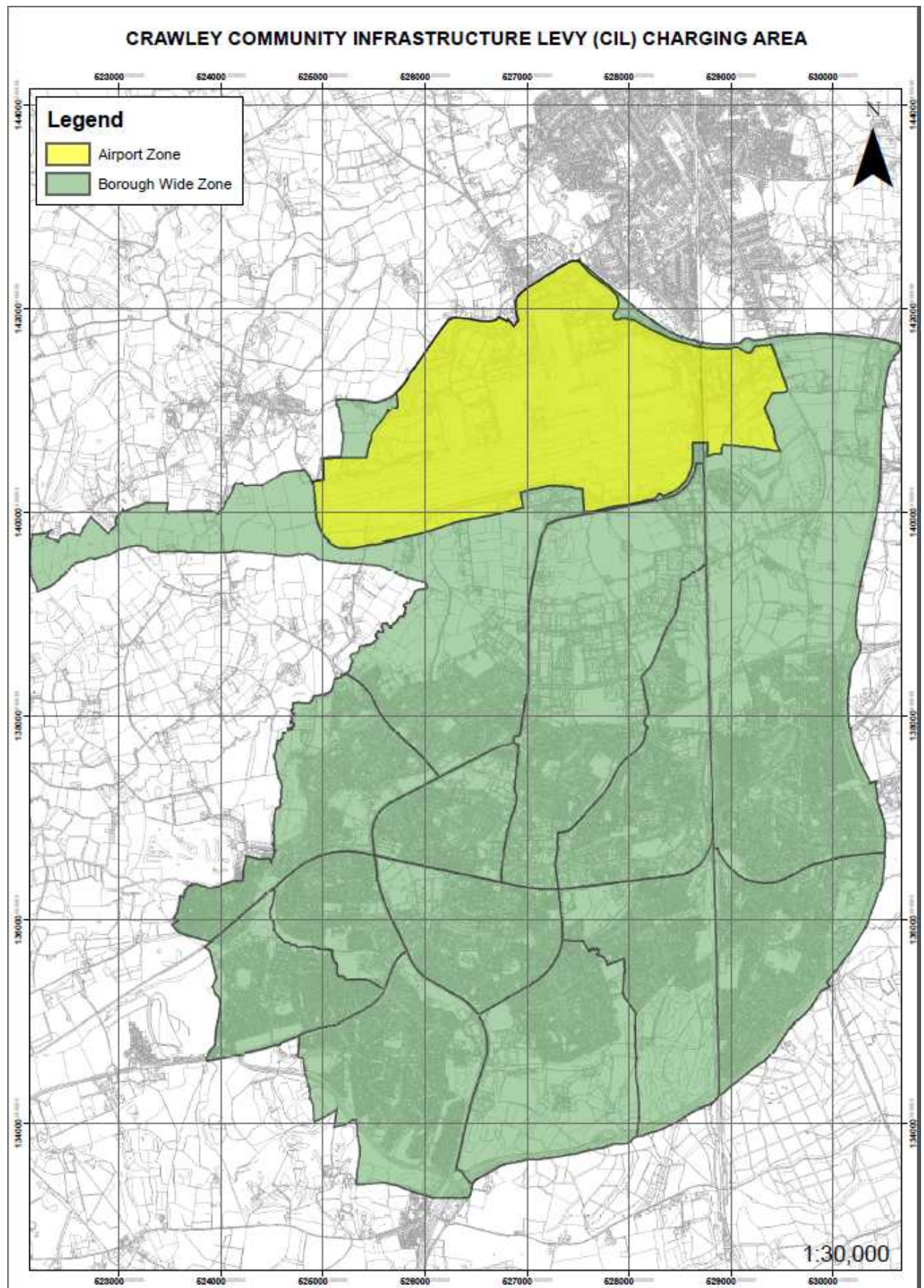
CIL has the potential to generate approximately £9,000,000 to be spent on infrastructure requirements across the borough to mitigate the cumulative impacts of development and will contribute towards bridging the funding gap between the total cost of infrastructure required to support development and the amount of funding available from other sources.

