What is a Community Infrastructure Levy?

The Community Infrastructure Levy (CIL) is a new system of charges that local planning authorities can use to raise funds from developers. The CIL can be charged on most new building projects, to fund a wide range of infrastructure needed to support new development.

Does the South Downs National Park Authority have a Community Infrastructure Levy?

As the local planning authority and ‘CIL charging authority’ for the area within its boundary, the South Downs National Park Authority (‘the Authority’) is developing a CIL for the entire National Park. The CIL will be adopted by May 2015.

What stage is the CIL at now?

The Authority is consulting on a Preliminary Draft Charging Schedule until April 2014.

All comments from interested parties will be taken into account before a Draft Charging Schedule is produced for a final round of consultation in early 2015. The Draft Charging Schedule is subject to independent examination in early 2015 before the final Charging Schedule is adopted in May 2015.

What will the CIL look like?

The core part of a CIL is a list of charges which are applied to new developments when they are granted planning permission. These charges are adopted by the Authority in a legal document called a CIL Charging Schedule and are non-negotiable. The CIL Charging Schedule will contain a list of charges, explanatory text and an Ordnance Survey map showing the areas covered by the charges.

The charges are expressed in pounds-per-square-metre, for example: £200/m$^2$.

How are the charges decided?

The Authority decides on the appropriate charges, also known as ‘rates’, based on detailed evidence of economic viability and infrastructure planning. The CIL Charging Schedule (containing the charges) must be examined (see below) before the CIL can be applied to new developments to ensure it is fit for purpose, supports the delivery of the Local Plan, and would not negatively affect the viability of development in this area.
How is the CIL examined?

The Authority will appoint an independent examiner to determine if the Draft Charging Schedule complies with the Planning Act and CIL Regulations and if the proposed charges are informed by and consistent with appropriate available evidence. This evidence base includes the Local Plan, Partnership Management Plan, Viability Assessment and Infrastructure Delivery Plan.

A key role for the examiner is to ensure the CIL would not threaten the viability or delivery of the development plan as a whole. The examiner can approve, modify or reject the Draft Charging Schedule with binding recommendations.

What does “viability” mean?

In planning terms, the “viability” of development refers to whether a developer can make a competitive return from building a scheme or not. A viable development is one where a developer will make a competitive return, and therefore deliver the scheme, with all policies and costs taken into account.

The Authority’s Local Plan must be deliverable with careful attention to viability and costs. Planning policies, combined with the CIL, should not therefore be of such a scale or burden as to threaten the delivery of viable sites across the area as a whole.

Can the charges be changed or challenged?

When the Authority adopts the CIL Charging Schedule after independent examination, the CIL charges are fixed and non-negotiable. The charges should be reviewed periodically to ensure they are fit for purpose and reflect any significant changes in the economic market or planning policies for the area. A review requires further consultation and re-examination and so it is anticipated this would occur approximately five-yearly.

CIL charges are linked to the RPI index to protect against inflation over time and maintain their effectiveness to provide infrastructure.

What is the Community Infrastructure Levy used for?

Funds raised through the CIL must be applied to infrastructure projects that support the development strategy established in the Partnership Management Plan and emerging Local Plan. These infrastructure projects are set out in the Infrastructure Delivery Plan (IDP).

What is infrastructure?

The definition of ‘infrastructure’ has a broad scope and can apply to many projects including new road schemes, schools, community services, sports and leisure facilities and green infrastructure necessary to support development. Funds can be applied to the provision, improvement, replacement, operation or maintenance of infrastructure.

The Authority is committed to working in partnership with local communities, partner local authorities and infrastructure providers to govern expenditure of CIL funds.

What is the Infrastructure Delivery Plan (IDP)

The Infrastructure Delivery Plan (IDP) lists all infrastructure projects needed to support sustainable growth, as set out in Neighbourhood Plans and the Authority’s emerging Local Plan. The IDP will inform future funding decisions through the Community Infrastructure Levy and other funding sources so it is important to include all projects on the IDP.

Projects identified on the IDP are not guaranteed funding: prioritisation and spending decisions are made by the Authority and parish councils, taking into account many other factors.

A published version of the IDP will be available before the CIL Examination in 2015.

Can I add a project to the IDP?

