



Developer Contributions

Briefing Note for Elected Members

February 2022



Rutland
County Council

1. Community Infrastructure Levy

- 1.1 The purpose of the Community Infrastructure Levy (CIL) is to raise funds from developers who are undertaking new building projects, to help pay for infrastructure that is needed to support new development as set out under the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended).
- 1.2 It 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.
- 1.3 The levy only applies in areas where a local authority has consulted on, and approved, a charging schedule which sets out its levy rates and has published the schedule on its website.
- 1.4 The CIL Charging Schedule covers some types of developments of 100 sqm or over or a new dwelling of any size; e.g. large supermarkets, B8- storage and distribution, large retail warehouses and residential. Any other development is generally assessed as not CIL liable.
- 1.5 Some developments may be eligible for relief or exemption from the levy. This includes residential annexes and extensions, and houses and flats which are built by 'self-builders'. There are strict criteria that must be met, and procedures that must be followed, to obtain the relief or exemption.
- 1.6 The CIL regime in the County of Rutland was adopted by the Council on 1st March 2016. Full details of the scheme can be found on the Council's website: <https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/planning-policy/community-infrastructure-levy-cil/>
- 1.7 CIL funding by the County Council is restricted in its use and, under Regulation 59 (1) and (3) of the Community Infrastructure Levy Regulations 2010 (as amended), CIL must be applied by the Charging Authority to: fund the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area; or support the provision, improvement, replacement, operation or maintenance of infrastructure outside its area where to do so would support the development of its area.
- 1.8 Under Regulation 59C of the Community Infrastructure Levy Regulations 2010 (as amended) the County Council must pass 15% cent of the relevant CIL receipts to the parish/town council for that area; this is limited by Regulation 59A (7) to a cap of £100 (with indexation) per dwelling in the area of a Local Council. Those parishes benefiting from an adopted neighbourhood plan are entitled to a 25% proportion that is currently uncapped. This is often known as the "neighbourhood portion" of CIL funding. There are separate arrangements in place for non-parished areas.
- 1.9 The neighbourhood portion must be spent on: the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on an area.
- 1.10 The Council is able to use 5% of CIL income towards the management and administration of CIL.
- 1.11 The remaining funding is available for the Council to use in line with paragraph 1.7 and is often known as the "strategic portion" of CIL funding. There is no time limit for the Council to spend CIL receipts collected.

1.12 In the absence of the Local Plan, work is currently underway to assess what CIL-liable development may occur over the next 4-5 years pending the adoption of a new Local Plan, the timing of that development, the CIL receipts that could potentially be generated by that development and the potential impact of that development on existing infrastructure. This information will support decision making on how the Council can then determine any priorities for CIL expenditure pending the adoption of the Local Plan.

1.13 The proposed prioritisation process for determining CIL expenditure is set out in the Infrastructure Funding Statement (IFS) approved by Cabinet in December 2021 – see section 4 below.

2. Advice to Town Councils regarding CIL

2.1 A key element of the Community Infrastructure Levy is that a proportion of the money secured for development is passed on to the relevant Town or Parish Council where that development has taken place. To assist Town and Parish Councils, a short guide to this has been prepared, which is available to download below. This outlines further information such as:

- Roles and responsibilities;
- What proportion of CIL will be passed on;
- How it can be spent;
- What reporting requirements are placed on Town and Parish Councils.

2.2 This is published on the Council's website here: <https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/the-local-plan/community-infrastructure-levy-cil/guidance-for-parish-and-town-councils/>

3. Section 106 Agreements

3.1 Prior to the introduction of CIL, the Council sought developer contributions via planning obligations which are legal agreements made under Section 106 of the Town and Country Planning Act 1990 (as amended by Section 12(1) of the Planning and Compensation Act 1991), normally in association with planning permissions for new development.

3.2 These usually relate to an aspect of development which cannot be controlled through the imposition of a planning condition or by other statutory controls. They can serve various purposes including: restricting the use of land; requiring specific operations to be carried out, in, on, under or over the land; requiring land to be used in a specific way; and requiring a sum or sums to be paid to the Local Planning Authority on a specified date or dates, or periodically.

3.3 Section 106 Agreements are still used in Rutland alongside CIL for some new developments where legal agreements are required for site specific mitigation matters and for the provision of affordable housing.

3.4 The Community Infrastructure Levy Regulations 2010 (as amended) set out the requirements that planning obligations must fulfill. Planning obligations can only be used: to make development acceptable in planning terms; where they are directly related to the development; and are fairly and reasonable related in scale and kind to the development.

3.5 Depending on the terms and clauses of the legal agreement, there may be expiry dates for the expenditure of S106 monies received by the Council.

3.6 There is an internal Officer review process in place involving planning, finance, and the Director of Places to review, on an annual basis, the money we hold from S106, identifying what the money is for and what the deadlines for spend are. Once this base information has been identified service managers and directors are asked to identify schemes for spend within the year – this then forms part of the Council’s capital programme. There is a focus on looking at agreements 18months prior to any expiry dates to ensure contributions are committed and spent by due dates.

4. Infrastructure Funding Statement

4.1 The Infrastructure Funding Statement (IFS) is an annual report required to be published on the Council’s website by December 31st each year, to provide a summary of the financial and non-financial developer contributions relating to Section 106 Legal Agreements and the Community Infrastructure Levy within Rutland County Council for a given financial year. In addition, this also includes information relating to highway works completed as part of new developments through Section 278 agreements (S278). The first IFS for Rutland was published in December 2020.

4.2 The IFS for 2020/21 was approved by Cabinet in December 2021 and can be found here: <https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/the-local-plan/infrastructure-funding-statement/>

4.3 Whilst Cabinet have delegated this decision to the Director of Places, for this year it was decided to seek Cabinet approval following the decision made by Council in September to withdraw the submitted Local Plan.