The Infrastructure Delivery Schedule (2015) identifies a range of infrastructure requirements that are considered necessary to deliver the Crawley Local Plan 2015-30. This has been developed into a Regulation 123 List which identifies a list of infrastructure that will be wholly or partly funded by CIL money. The purpose of this list is to distinguish between those types of infrastructure that the council intends to fund through CIL and those areas where a S106 agreement will be sought (for site specific mitigation). This will ensure there is no double charging for developers.

The CIL regulations require that 15% of the levy receipts will be allocated for spending in agreement with the local community in the area where development is taking place. The council can also use up to 5% of the levy receipts received to cover the costs of implementing the Charging Schedule.

² Community Infrastructure Regulations (England) (2010) as amended: Part 6 Exemptions and Relief

Appendix 1: Map of CIL Charging Area in Crawley



Crawley Borough Council Community Infrastructure Levy (CIL) Instalments Policy

The CIL charge for liable developments will be calculated at the time planning permission is granted and payment is due upon commencement of development.

Regulation 69B of the Community Infrastructure Levy Regulations 2010 (as amended) allows charging authorities to introduce an instalments policy. In setting an instalments policy the authority has the freedom to define the number of payments, the amount and time due.

This instalments policy detailed below will apply to all development on which CIL is liable and will come into effect on 17 August 2016.

The instalments permitted in relation to any given chargeable development will be linked to the total amount payable (chargeable amount) as recorded on the Demand Notice. The relevant threshold amounts, instalments and payment periods are as shown in the following table.

Amount of CIL Liability	No. of Instalments	Payment Period
Up to £150,000	1	<ul style="list-style-type: none"> • 100% payable within 60 days of the commencement date
£150,000 to £300,000	2	<ul style="list-style-type: none"> • First Instalment of £150,000 payable within 60 days of the commencement date • Second Instalment of Remaining balance payable within 120 days of commencement date
Over £300,000	3	<ul style="list-style-type: none"> • First Instalment of £150,000 payable within 60 days of the commencement date • Second Instalment of 50% of remaining balance payable within 120 days of commencement date. • Third Instalment of 50% of remaining balance payable within 180 days of commencement date.

The Instalments Policy only applies in cases where the persons liable for paying CIL have complied with **all** the relevant regulations and requirements.

Regulation 70 of the Community infrastructure Levy Regulations 2010 (as amended) sets out the requirements that must be complied with in order to benefit from the CIL Instalment Policy.

The CIL Instalments Policy will only apply in the following circumstances:

- 1) Where the Council has received a CIL Assumption of Liability form prior to the commencement of the chargeable development (Regulation 70 (1) (a)), and
- 2) Where the Council has received a CIL Commencement Notice prior to the commencement of the chargeable development (Regulation 70 (1) (b))

If either of the above requirements are not complied with, the total CIL liability will become payable within 60 days of the commencement of the chargeable development. In addition, surcharges may apply due to the CIL Assumption of Liability Form and/or the CIL Commencement Notice not being submitted to the Council prior to the commencement of the chargeable development.

Once the development has commenced, all CIL payments must be made in accordance with the CIL Instalments Policy. Where a payment is not received in full on or before the day on which it is due, the total CIL liability becomes payable in full immediately (Regulation 70 (8) (a))

This policy **will not** apply if any one or more of the following applies:

- a) A commencement notice has not been submitted prior to the commencement of the chargeable development, as required by Regulation 67 of the Community Infrastructure Regulations 2010 (as amended)
- b) On the intended date of commencement
 - i) Nobody has assumed liability to pay CIL in respect of the chargeable development,
 - ii) A commencement notice has been received by Crawley Borough Council in respect of the chargeable development and
 - iii) Crawley Borough Council has not determined a deemed commencement date for the chargeable development, and therefore payment is required in full, as required by Regulation 71 of the Community Infrastructure Regulations 2010 (as amended)
- c) A person has failed to notify Crawley Borough Council of a disqualifying event before the end of 14 days beginning with the day on which the disqualifying event occurs, as per the Community Infrastructure Regulations 2010 (as amended)
- d) An instalments payment has not been made in full on or before the day on which the instalment payment was due, as per the Community Infrastructure Regulations 2010 (as amended)

Where the instalments policy is not applicable, the amount must be paid in full at the end of the period of 60 days beginning with the notified or deemed commencement date of the chargeable development or the date of the disqualifying event, whichever is the earliest, unless specified otherwise within the Community Infrastructure Levy Regulations 2010 (as amended)

Nothing in this Policy prevents a person with assumed liability to pay CIL from paying any outstanding CIL in whole or in part in advance of the instalment periods set out in this policy.