Yes. The IDP is a ‘live document’ and is amended over time as infrastructure needs and circumstances

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1 National Planning Policy Framework, 2012 (NPPF) paragraph 173.
2 CIL Guidance, 2013 paragraph 8; CIL Regulation 14, 2010 (as amended).
3 ‘Infrastructure’ is broadly defined in the Planning Act 2008, para.216.
change and as more information becomes available. You could discuss any potential infrastructure project with your local parish council who may wish to promote a project on your behalf. Alternatively, you can contact the Authority’s CIL Project Manager by email: cil@southdowns.gov.uk

What is a “Regulation 123” list?

This refers to a formal list required by Regulation 123 of the CIL Regulations. The “Regulation 123” list should state the infrastructure projects that will be funded by CIL and the infrastructure projects that will be funded separately by Section 106. It is to ensure the Authority does not ‘double-charge’ developers from both CIL and Section 106 for the same infrastructure projects.

This list will be made available at the CIL Examination. It does not set spending priorities and can be amended regularly, as appropriate.

What are ‘differential rates’?

The CIL Regulations allow for differential CIL charges to be applied to different uses of development, for development in different locations, or for development of different sizes. The use of differential rates must be justified on the grounds of economic viability.

If differential rates are used, they will be clearly set out and explained in the Charging Schedule, including on an Ordnance Survey map.

Which developments will pay a CIL charge?

Subject to criteria in the CIL Regulations, most new development could be liable to pay a CIL charge. Charges apply to the gross internal area of new buildings (or extensions to existing building) over 100 square metres. There is no minimum size threshold for new homes, which will pay a charge, regardless of size. The landowner(s) is liable to pay the CIL charge when development begins. A developer or other interested party can ‘assume liability’ of the CIL charge from the landowner as required through the development process.

Which development won’t pay a CIL charge?

The CIL Regulations exempt the following types of development from paying a CIL charge:

- Social (affordable) housing
- Domestic residential extensions and annexes
- Self-build houses
- Development by charities for their direct benefit
- Changes of use (that do not increase floorspace)
- Buildings without human access, and
- Buildings with temporary planning permissions

Will local communities receive any of the CIL funds?

Fifteen per cent of CIL funds collected by the Authority will be passed directly to the parish council in which development takes place (capped at a total of £100 per existing house per year in the parish). As an example, if a parish has 50 existing homes and any number of new homes are built, the parish council will receive 15 per cent of CIL income from the new homes up to a total of £5,000 per year (£100 x 50 homes).

If the parish council has an adopted Neighbourhood Plan, it will receive 25 per cent of CIL funds. The funds are to be spent on locally chosen infrastructure projects.

Does the CIL replace the section 106 process?

Mostly. The CIL will be the main process for collecting infrastructure funding from developers to support growth in the National Park. However, it will work alongside a scaled-back section 106 system that is still used to deliver affordable housing and specific on-site mitigation measures for larger developments.

Highway improvements, often necessary to make new developments acceptable, will continue to be delivered through section 278 agreements.
Will the CIL generate more money than the section 106 process?

Experience from elsewhere in England suggests that the CIL will generate more income than current section 106 obligations. From April 2015, the government will significantly scale-back the ability of local authorities to collect funds through section 106 obligations and so the CIL will certainly generate more funds.

How does the CIL differ from the section 106 process?

Section 106 agreements and unilateral undertakings are negotiated on a protracted case-by-case basis and usually only apply to larger housing developments. Nationally, this results in only 6 per cent of all planning permissions paying towards the cost of supporting infrastructure⁴.

- The CIL is a fixed, non-negotiable charge relative to the size and type of the chargeable development.
- It is fairer, more transparent and less time-consuming than the current system of section 106 obligations which are negotiated on a site-by-site basis.
- Parish councils will receive a proportion of CIL funds and have more control over the process than through section 106.
- Local communities will have a clearer understanding of how new development contributes to infrastructure.
- CIL can apply to more types of development (not just residential) and all sizes of development (not just larger sites) to ensure they contribute towards the provision or enhancement of the infrastructure they rely upon.
- The CIL process has more robust enforcement provisions than the section 106 system, to protect against late payment and non-compliance.

What is the legal basis for the Community Infrastructure Levy?

Powers to charge a Community Infrastructure Levy were conferred to the South Downs National Park Authority in the Planning Act 2008 (Part 11, section 206). These powers were amended by the Localism Act 2011.


Further reading:

Statutory Guidance has been published by the Government (May 2013).


The Planning Advisory Service has produced a CIL Resource page.

For further information:

Please visit the National Park Authority’s CIL web page: http://southdowns.gov.uk/CIL

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⁴ The Incidence, Value and Delivery of Planning Obligations in England in 2007-08 (University of Sheffield, 2010).