Crawley Regulation 123 List

Regulation 123 of the CIL Regulations requires the council to publish a list of infrastructure that it intends to fund wholly or partly through CIL money. The purpose of the list is to distinguish between those types of infrastructure that the council intends to fund through CIL and those areas where a Section 106 Planning Agreement or S278 Highways Agreement will be sought. This will ensure that a developer/landowner is not charged twice for the same piece of infrastructure.

Once introduced, CIL will become the main mechanism for collecting infrastructure contributions from a development. S106 agreements will continue to be used for affordable housing as well as site specific mitigation from a development that may be required in order for a development to come forward (e.g. a new road junction).

The council's Regulation 123 List is set out in the table below. The first column provides those types of infrastructure that the council intends to fund through CIL. The council will use CIL money to mitigate the cumulative impact of development taking place across the borough.

The second column shows the types of infrastructure which will be provided or funded by a developer through a planning obligation (s106 agreement) and relate to site specific infrastructure requirements. In accordance with Regulation 122, the use of planning obligations will only be used when they meet the following tests:-

- necessary to make the development acceptable in planning terms
- directly related to the development
- fairly and reasonably related in scale and kind to the development.

In partnership with infrastructure providers the council will be developing a list of identified projects and improvements, taking into account the potential location of developments.

This list will be updated and evolve over time and will aid discussions with developers at a pre-application stage. To reflect this list and changing circumstances, the Regulation 123 List will be reviewed annually and can be amended at any time as deemed appropriate by the council, subject to appropriate local consultation.

A s106 and CIL guidance note is also being prepared to support the Regulation 123 List. This will explain in more detail how CIL and s106 will work together to ensure there is no double charging for the developer.



Infrastructure Provision	CIL	S106/s278 Agreements
<p>Transport & Sustainable Access</p> <ul style="list-style-type: none"> • Strategic Road Network • Local Road Network • Public Transport • Pedestrian & Cycle Facilities • Smarter Choices/behavioural change measures • Transport Related Public Realm Improvements 	<p>To mitigate the cumulative impacts of development taking place across the borough.</p> <p>Schemes to be identified in liaison with WSCC.</p>	<p>Transport and sustainable access measures including transport related public realm improvements necessary to make the development acceptable in planning terms, and any improvements which are required directly as a result of a development.</p>
<p>Education</p> <ul style="list-style-type: none"> • Pre-school • Primary • Secondary • Sixth form • Special Education Needs, • Tertiary and Adult Education 	<p>To mitigate the cumulative impacts of development taking place-across the borough.</p> <p>Schemes to be identified in liaison with WSCC in line with their annual Planning for School Places document, this includes:-</p> <ul style="list-style-type: none"> • Expansion of existing Primary School Places at Desmond Anderson Primary, Maidenbower Infant & Junior, Northgate Primary, Our Lady Queen of Heaven Primary, Waterfield Primary & Three Bridges Primary. 	<p>Provision which is required as a result of a neighbourhood scale development.</p>

Infrastructure Provision	CIL	S106/s278 Agreements
	<ul style="list-style-type: none"> Expansion of existing Secondary School Places in Crawley from 44FE to 54FE. 	
<p>Open Space, Sport and Recreation</p> <ul style="list-style-type: none"> Play Areas Amenity Green Space Outdoor sport Parks & Recreation Grounds Natural Green Space Allotments 	<p>To mitigate the cumulative impacts of development taking place across the borough.</p> <p>Schemes to be identified in liaison with the council's Community Services team, this includes those in the council's Open Space Sport and Recreation Study and/or Playing Pitch Strategy:-</p> <ul style="list-style-type: none"> Improvements to drainage on playing fields and sports pitches at Bewbush the Green, Bewbush West, Rathlin Rd, Ashburnhan Rd & Rusper Rd. Improvements to ancillary facilities at Loppets Rd and Rusper Rd Playing Fields Provision of a 3G senior Pitch 	<p>In line with the council's Green Infrastructure Supplementary Planning Document and Open Space, Sport and Recreation Study, provision will be sought which is directly required as part of a development, to make it acceptable in planning terms.</p> <p>In line with Policy ENV4 and ENV5, a S106 Agreement will be sought to secure replacement/enhanced provision of any non-surplus open space lost as a result of development. This includes the following development sites in Policy H2 of the Local Plan and any subsequent proposals on open space:-</p> <ul style="list-style-type: none"> Henty Close Breezehurst Drive Playing Fields Tinsley Lane Playing Fields

Infrastructure Provision	CIL	S106/s278 Agreements
Green Infrastructure <ul style="list-style-type: none"> • Bio-diversity and habitat protection • Public Rights of Way • Trees • Rivers and Waterways 	<p>To mitigate the cumulative impacts of development taking place across the borough. Schemes to be identified in liaison with the Environment Agency and River Mole Catchment Partnership.</p>	<p>Provision, mitigation and management which is required as part of a development and any on or off site provision necessary to make the development acceptable in planning terms.</p> <p>This includes the development site Land east of Street Hill in Policy H2 and any sites requiring off site provision, and/or replacement of trees under Policy CH6 of the Local Plan 2030.</p>
Health Care <ul style="list-style-type: none"> • Primary Care • Secondary Care • Acute care • Healthy Living & well being • Mental Health services 	<p>To mitigate the cumulative impacts of development taking place across the borough.</p> <p>Schemes to be identified in liaison with the CCCG.</p>	<p>Provision which is required as a result of a neighbourhood scale development.</p>
Community and Library <ul style="list-style-type: none"> • Community Buildings • Libraries 	<p>To mitigate the cumulative impacts of development taking place across the borough.</p> <p>Schemes to be identified by WSCC and the council's Community Services team.</p>	<p>Provision which is required as a result of a neighbourhood scale development.</p>

Infrastructure Provision	CIL	S106/s278 Agreements
Emergency Services <ul style="list-style-type: none"> • Policing • Fire & rescue • Ambulance 	<p>To mitigate the cumulative impacts of development taking place across the borough.</p> <p>Schemes to be identified in liaison with WSCC, Sussex Police and SECAMB.</p>	<p>The provision of CCTV and/or Fire Hydrants to make the development acceptable in planning terms.</p>
Flood Risk Management and Flood Defence	<p>To mitigate the cumulative impacts of development taking place across the borough.</p> <p>Strategic Flood Risk Management and Strategic Flood Risk Infrastructure</p> <p>Schemes to be identified in liaison with the Environment Agency and West Sussex County Council as Lead Local Flood Authority.</p>	<p>Flood mitigation and environmental improvements which are required directly as a result of development and any provision necessary to make the development acceptable in planning terms.</p>
Public Realm Improvements- Town Centre and Manor Royal <ul style="list-style-type: none"> • Signage • Street scene • Public Art 		<p>Site specific improvements to the public realm on development sites within the Town Centre and Manor Royal, including contributions to public art and the street scene required as part of a development in line with Policies CH3 & EC3 of the Local Plan 2015-30.</p>

Infrastructure Provision	CIL	S106/s278 Agreements
District Energy Networks	To mitigate the cumulative impacts of development taking place across the borough. <ul style="list-style-type: none"> - K2 Leisure Centre Heat Network - Town Centre Heat Network - Manor Royal Heat Network 	

Other:	CIL	S106 /S278 Agreement
Affordable Housing		Provision of Affordable Housing necessary to make the development acceptable in planning terms in line with Policy H4 of the Local Plan.
Infrastructure supporting Gatwick Airport		Infrastructure improvements required directly as a result of development within the airport boundary.

Crawley Borough Council Community Infrastructure Levy (CIL) Discretionary Social Housing Relief Policy

Regulation 49A Discretionary Social Housing Relief Policy

Crawley Borough Council hereby gives notice that discretionary social housing relief from the Community Infrastructure Levy (CIL) is available within Crawley Borough in accordance with Regulation 49A of the Community Infrastructure Levy Regulations 2010 (as amended).

Crawley Borough Council as the CIL collecting authority for the borough will begin accepting claims for discretionary social housing relief from 17 August 2016.

In accordance with CIL Regulation 49A, dwellings must meet all of the following criteria in order to qualify for discretionary social housing relief:

- If sold, the dwelling must be sold for no more than 80% of its market value, as required by CIL Regulation 49A(2)(a);
- The liability to pay CIL in relation to the dwelling must remain with the person granted discretionary housing relief, as required by CIL Regulation 49A(2)(c);
- The dwelling should be sold in accordance with the council's own published policy on discretionary social housing relief, as set out below.

Policy Statement on Discretionary Social Housing Relief

Subject to compliance with CIL Regulations 49A(2)(a) and 49A(2)(c), dwellings meeting the following criteria are eligible for discretionary social housing relief, where these are accepted as affordable housing in a Section 106 agreement or unilateral undertaking attached to the relevant planning permission:

- i) Dwellings which fall outside of the scope of CIL Regulation 49, but which otherwise fall within the definition of affordable housing set out in Annex 2 of the National Planning Policy Framework (NPPF), including:
 - Shared equity homes
 - Homes sold at a discounted market rate of 20% or more
- ii) Dwellings which are let at a discounted market rent not exceeding Local Housing Allowance rates

Procedure

In order to qualify, claims for discretionary social housing relief must be made by submitting a completed CIL 'Claiming Exemption or Relief' form to Crawley Borough Council, with appropriate supporting evidence as specified on the form. Relief will only apply where claims are granted by the council prior to the commencement of the chargeable development.

Claims for discretionary social housing relief must also comply with the procedure for claiming Social Housing Relief set out in CIL Regulation 51. This includes the following requirements:

- The person claiming relief must be an owner of the site of the chargeable development who has assumed CIL liability (and retains liability until commencement of the chargeable development)
- A commencement notice must be submitted to the council prior to the commencement of the chargeable development

Where a dwelling granted social housing relief from CIL (including discretionary social housing relief) ceases to meet the criteria for social housing relief within the seven year clawback period this will be a 'disqualifying event', and CIL will become liable.

CIL Additional Documents consultation 26 April-23 May

Document	Respondent	Comments	Council's Response
Regulation 123 List	Crawley NHS Clinical Commissioning Group	<p>Thank you for contacting Crawley CCG in respect of the planning process for the Crawley Community Infrastructure Levy.</p> <p>In this respect, we will be pleased to liaise with you at the appropriate time if and when the CIL is about to be established.</p> <p>Meanwhile, we note that for some developments Section 106 will still be appropriate and we also very much appreciate being consulted where Planning applications for developments of 50 + dwellings are presented to the Council.</p> <p>Certainly the replacement of the Bewbush Practice remains a priority and forward planning where Primary Care GP and complementary Community Services become pressurised by increased patient lists will necessitate infrastructure improvements to cope with demand and above all to ensure that existing patients do not receive a diluted service or become disadvantaged by virtue of increased number of residents from new developments.</p>	This response is not considered to warrant any change to the Regulation 123 List
Regulation 123 List	Environment Agency	<p>Thank you for consulting us on the above. We have the following comments to make.</p> <p>Green Infrastructure</p> <p>We note that the Green infrastructure, which includes waterways and biodiversity, has no information detailed within the table.</p> <p>It is disappointing that no habitat creation projects have been strategically investigated by the borough in order to deliver the Government's 2020 vision, habitat directive etc. for net gains in biodiversity, particularly in view of likely indirect effects of continued development in the borough, which are unlikely to be delivered by either planning</p>	Noted.

		<p>mitigation or S106 agreement within allocated sites. We would recommend the following text is included within the table.</p> <p>To mitigate the cumulative impacts of development taking place across the borough. Schemes to be identified in liaison with the Environment Agency and the River Mole Catchment Partnership.</p> <p>Flood Risk Management and Flood Defence From a Flood Risk Management perspective, we have no objection to the wording associated with the 'Flood Risk Management and Flood Defence' section, and at the present time have no further wording to add.</p>	<p>Regulation 123 List (CIL column) amended accordingly.</p> <p>Noted. No further change felt to be required.</p>
Regulation 123 List	Gatwick Airport Limited	<p>Introduction Gatwick Airport Ltd (GAL) has been notified about the above mentioned CIL Additional Documents Consultation.</p> <p>This note sets out GAL's formal planning representation as an interested party in this Consultation and as the owner and operator of Gatwick Airport.</p> <p>GAL's planning submission to this Consultation is made with particular regard to the CIL and the defined 'Airport Zone', and the application of s106 / s278 Agreements.</p> <p>GAL request to be notified of - any further Consultations on CIL as well as matters arising from the Council Cabinet meeting in June and Full Council in July which seeks the approval for the adoption of the CIL Charging Schedule and the associated policies and documents which form this Consultation.</p> <p>Background Gatwick Airport Limited (GAL) welcomes the opportunity to comment upon the Crawley Borough Council CIL Additional Documents Consultation. Gatwick Airport Limited is a</p>	See responses to specific comments below.

		<p>proactive stakeholder within the Crawley community. Gatwick Airport is the UK's second largest airport and the most efficient single-runway airport in the world. It serves more than 200 destinations in 90 countries for more than 40 million passengers a year on short and long-haul point-to-point services. It is a major economic driver for Crawley and the South-East region, generating around 21,000 on-airport jobs and a further 10,000 jobs through related activities.</p> <p>Gatwick Airport Limited: Planning Representation GAL acknowledges that the CIL for the airport is recognised in terms of the 'Airport Zone' within the CIL Charging Schedule, and that the CIL Schedule has already been subject to an Independent Examination.</p> <p>GAL acknowledges that the Council has updated the Regulation 123 List and this is now open to comment. GAL is particularly interested in the areas laid down in the Regulation 123 List where a S106 Planning Agreement or S278 Highways Agreement will be sought rather than the application of CIL.</p> <p>GAL considers that it would be helpful for developers if the Regulation 123 List were to provide a stronger definition on what will be deemed by the Council to be a 'neighbourhood scale development'.</p> <p>GAL also seeks further clarification how the cumulative impact of new infrastructure will actually be assessed in order to appropriately use both CIL funding and s106 Agreements for effective mitigation measures to be installed across the borough.</p>	<p>We feel that the definition is adequate in the context of Crawley's nature as a town made up of individual 'neighbourhoods'.</p> <p>The Regulation 123 List aims to identify types of infrastructure which will be eligible for CIL funding or s106 income, rather than to specify how the anticipated CIL income will be spent. The latter issue will be considered through engagement with infrastructure providers, other stakeholders, and the community. S106 requirements will be clarified</p>
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		<p>GAL notes that where appropriate a s106A will be sought for improvements and migratory measures directly related to new development within the airport boundary. GAL assumes this will be where it is deemed that the current s106 Agreement in place is considered to fall short and so further site specific mitigation and enhancements are necessary.</p> <p>GAL considers that the approach the Council has taken in considering the Airport Zone within the Draft Regulation 123 List is pragmatic given the current uncertainty surrounding the future growth of the airport.</p> <p>GAL has established a strong working relationship with Crawley Borough Council and will continue to work closely with the Council regarding the development of the airport and crucially pending the Governments decision on the future runway capacity at Gatwick Airport.</p> <p>It is acknowledged by GAL that at this time more site specific S106 Agreements may serve as the best planning mechanism for the delivering the appropriate fiscal contributions for development within the airport boundary. GAL will work alongside the Council to ensure development at the airport is sustainable and that the airports infrastructure requirements are reviewed in order to fully satisfy any agreed planning obligations.</p> <p>GAL notes that in the Consultation the Council states that it will be preparing a Guidance Note on how CIL and S106 Agreements will be adopted. GAL fully supports the production of such further detailed guidance – GAL's</p>	<p>where possible in forthcoming guidance and future iterations of the document, but will in any case be subject to the three statutory tests.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>The council accepts the role for further guidance but it is currently</p>
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		<p>preference would be for this to be in the form a Supplementary Planning Document (SPD). A SPD will help to provide a transparent means of further ensuring that there will be no duplication in charging on development brought forward. GAL strongly supports the need for such additional guidance on CIL and s106 Agreements and recognises this is in line with the 'Crawley 2030' Local Plan Policy IN 1 and will now be assisted by the provision of this Draft Regulation 123 List. GAL would welcome the opportunity to comment on the development of the forthcoming Guidance Note along with any other CIL related planning guidance the Council may produce.</p> <p>Gatwick Airport Limited is committed to achieving best planning practise and looks forward to continuing its positive work with Crawley Borough Council in relation to the development of the Airport.</p> <p>If you do have any queries or would like to discuss GAL's representation please do not hesitate to contact me.</p>	<p>felt that in light of the existing framework provided by the Planning Act 2008 and the CIL Regulations and the Planning Act 2008 respectively, a full SPD is not required. In addition a Guidance Note can more easily be updated in light of changing national requirements and local infrastructure requirements.</p> <p>There will be provision for GAL and other stakeholders to have input into the content and scope pf the Guidance Note.</p>
Regulation 123 List	Sport England	<p>Thank you for consulting Sport England on the above local plan document.</p> <p>As the Council will be aware, once CIL is in place, no more obligations may be collected in respect of a specific infrastructure project or a type of infrastructure through a Section 106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy.</p> <p>The Council's Draft Regulation 123 List advises the following will be funded by CIL:</p> <ul style="list-style-type: none"> - Improvements to drainage on playing fields and sports pitches at Bewbush the Green, Bewbush West, Rathlin Rd, Ashburnhan Rd & Rusper Rd. - Improvements to ancillary facilities at Loppets Rd 	See responses to specific comments below.

		<p>and Rusper Rd Playing Fields - Provision of a 3G senior Pitch</p> <p>Sport England is pleased to note that the Council is seeking CIL to fund sport and recreation and social and community facilities, and that the Regulation 123 List states specifically what is needed. Due to the pooling restrictions in place, the Council will need to think strategically and plan effectively for sports infrastructure delivery in the future, linking development sites with specific projects to meet identified sporting needs. This will enable the Council to take a proactive approach to ensure the most effective use of planning obligations and CIL together to help meet the needs of the existing and new population.</p> <p>Sport England therefore recommends that the statement clarifies that:</p> <ul style="list-style-type: none"> a. Confirmation that S106 agreements will be used to secure new sports facilities needed to meet new demand arising from development for sports facilities (indoor and outdoor) where not already sought through the CIL (e.g. CIL may be used to fund a new leisure centre to meet growth in demand for swimming pools BUT S106's would be used to fund all outdoor sport). <p>The Council's Infrastructure Delivery Plan (2015) and in progress Playing Pitch Strategy for the Crawley area will help the Council determine what sports infrastructure is required for playing fields and Sport England intends to work with the Council to ensure that the outputs from this work can be fed into the Council's Regulation 123 List.</p> <p>If you would like to discuss any of the above comments further or require any additional information or advice please contact me via the details below.</p>	<p>We consider that it is important to retain the distinction between necessary site-specific mitigation (achieved through s106) and mitigation of cumulative impacts of development (through CIL), as currently set out in the list. We do not consider that this division can be expressed in terms of specific types of recreational facility (e.g. swimming pools vs outdoor sport)</p>
Regulation 123 List	West Sussex County	We would like to comment as follows:	

	Council	<p>Education (page 2) – Please add Waterfield Primary to the list of primary schools in the CIL column.</p> <p>Flood Risk Management and Flood Defence (page 5) – The third point in the CIL column refers to ‘Schemes to be identified in liaison with the Environment Agency’ but we consider that the County Council should also be mentioned in this regard. We would therefore request a change to the wording along the following lines (new wording in red type, underlined):</p> <p>‘Schemes to be identified in liaison with the Environment Agency and West Sussex County Council as Lead Local Flood Authority.’</p>	<p>List amended as requested.</p> <p>List amended as requested.</p>
Instalments policy/discretionary social housing relief policy	West Sussex County Council	We have no comments to make upon either of these documents.	None.
All	Highways England	We have no comments to make on the additional documents.	None.
All	Natural England	<p>Thank you for consulting Natural England on the CIL Update.</p> <p>The matters relating to CIL charging, fall beyond our remit - so I have no comments to offer.</p> <p>However if there are associated issues you feel we need to consider, please let me know and I will respond as quickly as possible. If discussion would be helpful, please give me a call.</p>	None.
All	Southern Water	<p>We do not have any comments on the Additional Documents Consultation contained therein.</p> <p>We would be grateful if you could keep us informed of the progress of the CIL.</p>	None.
All	Surrey County Council	Thank you for consulting Surrey County Council. We do not have any comments.	None.